

ORDINANCE NO. 13-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUELLTON, CALIFORNIA, ADDING NEW TITLE 15 AND CHAPTER 15.01 TO THE BUELLTON MUNICIPAL CODE PERTAINING TO STORMWATER MANAGEMENT AND DISCHARGE CONTROL AND MAKING FINDINGS IN SUPPORT THEREOF

SECTION 1: The purpose and intent of this Ordinance is to protect and enhance the water quality of waters of the state and water bodies in a manner pursuant to and consistent with the Porter-Cologne Water Quality Control Act (California Water Code §13000 et seq.) and State Water Resources Control Board Water Quality Order No. 2013-0001-DWQ by reducing pollutants in stormwater discharges to the maximum extent practicable and by prohibiting non-stormwater discharges to the Storm Drain System.

SECTION 2: All proceedings having been duly taken as required by law, and upon review of the information provided in the staff report, consideration of the testimony given at the public hearing, as well as other pertinent information, the City Council finds the following:

- A. Record.** Prior to rendering a decision on any aspect of the proposed municipal code amendments, the City Council considered the following:
1. All public testimony, both written and oral, received in conjunction with the public hearings conducted by the City Council on September 12, 2013. (“Public Hearing”).
 2. All oral, written and visual materials presented by City staff in conjunction with the Public Hearing.
 3. The following informational documents which, by this reference, are incorporated herein.
 - a. That certain written report submitted to the City Council dated September 12, 2013(the “Staff Report”).
- B. Public Review.** On the basis of evidence hereinafter listed, all administrative procedures and public participation requirements prescribed in the Municipal Code have been lawfully satisfied:
1. A notice was published in a legal section of a newspaper on August 29, 2013 (the “Public Notice”), a minimum of ten (10) days in advance of the Public Hearing conducted on February 28, 2013.
 2. The Public Notice was posted in three public locations on August 29, 2013, a minimum of 10 days in advance of the Public Hearing.

- C. **Environmental Clearance.** This project is exempt from the California Environmental Quality Act because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 3. ORDINANCE:

THE CITY COUNCIL OF THE CITY OF BUELLTON DOES HEREBY ORDAIN AS FOLLOWS:

- A. The Buellton Municipal Code is hereby amended to add a new Title 5, to be read as follows:

“Title 15

STORMWATER

Chapters:

15.01 Stormwater Quality Management and Discharge Control”

- B. Title 15 of the Buellton Municipal Code is hereby added to be read as follows:

“Chapter 15.01

STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL

Sections:

- 15.01.010. Title.**
- 15.01.020. Purpose and intent.**
- 15.01.030. Definitions.**
- 15.01.040. Applicability.**
- 15.01.050. Responsibility for administration.**
- 15.01.060. Regulatory consistency.**
- 15.01.070. Ultimate responsibility of discharger.**
- 15.01.080. Prohibition of illegal discharges.**
- 15.01.090. Prohibition of illicit connections.**
- 15.01.100. Discharges in violation of industrial or construction activity NPDES stormwater discharge permit.**
- 15.01.110. Requirement to prevent, control, and reduce stormwater pollutants.**
- 15.01.120. Requirement to eliminate illegal discharges.**
- 15.01.130. Requirement to eliminate or secure approval for illicit connections.**
- 15.01.140. Watercourse protection.**

- 15.01.150. Requirements to remediate.**
- 15.01.160. Requirements to monitor and analyze.**
- 15.01.170. Notification of spills.**
- 15.01.180. Compliance letter for stormwater management facilities.**
- 15.01.190. Authority to inspect.**
- 15.01.200. Authority to sample, establish sampling devices, and test.**
- 15.01.210. Access to facilities.**
- 15.01.220. Enforcement and administration.**
- 15.01.230. Urgency abatement.**
- 15.01.240. Violations deemed a public nuisance.**
- 15.01.250. Acts potentially resulting in a violation of the Federal Clean Water Act and/or California Porter-Cologne Act.**
- 15.01.260. Civil penalties to be deposited in the general fund.**

Section 15.01.010. Title.

This Chapter shall be known as the “Stormwater Quality Management and Discharge Control Ordinance” of the City of Buellton and may be so cited.

Section 15.01.020. Purpose and intent.

The purpose and intent of this Chapter is to protect and enhance the water quality of waters of the state and water bodies in a manner pursuant to and consistent with the Porter-Cologne Water Quality Control Act (California Water Code §13000 et seq.) and State Water Resources Control Board Water Quality Order No. 2013-0001-DWQ by reducing pollutants in stormwater discharges to the maximum extent practicable and by prohibiting non-stormwater discharges to the Storm Drain System.

All regulated projects, except those exempted in the Order No. 2013-0001-DWQ, shall be subject to the California Regional Water Quality Control Board, Central Coast Region Resolution No. R3-2013-0032, Post-Construction Stormwater Management Requirements for Developmental Projects in the Central Coast Region. In addition, please refer to the Buellton Stormwater Manual.

The objectives of this Chapter are:

- A. To regulate the contribution of Pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- B. To prohibit Illicit Connections and Discharges to the MS4;
- C. To eliminate, to the maximum extent practicable, the discharge of Pollutants that would degrade the water quality of local creeks and streams;
- D. To reduce stormwater runoff rates and volumes and non-point source Pollution whenever possible through stormwater management controls, and ensuring that these management controls are properly maintained and pose no threat to public safety; and

E. To establish legal authority to implement and enforce stormwater management requirements, and carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

Section 15.01.030. Definitions.

The terms used in this Chapter shall have the following meanings:

“Authorized Enforcement Agency” means employees or designees of the director of public works of the City of Buellton designated to enforce this Chapter.

“Best Management Practices (BMPs)” means activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly into the municipal Storm Drain System and waters of the state. Best Management Practices include but are not limited to: treatment facilities to remove pollutants from stormwater; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-stormwater, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the City determines appropriate for the control of pollutants. Please refer to the Buellton Stormwater Manual.

“Buellton Stormwater Manual” means the manual provided to staff and the public which provides the most current applicable Best Management Practices guides, Low Impact Design tools, and post construction requirements and parameters as established by the Regional Water Quality Control Board and other agencies and accepted by the City of Buellton to be incorporated with City practices and development/construction activities.

“City” means the City of Buellton.

“Clean Water Act” means the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), and any subsequent amendments thereto.

“Construction Activity” means sites where activities, including, but not limited to, clearing and grubbing, grading, excavating, and demolition.

“Commercial Activity” means any public or private activity involved in the storage, transportation, distribution, exchange or sale of goods and/or commodities or providing professional and/or non-professional services.

“Contamination” means contamination is as defined in California Water Code §13050(k), as amended, as follows:

“Contamination” means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

“Contamination” includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.”

“Discharge” means any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid or solid substance.

“Hazardous Materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Illegal Discharge” means any direct or indirect non-stormwater discharge to the Storm Drain System, except as exempted in § 15.01.080 of this chapter.

“Illicit Connection” means an illicit connection is defined as either of the following:

A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the Storm Drain System including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, wash water, and any solid materials and debris to enter the Storm Drain System and any connections to the Storm Drain System from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or

B. Any drain or conveyance connected from a commercial or industrial land use to the Storm Drain System which has not been documented in plans, maps, or equivalent records and approved by the City.

“Industrial Activity” means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

“Low Impact Development” means development features designed to reduce run-off and impacts to the post developed site. These features include items such as grass drainage swales, depressed retention/filtration ponds, etc.

“National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permits” means the General, group, and individual stormwater discharge permits which regulate facilities defined in federal NPDES regulations pursuant to the Clean Water Act. The California Regional Water Quality Control Board, Central Coast Region (hereinafter, Regional Board) and the State Water Resources Control Board have adopted general stormwater discharge permits, including but not limited to the General Construction Activity and General Industrial Activity permits.

“Non-Stormwater Discharge” means any discharge to the Storm Drain System that is not composed entirely of stormwater.

“Nuisance” means the meaning ascribed to nuisance by California Water Code § 13050(m), as amended, as follows:

“Nuisance” means anything which meets all of the following requirements:

A. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

B. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

C. Occurs during, or as a result of, the treatment or disposal of wastes.”

“Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); beverage (alcoholic and non-alcoholic) manufacturing wastes such as pomace, lees, diatomaceous earth, stems, spent grain, spent hops, trub, yeast, caustic and acid cleaners, and waste wine, waste beer, and waste alcohol; and noxious or offensive matter of any kind.

“Pollution” means alteration of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses. Pollution also includes Contamination

“Porter-Cologne Act” means the Porter-Cologne Water Quality Control Act and as amended, California Water Code §13000 et seq.

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

“Remediation” means the abatement or removal of pollution or contaminants from land or water (including sediments in waterways) for the general protection of human health and the environment.

“Storm Drain System” means the publicly-owned facilities operated by the City by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the City.

“Stormwater” means any surface flow, runoff, and drainage consisting entirely of water from precipitation.

“Wastewater” means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

“Waters of the State (“waters of the state”)” means surface watercourses and water bodies as defined at California Water Code §13050, as amended, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

Section 15.01.040. Applicability

This Chapter, including any amendments or revisions thereto, shall apply to all water entering the Storm Drain System generated on or flowing over any developed and undeveloped land lying within the City of Buellton.

Section 15.01.050. Responsibility for administration.

The Director of Public Works/City Engineer for the City (“Director”) shall administer, implement, and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the Director may be delegated in writing by the Director to persons or entities acting in the beneficial interest of or in the employ of the City.

Section 15.01.060. Regulatory consistency.

This Chapter shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Act and any amendments thereto, or any applicable implementing regulations.

Section 15.01.070. Ultimate responsibility of discharger.

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; therefore this Chapter does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants into waters of the state caused by said person. This Chapter shall not create liability on the part of the City, or any agent or employee thereof for any damages that result from any discharger’s reliance on this Chapter or any administrative decision lawfully made thereunder.

Section 15.01.080. Prohibition of illegal discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

A. Illegal discharges from industrial and/or commercial sources into the Storm Drain System or waters of the state include, but are not limited to, the following, and are prohibited, unless the discharge is permitted under a separate NPDES permit, or as allowed by the proper application of BMPs adopted by the City:

1. Water from the cleaning of gas stations, vehicle service garages, or other types of vehicle service facilities;
2. Water, cleansers, or solvents from the cleaning of vehicles, machinery or equipment, and other such commercial and industrial activities;
3. Water from the washing or rinsing of vehicles containing soap, detergents, solvents, or other cleaners (Individual private vehicle washing is exempt per §15.01.090 B);
4. Water from the washing or rinsing of vehicles, with or without soap, from auto body repair shops;
5. Water from the cleaning or rinsing of vehicle engine, undercarriage, or auto parts cleaning;
6. Vehicle fluids;

7. Mat wash and hood cleaning water from food service facilities;
8. Food and kitchen cleaning water from food service facilities;
9. Leakage from dumpsters or trash containers;
10. Water from the cleaning or rinsing of garbage dumpster areas and areas where garbage is stored or contained;
11. Water from pressure washing, steam cleaning, and hand scrubbing of sidewalks, gutters, plazas, alleyways, outdoor eating areas, steps, building exteriors, walls, driveways, and other outdoor surfaces;
12. Wastewater or cleaning fluids from carpet cleaning;
13. Swimming pool and spa water, unless dechlorinated;
14. Wash out from concrete trucks;
15. Runoff from areas where hazardous substances, including diesel fuel, gasoline and motor oil are stored, except as allowed by §15.01.100;
16. Super-chlorinated water normally associated with the disinfection of potable water systems;
17. Construction debris, such as, but not limited to, paint, dirt, and wash water;
18. Sewage or other forms of pollutants from recreational activities including boating and camping, and from recreational vehicles and boats;
19. Wine, beer, and/or distillery manufacturing wastes such as beverage (alcoholic and non-alcoholic) manufacturing wastes such as pomace, lees, diatomaceous earth, stems, spent grain, spent hops, trub, yeast, caustic and acid cleaners, and waste wine, waste beer, waste alcohol, or other associated industry waste;

B. The commencement, conduct or continuance of any illegal discharge to the Storm Drain System is prohibited except as described as follows:

1. Discharges from the following sources will not be considered a source of Pollutants to the Storm Drain System and to waters of the state when properly managed to ensure that no potential Pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act, or this Chapter:

- a. potable water line flushing;
- b. pumped groundwater not containing Pollutants and other discharges from potable water sources;
- c. landscape irrigation and lawn watering;
- d. diverted stream flows;
- e. rising groundwater;
- f. groundwater infiltration (as defined at 40 CFR § 35.2005(20)) not containing Pollutants;

- g. foundation and footing drains not containing Pollutants;
- h. water from crawl space pumps not containing Pollutants;
- i. air conditioning condensation;
- j. non-industrial roof drains not containing Pollutants;
- k. springs;
- l. individual private vehicle washing;
- m. flows from riparian habitats and wetlands;
- n. dechlorinated swimming pool discharges; and
- o. flows from firefighting.

C. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the City of Buellton for any discharge to the Storm Drain System.

D. With written concurrence of the Regional Board, the City may exempt in writing other non-stormwater discharges which are not a source of pollutants to the Storm Drain System or waters of the state.

Section 15.01.090. Prohibition of illicit connections.

A. The construction, use, maintenance or continued existence of illicit connections to the Storm Drain System is prohibited.

B. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

Section 15.01.100. Discharges in violation of industrial or construction activity NPDES stormwater discharge 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 Director prior to or as a condition of a subdivision map, grading permit, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

Section 15.01.110. Requirement to prevent, control, and reduce stormwater pollutants.

A. Generally. Any person engaging in activities that may result in Pollutants entering the City's stormwater system shall undertake all practicable measures to reduce such Pollutants. Examples of such activities include the use of premises that may be a source of Pollutants, such as parking lots, gasoline stations, industrial facilities, business enterprises, dwelling units and open spaces/parks.

B. Litter. No person shall throw, deposit, leave, keep or maintain any refuse, rubbish, garbage or other discarded or abandoned objects, articles or other litter in or upon any street, alley, sidewalk, business place, creek, stormwater system, river or any other body of water, or upon any public or private parcel of land, except in proper waste receptacles/containers (for the purposes of trash collection) or in lawfully established waste disposal facilities.

C. Authorization to Adopt and Impose Best Management Practices. The City may adopt requirements identifying BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the Storm Drain System, or waters of the state as a separate BMP Guidance Series. Where BMPs requirements are promulgated by the City or any Federal, State of California, or regional agency for any activity, operation, or facility which would otherwise cause the discharge of Pollutants to the Storm Drain System or water of the U.S., every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements.

D. The Director will periodically report to the City Council on the status of implementation of the Stormwater Program.

E. New Development and Redevelopment. The City shall require any owner or person developing real property to identify appropriate BMPs 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 during the course of construction. The City shall incorporate such requirements 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 addition, the City shall require any owner or person developing real property to integrate post construction requirements that will control the volume, rate and potential Pollutant load of runoff. These post construction requirements shall comply with the California Regional Water Quality Control Board, Central Coast Region Resolution No. R3-2013-0032, "Post-Construction Stormwater Management Requirements for Developmental Projects in the Central Coast Region."

F. These requirements may include a combination of structural and non-structural BMPs, and shall include requirements to ensure the proper long-term operation and maintenance of these BMPs.

G. Construction Sites. BMPs to reduce pollutants in any stormwater runoff activities shall be incorporated in any land use entitlement and construction or building-related permit. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required by the City.

H. Responsibility to Implement and Maintain Best Management Practices. Notwithstanding the presence or absence of requirements promulgated pursuant to subsections A, B and C above, any person or entity engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering stormwater, the Storm Drain System, or waters of the state shall implement and maintain BMPs to the extent they are technologically achievable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal Storm Drain System or waters of the state. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be maintained at the operator's/property owner's expense.

I. Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, will be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit or stormwater/water quality management plan shall be provided and maintained at the owner or operator's expense.

Section 15.01.120. Requirement to eliminate illegal discharges.

Notwithstanding the requirements of §15.01.180 herein, the Director may require by written notice that a person or entity responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

Section 15.01.130. Requirement to eliminate or secure approval for illicit connections.

A. The Director may require by written notice that a person or entity responsible for an illicit connection to the Storm Drain System comply with the requirements of this Chapter to eliminate or secure approval for the illicit connection by a specified date, regardless of whether the connection or discharges had been established or approved prior to the effective date of this Ordinance.

B. If, subsequent to eliminating a connection found to be in violation of this Chapter, the responsible person or entity can demonstrate that an illegal discharge will no longer occur, said person or entity may request City approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible party's expense.

Section 15.01.140. Watercourse protection.

Every person or entity owning property through which a watercourse passes, or such owner's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, or remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner or such owner's lessee shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property.

Section 15.01.150. Requirement to remediate.

Whenever the Director finds that a discharge of Pollutants is taking place or has occurred which will result in or has resulted in pollution of stormwater, the Storm Drain System, or waters of the U.S., the Public Works Director may require by written notice to the owner of the property and/or the responsible person or entity that the pollution be remediated and the affected property restored within a specified time pursuant to the provisions of §§15.01.220 through 15.01.250 below.

Section 15.01.160. Requirement to monitor and analyze.

The Director may require by written notice that any person or entity engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution, illegal discharges, and/or non-stormwater discharges to the Storm Drain System or waters of the state, to undertake at said person's or entity's expense such monitoring and analyses and furnish such reports to the City of Buellton as deemed necessary to determine compliance with this Chapter.

Section 15.01.170. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the Storm Drain System, or water of the U.S. from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the City's Public Works/Engineering Department in person or by phone or email no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall

be confirmed by written notice addressed and mailed to the City's Public Works/Engineering Department, within three business days of the phone/email notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge, the actions taken to contain and clean-up the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 15.01.180. Compliance letter for stormwater management facilities.

By October 31st of every year, property owners of parcels or premises containing stormwater management facilities shall submit a compliance letter to the Public Works Department. The compliance letter shall certify that the stormwater site design measures, treatment measures and source control measures (as applicable) have been properly operated and maintained during the preceding year, and have been recently inspected and repaired as necessary to ensure continued operation. The compliance letter shall also include certification and signature from the property owner, and qualified stormwater practitioner (QSP).

Section 15.01.190. Authority to inspect.

Whenever necessary to make an inspection to enforce any provision of this Chapter, or whenever the Director has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Chapter, the Director (or the designee) may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

Section 15.01.200. Authority to sample, establish sampling devices, and test.

During any inspection as provided herein, the Public Works Director or designee may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

Section 15.01.210. Access to facilities.

The City of Buellton, its staff, authorized contract staff or other designee [authorized enforcement agency] shall be permitted to enter and inspect facilities subject to regulation under this Chapter as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

A. Facility operators shall allow the City of Buellton, its staff, authorized contract staff or other designee [authorized enforcement agency] ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

B. The City of Buellton, its staff, authorized contract staff or other designee [authorized enforcement agency] shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

C. The City of Buellton, its staff, authorized contract staff or other designee [authorized enforcement agency] has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Buellton, its staff, authorized contract staff or other designee [authorized enforcement agency] and shall not be replaced. The costs of clearing such access shall be borne by the operator.

E. Unreasonable delays in allowing the City of Buellton, its staff, authorized contract staff or other designee [authorized enforcement agency] access to a permitted facility is a violation of a stormwater discharge permit and of this Chapter. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Chapter.

F. If the City of Buellton, its staff, authorized contract staff or other designee [authorized enforcement agency] has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

Section 15.01.220. Enforcement and administration.

Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person.

Violations of this Chapter may be remedied using the procedures set forth in Title 1, Chapter 1.28 Code Violations, Penalties and Enforcement, of the Buellton City Code. These remedies include the issuance of Administrative Citations (Buellton City Code, Chapter 1.30). These remedies shall be in addition to all other legal remedies, criminal or civil, which may be

pursued by the City to address any violations of this Chapter. In addition, the Director may require without limitation:

- A. The performance of monitoring, analyses, and reporting;
- B. The elimination of illicit connections or discharges;
- C. That violating discharges, practices, or operations shall cease and desist;
- D. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- E. The implementation of source control or treatment BMPs;
- F. Payment of a fine to cover administrative and remediation costs (fines shall be a minimum of \$3000 per day and equitable to those imposed through violations of the California State Water Code Section 13385 and Federal Clean Water Act Section 301 – penalties of up to \$10,000 per day of violation and \$10 per gallon of waste discharged.);
- G. Cease and Desist of operations and shut-off of water meter.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Section 15.01.230. Urgency abatement.

The Director is authorized to require immediate abatement of any violation of this Chapter that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the Director, the City of Buellton, its staff, authorized contract staff or other designee is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City of Buellton shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the City from seeking other and further relief authorized under this Chapter.

Section 15.01.240. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored by the City at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

Section 15.01.250. Acts potentially resulting in a violation of the Federal Clean Water Act and/or California Porter-Cologne Act.

Any person who violates any provision of this Chapter or any provision of any requirement issued pursuant to this chapter may also be in violation of the Clean Water Act and/or the Porter-Cologne Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under this Chapter shall also include written notice to the violator of such potential liability.

Section 15.01.260. Civil penalties to be deposited in the general fund.

Any civil penalties collected by the City as a result of violations of this Chapter shall be deposited in the General Fund for appropriation to fund costs related to stormwater compliance programs.

SECTION 4: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance irrespective of the fact that any one or more sections, subsections, subdivision, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

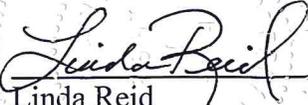
SECTION 5: The City Clerk shall certify as to the passage of this Ordinance and shall cause the same to be published as required by law.

PASSED, APPROVED AND ADOPTED this 26th day of September 2013.



Judith Dale
Mayor

ATTEST:



Linda Reid
City Clerk



I, Linda Reid, City Clerk of the City of Buellton, do hereby certify that the foregoing Ordinance No. 13-05 was duly adopted by the City Council of the City of Buellton at the regular meeting held on the 26th day of September, 2013 by the following vote of the Council:

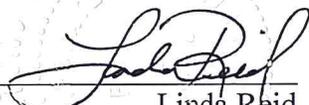
AYES: 5 Council Members Andrisek, Elovitz, Sierra, Vice Mayor Connolly, and Mayor Dale

NOES: 0

ABSENT: 0

ABSTAIN: 0




Linda Reid
City Clerk