ORDINANCE NO. 5154

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADDING CHAPTER 16.14 TO THE MONTEREY COUNTY CODE TO REGULATE DISCHARGES TO THE COUNTY'S STORM DRAIN SYSTEM

County Counsel Summary

Pursuant to state law, and as part of the Monterey Regional Stormwater Management Plan, the County of Monterey is required to adopt a stormwater ordinance in compliance with the federal Clean Water Act Phase II stormwater regulations. This ordinance regulates discharges to the County storm drain system in urbanized areas; establishes best management practices and design standards for development and redevelopment; allows for inspection and sampling of illegal discharges and illicit connections; and permits enforcement of discharge prohibitions.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. FINDINGS AND DECLARATIONS.

1. While stormwater runoff is one step in the natural cycle of water, human activities such as construction, manufacturing, and the operation of an urban infrastructure may result in undesirable discharges of pollutants, sediments, and other materials into the County’s storm drain system.

2. Such discharges may accumulate in local drainage channels and waterways, and eventually may be deposited into natural surface waters, waters of the State of California (“State”), and waters of the United States.

3. The federal Clean Water Act provides for the regulation and reduction of pollutants discharged into the waters of the United States by extending National Pollution Discharge Elimination System (“NPDES”) requirements to stormwater and urban runoff discharges into the County of Monterey’s (“County”) storm drain system.

4. The State Water Resources Control Board (“State Board”) is the water pollution control agency for the State for all purposes of the federal Clean Water Act pursuant to Section 13160 of the California Water Code, and is authorized by the United States Environmental Protection Agency (“EPA”) to administer the NPDES program within the State.

5. The Porter-Cologne Water Quality Control Act (California Water Code section 13000, et seq.) provides authority for the State NPDES program, including provisions for the issuance of NPDES permits and implementation of waste discharge requirements to regulate discharges of stormwater to waters of the State.

6. Stormwater flows from individual properties to the County’s storm drain system, and then ultimately to the waters of the State and waters of the United States.

7. The County is a permittee under the State’s Stormwater General Permit, which also serves as a NPDES Permit under the Clean Water Act.
8. As a permittee, the County is required to possess the necessary legal authority, and to implement appropriate procedures, to regulate the entry of pollutants and non-stormwater discharges into and from the County's storm drain system within the urbanized areas of the unincorporated County.

9. The County is a participant in the Monterey Regional Storm Water Management Program, approved by the California Regional Water Quality Control Board, Central Coast Region, and administered by the Monterey Regional Water Pollution Control Agency.

10. The Board finds that the provisions of this Chapter are necessary to provide the County with the legal authority necessary to implement and otherwise comply with the requirements of the State's Stormwater General Permit, and to protect the waters of the State for the benefit of its people and the environment.

SECTION 2. Chapter 16.14 is added to the Monterey County Code to read:

CHAPTER 16.14

URBAN STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL

Sections:
16.14.010 Title.
16.14.070 Compliance with other laws or regulations.
16.14.090 No liability to County.
16.14.120 Containment and Notification of spills.
16.14.140 BMP requirements.
16.14.170 Compliance with other NPDES Permits.
16.14.190 Reporting requirements.
16.14.010 Title.
This Chapter shall be known as the "Monterey County Urban Stormwater Quality Management and Discharge Control Ordinance." The short title shall be the "Monterey County Stormwater Ordinance."

A. This Chapter is adopted pursuant to Article XI, Section 7 of the California Constitution which authorizes the County to exercise its police power to protect and promote the public health, safety and general welfare. The purpose of this Chapter is to, consistent with the Clean Water Act and the Porter-Cologne Act, enhance watercourses within the Unincorporated Urbanized Areas by, amongst other things, controlling the entry of urban Pollutants into Stormwater runoff that may enter the County Storm Drain System.

B. It is the intent of the Board in adopting this Chapter to provide the County with the legal authority to accomplish the following goals:
   1. To benefit the people and environment of the County by protecting water quality in the waters of the State and Waters of the United States;
   2. To reduce the presence of Pollutants in Stormwater to the maximum extent practicable:
   3. To effectively prohibit Non-Stormwater Discharges into the County Storm Drain System;
   4. To comply with the requirements of the Clean Water Act, the Porter-Cologne Act and the State Stormwater General Permit as they apply to the Discharges into and from the County Storm Drain System;
   5. To fully implement the Regional Program;
   6. To protect the physical integrity and function of the County Storm Drain System from the effects of Pollutants, and Materials other than Stormwater;
   7. To prevent the contamination of groundwater as a result of pollution migration from the County Storm Drain System;
   8. To protect the health and safety of maintenance personnel and the public who may be exposed to Pollutants in the County Storm Drain System;
   9. To provide for the recovery of regulatory costs incurred by the County in the implementation of this Chapter, including, but not limited to, enforcement activities, compliance assistance, inspections, investigations, sampling and monitoring; and
   10. To provide for appropriate enforcement procedures and penalties for violations of the provisions of this Chapter.

A. Any term(s) defined in the Clean Water Act, as amended, or defined in the regulations for the NPDES permitting program issued by the EPA, as amended, and which are not specifically defined in this Chapter shall, when used in this Chapter, have the same meaning as set forth in said Act or regulation.

B. As used in this Chapter, the following words and phrases shall have the meanings set forth below unless the context clearly indicates otherwise.
   1. "Agriculture" means the science, art and business of cultivating the soil, harvesting of crops, rearing and management of livestock, tillage, husbandry, farming, horticulture, and forestry; the science and art of the production of plants and animals useful to man.
2. "Agricultural Run-off" includes return flows from irrigated Agriculture, and runoff from orchards, cultivated crops, pastures, range lands, and forest lands.

3. "Attachment 4" means the supplemental provisions contained in Attachment 4 of the State Stormwater General Permit.

4. "Best Management Practices" or "BMPs" means schedules of activities, prohibition of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable the Discharge of Pollutants directly or indirectly to the County Storm Drain System. BMPs also include structural controls, treatment controls, source controls, training requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage.

5. "BMPGS" means a Best Management Practices Guidance Series detailing Design Standards and BMPs, alternatives or options for use in the County for Construction Activity, or other activities, operations or facilities that may cause or contribute to pollution or contamination of Stormwater, the County Storm Drain System, or the Waters of the United States.

6. "Board" means the Board of Supervisors of the County.


8. "Construction Activity" means activities subject to NPDES Construction Permits or a grading permit pursuant to the Monterey County Grading, Erosion, and Sediment Control Ordinance (No. 16.08, as amended), or any construction projects resulting in total land disturbance of one acre or more. Construction Activity also includes the disturbance of less than one acre that is part of a larger common plan of development or sale that will ultimately disturb at least one acre. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition but do not include discing and other actions for preparing fields for planting or harvesting.

9. "CAO" means the County Administrative Officer and persons to whom the CAO has delegated powers or duties in accordance with section 16.14.080 below.


11. "County" means the County of Monterey.

12. "County Storm Drain System" means those man-made facilities or natural features within the unincorporated Urbanized Area of the County which are owned, operated, maintained or controlled by the County and by which Stormwater may be conveyed to Natural Surface Waters, and includes, but is not limited to, any roads with drainage systems, public roads and rights of way, catch basins, water quality basins, detention basins, constructed wetlands, artificial channels, aqueducts, curbs, gutters, ditches, sumps, pumping stations, storm drain inlets, and storm drains, but does not include a combined sewer or part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR section 122.26(b)(8).


14. "Discharge" means the release or placement of Stormwater or any Material into the County Storm Drain System.

15. "Discharger" means any person who Discharges, or causes a Discharge, either directly or indirectly.

16. "EPA" means the United States Environmental Protection Agency.
17. “Illicit Connection” means any physical connection to the County Storm Drain System which is not expressly authorized by the County.

18. “Implementing Agency” means the agency(s) or department(s) designated by the CAO to enforce the provisions of this Chapter with respect to a particular site, facility or Industry category.

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

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

21. “Natural Surface Water” means creeks, natural ponds or lakes, wetlands, or navigable waters and shall include any Waters of the United States contained within the boundaries of the State. Natural Surface Water does not mean any wet or dry detention basin, constructed wetland, Stormwater treatment facility, artificial lake or pond or other man-made body of water.

22. “Non-Stormwater Discharge” means any Discharge to the County Storm Drain System that does not consist of Stormwater. Non-Stormwater Discharges include but are not limited to Discharges of: (1) water that has been used by a Person for any purpose such as cleaning, rinsing, cooling, irrigation, aquaculture, recreation, cooking, and industrial processes; (2) water or wastewater that originates or flows from equipment, valves, piping, hoses, containers, tanks, or other man-made apparatus; or (3) any Discharge of Materials or wastes other than water.

23. “NPDES” means the National Pollution Discharge Elimination System.

24. “NPDES Permit” means a National Pollution Discharge Elimination System Permit which is a permit issued by the State Board pursuant to Chapter 5.5 (commencing with Section 13370) of Division 7 of the Water Code, or the United States Environmental Protection Agency to control discharges from point sources to Natural Surface Waters.

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

26. “Pollutant” means any contaminant or other substance which, as determined by the CAO, is Discharged or has a reasonable potential to be Discharged in sufficient quantities or concentrations to cause exceedance of Receiving Water Limitations. Pollutant may include, but is not limited to, solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive material, dredged soil, rock, sand, industrial waste, feces, fecal coliform, fecal streptococcus, enterococcus, volatile organic carbon, surfactants, oil and grease, petroleum hydrocarbon, organic solvents, metals, phenols, pesticides, nutrients, suspended or settleable solids, materials causing an increase in biochemical or chemical oxygen or total organic carbon, substances which alter pH, and those Pollutants defined in Section 502(6) of the Clean Water Act (33 U.S.C. Section 1263(6)) or California Water Code Section 13373.


28. “Potential Discharger” means any Person who by nature of the enterprise, activity or Industry in which such Person is engaged, or by the use, possession or ownership of specified
types of buildings, facilities, equipment, or materials, is determined by the CAO to generate or have the capacity to generate Pollutants, wastes, or wastewater which have significant potential to be Discharged to the County Storm Drain System.

29. “Premises” means any building, lot, parcel or land, or portion thereof, whether improved or unimproved.


32. “Prohibited Non-Stormwater Discharge” means any Non-Stormwater Discharge prohibited pursuant to section 16.14.100 of this Chapter.

33. “Prohibited Non-Stormwater Discharge Installation” means any structure or equipment installed at a Person’s Premises that is not directly connected to the County Storm Drain System, but nonetheless is intended or serves to Discharge or convey a Prohibited Non-Stormwater Discharge to the County Storm Drain System or Waters of the United States.


35. “Receiving Waters” means surface bodies of water, including, but not limited to, creeks and rivers, which serve as discharge points for the County Storm Drain System.

36. “Regional Board” means the California Regional Water Quality Control Board, Central Coast Region. “Regional Board” also means the Regional Board Executive Officer acting pursuant to a valid delegation of authority.

37. “Regional Program” means the Monterey Regional Stormwater Management Program as adopted by the Regional Board on September 8, 2006, on file with the County Clerk, as may be amended from time to time

38. “Significant Industrial Activity” means any Industrial Activity, individual industrial facility, or class of industrial facilities which is determined by the CAO to discharge or have the potential to discharge Pollutants into Stormwater, or Discharge non-Stormwater in quantities or concentrations which may cause exceedance of Receiving Water Limitations, or for which a requirement has been imposed by the state or federal government on the County to conduct Stormwater regulatory activities focused on the facility or activity.

39. “Significant Redevelopment and New Development” means the creation or addition of at least five thousand (5,000) square feet of impervious surfaces on an already developed site. Significant Redevelopment and New Development includes, but is not limited to: expansion of a building footprint, or replacement of a structure; replacement of impervious surface that is not part of a routine maintenance activity; and land-disturbing activities related to structural or impervious surfaces.

40. “Specified Performance Requirements” means standards adopted by the County that define required conditions or results regarding the elimination of Prohibited Discharges or the control of Pollutants in Stormwater from specified sources.

41. “State Board” means the State Water Resources Control Board.

42. “State Construction General Permit” means the State Board’s “Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 Waste Discharge Requirements (WDRS) for discharges of Stormwater Runoff Associated with Construction Activity” and any successor documents.
43. “State Industrial General Permit” means the State Board’s “Water Quality Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Stormwater Associated with Industrial Activities Excluding Construction Activities” and any successor documents.

44. “Stormwater” means surface flow, runoff and drainage consisting entirely of water from storm events.

45. “State Stormwater General Permit” means NPDES General Permit #CAS000004, including any amendments thereto or successor permit, issued by the State Board.

46. “Threatened Prohibited Discharge” means any condition or activity which does not currently result in a Prohibited Discharge but is nevertheless determined by the CAO to be a condition which results in a substantial likelihood of a future Prohibited Discharge.

47. “Unmitigated Stormwater Pollutant Source” means any existing condition that if left unmitigated is reasonably likely, as determined by the CAO, to result in a Discharge of Pollutants into Stormwater that will cause or contribute to an exceedance of Receiving Water Limitations, harm or interfere with the County Storm Drain System, or otherwise pose a threat to public health and safety.

48. “Unincorporated Urbanized Areas” means those areas of the unincorporated area of the County that are determined by the Bureau of the Census from time-to-time to be Urbanized Areas. The Unincorporated Urbanized Areas shall be reflected in maps attached to the BMPGS, as may be amended from time-to-time.

49. “Urbanized Areas (UA)” means a land area comprising one or more places and the adjacent densely settled surrounding area that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile as determined by the Bureau of the Census.

50. “Waters of the United States” has the same meaning as surface watercourses and water bodies set forth in Section 122.2 of Title 40 of the Code of Federal Regulations or any successor provision. For purposes of this Ordinance, “Waters of the United States” includes all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways only carry water during water during rains and storms and may not carry Stormwater at and during all times and seasons.

The provisions of this Chapter shall be construed to assure consistency with the requirements of the Clean Water Act and any acts amendatory thereof or supplementary thereto, applicable implementing regulations, and the State Stormwater General Permit and any amendment, revision or re-issuance thereof. In the event of a conflict between this Chapter and any federal or state law, regulation, order or permit, the requirement which establishes the higher standard for public health and safety shall govern.

The provisions of this Chapter shall be applicable to all Dischargers and Potential Dischargers, except Persons engaged in Agriculture, located within the Unincorporated Urbanized Areas and that Discharge either directly or indirectly into the County Storm Drain System. This Chapter shall not be applicable to Discharges occurring outside the Unincorporated Urbanized Areas, or to Discharges that enter the Waters of the United States or waters of the State without passing through the County Storm Drain System. This Chapter shall not apply to
activities conducted by or facilities operated by the State of California or by agencies of the Federal Government.

The provisions of this Chapter shall take precedence over and are controlling with respect to any conflicting or inconsistent provisions set forth elsewhere in the Code, and shall be construed to assure consistency with the requirements of the Clean Water Act, Porter-Cologne Act, the Regional Program, or any amendments thereto or regulations issued thereunder.

16.14.070 Compliance with other laws or regulations.
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 Natural Surface Waters. Compliance by any Person with the provisions of this Chapter shall not preclude the need to comply with other local, state or federal statutory or regulatory requirements relating to the control of Pollutant Discharges, protection of Stormwater quality, or both.

Except as otherwise provided herein, the authority to implement this Chapter is vested in the CAO who shall be responsible for the administration, implementation and enforcement of the provisions of this Chapter. Unless otherwise specified herein, any powers granted to or duties imposed upon the CAO may be delegated by the CAO to other County employees or, upon the approval of the Board, to employees of other public agencies.

16.14.090 No liability to County.
This Chapter shall not create liability on the part of the County or any officer or employee thereof for any damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

A. It shall be unlawful for any Person to:
   1. make or cause to be made, directly or indirectly, any Non-Stormwater Discharge into the County Storm Drain System; or
   2. Discharge or cause to be Discharged, directly or indirectly, any Material into Stormwater that flows into the County Storm Drain System and which would result in a violation of the State Stormwater General Permit.
B. Notwithstanding subsection A, above, the following shall not constitute Prohibited Discharges:
   1. Any Discharge regulated under a NPDES Permit issued to the Discharger, and administered by the State pursuant to Chapter 5.5 of Division 7 of the Water Code, provided that any such Discharge is in compliance with all requirements of the NPDES Permit and all other applicable laws and regulations, or any Discharge otherwise permitted by the Regional Board.
   2. Any Discharge from any of the following activities:
      a. water line flushing;
      b. landscape irrigation;
c. diverted stream flows;
d. rising ground waters;
e. uncontaminated ground water infiltration [as defined in 40 CFR 35.2005(20)] to separate storm sewers;
f. uncontaminated pumped ground water;
g. Discharges from potable water sources;
h. foundation drains;
i. air conditioning condensate;
j. uncontaminated irrigation water;
k. springs;
l. water from crawl space pumps;
m. footing drains;
n. lawn watering;
o. individual residential car washing;
p. flows from riparian habitats and wetlands;
q. dechlorinated swimming pool Discharges; or
r. Discharges or flows from emergency fire fighting activities.

3. Any Discharge which the CAO, the County Health Officer, the EPA, or the Regional Board determines in writing is necessary for the protection of public health or safety.

4. Any Discharge from Agriculture or Agricultural Run-off addressed by Regional Board programs or policies, provided that any such Discharge is in compliance with all applicable requirements.

5. Additional categories of Discharges which do not cause or contribute to the violation of any Receiving Water Limitation as identified by the CAO upon written approval of the Executive Officer of the Regional Board.

C. Notwithstanding subsection B, above, if the CAO determines that a Discharge listed in subsection B potentially causes a violation of the Porter-Cologne Act or the Clean Water Act, or is otherwise a danger to public health or safety, the CAO may give written notice to the Person responsible for the Discharge that the Discharge will not be excluded from the prohibition set forth in subsection A, above, following expiration of a thirty (30) day period commencing upon delivery of such notice. Upon expiration of such thirty (30) day period, any such Discharge shall be prohibited. Upon finding that any continuance of the Discharge poses an immediate and significant threat to the environment, or to public health and safety, the CAO may waive the thirty (30) day waiting period and require immediate cessation of the Discharge.


A. It is unlawful for any Person to maintain, or cause to be maintained, any of the following conditions:

1. Unmitigated Stormwater Pollutant Source;
2. Threatened Prohibited Discharge;
3. Prohibited Non-Stormwater Discharge Installation; or
4. Illicit Connection.

B. Illicit Connections shall be subject to removal and abatement by the County pursuant to the Code.

C. The prohibition set forth in subsection (a)(4) above shall apply to Illicit Connections in existence at the time that this Chapter becomes effective. Upon the effective date
of this Chapter, any Person who maintains an Illicit Connection shall have thirty (30) days from
the effective date of this Chapter to disconnect and discontinue use of such connection.
Notwithstanding the provisions of this section, any Person who maintains an Illicit Connection,
as defined in Section 16.14.030, may apply to the County to continue the connection subject to
applicable County standards. No permit shall be issued for any connection or any physical
facility or apparatus that is installed, intended, serves, or is known to convey a Prohibited
Discharge to the County Storm Drain System or Waters of the United States.

16.14.120 Containment and notification of spills.
A. Any Person owning or occupying Premises, or conducting any activity, that has
knowledge of any Prohibited Discharge on such Premises or resulting from such activity, shall
immediately take all reasonable action to contain and otherwise minimize any such Prohibited
Discharge.
B. The CAO may designate individual facilities or types of Industries where the
owner or operator of the Industry shall be required to notify the CAO or the Implementing
Agency within twenty-four (24) hours of the discovery of an actual Prohibited Discharge.
C. For any Discharge subject to the reporting requirements of the State of California
Water Code sections 13271 and 13272, notification in compliance therewith shall constitute
sufficient notification for the purposes of this Section.

A. The Board is authorized to approve by resolution a BMPGS detailing BMP
alternatives or options for use in the County for Construction Activity, or other activities,
operations, or facilities that may cause or contribute to pollution or contamination of Stormwater,
the County Storm Drain System, or the Waters of the United States; and the Board shall update
the BMPGS as necessary. The Board is further authorized to adopt by resolution Design
Standards and Specified Performance Requirements as may be necessary or appropriate.
B. The BMPGS may include guidelines for implementing enforcement of this
Chapter. Such guidelines may take into consideration factors such as the nature, circumstances,
extent, and gravity of the violation, and the violator’s past and present efforts to comply.
C. Any Person engaged in activities or operations, or owning facilities or property
that will or may result in Pollutants entering Stormwater, the County Storm Drain System, or
Waters of the United States shall implement the BMPGS to the maximum extent practicable.
D. The County shall incorporate requirements of the BMPGS into any land use
entitlement, building permit or grading permit. The permittee and owner shall comply with the
terms, provisions, and conditions of such land use entitlements and permits as required in this
Chapter and any other applicable ordinances.

16.14.140 BMP requirements.
A. The CAO may require a property owner to establish, document, and conduct a
maintenance program, subject to approval, for any applicable BMP or to ensure continued
compliance with any applicable Specified Performance Requirement. This requirement may
apply to BMPs required by the County or BMPs that were voluntarily installed. Such a
maintenance program may be required when the CAO determines that proper maintenance is
necessary to protect public safety, health, infrastructure, or the environment, or to otherwise meet
the purposes of this Chapter. Maintenance requirements established pursuant to this subsection
must be appropriate for the site conditions, and the design of BMPs or Specified Performance
Requirements.

B. The owner or operator of a commercial or industrial establishment shall provide,
at the owner's sole expense, reasonable protection from accidental Prohibited Discharges
through the use of structural and non-structural BMPs. Further, any Person responsible for a
property or Premises, which is, or may be, the source of a Prohibited Discharge may be required
to implement, at said Person's sole expense, additional structural and non-structural BMPs to
further prevent Prohibited Discharges. Where BMP requirements are promulgated by the
County or any federal, state, or regional agency for any activity, or applicable to any Water of
the United States, every Person undertaking such activity or operation, or owning or operating
such facility, shall comply with such requirements.

C. Any person undertaking Construction Activity for which a building or grading
permit has been issued shall implement BMPs to control the Discharge of Pollutants to the
maximum extent practicable, comply with the State Construction General Permit, and eliminate
Non-Stormwater Discharges that are not in compliance with an applicable NPDES Permit.


Significant Redevelopment and New Development are subject to the Receiving Water
Limitations, and the Design Standards set forth in the BMPGS.


Those Unincorporated Urbanized Areas as identified from time-to-time in the Regional
Plan shall be subject to the Receiving Water Limitations.

16.14.170 Compliance with other NPDES Permits.

All Persons subject to the State Construction General or State Industrial General Permits
shall comply with the provisions thereof, or with the provisions of any other applicable NPDES
Permit issued by the Regional Board.


A. Prior to commencing any inspection authorized pursuant to this Chapter or the
Code, the CAO shall obtain the consent of the owner or occupant of the Premises, an inspection
warrant, or a criminal search warrant, unless entry without consent or warrant is otherwise
authorized by the Code, or state or federal law.

B. The CAO may conduct inspections on private or public property related to
purposes of implementing this Chapter. Inspections shall be based upon such reasonable bases
as may be deemed necessary to carry out the objectives of this 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, Non-Stormwater Discharge, or similar factors.

C. The CAO may enter upon private property to investigate the source of any
Prohibited Discharge to any public street, inlet, gutter, storm drain or the County Storm Drain
System.

D. The CAO may enter upon private property for the purpose of verifying
compliance with the provisions of this Chapter, including, but not limited to, the following:
1. Identifying products produced, processes conducted, chemicals used and materials stored on or contained within the property;

2. Identifying point(s) of discharge of all wastewater, process water systems, pollutants and other discharges from the property;

3. Investigating the drainage patterns of the premises, including natural and graded slopes, and artificial conveyance systems;

4. Establishing the location of all points of discharge from the property, whether by surface run-off or through a storm drain system;

5. Locating any prohibited condition, illicit connection, or the source of any prohibited discharge; and

6. Evaluating implementation, effectiveness and maintenance of BMPs.

E. For purposes of verifying compliance with the provisions of this Chapter, the CAO may inspect any vehicle, truck, trailer, tank truck or other mobile equipment, or any stationary equipment, which may reasonably be believed to be used by the business for business-related activities and to be associated with industrial sources of pollutants or with non-stormwater discharges.

F. The CAO may inspect and copy all records of the owner or occupant of any premises relating to chemicals or processes presently or previously occurring on-site, including materials or chemical inventories, facilities maps or schematics or diagrams, material safety data sheets, hazardous waste manifests, business plans, pollution prevention plans, state general permits, monitoring program plans or any other records relating to illicit connections, prohibited discharges or the potential discharge of pollutants to the county storm drain system. In addition, the CAO may require the owner or occupant to furnish, within a reasonable time period, copies of all such records.

G. The CAO may inspect, sample and test any area runoff, soils area (including any groundwater testing), process discharge, materials within any waste storage area (including any container contents), and/or treatment system discharge for the purpose of determining the potential for the contribution of pollutants to the county storm drain system. The CAO may investigate the integrity and layout of all storm drain and sanitary sewer systems or other pipelines on the premises using appropriate tests, including, but not limited to, smoke and dye tests or video surveys. The CAO may take photographs or video tape, make measurements or drawings, and create any other record reasonably necessary to document conditions on the premises.

H. The CAO may erect and maintain monitoring and sampling devices for the purpose of measuring any discharge or potential source of discharge into the county storm drain system.

16.14.190 Reporting requirements.

A. The CAO may require any person to report information for purposes related to the purpose and intent of this Chapter. Required information may include but is not limited to the following: characterization of activities; compliance with this Chapter; compliance with state Stormwater Permit requirements (General, Construction or Industrial); compliance with this Ordinance; compliance with administrative enforcement orders or other enforcement actions; discharge monitoring; training; and BMP implementation, effectiveness, and maintenance.

B. The CAO may require information to be submitted on an as needed basis, or according to a specific schedule.
C. The CAO may require submitted information to be compiled, summarized, analyzed or organized in a reasonable manner that facilitates its interpretation or other use. As necessary to facilitate the use of information, the CAO may also specify the medium and format of required submittals.

D. Failure to provide information in a timely manner as required by the CAO, or knowingly or negligently concealing, destroying, or providing false information shall be a violation of this Chapter.


A. Information and data relating to a Discharger or Potential Discharger obtained from inspections, reports, questionnaires, applications, permits, monitoring programs, records, or any other form of submittal to the County shall be available to the public or other governmental agency without notification unless the Discharger or Potential Discharger specifically requests confidentiality as to any portion thereof and is able to demonstrate to the satisfaction of the CAO that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the Discharger or Potential Discharger. Prohibited Discharge constituents and characteristics will not be recognized as confidential information, and effluent data shall be available to the public without restriction.

B. When requested by a Discharger or Potential Discharger furnishing information to the County, and agreed to by the CAO, the portions of that information which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to the County and other governmental agencies for uses related to this Chapter, NPDES or other pretreatment program, and enforcement of other environmental regulatory programs. Those portions of the information shall also be available for use by the state or any state agency in judicial review or enforcement proceedings involving the Discharger or Potential Discharger furnishing the information.

C. Information and data requested from a Discharger or Potential Discharger which the Discharger or Potential Discharger believes to be proprietary and the release of which to the public would substantially impair the operations or business interests of the Discharger or Potential Discharger, may alternatively be provided to the County for its review at the facility of the Discharger or Potential Discharger rather than provided to the County for its keeping, at the discretion of the County. The burden will be on the Discharger or Potential Discharger to demonstrate to the satisfaction of the County that such information is proprietary and that this alternative procedure is necessary or appropriate and will not prevent the County from properly carrying out the objectives of this Chapter.

D. In the event access to or disclosure of any such confidential or proprietary information is requested pursuant to an action brought under federal or state laws, the County shall have the option, in its sole discretion, of defending itself in such action or requiring the Discharger or Potential Discharger to provide a defense. If the County makes written tender upon a Discharger or Potential Discharger to defend such an action with counsel acceptable to County and such Discharger or Potential Discharger does not appear in and assume the defense of such action within the time specified in the tender, the County shall be free to disclose the information to the party making request therefore. In any event, the Discharger or Potential Discharger shall be liable to the County in defending such action and for any judgment rendered against the County in such action. Payment of all such amounts shall be made by the Discharger or Potential Discharger within thirty (30) days of billing by the County.
Any reports, data, or other records and documentation required by the CAO of a Discharger or Potential Discharger to be collected or submitted for characterizing Discharges, demonstrating compliance with this Chapter, or otherwise related to the purposes of this Chapter, shall be retained at the Discharger's or Potential Discharger's Premises and made readily available to the CAO for a period of not less than three years from collection or submittal. If an audit, litigation or other action is pending at the end of the three year period, then such records shall be maintained until the audit, litigation or action, as the case may be, is resolved.

The CAO shall collect such fees as may be established by the Board to provide for the recovery of regulatory costs, including routine inspections and other regulatory functions associated with this Chapter. Any such fees shall be established by resolution of the Board and incorporated into the Monterey County Fee Resolution. Failure to pay required fees within the time period set in policy established by the CAO shall be a violation of this Chapter.

When any notice is required to be given pursuant to this Chapter, such notice shall be effective when deposited in the U.S. mail, certified first class, return receipt requested; deposited with any commercially available delivery service for overnight delivery; or personally delivered.

It shall be unlawful for any Person to negligently or willfully violate any provision of this Chapter. Violations under this Chapter will be enforced pursuant to this Chapter and Chapter 1.22 of the Code.

A. All fines and penalties collected for violations of this Chapter shall be placed in a restricted revenue account for Stormwater purposes. Such fines and penalties shall be used to defray the County's unreimbursed costs for enforcement of this Chapter.
B. All payments for reimbursement of Administrative Costs (as defined in Chapter 1.22) shall be credited to the County fund responsible for the department that issued any notice of violation for enforcement of this Chapter.

SECTION 3. ADOPTION OF A BEST MANAGEMENT PRACTICE GUIDANCE SERIES AND DESIGN STANDARDS.
The Board shall, no later than 120 days of the effective date of this Ordinance, approve by resolution a Best Management Practice Guidance Series ("BMPGS") detailing Best Management Practice alternatives or options ("BMPs") for use in the County for construction and other activities, operations, or facilities that may cause or contribute to pollution or contamination of stormwater, the County storm drain system, or the waters of the United States.

The BMPGS shall include, but not be limited to, the design standards (or functional equivalent or regulatory higher standard) set forth in Attachment 4 of the State Stormwater General Permit (NPDES General Permit No. CAS000004), and those promulgated by the California Regional Water Quality Control Board, Central Coast Region, in order to minimize
California Regional Water Quality Control Board, Central Coast Region, in order to minimize the long-term, post construction discharge of stormwater pollutants from significant redevelopment and new development, verification of maintenance of structural or treatment control BMPs, and construction site plan review and inspection procedures. The design standards in the BMPGS may include:

A. Numeric criteria for controlling stormwater runoff volume and rates from significant redevelopment and new development, and numeric criteria for stream stability required to protect downstream beneficial uses and prevent physical changes to downstream stream channels that would adversely affect the physical structure, biologic condition, and water quality of streams;

B. Specific applicability criteria, land disturbance acreage thresholds, and exemptions;

C. Performance criteria for control BMPs and an inspection program to ensure proper functioning over long term; and

D. Education requirements for appropriate County staff on hydromodification and low impact development.

SECTION 4. SEVERABILITY.

If any chapter, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each chapter, section, subsection, sentence, clause, and phrase thereof regardless of the fact that any one chapter or one or more sections, subsections, sentences, clauses, or phrases be declared invalid.
SECTION 5. EFFECTIVE DATE. This ordinance shall become effective on the 31st day after its adoption.

PASSED AND ADOPTED this 16 day of March, 2010, by the following vote:

AYES: Supervisors Calcagno, Salinas, Parker, Potter

NOES: None

ABSENT: Supervisor Armenta

Chair, Monterey County Board of Supervisors

ATTEST:

GAIL T. BORKOWSKI
Clerk of the Board

BP

APPROVED AS TO FORM:

LEROY W. BLANKENSHIP
Assistant County Counsel