

Before the Board of Supervisors County of Placer, State of California

In the matter of: AN ORDINANCE CREATING
CHAPTER 8, ARTICLE 8.28 OF THE PLACER
COUNTY CODE FOR COMPLIANCE WITH
STORMWATER PERMIT REQUIREMENTS.

Ord. No:.....

First Reading: 08-01-06.....

The following ORDINANCE was duly passed by the Board of Supervisors
of the County of Placer at a regular meeting held _____,
by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Attest:
Clerk of said Board

Chairman, Board of Supervisors

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF
CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

The following Article 8.28 in its entirety shall be added to the code and
become effective sixty (60) days after the date of final passage of this
ordinance.

Article 8.28 – Stormwater Quality Ordinance

8.28.010. Title.

This Ordinance shall be known as the “Placer County Stormwater Quality Ordinance” of the County of Placer, and may be so cited.

8.28.020. Purpose and intent.

- A. The purpose of this Article is to ensure that Placer County is compliant with state and federal laws and fulfills its requirements to:
Protect the health, safety, and general welfare of the citizens of Placer County;
Enhance and protect the quality of waters of the State in Placer County by reducing pollutants in stormwater discharges to the maximum extent practicable and controlling non-stormwater discharges to the storm drain system; To cause the use of Best Management Practices (section 8.28.050) by the County and its citizens that will reduce the adverse effects of polluted runoff discharges on waters of the state, and; To ensure the County is compliant with applicable state and federal law.
- B. This Article seeks to promote these purposes by:
Prohibiting illicit discharges to the storm drain system; Establishing authority to adopt requirements for stormwater management, including source control requirements, to reduce pollution to the Maximum Extent Practicable;
Establishing authority to adopt requirements for development projects to reduce stormwater pollution and erosion both during construction and after the project is complete, and; Establishing authority that will enable the County to implement and enforce any stormwater management plan adopted by the County.

8.28.030. Findings.

The Placer County Board of Supervisors has determined that the health, safety, and general welfare of the citizens of Placer County is adversely affected by the discharge of pollution into storm drain systems and Waters of the State. The Board of Supervisors further finds that any violation of this Ordinance constitutes a public nuisance.

8.28.040. Applicability.

This Article applies to all unincorporated areas of the County.

8.28.050. Definitions.

“**Best Management Practices (BMPs)**” – Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent the discharge of pollution directly or indirectly into stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

“**County**”- The County of Placer.

“**Development**”– Any activity that moves soils or substantially alters the pre-existing vegetated or man-made cover of any land. Development includes any activity that

may be considered new development or re-development. This also includes, but is not limited to, grading, digging, cutting, scraping, stockpiling or excavating or soil, placement of fill materials, paving, pavement removal, exterior construction, substantial removal of vegetation where soils are disturbed including but not limited to removal by clearing or grubbing, or any activity which bares soil or rock or involves streambed alterations or the diversion or piping or any watercourse. Development does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of the facility, nor does it include emergency construction activities (i.e. land disturbances) required to protect public health and safety.

“Discharge” - The release, threatened release, or placement of any material into the County’s storm drain system, including but not limited to stormwater, wastewater, solid materials, liquids, hazardous waste, raw materials, debris, litter, or any other substance.

“Enforcement Agency” – the Placer County Department of Public Works is the primary Enforcement Agency for the purposes of this Article. The Enforcement Agency shall coordinate program activities with and authorize personnel of other Departments to serve as Enforcement Officials to effectuate the purposes of this Article.

“Enforcement Official” - Any agent of the County authorized by the Enforcement Agency to enforce compliance with this chapter.

“Illicit Discharge” - Any direct or indirect non-stormwater discharge to the County’s municipal storm drain system, except as otherwise exempted, including the introduction of pollution into the storm drain system.

“Illicit Connection” - An illicit connection is defined by either of the following:

(a) Any drain or water conveyance facility, either surface or subsurface, which allows an illicit discharge to enter the storm drain system, including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connection to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection has been previously allowed, permitted, or approved by a government agency, or

(b) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the County.

“Industrial Activity” - Activities subject to NPDES permits as defined in 40 CFR 122.26 (b)(14)

“Maximum Extent Practicable (MEP)” – a technology-based standard established by Congress in the Clean Water Act Section 402(p)(3)(B)(iii) for stormwater discharge to apply to all small municipal separate storm sewer system (MS4) operators regulated under the NPDES program. MEP is generally the result of emphasizing pollution prevention and source control best management practices (BMPs) as the preferred method of preventing water pollution. The MEP approach is an ever-evolving, flexible and advancing concept, which considers technical and economic feasibility. As knowledge about controlling urban runoff continues to evolve, so does what constitutes MEP.

“Municipal Separate Storm Sewer System (MS4)” - a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned by a

State, county, city, town, or other public body, that is designed or used for collecting or conveying storm water, which is not a combined sewer, and which is not a part of a publicly owned treatment works.

“National Pollutant Discharge Elimination System (NPDES)” - The primary permitting program under the Clean Water Act (33 U.S.C. Sec 1251 et seq) which regulates most discharges to surface water.

“Non-stormwater discharge” - A discharge to the storm drain system that is not composed entirely of stormwater and that has been polluted, as defined herein.

“Pollutant” - Anything which causes or contributes to pollution, as defined herein. Pollutants include, but are not limited to: paints, varnishes, solvents, oil, automotive fluids, yard wastes, refuse, rubbish, garbage, litter, discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, detergents, soaps, hazardous substances, hazardous waste, 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.

“Pollution” - The human-made or human-induced alteration of the quality of waters to a degree that causes or contributes to an exceedance of water quality standards contained in the Statewide Water Quality Control Plan, the California Toxics Rule, or in the applicable Regional Water Quality Control Board Basin Plan.

“Porter-Cologne Act” - The Porter-Cologne Water Quality Control Act, as amended (California Water Code section 13000 et seq.).

“Property Owner” - any person, entity, company, and/or authorized representative having title to real property within the geographic area affected by this Article.

“Regional Water Quality Control Board” - The Central Valley Regional Water Quality Control Board or the California Regional Water Quality Control Board, Lahontan Region

“Storm Drain System, also Municipal Storm Drain System” - Facilities owned or operated by the County by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drain, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the County and are not part of a publicly owned treatment works as defined at 40 CFR section 122.2.

“Stormwater” - Any surface flow, runoff, and drainage consisting entirely of water from precipitation events, which has not been polluted.

“Stormwater Pollution Prevention Plan (SWPPP)” - The construction site water quality management plan required by the State’s construction general stormwater permit.

“Urgency Abatement”-Urgency involves the discharge or a threatened discharge condition which causes or threatens to cause an imminent threat to public health, safety, welfare, the environment, or a violation of a NPDES permit.

“Waters of the United States” - Surface watercourses and water bodies as defined at 40 CFR section 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 stormwater at and during all times and seasons.

“Waters of the State” – All surface watercourses and water bodies, including lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, marshes, inlets, canals, and all other bodies of surface waters (Porter Cologne Section 13050 (e)), and which are within the County of Placer. This definition includes, but is broader than, Waters of the United States.

Any term(s) defined in the Federal Clean Water Act, as amended, and/or defined in the regulations for the stormwater discharge permitting program issued by the Environmental Protection Agency, as amended, and which are not specifically defined above, shall, when used in this Article, have the same meaning as set forth in said act or regulation.

8.28.060. Responsibility for Administration.

The Director of Public Works of the County of Placer shall administer the provisions of this Article. Any duties herein may be performed by other departments of the County.

8.28.070. Conflicts with other laws

In the event of any conflict between this chapter and any federal or state law or regulation, that requirement which establishes the higher standard for public health shall govern. To the extent permitted by law, nothing in this chapter shall preclude enforcement of any other applicable law, regulation, order, permit, or County ordinance.

8.28.080. Discharge Prohibitions

Except as provided in Section 8.28.090, it is unlawful for any person to make or cause to be made any illicit discharge into the storm drain system. Notwithstanding the exemptions provided by Section 8.28.090, if the Enforcement Agency determines any otherwise exempt discharge causes or significantly contributes to violations of any plan standard, or conveys significant quantities of pollutants to surface water(s) or watercourse(s), or is a danger to public health or safety, such discharge shall be prohibited from entering the storm drain system.

8.27.090. Exemptions to Prohibited Discharges.

Discharges from the following activities shall not be prohibited except as otherwise provided by this Article:

- A. Water line flushing and discharges from potable water sources.
- B. Landscape irrigation and lawn watering.
- C. Diverted stream flows and irrigation water.
- D. Springs, rising groundwater, and flows from riparian habitat and wetlands.
- E. Uncontaminated groundwater infiltration (as defined at 40 Code of Federal Regulation Section 35.2005(b)(20)).
- F. Uncontaminated pumped groundwater, foundation drains, footing drains, and water from crawl space pumps.
- G. Air conditioning condensation.
- H. Individual residential car washing.
- I. Dechlorinated swimming pool discharges.
- J. Fire fighting flows.

8.28.100. Discharge in Violation of Existing NPDES Permit.

Any person subject to any individual and/or industrial NPDES stormwater discharge permit shall comply with all provisions of such permit and any regulations or ordinances

promulgated thereto, including requirements of the Grading and Erosion Prevention Ordinance of Placer County (Article 15.48). Proof of compliance with said permit may be required in a form acceptable to the Enforcement Agency prior to or as a condition of a subdivision map, site plan, building permit, or development, re-development, or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

8.28.110. Discharge in Violation of County's NPDES Permit; Indemnification.

Any discharge that would result in or contribute to a violation of any NPDES permit for stormwater discharges to the County issued by the California State Water Resources Control Board or Regional Water Quality Control Board 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) so causing or responsible for the discharge, and such persons shall defend, indemnify and hold harmless the County in any administrative or judicial enforcement action relating to such discharge.

8.28.120. Acts Potentially Resulting in Violation of Federal Clean Water Act and/or Porter-Cologne Act.

The standards set forth herein and promulgated pursuant to this Article are minimum standards. This Article does not intend or imply that compliance to these minimum standards will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into the waters of the State. This Article shall not create liability on the part of the County, or any agent or employee thereof for any damage that results from any discharger's reliance upon this Article or any administrative decision made thereunder.

8.28.130. Right of Entry; Inspections.

- A. The Enforcement Official is authorized to enter any building or premises for the purpose of making an inspection to enforce this Article, using the provisions of Article 1.28.
- B. The Enforcement Official may conduct inspections related to purposes of implementing this chapter on private or public property. Inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of the Chapter, including, but not limited to, 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 County storm drain system, or similar factors.

8.28.140. Concealment and Abetting.

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

8.28.150. Reduction of Pollutants in Stormwater, Best Management Practices.

- A. **General Requirements.**

Any person engaging in activities that may result in pollutants entering the storm drain system shall implement Best Management Practices to the maximum extent practicable to prevent and reduce such pollutants.

B. Maintenance

All BMPs shall be protected and maintained to ensure continuous and fully effective performance as designed.

C. Illicit Connection.

The construction, use, maintenance or continued existence of illicit connections is prohibited. This prohibition includes illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connections. Upon final adoption of this Article, any property owner or lessee who maintains an illicit connection shall, within thirty (30) days from the effective date of this Article, disconnect and discontinue use of said connection.

D. Waste disposal

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 drain system, or waters of the State, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution.

E. Construction Activities

Any person performing construction work within the County shall implement appropriate BMPs to prevent the discharge from the site of soil or construction wastes or debris, including contaminants from construction materials, tools, and equipment to the stormwater drainage system.

F. Sidewalks

Every property owner or any tenant in legal possession of the property upon which there is a paved sidewalk shall maintain that portion of the sidewalk on the property free of dirt or litter to the maximum extent practicable. Sweepings from the sidewalk shall not be swept into or otherwise allowed to enter the gutter or roadway, storm drain system, or any Waters of the State, but shall instead be disposed of in receptacles maintained as required for proper disposal of solid waste.

G. Watercourse protection

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. Any owner or lessee that conducts development as defined herein shall maintain existing privately owned structures within or adjacent to a watercourse such that the effective functioning and physical integrity of the watercourse is protected, and in a manner which does not cause pollution.

H. Development

The County may incorporate appropriate BMPs to control the volume, rate, and potential pollutant loading of stormwater runoff from development. These required BMPs will be contained in any land use entitlement and construction or building-related permit to be issued relative to such development or re-development. The owner and developer shall comply with the terms, provisions,

and conditions of such land use entitlements and building permits as required in this Article.

I. Paved areas

Persons owning, operating, or maintaining a paved area, including the paved areas of a parking lot, gas station, paved private street, road, or driveway, and related storm drain systems shall clean those structures as frequently and as thoroughly as practicable in a manner that does not result in discharge of pollutants to the storm drain system.

8.28.160. Containment and Notification of Illegal Discharges.

Any person owning or occupying a premises who has knowledge of any illicit discharge from or across those premises which might enter the storm drain system, except as provided in Section 8.28.090, shall:

- A. Immediately take all reasonable action to contain and abate the illicit discharge, and;
- B. Notify the Enforcement Agency or its designated contact person within twenty-four (24) hours of the illicit discharge. The Enforcement Agency may require the owner of the property and/or the responsible person to take corrective actions within a specified time pursuant to this Article.

8.28.170. Coordination with Hazardous Materials Inventory and Response Program.

Any business subject to the County's hazardous materials inventory and release response plan shall include, at the first opportunity for revision, provisions in that plan for compliance with this Article.

8.28.180. Enforcement.

Any person who violates a provision of this Article may be subject to administrative, civil, or criminal liability as provided in this Article.

A. Primary Authority

The Enforcement Agency is empowered to use any of the provisions of Sections 8.28.190 through 8.28.220, and the provisions found in Articles 1.24 or 17.62 where appropriate to correct violations of, and secure compliance with the provisions of this Article.

B. Warning Not Required

Issuance of a warning shall not be a requirement prior to using any enforcement provision of this Article.

8.28.190. Violation

A. Informal Warning, Educational Materials.

Whenever the Enforcement Official determines that a violation of a provision of this Article has occurred or may occur, the Enforcement Agency may provide a warning to any person and/or owner responsible for the condition giving rise to such violation or potential violation. Such warning may include the distribution of educational materials to assist in future compliance with this Article. This warning may be provided in person or in writing.

B. Notice of Noncompliance.

Whenever the Enforcement Official determines that a violation has occurred, the Enforcement Official may serve a Notice of Noncompliance to any person and/or

owner responsible for the violation. Each Notice of Noncompliance shall contain the following information:

1. The date of the violation;
2. The address or a definite description of the location where the violation occurred;
3. The Article section violated and a description of the violation;
4. A description of how the violation can be corrected;
5. A time limit by which the violation shall be corrected, after which further enforcement and/or corrective actions may be taken by the County if the violation is not fully corrected.
6. The name and signature of the individual preparing the Notice of Noncompliance; and
7. Notice of potential liability under the federal Clean Water Act or State Porter Cologne Water Quality Act.

C. Administrative Compliance Order

1. Whenever the Enforcement Official determines that a violation has occurred, the Enforcement Official may serve an Administrative Compliance Order to any person and/or owner responsible for the violation. Each Administrative Compliance Order shall contain the following information:
 - i. The date of the violation;
 - ii. The address or a definite description of the location where the violation occurred;
 - iii. The Article section violated and a description of the violation;
 - iv. An order to cease all activities which are believed to be causing the violation;
 - v. A time limit by which the violation shall be corrected, after which corrective actions will be taken by the County if the violation is not fully corrected.
 - vi. A statement that the County will charge the person and/or owner for all administrative costs associated with enforcement actions;
 - vii. An order prohibiting the continuation or repeated occurrence of the violation;
 - viii. The name and signature of the individual preparing the citation;
 - ix. A statement outlining the procedure for appeal of the Order; and
 - x. Notice to the violator of potential liability under the federal Clean Water Act or State Porter Cologne Water Quality Act.

D. Citation

The Enforcement Official is authorized to issue citations for infractions of this section using the provisions found in Articles 1.24. or 17.62.

E. Misdemeanor

Any violation of this Article is a misdemeanor and may be punished using the provisions of Article 1.24.

F. Service

The Enforcement Officer is authorized to use the provisions of Section 17.62.080(b) to serve a **Notice of Noncompliance, Citation, and/or Administrative Compliance Order** to effectuate the provisions of this Article.

G. Separate Violation; Intent

1. Each day in which a violation occurs and each separate failure to comply with any provision of this Article is a separate offense and punishable by penalties in accordance with this Article.
2. 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 discharge or threatened discharge.

8.28.200. Administrative Appeals

- A. Any person receiving an Administrative Compliance Order under subpart c of Section 8.28.190, or any person required to perform monitoring, analysis, reporting or corrective activities by any Enforcement Official and who is aggrieved by this decision of the Enforcement Official may appeal the decision in writing to the Director of Public Works within ten days following the effective date of the decision. Upon receipt of such appeal, the Director of Public Works shall request a report and recommendation from the authorized County employee and shall set the matter for hearing at the earliest practical date. At said hearing, the Director of Public Works may base his or her decision on additional evidence, and may reject, affirm or modify the Enforcement Official's decision.
- B. The decision of the Director of Public Works may be appealed to the Board of Supervisors by filing a notice of appeal with the clerk of the Board of Supervisors within fifteen (15) days of receipt of the decision of the Director of Public Works. Such appeal shall be in writing and shall set forth fully the grounds for the appeal. The board shall thereupon fix a time and place for a public hearing of such appeal. The clerk of the board shall give notice to the appellant of the time and place of hearing by serving it personally or by depositing it in the U.S. Post Office, postage prepaid, addressed to the appellant at his last known address at least five days prior thereto.
At the hearing before the Board of Supervisors, the appellant may appear in person or by counsel and present any relevant evidence relating to the grievance; the Enforcement Agency may present evidence in rebuttal thereof. The hearing may be continued from time to time, not to exceed thirty (30) days in all. The Board of Supervisors shall conduct a hearing and make findings as appropriate. The decision of the Board of Supervisors shall be final.

8.28.210. Civil actions.

In addition to any other remedies provided in this Section, any violation of this Article may be enforced by civil action brought by the County. In any such action, the County may seek, as appropriate and allowed by law, any or all of the following remedies:

- A. A temporary restraining order, preliminary and permanent injunction;
- B. Reimbursement for the costs of any investigation, inspection or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing action under this division;
- C. Costs incurred in removing, correcting or terminating the adverse effect(s) resulting from the violation;
- D. Compensatory damages for loss or destruction of water quality, wildlife, fish and aquatic life. Costs and damages under this subsection d. shall be paid to the County and shall be used exclusively for costs associated with monitoring and

establishing stormwater discharge pollution control system and/or implementing or enforcing the provisions of this division.

8.28.220. Nuisance Abatement; Urgency Abatement.

A. Nuisance Abatement

The Enforcement Agency may, in addition to other authorized procedures set forth in this Article, take action to abate any nuisance in accordance with the procedures found in Section 17.62.160. The costs of any such abatement undertaken by the County shall be borne by the owner and shall be collectable in accordance with the provisions of 17.62.090.

B. Urgency Abatement

The Enforcement Agency may, in addition to other authorized procedures, take immediate action to abate any discharge or threatened discharge from any source to the storm drain system when, in the discretion of the Enforcement Agency, the discharge or threatened discharge causes or threatens to cause a condition which presents an imminent danger to the public health, safety, or welfare, or the environment, or a violation of a NPDES permit. The Enforcement Agency must first make reasonable attempts to contact and compel the responsible person and/or owner to abate the discharge or threatened discharge in a satisfactory manner. The costs of any such abatement shall be borne by the owner and shall be collectable in accordance with the provisions of 17.62.090.

8.28.230. Regulatory Fee Structure Authorized.

The Enforcement Agency shall collect such fees as may be authorized by the Board of Supervisors to establish and collect regulatory costs, which include routine inspections and other regulatory functions associated with this Article. Any such fees shall be established by resolution of the Board of Supervisors.

8.28.240. Severability

If any section, subsection, paragraph, sentence, or phrase of this Article is found to be invalid or unconstitutional for any reason, that finding shall not affect the remaining portions of this Article.

