

ORDINANCE NO. 2003-___

**AN ORDINANCE OF THE CITY OF AMERICAN CANYON
ESTABLISHING A STORMWATER AND POLLUTION
DISCHARGE CONTROL PROGRAM**

WHEREAS, the City of American Canyon (“City”) was granted a National Pollutant Discharge Elimination System (NPDES) Permit in January 2000 to discharge stormwater runoff from storm drains and watercourses that it owns and/or operates; and

WHEREAS, the terms of the Permit require the City to adopt and enforce an ordinance to prevent and reduce pollutants in stormwater and protect the natural function of the watercourse; and

WHEREAS, the City wishes to establish a Stormwater Management and Discharge Control Program;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN THE FOLLOWING:

SECTION 1. Title.

This chapter shall be known as the “City of American Canyon Stormwater Management and Discharge Control Program” and may be so cited.

SECTION 2. Purpose and Intent.

The purpose of this chapter is to ensure the future health, safety, and general welfare of the City of American Canyon citizens by:

- A. Minimizing discharges other than storm runoff to storm drains or watercourses.
- B. Controlling the discharge to storm drains or watercourses from spills, dumping or disposal of materials other than rain water.
- C. Reducing pollutants in stormwater discharges to the maximum extent practicable.

The intent of this chapter is to protect and enhance the water quality of the State’s, and the Nation’s watercourses, water bodies and wetlands in a manner pursuant to and consistent with the Clean Water Act.

SECTION 3. Definitions.

For the purpose of this chapter, unless otherwise apparent from the context, words and phrases set forth in this section shall have the following meanings:

Ordinance
Page 2

A. "Authorized Enforcement Official" means the following City officials: Director of Public Works, Planning Director, Associate Planner, Building Inspector, Fire Chief, Public Works Superintendent and Public Works Supervisor.

B. "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly into the waters of the United States. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste recycling or disposal, or drainage from raw material storage.

C. "Discharge" means any addition of any pollutant to navigable waters from any point source, or any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

D. "Illicit connection" means any device or method which conveys nonstormwater discharge.

E. "Illicit discharge" means any discharge to storm drains that is not composed entirely of stormwater except discharges pursuant to a National Pollutant Discharge Elimination System (NPDES) permit and discharges resulting from fire fighting activities.

F. "Nonstormwater discharge" means any discharge that is not entirely composed of stormwater.

G. "Pollutant" means shall mean dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

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

I. "Storm drains" includes, but is not limited to, those stormwater drainage conveyance facilities within the City, both public and private, by which stormwater may be conveyed to the waters of the United States, including any roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains, which are not part of a publicly owned treated works (POTW) as defined at 40 CFR 122.2.

J. "Stormwater of storm runoff" means stormwater runoff, snow melt runoff, and surface runoff and drainage.

K. "Watercourse" means a stream of water usually flowing in a definite channel having a bed and sides, or banks, and discharging itself into some other stream or body of water. It is unnecessary for a watercourse be exclusively the work of nature.

L. "All other terms used in this chapter shall have the same meaning as defined in the Federal clean Water Act (33 U.S.C. 1251 et seq.), as amended, and the regulations for the stormwater discharge program issued by the Environmental Protection Agency on November 16, 1991, as amended.

SECTION 4. Discharge of Pollutants.

A. The discharge of nonstormwater discharges to storm drains is prohibited. All discharges of material other than stormwater must be made in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued for the discharge. A discharger operating under a NPDES permit issued to the discharger and administered by the State of California under authority of the United States Environmental Protection Agency must comply with all requirements of the permit and other applicable laws or regulations.

B. Discharges from the following activities, when properly managed, will not be considered a source of pollutants to the waters of the United States: water line flushing and other discharges from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising groundwater, infiltration to storm drains, uncontaminated pumped ground water, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, flows from fire fighting, or permitted use of reclaimed water.

SECTION 5. Discharge in Violation of Permit.

No person shall cause a discharge that would result in, or contribute to, a violation of NPDES Permit No. CA S612007, a copy of which is in the office of the City Clerk, either separately considered, or combined with other discharges. Liability for any such discharge shall be the responsibility of the person(s) so causing or responsible for the discharge, and such persons shall defend, indemnify and hold harmless the City in any administrative or judicial enforcement action relating to such discharge.

SECTION 6. Reduction of Pollutants in Urban Runoff.

Any person engaged in activities which will, or may result in, pollutants entering the storm drains, shall undertake all practicable measures to cease such activities, and/or eliminate or reduce such pollutants.

SECTION 7. Parking Lots and Similar Structures.

Persons owning or operating a parking lot, gas station tarmac, or similar structure shall clean those structures as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the City storm drains.

SECTION 8. Construction.

A. All construction plans and applications for building permits shall consider the potential for erosion and sedimentation at the construction site, and shall include appropriate erosion and sedimentation controls. Appropriate controls shall be determined in accordance with the guidance provided in the “Standards for Erosion and Sedimentation Control” and the “Erosion and Sedimentation Control Handbook” published by the Association of Bay Area Governments, (ABAG) and may include site planning considerations, construction staging and timing, and installation of temporary detention ponds or other treatment facilities.

B. Prior to and/or during construction, the Director of Public Works may establish controls on the volume and rate of stormwater runoff from new developments and redevelopment as may be appropriate to minimize peak flows or total runoff volume. These controls may include limits on impervious area or provisions for detention and retention of runoff on-site.

C. The Director of Public Works may require, as a condition of project approval, permanent structural controls designed for the removal of sediment and other pollutants. The selection and design of such controls shall be in accordance with criteria established or recommended by state and federal agencies.

SECTION 9. Notification of Intent and Compliance with General Permits.

A. Each industrial discharger, discharger associated with construction activity, or other discharger, described in any general stormwater permit addressing such discharges, as may be adopted by the United States Environmental Protection Agency,

the State Water Resources Control Board, or the Regional Board, shall provide notice of intent, comply with, and undertake all other activities required by any general stormwater permit applicable to such discharges.

B. Each discharger identified in an individual NPDES permit relating to stormwater discharges shall comply with and undertake all activities required by such permit.

SECTION 10. Best Management Practices.

Where Best Management Practices, guidelines or requirements have been adopted by any Federal, State of California, regional and/or local agency, for any activity, operation, or facility which may cause or contribute to stormwater pollution for contamination, illicit discharges, and/or discharge of nonstormwater to the storm drains, every person undertaking such activity or operation, or owning or operating such facility shall comply with such guidelines or requirements as may be identified by the Director of Public Works.

SECTION 11. Watercourse Protection.

A. Every person owning, occupying, leasing, renting, or in control of premises through which a watercourse passes, are encouraged to the maximum extent practicable:

1. Keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles which would and/or could pollute, contaminate, or significantly retard the flow of water through the watercourse;
2. Maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse; and
3. Not remove healthy bank vegetation beyond that necessary for said maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.

It should be noted that if a property owner does not maintain a portion of a watercourse through their property and damage occurs to other properties as a result of the lack of maintenance, the property owner may be liable for damage resulting from the lack of maintenance of the watercourse. When problems are noted, City personnel shall notify the property owner in writing describing the problem noted and requesting

that the property owner take necessary action to fix the problem.

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

1. Discharge into, or connect, any pipe or channel to a watercourse;
2. Modify the natural flow of water in a watercourse;
3. Deposit in, plant in, or remove any material from a watercourse including its banks, except as required for necessary maintenance;
4. Construct, alter, enlarge, connect to, change, or remove any structure in a watercourse; or
5. place any loose or unconsolidated material adjacent to, or within, a watercourse so as to cause a diversion of the flow, or to cause a probability of such material being carried away by stormwater passing through such watercourse.

SECTION 13. Authority to Inspect.

The Authorized Enforcement Official has the duty and the responsibility to inspect any and all locations for any violation of the provisions of this chapter. The Authorized Enforcement Official may, within the limitations of the law, enter such building or premises at reasonable times to inspect the same for violations of this chapter or to perform any duty imposed upon the official by this chapter, provided the official presents proper credentials to, and obtains consent from the owner or occupant to enter. In the event the owner and/or occupant refuses entry, the official shall request assistance of the City Attorney to obtain an administrative warrant for the premises, pursuant to State law.

SECTION 14. Authority to Sample and Establish Sampling Devices.

The Authorized Enforcement Official has the right to, and shall conduct routine sampling and monitoring on or adjacent to the premises under review. The cost of such routine sampling and/or monitoring activities, including test reports and results, shall be born by the City. The Authorized Enforcement Official may, within the limitations of law, enter such premises at reasonable times to conduct sampling and monitoring operations, provided that the official presents proper credentials to, and obtains consent from the owner or occupant to enter. In the event the owner and/or occupant refuses entry, the official shall request assistance of the City Attorney to obtain an administrative

warrant for the premises, pursuant to the provisions of State law.

SECTION 15. Notification of Spills.

As soon as any person in charge of a facility, or responsible for emergency response for a facility, has knowledge of any confirmed or unconfirmed release of materials, pollutants or waste which may result in pollutants or nonstormwater discharges entering the City storm sewer system, such person shall take all necessary steps to ensure the discovery, containment and cleanup of such release and shall notify the City of the occurrence by telephone immediately and confirm the notification by correspondence to the Public Works Director within five days.

SECTION 16. Requirement to Test or Monitor.

A. Whenever an Authorized Enforcement Official has reasonable cause to believe that the owner and/or occupant of a premises is engaged in an activity and/or operating a facility that is causing or contributing to stormwater pollution or contamination, illicit discharges, and/or the discharge of nonstormwater or other unlawful material to the storm drains, the official may require the owner and/or occupant to conduct sampling and/or monitoring activities on the premises and to furnish such test results and reports as the official may determine. The burden and cost of undertaking such sampling and monitoring activities, including test results and reports, shall be born by the owner of the premises under review. The type and method of sampling and monitoring shall bear a reasonable relationship to the need for testing and monitoring and to the benefits to be obtained, as determined by the enforcement official.

B. Whenever an Authorized Enforcement Official finds a condition that (1) violates this chapter; (2) presents an immediate and present danger to the public health, safety and welfare; and (3) requires immediate remedial action to prevent injury to persons or property; the Authorized Enforcement Official shall take whatever reasonable and appropriate action is necessary to neutralize the danger, including, but not limited to, entry upon private premises for inspection, sampling and monitoring and abatement.

SECTION 17. Violations Constituting Misdemeanor.

A. The violation of any provision of this chapter or failure to comply with any of the mandatory requirements of this chapter shall constitute a misdemeanor, except that, notwithstanding any other provisions of this chapter, any such violation constituting a misdemeanor under this chapter may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction.

Ordinance
Page 8

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

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

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

SECTION 18. Civil Enforcement Action.

The violation of any provision of this chapter, or the failure to comply with any requirements of this chapter, may be enforced by civil action brought by the City Attorney in any court having appropriate jurisdiction. In any such action, the City may seek any or all of the following remedies:

1. A temporary or permanent injunction;
2. Costs of investigation, inspection, sampling or monitoring activities concerning the violation and costs of suit which includes attorney fees and legal costs;
3. Costs of restoration of the premises from its condition resulting from violations back to its original condition;
4. Compensatory damages including, but not limited to, loss and/or destruction of water quality, wildlife, fish, aquatic habitat, and other adverse environmental effects. Damages recovered under this subsection shall be paid to the City and shall be exclusively for costs of sampling and monitoring, of establishing stormwater discharge pollution control systems, and of implementing and/or enforcing the provisions of this chapter.

SECTION 19. Administrative Enforcement Action.

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 stating 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 City shall take further enforcement action as specified in this chapter, or in accordance with any other appropriate provision of local, State or Federal law.

SECTION 20. Authority to Arrest and Issue Citations.

A. The Authorized Enforcement Official shall have the authority to arrest or to cite any person who violates any provision of this chapter in the manner provided by the California Penal Code for the arrest or release on citation of misdemeanors or for citation of infractions and notice to appear, as prescribed by Chapters 5, 5c and 5d of Title 3, Part 2 of the California Penal Code, including Section 853.6 or as the same may be hereinafter amended.

B. It is the intent of the City Council that the immunities provided in Penal Code Section 836.5 be applicable to public officers or employees acting within the course and scope of their employment pursuant to this chapter.

SECTION 21. Coordination with Hazardous Materials Inventory and Response Program.

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

SECTION 22. Supercession.

If any section, subsection, sentence, clause or phrase or word of this chapter is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

The foregoing ordinance was introduced and read at a regular meeting of the City Council of the City of American Canyon, State of California, held on the ___ day of _____, 2003 and was passed and adopted at a regular meeting of the City Council

**Ordinance
Page 10**

of the City of American Canyon, State of California, held on the ___ day of ____, 2003 by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:**

**DONALD COLCLEASER
Mayor**

ATTEST:

**KAY WOODSON
Interim City Clerk**

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

**WILLIAM D. ROSS
City Attorney**

**JOHN L. WANGER
Public Works Director**