

Additions are underlined.
Deletions are ~~struck through~~.
Revision markers are noted in left or
right margins as vertical lines.

ORDINANCE NO. _____

**AN ORDINANCE OF THE NAPA COUNTY BOARD OF SUPERVISORS,
STATE OF CALIFORNIA, AMENDING CHAPTER 16.28
(STORMWATER MANAGEMENT AND DISCHARGE CONTROL)**

WHEREAS, pursuant to the Federal Water Pollution Act (“Clean Water Act”), the regulations implementing the Clean Water Act’s National Pollution Discharge Elimination System (“NPDES”), and the California Porter-Cologne Water Quality Control Act, Napa County is required to obtain coverage under the Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems; and

WHEREAS, the State Water Resources Control Board initially adopted a permit on April 30, 2003 and renewed it on February 5, 2013 by Order No. 2013-0001-DWQ, NPDES Permit No. CAS000004 (“General Permit”); and

WHEREAS, the Board of Supervisors of Napa County adopted an Ordinance on June 22, 2004 to implement the conditions set forth in the original permit; and

WHEREAS, the General Permit requires Napa County to obtain adequate legal authority to effectively prohibit to the extent allowable under state and local law to prohibit non-storm discharges, to implement procedures to control to reduce the discharge of pollutants to the maximum extent practicable and to meet other requirements of the General Permit; and

WHEREAS, Napa County now wishes to amend the Stormwater Management and Discharge Control Ordinance in order to provide legal authority to comply with the General

permit.

The Board of Supervisors of Napa County, State of California, ordains as follows:

SECTION 1. Chapter 16.28 (Stormwater Management and Discharge Control) of the Napa County Code is hereby amended to read in full as follows:

Chapter 16.28

STORMWATER MANAGEMENT AND DISCHARGE CONTROL

Sections:

16.28.010	Title.
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16.28.010 Title.

This chapter shall be known as the "[Napa County "Stormwater Management and Discharge Control; Ordinance.](#)" and may be cited as such, and will be referred to herein as "this chapter."

16.28.020 Purpose and intent.

The purposes of this chapter ~~are:~~ [is](#) to protect the health, safety and general welfare of Napa County residents; to protect water resources and to improve water quality; [to protect and enhance watercourses, fish, and wildlife habitat;](#) to cause the use of management practices by the county and its citizens that will reduce the adverse effects of polluted runoff discharges on waters of the state; to secure benefits from the use of stormwater as a resource; and to ensure the county is compliant with applicable state and federal law. This chapter seeks to promote these purposes by:

- A. Prohibiting illicit discharges to the stormwater conveyance system;
- B. Establishing authority to adopt requirements for stormwater management, including source control requirements, to prevent and reduce pollution;
- C. Establishing authority to adopt requirements for development projects to reduce stormwater pollution and erosion both during construction and after the project is complete;
- D. Establishing authority to adopt requirements for the management of stormwater flows from development projects, both to prevent erosion and to protect existing water-dependent habitats;
- E. Establishing authority to adopt standards for the use of off-site facilities for stormwater management to supplement on-site practices at new development sites.

16.28.030 Definitions.

The following words and phrases, ~~when~~ used in this chapter, shall have the following meanings:

"BASMAA Post Construction Manual" means the most recent version of the Bay Area Stormwater Management Agencies (BASMAA) Post Construction Manual.

"Best management practices" or "(BMPs)" means schedules of activities, prohibitions of practices, general good house-keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormdrains, stormwater systems, receiving waters, and/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.

"Construction" or "Construction activity" means any activity that involves or results in the creation of any debris, dust, or residue, and/or involves or results in any disturbance or penetration of the ground or soil, including, without limitation, any clearing, paving, grading, stockpiling, and/or excavation.

"Development" means any activity that moves soils or substantially alters the preexisting vegetated or man-made cover of any land. This includes, but is not limited to, grading, digging, cutting, scraping, stockpiling or excavating of 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 of 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.

"Development runoff requirements" shall mean the provisions in the Phase II Stormwater Permit that contain design standards or performance criteria to address both the construction and post construction phase impacts of new projects and redeveloped projects on stormwater quality and quantity.

"Director of ~~public works~~planning, building and environmental services" or "director" means the director of the Napa County planning, building and environmental services department ~~of public works~~.

"Discharge of a Pollutant" or "Discharge" ~~shall~~means the release, addition or deposit of any fluid, liquid, solid, flowing substance, or any other material or substance to stormdrains, stormwater systems, receiving waters, and/or stormwater conveyance systems.~~the stormwater conveyance system.~~

"Employee training program" means a documented employee training program which may be required to be implemented by a business pursuant to a stormwater pollution prevention plan for the purpose of educating its employees on methods of reducing discharge of pollutants to the stormwater conveyance system.

"Enforcement agency" means the Napa County ~~department of public works~~planning, building and environmental services department.

"Enforcement official" means the director of ~~public works~~planning, building and environmental services department or his or her designee or any agent of the ~~county~~ County authorized to enforce compliance with this chapter.

"Erosion and Sediment Control Plan" or "ESCP" means a plan prepared to control erosion and sediment discharges from a construction site that meets those standards identified in the most recent version of the Napa Countywide Erosion and Sediment Control Plan Model Template or other standards as adopted by County Board of Supervisors resolution

"Illicit connection" means a pipe, facility, or other device or method, whether on the surface or subsurface, ~~which allows an illicit discharge to enter the stormwater conveyance system~~ that conveys non-stormwater discharge to a stormwater conveyance system or receiving water regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency.

"Illicit discharge" means any discharge to a stormwater conveyance system or receiving water that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations.~~that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.~~ The term illicit discharge does not include discharges that are regulated by an NPDES permit (other than the Phase II Stormwater Permit) and discharges that are identified under the Exceptions to Discharge Prohibition section of this chapter.

"Incidental irrigation runoff" means unintended, unanticipated, and infrequent amounts (volume) of runoff, such as unintended, minimal over-spray from sprinklers that escapes the landscaped area of intended use. Water leaving an intended use area is not considered incidental if it is part of the facility design, if it is due to excessive application, if it is due to intentional overflow or application, or if it is due to negligence.

“Low Impact Development” or “LID” means a sustainable practice that benefits water supply and contributes to water quality protection. LID uses site design and stormwater management to maintain the site’s pre-development runoff rates and volumes. The goal of LID is to mimic a site’s predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of rainfall.

"Maximum extent practicable or "MEP" means a technology-based standard established by congress in the Clean Water Act Section 402(p)(3)(B)(iii) for stormwater discharge that municipalities must meet. MEP is generally the result of emphasizing pollution prevention and source control best management practices (BMPs) primarily (as the first line of defense) and in combination with treatment methods serving as backup (additional line of defense). 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.

"National Pollutant Discharge Elimination System Permit" or "NPDES Permit" means a permit issued by the U.S. Environmental Protection Agency, State Water Resources Control Board, or the California Regional Water Quality Control Board pursuant to the Clean Water Act, 33 U.S.C. Section 1251 et seq., (CWA) that authorizes discharges to waters of the United States and requires the reduction of pollutants in the discharge.

~~"Noncommercial vehicle washing" means the washing and rinsing of passenger vehicles on private property in which no commercial enterprise is being conducted in the washing of those vehicles.~~

"Non-stormwater discharge" means any discharge to the stormwater conveyance system that is not entirely composed of stormwater.

“Phase II Stormwater Permit” means the NPDES general stormwater permit applicable to the County of Napa, Water Quality Order No. 2013-0001—DWQ, General Permit No. CAS000004, and any subsequent amendment, reissuance or successor to this NPDES permit.

"Plan standard" means any and/or all applicable requirements of the Water Quality Control Plan for Basin 2, adopted by the Regional Water Quality Control Board, San Francisco Bay Region ~~in 1995~~, and all subsequent amendments.

"Pollutant" means any "pollutant" defined in Section 502(6) of the CWA or incorporated into the California Water Code Section 13373. Pollutants may include, but are not limited to the following:

1. Residential, commercial and industrial waste (such as trash, litter, fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge);
2. Metals such as cadmium, lead, zinc, silver, nickel, chromium, copper and non-metals such as phosphorous and arsenic;
3. Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants, and grease);

4. Excessive eroded soil, sediment, and particulate materials in amounts that may adversely affect the beneficial use of the receiving waters, flora or fauna of the state.

5. Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities; and

6. Substances having characteristics such as pH less than six or greater than nine, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus.

"Post Construction Measures Requirements" mean the provisions in section E(12) of the Phase II Stormwater Permit that contain design standards or performance criteria to address the post construction phase impacts of new projects and redeveloped projects on stormwater quality and quantity.

"Premises" means any building, lot, parcel, land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

"Receiving waters" means all waters that are "Waters of the United States" within the scope of the Federal Clean Water Act or "Waters of the State" within the scope of the California Water Code, including but not limited to natural streams, creeks, rivers, reservoirs, lakes, ponds, water in vernal pools, lagoons, estuaries, bays, the Pacific Ocean, and ground water.

"Stormwater" means surface runoff and drainage associated with storm events, which is free of pollutants to the maximum extent practicable.

"Stormwater Control Plan" or "SCP" shall mean a plan that meets those criteria contained in the most recent version of the BASMAA Post Construction Manual and any issued Technical Bulletins.

"Stormwater conveyance system" or storm drains means those artificial and natural facilities within the unincorporated area of the county, whether publicly or privately owned, by which stormwater may be conveyed to a watercourse or ~~waters of the state~~ receiving waters, including any roads with drainage systems, streets, catch basins, natural and artificial channels, aqueducts, stream beds, gullies, curbs, gutters, ditches, and natural and artificial channels or storm drains.

"Stormwater Facilities Operation and Maintenance Plan" shall mean a plan identifying the locations and characteristics of stormwater management facilities on a newly developed or redeveloped site and describing maintenance activities, schedules, and responsibilities to ensure the ongoing proper operation of those facilities.

"Stormwater management facility" means any device designated to detain, retain, filter, or infiltrate stormwater.

"Stormwater Pollution Prevention Plan or "SWPPP" means a document which describes the best management practices to be implemented by the owner or operator of a business or

construction site to eliminate illicit discharges and/or reduce ~~to the maximum extent practicable~~ pollutant discharges to the stormwater conveyance system.

“Urban runoff” means stormwater runoff from an urbanized area including streets and adjacent domestic and commercial properties that carries pollutants of various types into the storm drainage system and receiving waters.

"Watercourse" means any natural stream, whether flowing continuously or not, that is fed from permanent or natural sources, and includes, without limitation rivers, creeks, runs, and rivulets.

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

16.28.040 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 or safety shall govern. To the extent permitted by law, nothing in this chapter shall preclude enforcement of any other applicable law, regulation, order, or permit.

16.28.050 Discharge prohibitions.

A. Illicit Discharges. Except as provided in Section 16.28.060, it is unlawful for any person to make or cause to be made any illicit discharge into the stormwater conveyance system. Notwithstanding the exemptions provided by Section 16.28.060~~(A) and (B)~~, if the Regional Water Quality Control Board or the enforcement official determines that 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 stormwater conveyance system.

B. Illicit Connection. The construction, use, maintenance or continued existence of illicit connections to a storm drain or watercourse 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 connection.

C. Litter, Dumps, and Stockpiles. Throwing, depositing, leaving, abandoning, maintaining or keeping materials or wastes on public or private lands in a manner and place where they may result in an illicit discharge is prohibited.

16.28.060 Exceptions to discharge prohibition.

Subject to the authority granted to the Regional Water Quality Control Board and the enforcement official, the following discharges to the stormwater conveyance system are exempt from the prohibition set forth in Section 16.28~~0~~.050.

A. Any discharge or connection regulated under another NPDES permit issued to the discharger and administered by the state of California pursuant to Division 7, Chapter 5.5 of the

California Water Code, provided that the discharger is in compliance with all requirements of the permit and all other applicable laws and regulations.

B. Discharges from flows from fire-fighting activities unless they are identified as significant sources of pollutants to waters of the United States.

~~C.B.~~ Discharges from the following activities, which do not cause or contribute to the violation of any plan standard, provided any pollutant discharges are identified and appropriate control measures to minimize the impacts of such discharges are developed and implemented:

1. Water line flushing and other discharges from potable water sources,

~~2. Irrigation and lawn watering,~~

~~3.~~ Rising ground waters or springs,

~~4.~~ Passive foundation and footing drains,

4. Uncontaminated infiltration to storm drains,

5. Water from crawl space pumps, ~~and~~-basement pumps,

6. Air conditioning condensate,

7. ~~Noncommercial vehicle~~Individual residential car washing,

8. Natural flows from riparian habitats and wetlands,

9. Dechlorinated swimming pool discharges,

~~10. Flows from fire suppression activities, including fire hydrant flows,~~

~~11. Waters not otherwise containing wastes as defined in California Water Code Section 13050(d) and California Health and Safety Code Section 25117,~~

~~1012.~~ Diverted stream flows,

~~1113.~~ Uncontaminated ground water infiltration (as defined at 40 Code of Federal Regulation Section 35.2005(b)(20)) to separate storm sewers,

~~1214.~~ Uncontaminated pumped ground water;

D.C. Any discharge, which the enforcement official, the local health officer, or the Regional Water Quality Control Board determines in writing, is necessary for the protection of the public health and safety;

E.D. Any discharge caused by flooding or other natural disaster, which could not have been reasonably foreseen or mitigated for in advance by the discharger, as, determined by the enforcement official.

16.28.065 Incidental runoff.

Persons responsible for controlling shall control incidental runoff from the property by taking the following actions:

A. Detecting and correcting leaks within seventy-two hours discovering the leak.

B. Properly designing and aiming sprinkler heads to only irrigate the planned application area.

C. Not irrigating during precipitation events.

D. Where recycled water is used for irrigation, designing and managing holding ponds to such that no discharge occurs unless it is the result of a storm event equal to or in exceedance of a twenty-five year - twenty-four hour storm event. Any releases from holding ponds must be reported to the Regional Water Board and the county within twenty-four hours of the discharge.

16.28.070 Discharge in violation of permit.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the enforcement official prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

16.28.080 Concealment and abetting.

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

16.28.090 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 this chapter, or who discharges waste or wastewater which causes pollution, or who violates any stop order, prohibition, or effluent limitation, may also be in violation of the CWA and/or Porter-Cologne Water Quality Control Act (California Water Code Section 13020 et seq.), [and the Phase II Stormwater Permit](#), and may be subject to the sanctions of those acts including civil and criminal penalties.

16.28.100 Reduction of pollutants in stormwater.

Any person engaged in activities which may result in pollutants entering the stormwater conveyance system shall, to the maximum extent practicable, undertake the measures set forth below to reduce the risk of illicit discharge and/or pollutant discharge.

A. Urban Runoff.

1. Any person engaged in activities that will or may result in pollutants entering the storm drains shall undertake all measures to cease such activities, and/or to eliminate such pollutants, and/or, if elimination of the pollutants is not reasonably achievable, to reduce such pollutants to the maximum extent practicable -- through the implementation of BMPs, consistent with the California Stormwater Quality Association Best Management Practices Handbooks.

2. Except for pollutants lawfully disposed of by way of containers or at lawfully established dumping grounds, no person shall throw, deposit, leave, maintain, or keep, or allow to be thrown, deposited, placed, left, kept, or maintained, any refuse, rubbish, garbage, discarded or abandoned objects, articles, and/or accumulations (“Materials”), in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit, other drainage structure, place of business, or any land in the county, such that, in the opinion of the authorized enforcement official, the Materials pose a risk of becoming a pollutant discharged to the waters of the United States.

3. All occupants, tenants, owners, lessees, and/or proprietors of any real property or business located upon real property in the county, in front of which there is a paved sidewalk, shall maintain that sidewalk free of dirt, debris, and litter, and shall not sweep or allow to be swept from the sidewalk into the gutter or roadway; instead such dirt, debris, and litter shall be disposed of in receptacles maintained on the real property or by the business operator as required for the recycling and/or disposal of garbage.

BA. Business Related Activities.

1. Stormwater Pollution Prevention Plan. The enforcement official may require any business in the county that is engaged in activities ~~that~~~~which~~ may result in pollutant discharges to develop and implement a stormwater pollution prevention plan (“SWPPP”), which shall, without limitation, include an employee training program. Business activities ~~that~~~~which~~ may require a stormwater pollution prevention plan include, but are not limited to, maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading or fueling, or cleanup procedures ~~that~~~~which~~ are carried out partially or wholly out of doors.

2. Persons owning or operating a parking lot, gas station tarmac, or similar paved improvement or structure shall clean such improvements and/or structures as frequently and thoroughly as necessary to prevent discharge of pollutants to storm drains.

~~C.B.~~ Development and Construction Projects.

~~The county shall adopt by resolution requirements identifying appropriate best management practices to control the volume, rate, and potential pollutant load of stormwater runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants. The county shall incorporate such requirements as conditions in any land use entitlement and construction or building related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this chapter.~~

1. Prior to and/or during construction, the enforcement official may establish controls on the volume and rate of stormwater runoff from any developments or construction projects (including but not limited to new projects, developments and/or restoration or redevelopment projects) as may be appropriate to minimize peak flows or total runoff volume, and to mimic the pre-development site hydrology. These controls may include limits on impervious area dimensions, quantities or locations, and/or provisions for detention and retention of runoff on-site.

2. The enforcement official may require, as a condition of project approval, permanent structural controls designed for the removal of sediment and other pollutants and for control on the volume and rate of stormwater runoff from the project’s added or replaced impervious surfaces. The selection and design of such controls shall be in accordance with criteria established or recommended by federal, state, local agencies, and where required, the BASMAA Post Construction Manual or any other standards as adopted by county board of supervisors resolution. Where physical and safety conditions allow, the preferred control measure is to retain drainageways above ground and in as natural a state as possible or other biological methods such as bioretention areas.

3. Stormwater Control Plans and Other Requirements.

a. For each development or construction project subject to the post-construction measures requirements described in this chapter, or where required by the nature and extent of a proposed project and where deemed appropriate by the agency, every applicant shall submit a Stormwater Control Plan (SCP) that meets the standards in the most recent version of the BASMAA Post Construction Manual or other standards as adopted by County Board of Supervisors resolution, and shall implement conditions of approval that reduce stormwater pollutant discharges through the construction, operation and maintenance of source control measures, low impact development design, site design measures, stormwater treatment measures and hydromodification management measures. Increases in runoff shall be managed in accordance with the post construction requirements.

b. The SCP is separate and distinct from the ESCP requirements described in subsection (D) of this section.

c. Where projects are required to have a SCP, project applicants shall follow the appropriate SCP template, based on the project type, in the most recent BASMAA Post Construction Manual or other template as established by Board resolution.

d. Implementation of an approved SCP and submittal of an approved Stormwater Facilities Operation and Maintenance Plan by the applicant shall be a condition precedent to the issuance of a building permit, use permit or construction permit for a project subject to this section.

e. Financial security may be required to ensure that stormwater management facilities operate and are maintained in accordance with this chapter following construction for a period which may be determined by the enforcement officer. Financial security shall consist of an irrevocable letter of credit, cash deposit, or performance bond as determined by the agency.

f. All stormwater management facilities shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design guidelines are outlined in the BASMAA Post Construction Manual or other regulations as adopted by the County Board of Supervisors.

g. All stormwater management facilities shall be maintained according to the approved Stormwater Facilities Operation and Maintenance Plan. The person(s) or organization(s) responsible for maintenance shall be designated in the plan. Unless a different time period is provided for in the plan, those responsible for maintenance shall inspect the stormwater management facilities at least annually. The Stormwater Facilities Operation and Maintenance Plan shall describe how the maintenance costs will be funded. Upon the failure of a responsible person to maintain the stormwater management facilities in accordance with this chapter or the plan, the county may perform the maintenance and recover its costs from the responsible person as provided in Section 16.28.120.

h. For each development or construction project subject to the post-construction measures requirements, or where deemed appropriate by the agency, access by the county to stormwater management facilities for inspections, as provided in Section 16.28.120 and through such means as may be appropriate, including, but not limited to, legal agreements, recorded covenants or easements, shall be provided by the property owner, occupant or business operator upon the property.

i. All project proponents and their successors, or successors in fee title, in control of a development project subject to the post-construction measures requirements, shall submit the following, if and as applicable, as a condition to and prior to final inspection, permit issuance, and/or approval of building permit closure:

i. The project proponent's signed statement accepting responsibility for the operations and maintenance of stormwater management facilities until such responsibility is legally transferred to another entity;

ii. Written conditions in the sales or lease agreements or deed for the project that requires the buyer or lessee to assume responsibility for the operations and maintenance of the stormwater management facilities until such responsibility is legally transferred to another entity;

iii. Written text in project deeds, or conditions, covenants and restrictions for multi-unit residential projects that require the homeowners association or, if there is no association, each individual owner to assume responsibility for the operation and maintenance of the

stormwater management facilities until such responsibility is legally transferred to another entity; and/or

iv. Any other legally enforceable agreement or mechanism, such as language in the property deed to be recorded, which assigns the operation and maintenance of the stormwater management facilities to the project owner(s), the permittee, grantee or successor as the case may be.

~~C.—Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the enforcement official prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.~~

D. Ground Disturbing Activities

1. Any person performing construction activities in the county shall implement appropriate BMPs to prevent, the discharge of construction wastes or contaminants from construction materials, tools and equipment from entering a storm drain or watercourse.

2. All construction plans and applications submitted to the county pursuant to any permit applications shall implement appropriate BMPs to prevent the discharge of construction wastes or contaminants from construction materials, tools, and equipment from entering a storm drain or watercourse.

a. Construction-phase BMPs include erosion and sediment controls and pollution prevention practices. The combination of BMPs used, and their execution in the field, must be customized to the site using up-to-date standards and practices, such as the California Stormwater Quality Association's Construction BMP Handbook or other standards and practices as established by county Board of Supervisors resolution.

b. Financial security may be required to insure that temporary measures to control stormwater pollution are implemented and maintained during construction and after construction for a period determined by the agency. Financial security shall consist of an irrevocable letter of credit, cash deposit, or performance bond as determined by the agency.

c. The county has the authority to review designs and proposals for construction activities and new development and redevelopment sites to determine whether adequate BMPs will be installed, implemented, and maintained during construction and after final stabilization.

d. All construction plans and applications for construction activity submitted to the county shall consider the potential for erosion and sedimentation at the construction site, and shall include appropriate erosion and sedimentation controls.

e. An Erosion and Sediment Control Plan (ESCP) shall be required for:

i. Any project subject to a grading permit.

ii. Any project, subject to another county permit that has the potential for significant erosion and/or significant non-stormwater discharges of sediment and/or construction site waste including:

(A) Projects within fifty feet of the storm drain system;

(B) Projects disturbing ten thousand square feet of soil or more;

(C) Projects installing new storm drains that discharge to the storm drain system or watercourse;

(D) Projects on slopes of five percent or more; or

(E) Any other project as required by the enforcement official considering factors such as whether the project involves hillside soil disturbance, rainy season construction, construction near a watercourse, or any other condition or construction site activity that could lead to a non-stormwater discharge to a storm drain if not managed by effective implementation of an ESCP.

3. The ESCP shall be submitted for review and approval by the enforcement official. The project applicant shall follow the most recent version of the Napa Countywide Erosion and Sediment Control Plan Model Template or other template as adopted by County Board of Supervisors resolution to prepare the ESCP. At a minimum, the ESCP shall include:

a. Description of the proposed project and soil disturbing activity;
b. Site specific construction-phase BMPs;
c. Rationale for selecting the BMPs, including if needed, soil loss calculations;
d. A list of applicable permits associated with the soil disturbing activity, such as: Construction General Permit (CGP); Clean Water Act Section 404 Permit; Clean Water Act Section 401 Water Quality Certification; Streambed/Lake Alteration Agreement (1600 Agreements);

e. Proof that the applicant has obtained the applicable permits associated with the soil disturbing activity must be submitted prior to approval of the ESCP;

f. Project information as required by the ESCP applicant checklist provided in the Napa Countywide Erosion and Sediment Control Plan Model Template any other regulations or guidelines adopted by County Board of Supervisors resolution;

i. Owner and contractor contact information;
ii. Site information (location, status, size of project, size of disturbed area);
iii. Project watershed description; and
iv. Planned start date and anticipated completion date (as may be revised from time to time).

4. For projects subject to the State's General Construction Activity Stormwater Permit (CGP), project applicants may submit a Stormwater Pollution Prevention Plan developed pursuant to the CGP in lieu of submitting an ESCP. But otherwise, implementation of an approved ESCP shall be a condition of the issuance of a building permit, a grading permit, or other permit issued by the county for a project subject to this section. The ESCP shall be implemented year round and must be updated to reflect changing conditions on the project site. Any modifications to the ESCP shall be submitted to the county for review and approval.

~~D. — 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 non-stormwater discharges shall comply with best management practices guidelines or pollution control requirements as may be reasonably established by the enforcement official.~~

E. Compliance with Stormwater General Permits. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the enforcement official prior to or as a condition of a subdivision map, site plan, building permit, use permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

16.28.110 Containment and notification of spills.

Any person owning or occupying a premises who has knowledge of any release of pollutants or illicit discharge from or across those premises which might enter the stormwater conveyance system, other than a release or discharge that is permitted by this chapter, shall immediately take all reasonable action to contain and abate the release of pollutants or illicit discharge, and shall notify the enforcement agency within twenty-four hours of the release of pollutants or illicit discharge.

16.28.120 Inspection authority.

Whenever necessary to make an inspection [to ensure implementation of BMPs and other requirements of this chapter](#), to enforce any of the provisions of this chapter [or the Phase II Stormwater Permit](#), 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 this chapter [or the Phase II Stormwater Permit](#), the enforcement official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this chapter. Any 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 upon issuance of a warrant issued by a court of competent jurisdiction. In the event the owner or occupant refuses entry after such request has been made, the enforcement official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. Inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including but not limited to, random sampling and/or sampling in areas with evidence of stormwater contamination, illicit discharge, non-stormwater discharge to the stormwater conveyance system, or similar factors.

A. Sampling Authority. During any inspection, the enforcement official may take samples as necessary in order to implement and enforce the provisions of this chapter. This authority may include, [but is not limited to](#), the installation of sampling and metering devices on private property, or requiring the person owning or occupying the premises to supply samples.

B. Monitoring, Analysis and Reporting Authority. The enforcement official may require monitoring, analysis and reporting of discharges from any premises to the stormwater conveyance system. Upon service of written notice by the enforcement official, the burden, including cost, of these activities, analyses and reports, incurred in complying with the requirement shall, to the extent permitted by law, be borne by the property owner or occupant of the facility or activity for which testing and monitoring has been requested.

C. [Records Review. The authorized enforcement official may demand the production of such records as is necessary to determine compliance with the provisions of this chapter and for the purpose of examination and copying.](#)

D. Fee Authority. The enforcement agency has the authority to conduct inspections and collect fees for the purpose of ensuring compliance with this chapter from any person or business issued one or more of the following county-issued permits:

1. Hazardous Material Business Plan;
2. Food establishments except restricted food service transient occupancy establishments;
3. Building permits;
4. Grading permits.

A fee schedule for the purpose of enforcing this chapter shall be drafted by the enforcement official and submitted to the board of supervisors for adoption. Fees shall be established by the board of supervisors.

16.28.130 Enforcement authority.

Enforcement of this chapter shall be by the enforcement official.

A. Violations. ~~It shall be a violation for any person to violate, or cause any other person to violate any of the provisions of this chapter which are declared to be unlawful or a public nuisance or to cause any other person to do so.~~ Any violations of this chapter, any act of causing or allowing another person to violate this chapter shall be subject to the enforcement measures set forth in this chapter and/or in chapters 1.20, 1.24 or 1.28, as applicable, and/or may be ~~In addition to any other remedy provided by law, such violation shall be~~ punishable as a misdemeanor ~~and be enforced pursuant to the provisions of either Chapters 1.20, 1.24 or 1.28.~~

B. Administrative Actions. In addition to any other enforcement powers and/or remedies provided in this chapter, an authorized enforcement official may issue an order to a person to cease and desist from the discharge, practice, operation or other activity causing or likely to cause a violation of this chapter. Such order shall be directed to those persons in violation of the chapter and shall state clearly and concisely the nature of the violation, the requirements for compliance, a timetable for compliance and such other remedial and/or preventive action as may be necessary. Upon the violator's failure to comply with such an order, the county shall take further enforcement action as specified in this chapter, or in accordance with any other appropriate provision of local, state or federal law. At the discretion of the authorized enforcement official, enforcement may include any of the remedies and steps set forth in this chapter or in other applicable enforcement provisions of the Napa County Code.

C. Civil Actions—Injunctive Relief. The county may elect to proceed with a civil action, including seeking injunctive relief, rather than proceed with criminal enforcement actions. Any person, firm or corporation, whether acting as principal, agent, employer or otherwise, who willfully violates any provision of this chapter, or the terms and/or conditions of any permit issued pursuant to this chapter, shall be liable for a civil penalty not to exceed one thousand dollars for each day or portion thereof, that the violation continues to exist. Any person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation is committed, continued, or permitted. In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting the violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by the violator.

16.28.140 Stop orders.

The enforcement official is hereby authorized to issue stop orders to prohibit further construction of buildings or structures involving violations of this title, and such stop orders shall remain in effect until such violations have been resolved.

16.28.150 Remedies not exclusive.

Remedies under this chapter 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.

16.28.160 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 state. This chapter shall not create liability on the part of the county, any officer or employee thereof for any damages that result from reliance on the code or any administrative decision lawfully made thereunder.

16.28.170 County authority.

The enforcement official is authorized to make any decision on behalf of the county required or called for by this chapter.

SECTION 2. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors of Napa County hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 3. This Ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 4. A summary of this Ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

The foregoing Ordinance was introduced and read at a regular meeting of the Board of Supervisors of Napa County, State of California, held on the ___ day of _____,

2015, and passed at a regular meeting of the Board of Supervisors of Napa County, State of California, held on the ____ day of _____, 2015, by the following vote:

AYES: SUPERVISORS _____

 NOES: SUPERVISORS _____

 ABSTAIN: SUPERVISORS _____

 ABSENT: SUPERVISORS _____

 DIANE DILLON, Chair
 Napa County Board of Supervisors

ATTEST: GLADYS I. COIL
 Clerk of the Board of Supervisors

By: _____

APPROVED AS TO FORM Office of County Counsel	Approved by the Napa County Board of Supervisors
By: _____ (by e-signature) Deputy County Counsel	Date: _____
By: _____ (by e-signature) County Code Services	Processed by: _____ Deputy Clerk of the Board
Date: _____	

I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON _____.

_____, DEPUTY
 GLADYS I. COIL, CLERK OF THE BOARD