

ORDINANCE NO. 22-2003

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING CHAPTERS 15.10 AND 15.12 OF THE ELK GROVE MUNICIPAL CODE RELATING TO STORM DRAINAGE SERVICES FEES

The City Council of the City of Elk Grove does ordain as follows:

SECTION 1. PURPOSE.

The purpose of this ordinance is to amend Chapter 15.10 of the Elk Grove Municipal Code to establish a mechanism to levy storm drainage service fees, and to amend Chapter 15.12 of the Elk Grove Municipal Code to comply with federal stormwater regulations and National Pollutant Discharge Elimination System (NPDES) Municipal Storm water Permit No. CAS082597.

SECTION 2. FINDINGS.

1. The incorporation of the City of Elk Grove ("City") became effective July 1, 2000, and, pursuant to Government Code section 57384, the County of Sacramento ("County") continued to provide services to the City for the remainder of the fiscal year during which the City's incorporation became effective;
2. On July 1, 2000, the City Council of the City adopted Ordinance No. 2000-8 providing that the City shall be solely entitled to enforce and receive payment of the County fees and assessments in the incorporated area of Elk Grove, except insofar as enforcement services are provided by the County as part of its obligation to continue providing such services in accordance with Government Code section 57384;
3. On October 25, 2000, the City Council of the City adopted Ordinance No. 2000-14A providing that the ordinances of the County, as adopted by the Elk Grove City Council on July 1, 2000 under Ordinance No. 2000-1, would remain in effect as City ordinances until the City Council has enacted ordinances superseding them;
4. Beginning July 1, 2001, the County continued to provide storm drainage services to the City, including the collection of storm water utility fees, pursuant to an Interim Agreement for Services ("Interim Agreement");
5. During the period in which the County has maintained operations of the storm drains within the City, the County has collected revenues necessary to operate and maintain the storm drain system within the City from two sources:

- a. Property Tax Revenue. Prior to the creation of the County's Storm Water Utility ("SWU") in 1995, there were portions of the County, including areas now within the boundaries of the City that were part of the Metropolitan Storm Drainage Maintenance District. For property within this district, a portion of the property tax was dedicated to funding storm drain maintenance. While this district has since been closed, the old district boundary is still used to identify areas where a portion of the property taxes collected by the County are dedicated to the storm drain maintenance. The County Department of Finance receives the property tax revenues and transfers the storm drainage portion of the tax revenues to the County Department of Water Resources two times during the year.
 - b. SWU Zone 12 Billing. In 1995, the County formed the SWU in order to maintain and operate drainage facilities located in Zone 12 of the County Water Agency. The County periodically adds new parcels to Zone 12. Portions of Zone 12 are now within the boundaries of the City. The County Water Agency collects revenues for the operation of Zone 12 drainage services through the County's Consolidated Utility Billing Service ("CUBS").
6. The Interim Agreement expires on June 30, 2003, at which time the City will assume complete responsibility for the City's stormwater drainage program. The revenue collection necessary to operate and maintain the storm drain system within the City will be conducted as follows:
 - a. Property Tax Revenue. Following the expiration of the Interim Agreement on June 30, 2003, the County Department of Water Resources will forward the storm drainage portion of the property tax revenues received from the County Department of Finance to the City, pending re-indexing of the Tax Rate Area codes necessary for the City to receive such revenues directly from the County Department of Finance;
 - b. SWU Zone 12 and Other Lands. On May 21, 2003, the City executed an Agreement For Stormwater Utility Fee Collection Services Between The County of Sacramento And The City of Elk Grove ("Fee Agreement"), whereby the County will continue to collect and forward to the City any revenues for storm drainage services provided to former Zone 12 lands transferred to the City on July 1, 2003, as well as for any developments within the boundaries of the City subsequently added to the storm drain system, through the County's CUBS. The County is expected to execute the Fee Agreement prior to June 30, 2003. Under the Fee Agreement, the County will continue to perform such fee collection services until such time as the Fee Agreement is terminated;

7. The provisions of the Elk Grove Municipal Code relating to storm drainage fees must be revised in order for the City to immediately levy charges for storm drainage service fees for the former Zone 12 lands within the boundaries of the City, and to levy such charges in the future on lands within the boundaries of the City that are neither Property Tax Revenue lands nor part of Zone 12 as of June 30, 2003;
8. On July 1, 2003, the City will be a co-permittee under the Waste Discharge Requirements for the County of Sacramento, cities of Sacramento, Folsom, Citrus Heights, Elk Grove, Rancho Cordova and Galt Area-Wide Stormwater Discharges From Municipal Separate Storm Sewer Systems, which also serves as a NPDES Permit (No. CA0082597) under the Federal Clean Water Act ("Municipal Stormwater Permit"). As a co-permittee, the City is required to possess the necessary legal authority to implement appropriate procedures and to regulate the entry of pollutants and non-stormwater discharges into the City stormwater conveyance system;
9. The Municipal Stormwater Permit requires that each co-permittee have adequate legal authority to implement and enforce each of the general requirements contained in 40 C.F.R. 122.26(d)(2)(i)(A)-(F), as well as the specific requirements contained in Section 4 of the Municipal Stormwater Permit. The requirements of both the federal regulations and the Municipal Stormwater Permit include a requirement that the City have authority to carry out inspections, surveillance, and monitoring necessary to determine compliance and non-compliance with local ordinances and permits, including the authority to enter, sample, inspect, review and copy records, and to require regular reports from industrial facilities and construction sites discharging into the stormwater system. In addition, the federal regulations and the Municipal Stormwater Permit require that the City have authority to implement treatment control Best Management Practices (BMPs) on all types of new development; and
10. The provisions of the Elk Grove Municipal Code relating to reduction of pollutants in stormwater and inspection and monitoring must be revised in order for the City to comply with the terms of the Municipal Stormwater Permit and with federal stormwater regulations.

SECTION 3. AMENDMENT. Chapter 15.10 "Storm Drainage Fee," of the Elk Grove Municipal Code, is amended to read as follows:

Chapter 15.10 STORM DRAINAGE FEE

Sections:

- 15.10.010 Purpose.**
- 15.10.020 Findings.**

15.10.030	Definitions.
15.10.040	Levy of Charge for Storm Drainage Services.
15.10.050	Reduction in Charge.
15.10.060	Billing Procedure.
15.10.070	Lien.
15.10.080	Collection of Fee with General Taxes.
15.10.090	Administration and Enforcement.
15.10.100	Administrative Appeal.
15.10.110	Deposit of Collection.
15.10.120	Operative Date.
15.10.130	Severability.

15.10.010 Purpose.

The purpose of this Chapter is to establish a mechanism for funding the operation and maintenance of the City storm drainage system in order that storm and surface waters may be properly drained and controlled so that the health, safety and welfare of the City and its inhabitants may be safeguarded and protected.

15.10.020 Findings.

The City Council hereby finds as follows:

a. The City maintains a system of storm and surface water management facilities within the City, including but not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, overland release corridors, and other components as well as natural waterways.

b. Those elements of the City's storm and surface water management system that provide for the collection, storage, treatment, and conveyance of storm drainage are of benefit and provide services to all developed property within the City.

c. The cost of operating and maintaining the storm drainage management system, including necessary repairs, should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom.

d. Erosion and the discharge of nutrients, metals, oil, grease, and other substances into and through the storm drainage system is resulting in degradation in water quality.

e. The public health, safety and welfare are adversely affected by poor water quality and flooding resulting from inadequate storm drainage management practices.

f. The storm drainage management practices necessary to protect water quality are largely established by federal and state statutes, regulations and permitting requirements.

g. Real property either uses or benefits from the presence and operation of the storm drainage management system.

h. The use of the storm drainage system is dependent on factors that influence runoff, including land use and impervious area.

i. The City has the authority under Health and Safety Code section 5471 to prescribe, revise and collect fees, tolls, rates, rentals and other charges for facilities and services furnished by it in connection with its storm drainage system.

j. The Legislature, through the adoption of Health and Safety Code section 5471, has specifically authorized the City to provide storm drainage services as a utility function for which service charges may be levied.

k. Storm drainage services which are currently provided in the City are funded through a combination of property tax revenue and benefit assessments.

l. Property taxes have proven to be an unreliable source of revenue due to the State of California's recent proclivity for shifting local property tax revenue from the City and special districts to schools.

m. Benefit assessments are an undesirable revenue mechanism because of the significant lag-time between the time that the assessments are approved and the time that they are received as part of the real property tax collection and allocation process. The lag-time creates the need to include a component in the assessment to provide a reserve for dry period financing purposes.

n. A fee to fund storm drainage services offers a reliable and consistent source of revenue that is locally controlled and independent of the vagaries of the State of California's budget process.

15.10.030 Definitions.

The meanings ascribed to the terms set forth in this section shall govern the interpretation of this Chapter.

a. "Administrative charge" means the charge imposed by the City's consolidated utility billing service for the actual cost of billing for, and collection of, storm drainage service fees.

b. "City Manager" means the City Manager for the City of Elk Grove or his designee.

c. "Commercial/Office use" means the use of any developed parcel for any of the following or similar purposes: offices, wholesale or retail sales, establishments, or the provision of personal, professional or business services, including, but not limited to, retail stores, shopping centers, restaurants, service stations, car washes, vehicle, boat and trailer sales lots, parking lots, automobile repair and service facilities, auction yards,

advertising offices, nurseries, general offices, financial service facilities, medical and dental offices, clinics and laboratories, and veterinary offices, clinics and hospitals.

- d. "City" means the City of Elk Grove.
- e. "City storm drainage system" means the system of storm and surface water management facilities, including but not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, overland release corridors and other components as well as natural waterways, within the City that is either owned or operated by the City.
- f. "County" means the County of Sacramento.
- g. "Developed parcel" means any parcel of land altered from its natural state by the construction, creation or addition of impervious area.
- h. "Engineer" means the City Engineer for the City of Elk Grove or his designee.
- i. "Equivalent contributing parcel area" means the calculated area which, when multiplied by the impervious factor for the parcel's use classification, yields the parcel's measured impervious area.
- j. "Exempt use" means the use of any public or undeveloped property and the use of any other parcel for any of the following purposes: agricultural land used for crops or pasture, aquatic farms, orchards, City-maintained drainage ditches, property within a floodplain recognized by the City on which improvements are prohibited, and levees.
- k. "Fiscal year" means the annual period beginning July 1 and ending June 30.
- l. "Impervious area" means the total area of a parcel of property covered by an impervious surface.
- m. "Impervious factor (IF)" means a factor which represents the percentage of impervious area on a parcel which consists of a numerical value that is calculated on the basis of generally accepted engineering standards, review and application of such standards to local conditions, and statistics compiled by measuring impervious areas depicted on aerial photographs of real property.
- n. "Impervious surface" means any surface on or in any parcel which reduces the rate of infiltration of storm water into the soil.
- o. "Industrial use" means the use of any developed parcel for any of the following or similar purposes: to manufacture, fabricate, process or package products, to process or store food or chemical products, or for storage or warehousing purposes, including, but not limited to, processing, fabrication and assembly plants, warehouses,

wrecking yards, aerospace facilities, truck and other transportation terminals, building materials storage, bakeries, canneries, wineries, creameries, meat and frozen food processing facilities, meat packing plants, slaughter yards, inspection and weighing stations, airports, railroads and railroad spurs, wells, electrical substations, water or sewage treatment plants, and mini-storage facilities.

p. "Institutional use" means the use of any developed parcel for any of the following or similar purposes: hospitals, nursing facilities, residential care facilities, retirement homes, day nurseries, mortuaries, churches, and schools.

q. "Low impervious development use" means the use of any developed parcel for any of the following or similar purposes: golf courses, surface mines, cemeteries, marinas, and sports fields.

r. "Multi-family residential use" means the use of any developed parcel for any of the following or similar purposes: triplexes, fourplexes, apartments, mobile home parks, hotels, boarding and rooming houses, fraternity and sorority houses, motels, the common areas of condominiums and planned unit developments, and bed and breakfast inns.

s. "Parcel" means the smallest separately segregated lot, unit or plot of real property having an identified owner, boundaries, and surface area which is documented for property tax purposes and given a tax lot number by the County Assessor.

t. "Parcel area" means the square footage of a parcel measured or estimated using the outside boundary dimensions in feet in order to obtain the total square footage without regard for any topographic features of the enclosed surface.

u. "Person" means any individual, firm, company, association, society, partnership, corporation, organization, group or public agency.

v. "Public agency" means the United States or any department or agency thereof, the State of California or any department or agency thereof, a city, a county, and any district or other local authority or public body of or within this State.

w. "Public property" means any property owned by a public agency.

x. "Public Works Department" means the Public Works Department for the City of Elk Grove.

y. "Residential dwelling unit" means any residential premise designed to house a single family.

z. "Single-family residential use" means the use of any developed parcel for any of the following or similar purposes: single-family residences, condominiums and planned unit developments, row houses, halfplexes, duplexes, and mobile homes located on individually owned parcels.

aa. "Street" means any public highway, road, street, avenue, way, alley or right-of-way.

bb. "Undeveloped use" means any parcel that has not been altered from its natural state, as evidenced by a complete lack of impervious surface.

cc. "Unit Service Charge (USC)" means the cost of storm drainage services attributable to storm drainage from one square foot of impervious area.

dd. "Use code" means the six (6) digit alphanumeric code assigned by the County Assessor's office to every parcel within the County.

ee. "User" means the owner of a parcel of real property that is charged for storm drainage services.

15.10.040 Levy of Charge for Storm Drainage Services.

a. There is hereby levied by the City of Elk Grove on all parcels within the boundaries of the City of Elk Grove which were within Zone 12 of the Sacramento County Water Agency on June 30, 2003, and on any other parcels for which the City of Elk Grove has complied with applicable laws governing the levying of such fees, other than those classified as an exempt use, a storm drainage service fee to be collected as set forth in this section.

b. Any parcel classified as a single-family residential use shall pay a monthly charge which shall be calculated as follows: the administrative charge + (USC x 3,500 x each residential dwelling unit) = monthly charge.

c. All parcels other than those parcels classified as an exempt or single-family residential use shall pay a monthly charge that shall be calculated as follows: the administrative charge + (parcel area x USC x IF) = monthly charge.

d. The impervious factors (IF) to be used in the calculations set forth in subdivision (c) herein shall be based on the following table:

Bill Category	Impervious Factor
Commercial/Office	0.80
Industrial	0.70
Multi-family residential	0.60
Institutional	0.50
Low impervious development	0.10

e. The unit service charge (USC) to be used in the calculations set forth in subdivision (c) herein shall be \$0.001583 per square foot of impervious area.

15.10.050 Reduction in Charge.

a. The owner of any parcel subject to the storm drainage fee, other than parcels classified as a single-family residential use, may file an application with the City Manager to have the fee levied on such parcel reduced by means of one of the following mechanisms: (1) by designing, constructing and maintaining at the owner's expense storm drainage detention facilities approved by the City Manager; (2) demonstrating to the satisfaction of the City Manager that less than five percent (5%) of the parcel area drains into a City storm drainage system; or (3) demonstrating to the satisfaction of the City Manager that the actual impervious area of the parcel is at least ten percent (10%) less than that calculated using the impervious factor for the parcel's use classification.

b. After receipt and review of the application, the City Manager shall either deny any reduction in the fee or approve a reduced fee calculated pursuant to subdivision (c) hereof. The City Manager, in approving any reduction in the otherwise applicable fee, may attach reasonable conditions to any such approval. If the applicant is dissatisfied with the action of the City Manager, he may file a petition pursuant to Section 15.10.100 hereof.

c. Any storm drainage facilities constructed by a parcel owner pursuant to this Section shall meet the standards set forth in the City's Improvements Standards. Upon approval of any reduction in the otherwise applicable fee pursuant to this section, the revised fee shall be calculated on the basis of the equivalent contributing parcel area.

15.10.060 Billing Procedure.

a. The storm drainage fee shall be billed to all users no less frequently than a bi-monthly basis. The bill is due and payable on presentation and shall become delinquent forty-five (45) days for bi-monthly billing, or twenty-one (21) days after for a monthly billing after the date of billing. The storm drainage fee shall be billed as part of the City's consolidated utility billing service.

b. The storm drainage service fee billing shall be based on the use of the parcel as determined by the City Manager. For each parcel of property there shall be only one unit for purposes of billing for storm drainage services. In no case shall a parcel be divided into smaller units for billing purposes.

c. The storm drainage service fee shall be billed to the owner of record of the parcel, to the successor in interest of such person, or to such person's single designee if approved by the City Manager. All requests to bill a party other than the owner of record must be made in writing to the City Manager by both the owner of record and the party to be billed. The City Manager may approve or deny such requests at his sole discretion. The City Manager shall notify the owner of record if the billing is changed to comply with such a request and the owner of record shall remain liable for any delinquent fees.

d. The opening bills shall be based on current parcel numbers, square footage and use codes on record in the County Assessor's office, unless the City Manager determines that the actual use of the parcel is different than the use reflected in the use codes in which case the billing shall be based on the actual use of the parcel.

e. Any adjustment of charges may be initiated by either the City Manager or by the owner of a parcel subject to the storm drainage service fee. If the City Manager denies any adjustment proposed by an owner or an owner objects to an adjustment proposed by the City Manager, any adjustment shall be made pursuant to the procedure set forth in Section 15.10.100 hereof. Any debit adjustments shall be added to the charge in the succeeding billing period. Any credit adjustments shall first be credited against the previous balance and then any remaining credit shall be applied to subsequent bi-monthly charges. No debits or credits shall be made for any period more than three (3) years prior to the date that an adjustment is proposed by the City Manager or requested by the owner of record pursuant to Section 15.10.100.

f. Any delinquent storm drainage fee shall incur an added penalty charge of ten percent (10%) of the amount that is delinquent. The delinquent amount, including the ten percent (10%) charge, shall thereafter incur an added penalty charge of one and one-half percent (1 ½%) per month until paid or placed on the annual property tax bill. If collected with property taxes, the total amount delinquent, plus all penalties, shall incur an additional ten percent (10%) lien penalty.

15.10.070 Lien.

a. The City shall notify the assessee shown on the latest equalized assessment roll whenever delinquent and unpaid fees, which would become a lien on the parcel pursuant to subdivision (b) remain delinquent and unpaid for sixty (60) days.

b. The storm drainage service fee and any penalties levied pursuant to this Chapter shall constitute a lien upon the parcel subject to the fee, as provided for in Health and Safety Code section 5473.11, if the fee remains delinquent for a period of sixty (60) days and the City has notified the assessee of the parcel shown on the latest equalized assessment roll of the delinquent fees and the lien provided by this section.

c. The lien provided herein shall have no force or effect until a certificate specifying the amount of the unpaid fees is recorded with the County Recorder.

15.10.080 Collection of Fee with General Taxes.

Any delinquent storm drainage service fees and penalties may be collected on the tax roll in the same manner and at the same time as the County's ad valorem property taxes.

15.10.090 Administration and Enforcement.

The Engineer shall be responsible for the administration and enforcement of the provisions of this Chapter. The Engineer shall have the authority to adopt rules and

regulations not inconsistent with the provisions of this Chapter for purposes of carrying out and enforcing the payment, collection and remittance of the fee herein levied.

15.10.100 Administrative Appeal.

a. Any owner who disputes the amount of the storm drainage service fee charged to his parcel, the classification of the property in terms of its use, any adjustment proposed by the City Manager, or any other determination affecting the property made by or on behalf of the City pursuant to this Chapter may petition the Engineer for a hearing with regard to any such issue. The Engineer may conduct such hearing himself or may designate an employee of the Public Works Department to conduct such hearing on his behalf. Any such petition may only be filed once in connection with the issue or issues presented in the petition, except upon a showing of changed circumstances sufficient to justify the filing of such additional petition.

b. Any such petition shall be in writing, signed by the owner under penalty of perjury and filed with the Engineer. The petition shall include the following information: (1) a complete description of the factual basis for the appeal; (2) the legal basis for the appeal; and (3) the remedy sought by the appellant. Within ten (10) days after receipt of the petition, the Engineer shall mail written notice to the appellant of the date, time and place of the scheduled hearing.

c. At the hearing, the Engineer or designated hearing officer may hear any oral or documentary evidence that the appellant may offer in addition to the information in the petition, together with any oral or written information that may be submitted by City representatives in support of the determination that is the subject of the appeal. Within thirty (30) days after the conclusion of the hearing, the Engineer or the designated hearing officer shall make and serve by mail written findings of fact based upon all relevant information presented in the petition or at the hearing, shall make a determination of issues based upon such findings and, if appropriate, an order setting forth an appropriate remedy subject to the limitations set forth in subdivision (e) of Section 15.10.060. The determination of the Engineer or designated hearing officer shall be final.

15.10.110 Deposit of Collections.

There is hereby created in the City Treasury a special revenue fund to be known as the "City Storm Drainage Service Fee Fund." All storm drainage service fee revenue collected by the City shall be deposited in such fund. The revenue deposited in such fund shall be used only for the acquisition, construction, reconstruction, maintenance, and operation of City storm drainage facilities.

15.10.120 Operative Date.

Notwithstanding the effective date of this Chapter, the storm drainage service fee levied in Section 15.10.040 shall be operative as of July 1, 2003.

15.10.130 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or any part thereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portion of this Chapter or any part thereof. The City Council of the City hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

SECTION 4. AMENDMENT. Chapter 15.12 "Stormwater Management and Discharge Control," of the Elk Grove Municipal Code, is amended to read as follows:

Chapter 15.12 STORM WATER MANAGEMENT AND DISCHARGE CONTROL

Article 1	General Provisions
15.12.010	Findings.
15.12.020	Purpose and Intent.
15.12.030	Definitions.
15.12.035	Construction.
15.12.040	Applicability.
15.12.050	Regulatory Consistency.
15.12.060	Compliance Disclaimer.
15.12.070	Severability.
15.12.080	Administration.
15.12.090	Disclaimer of Liability.
Article 2	Prohibited Discharges
15.12.100	Prohibited Discharge.
15.12.110	Exceptions to Discharge Prohibition.
15.12.120	Exception to Otherwise Applicable Exemptions.
15.12.130	General Discharge Prohibition.
15.12.140	Threatened Prohibited Discharge.
15.12.150	Illicit Connections Prohibited.
15.12.160	Negligence or Intent Not Required.
Article 3	Reduction of Pollutants in Stormwater
15.12.200	General Requirements.
15.12.210	Containment and Notification of Spills.
15.12.220	Best Management Practices.
15.12.230	Administrative Rules and Regulations.
Article 4	Inspection and Monitoring
15.12.300	Scope of Inspections.
15.12.350	Fees.

Article 5	Enforcement
15.12.400	Notice of Non-Compliance.
15.12.410	Administrative Compliance Orders.
15.12.420	Cease and Desist Orders.
15.12.430	Delivery of Notice.
15.12.440	Administrative Appeals.
15.12.450	Nuisance and Abatement.
15.12.460	Civil Penalties.
15.12.470	Criminal Penalties.
15.12.480	Miscellaneous Enforcement Provisions.

Article 6	Recovery of Cost of Abatement
15.12.500	Costs of Abatement – Confirmation.
15.12.510	Costs – Assessments.
15.12.520	Treble Costs.
15.12.530	Hearing of Protests.
15.12.540	Assessment for Summary Abatement.
15.12.550	Time for Contest of Assessment.
15.12.560	Filing Copy of Report with County Auditor.

Article 1 General Provisions

15.12.010 Findings.

a. The Federal Clean Water Act provides for the regulation and reduction of pollutants discharged into the waters of the United States by extending National Pollutant Discharge Elimination System requirements to stormwater and urban runoff discharge into the City stormwater conveyance system.

b. Stormwater flows from individual properties to the City stormwater conveyance system and then ultimately to the waters of the United States.

c. The City is a co-permittee under the Waste Discharge Requirements for County of Sacramento, cities of Sacramento, Folsom, Citrus Heights, Elk Grove, Rancho Cordova, and Galt Area-Wide Storm Water Discharges From Municipal Separate Storm Sewer Systems, which also serves as a NPDES Permit under the Federal Clean Water Act (NPDES No. CA0082597). As a co-permittee, the City is required to possess the necessary legal authority, and to implement appropriate procedures, to regulate the entry of pollutants and non-stormwater discharges into the City stormwater conveyance system.

d. The Municipal Storm Water Permit requires the City too effectively prohibit non-stormwater discharges into the City stormwater conveyance system except as otherwise permitted by Federal law.

e. The City Council finds in this regard that the provisions of this Chapter are necessary to provide the City with the legal authority necessary to implement and otherwise comply with the requirements of its Municipal Storm Water Permit.

15.12.020 Purpose and Intent.

a. This Chapter is adopted pursuant to Article XI, Section 7 of the California Constitution which authorizes the City to exercise its police power to protect and promote the public health, safety and general welfare. While stormwater runoff is one step in the natural cycle of water, human activities, including, but not limited to, agriculture, construction, manufacturing and the operation of an urban infrastructure, may result in undesirable discharges of pollutants and certain sediments. Such discharges may accumulate in local drainage channels and waterways and eventually may be deposited in the waters of the United States. The purpose of this Chapter is to protect and enhance the water quality of watercourses, water bodies and wetlands within the unincorporated area of the City in a manner consistent with the Federal Clean Water Act, the Porter-Cologne Water Quality Control Act and Municipal Discharge Permit #CA0082597 by controlling the contribution of urban pollutants to stormwater runoff which enters the City stormwater conveyance system.

b. It is the intent of the City Council in adopting this Chapter to provide the City with the legal authority to accomplish the following goals:

1. To reduce the discharge of pollutants in stormwater to the maximum extent practicable;

2. To effectively prohibit non-stormwater discharges into the City stormwater conveyance system;

3. To comply with the requirements of the Federal Clean Water Act, the Porter-Cologne Water Quality Control Act and NPDES Municipal Storm Water Discharge Permit #CA0082597 as they apply to the discharge of pollutants into and from the City stormwater conveyance system;

4. To fully implement the Comprehensive Stormwater Management Program as approved by the Regional Board;

5. To protect the physical integrity and function of the City stormwater conveyance system from the effects of pollutants and materials other than stormwater;

6. To prevent the contamination of groundwater as a result of pollution migration from the City stormwater conveyance system;

7. To promote cost effective management and beneficial use of sediments in the City stormwater conveyance system;

8. To protect the health and safety of maintenance personnel and the public who may be exposed to pollutants in the City stormwater conveyance system;

9. To provide for the recovery of regulatory costs incurred by the City in the implementation of its stormwater drainage program, including, but not limited to, enforcement activities, inspections, investigations, sampling and monitoring; and

10. To establish appropriate enforcement procedures and penalties for violations of the provisions of this Chapter.

15.12.030 Definitions.

As used in this Chapter, the following words and phrases shall have the meanings set forth below unless the context clearly indicates otherwise.

a. "Administrator" means the Administrator of the City's Department of Public Works and his or her designees.

b. "Best Management Practices (BMP)" 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 waters of the United States. BMPs shall also be defined to include structural controls, treatment 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.

c. "City" means the City of Elk Grove.

d. "City Council" means the City Council of the City of Elk Grove.

e. "County" means the County of Sacramento.

f. "City Stormwater Conveyance System" means those public and natural facilities within the City which are owned, operated, maintained or controlled by the City by which stormwater may be conveyed to waters of the United States, including, but not limited to, any roads with drainage systems, municipal streets, catch basins, water quality basins, detention basins, constructed wetlands, natural and artificial channels, aqueducts, canyons, stream beds, gullies, curbs, gutters, ditches, sumps, pumping stations, and storm drains. The City stormwater conveyance system includes natural creeks and small streams which are also defined as receiving waters by the Municipal Storm Water Permit, but does not include the Sacramento River, American River, Cosumnes River, Mokelumne River, or navigable waterways of the Delta.

g. "Discharge" mean the release or placement of any material into the City stormwater conveyance system, including, but not limited to, stormwater, wastewater, solid materials, liquids, hazardous waste, raw materials, debris, litter or any other substance.

h. "Illicit connection" means any physical connection to the City stormwater conveyance system which is not expressly authorized by the City.

i. "Implementing Agency" means the agency or department designated by the Administrator to enforce the provisions of this Chapter with respect to a particular site, facility or industry category.

j. "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.

k. "Material" means any substance, 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.

l. "Municipal Storm Water Permit" means NPDES Permit # CA0082597, including any amendments thereto or successor permit, issued by the Regional Board to the County and the cities of Folsom, Galt, Sacramento, Citrus Heights, Elk Grove and Rancho Cordova.

m. "National Pollution Discharge Elimination System Permit or NPDES Permit" means a permit issued by either the Regional Board or the State Water Resources Control Board pursuant to Chapter 5.5 (commencing with Section 13370) of Division 7 of the Water Code to control discharges from point sources to waters of the United States.

n. "Non-stormwater discharge" means any discharge to the City stormwater conveyance system or directly to the Sacramento River, the Cosumnes River, the Mokelumne River, the navigable waters of the Delta, or the American River which is not composed exclusively of stormwater.

o. "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.

p. "Pollutant" means any contaminant or other substance which, as determined by the Administrator, is discharged or has a reasonable potential to be discharged in sufficient quantities or concentrations to cause exceedance of receiving water limitations defined in Section C. 1. of the Municipal Storm Water Permit, or any successor section, or otherwise cause a violation of the Municipal Storm Water Permit. 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 1362(6) of the Federal Clean Water Act.

q. "Potential user" 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 equipment, is determined by the Administrator to generate or have the capacity to generate wastes or wastewater which have significant potential to be discharged to the City stormwater conveyance system.

r. "Premises" means any building, lot, parcel or land, or portion thereof, whether improved or unimproved.

s. "Prohibited discharge" means any non-stormwater discharge to the City stormwater conveyance system or directly to the Sacramento River, the Cosumnes River, the Mokelumne River, navigable waters of the Delta, or the American River, which is not otherwise specifically authorized by this Chapter, the Regional Board, State or Federal law, or an NPDES permit.

t. "Receiving water limitations" means those restrictions defined and listed in Section C.1. of the Municipal Storm Water Permit or any successor section.

u. "Receiving waters" means surface bodies of water, as defined by the Municipal Storm Water Permit, including, but not limited to, creeks and rivers, which serve as discharge points for the City stormwater conveyance system.

v. "Regional Board" means the California Regional Water Quality Control Board, Central Valley Region.

w. "Stormwater" means surface runoff and drainage resulting from storm events and snow melt.

x. "Subject Activity" means any industrial activity which is determined by the Administrator to discharge or have the potential to discharge pollutants into stormwater or non-stormwater in quantities or concentrations which may cause exceedance of receiving water limitations.

y. "Threatened prohibited discharge" means any condition or activity which does not currently result in a prohibited discharge but is nevertheless determined by the Administrator to be a condition which results in a substantial likelihood of a future prohibited discharge.

z. "User" means any person who discharges, or causes to discharge, either directly or indirectly, stormwater or any other material into the City stormwater conveyance system.

aa. "Waters of the United States" has the same meaning as set forth in Part 122.2 of Title 40 of the Code of Federal Regulations or any successor provision.

15.12.035 Construction.

The provisions of this Chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act and any acts amendatory thereof or supplementary thereto, applicable implementing regulations, and NPDES Permit # CA 0082597 and any amendment, revision or reissuance 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.

15.12.040 Applicability.

The provisions of this Chapter shall be applicable to all users and potential users located within the City and all users that discharge either directly or indirectly into the City stormwater conveyance system. This Chapter shall not be applicable to persons located outside the boundaries of the City if their stormwater or non-stormwater discharge enters a stormwater conveyance facility owned or operated by another public agency which is subject to a valid NPDES Permit for discharges from a municipal separate storm sewer system prior to entering the City stormwater conveyance system. This Chapter shall not apply to facilities subject to and in compliance with the State General Construction Activity Stormwater Permit and/or the City of Elk Grove Erosion and Sediment Control Ordinance. Non-stormwater discharges at construction sites between one and five acres in size, and which the Administrator determines are in accordance with the non-stormwater discharge standards of the State General Permit for Construction Activity, are considered to be in compliance with this Chapter. This Chapter shall not apply to facilities operated by the State of California or by agencies of the Federal Government.

15.12.050 Regulatory Consistency.

The provisions of this Chapter shall take precedence over and are controlling with respect to any conflicting or inconsistent provisions in this Code.

15.12.060 Compliance Disclaimer.

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 or protection of stormwater quality, or both.

15.12.070 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Chapter. The City Council hereby declares that it would have adopted this Chapter and each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof without regard to whether any other section, subsection, subdivision,

paragraph, sentence, clause or phrase of this Chapter would subsequently be declared to be invalid or unconstitutional.

15.12.080 Administration.

Except as otherwise provided herein, the Administrator shall be responsible for the administration, implementation and enforcement of the provisions of this Chapter. Any powers granted to or duties imposed upon the Administrator may be delegated by the Administrator to other City employees or, upon the approval of the City Council, to employees of other public agencies.

15.12.090 Disclaimer of Liability.

The degree of protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific, engineering and other relevant technical considerations. The standards set forth herein are minimum standards and this Chapter does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States. This Chapter shall not create liability on the part of the City or any officer or employee thereof for any damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

Article 2 Prohibited Discharges

15.12.100 Prohibited Discharge.

Except as provided in Section 15.12.110, it shall be unlawful for any person to make or cause to be made any non-stormwater discharge into the City stormwater conveyance system or directly to the Sacramento River, American River, Cosumnes River, Mokelumne River, or navigable waters of the Delta.

15.12.110 Exceptions to Discharge Prohibition.

The following discharges to the City stormwater conveyance system are exempt from the otherwise applicable discharge prohibition set forth in Section 15.12.100:

a. 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.

b. Any discharge from any of the following activities provided that any such discharge does not cause or contribute to the violation of any Receiving Water Limitation as determined by the Administrator:

1. Water line flushing;
2. Landscape irrigation;

3. Diverted stream flows;
4. Rising ground waters;
5. Uncontaminated ground water infiltration [as defined in 40 CFR 35.2005(20)] to separate storm sewers;
6. Uncontaminated pumped ground water;
7. Discharges from potable water sources;
8. Foundation drains;
9. Air conditioning condensate;
10. Irrigation water;
11. Springs;
12. Water from crawl space pumps;
13. Footing drains;
14. Lawn watering;
15. Individual residential car washing;
16. Flows from riparian habitats and wetlands;
17. Dechlorinated swimming pool discharges; or
18. Discharges or flows from emergency fire fighting activities.

c. Any discharges which the Administrator or the Regional Board determines in writing are necessary for the protection of public health or safety.

d. Additional categories of non-stormwater discharges, which do not cause or contribute to the violation of any Receiving Water Limitation may be excepted from the otherwise applicable prohibition by the Administrator upon approval of the Executive Officer of the Regional Board, as provided in Sections A.3. and D.4.a.1.d. of the Municipal Storm Water Permit, or any successor sections.

15.12.120 Exception to Otherwise Applicable Exemptions.

Notwithstanding the exemptions provided for in Section 15.12.110 above, if the Regional Board or the Administrator determines that a discharge which is otherwise exempt from the prohibition on discharges causes or significantly contributes to the violation of any Receiving Water Limitation or results in the conveyance of significant quantities of pollutants to surface waters, or is otherwise a danger to public health or

safety, the Administrator may give written notice to the owner or operator of the facility that the discharge exception shall not apply to the discharge at issue following expiration of the thirty (30) day period commencing upon delivery of the notice. Upon expiration of such thirty (30) day period, any such discharge shall be unlawful.

15.12.130 General Discharge Prohibition.

It shall be unlawful for any person to discharge, or cause to be discharged, any material to the City stormwater conveyance system which results in, or contributes to, a violation of the Municipal Storm Water Permit.

15.12.140 Threatened Prohibited Discharge.

It shall be unlawful for any person to maintain, or cause to be maintained, a threatened prohibited discharge after having received notice of the Administrator's determination as to the existence of a threatened prohibited discharge.

15.12.150 Illicit Connections Prohibited.

a. It shall be unlawful for any person to establish, use or maintain, or cause to establish, use or maintain, any illicit connection. Illicit connections shall be subject to removal and abatement by the City pursuant to Chapter 16.02 of this Code.

b. The prohibition set forth in subsection (a) 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 15.12.030(g), may apply to the City for a permit to continue the connection subject to applicable City standards.

15.12.160 Negligence or Intent Not Required.

A violation of the provisions of this Article shall occur irrespective of the negligence or intent of the violator to construct, maintain, operate or utilize an illicit connection or to cause, allow or facilitate any prohibited discharge.

**Article 3
Reduction of Pollutants in Stormwater**

15.12.200 General Requirements.

a. The Administrator may designate as Subject Activities any activities, including industrial activities, which are identified as potential sources of discharges of pollutants to the City Stormwater Conveyance System.

b. Any person who the Administrator determines is conducting any Subject Activity shall reduce the discharge of pollutants from those activities through the implementation of BMPs in accordance with Section 15.12.220.

c. The Administrator shall conduct a notification and comment process for designations or determinations made pursuant to section (a) of this section.

d. Any determination made by the Administrator pursuant to subsection (b) of this section shall be subject to the provisions for the adoption of regulations set forth in Section 15.12.230.

15.12.210 Containment and Notification of Spills.

a. Any person owning or occupying premises, or conducting any activity that has knowledge of any non-stormwater discharge or threatened prohibited discharge, from the premises or activity to the City storm water conveyance system shall immediately take all reasonable action to contain and otherwise minimize any such discharge.

b. The Administrator may designate types of activities where the owner or operator of the activity shall be required to notify the Administrator or the Implementing Agency within twenty-four (24) hours of the discovery of an actual discharge into the City stormwater conveyance system.

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.

15.12.220 Best Management Practices.

a. The Administrator may adopt regulations for specified Subject Activities. Such regulations shall describe Best Management Practices ("BMPs") which, if implemented by persons conducting such Specified Activities, shall satisfy the requirements of Section 15.12.200.

b. Persons conducting Subject Activities may implement BMPs not contained in the adopted regulations to satisfy the requirement of Section 15.12.200(b) through either of the following mechanisms:

i. By submitting and receiving prior written approval for the alternative BMPs from the Administrator if he or she determines that the proposed alternative BMPs provide a level of protection from stormwater discharges equivalent to the BMPs contained in the regulations adopted pursuant to (a) above; or

ii. By implementing alternative BMPs which provide a level of protection from storm water discharges equivalent to the BMPs contained in the regulations adopted pursuant to (a) above.

c. Any alternative BMPs implemented pursuant to subsection (b)(ii) above shall be subject to review and approval by the Administrator as part of the inspection procedures set forth in Article 4 of this Chapter. If a person conducting Subject Activities implements alternative BMPs without the prior written approval of the Administrator and subsequently receives written notice from the Administrator that the alternative BMPs do not provide the required equivalent level of protection from storm water discharges, the continued implementation of such alternative BMPs shall be deemed to be a violation of the requirements of 15.12.200(b) as of the date of delivery of such notice unless it is ultimately determined pursuant to an administrative appeal pursuant to Section 15.12.400 that the alternative BMPs provide the required equivalent level of protection from stormwater discharges.

d. Any facility that is in compliance with its State or Federal NPDES permit for stormwater discharges for that facility shall be deemed to have met the requirements of Section 15.12.200(b).

e. The Administrator shall develop regulations for determining when BMPs have been successfully implemented.

15.12.230 Administrative Rules and Regulations.

a. The Administrator shall have the authority to promulgate regulations for the implementation of this Chapter. Prior to the Administrator's initiation of any proposed regulations, the Administrator shall submit a public input plan to the City Council for its approval. The public input plan approved by the City Council shall be generally applicable to the promulgation of regulations by the Administrator.

b. All regulations promulgated by the Administrator shall be consistent with the provisions of this Chapter. Any such regulations, or amendments thereof, shall be filed with the City Clerk of the City Council. The City Clerk shall cause announcement of said rules or regulations to be published in a newspaper of general circulation within ten calendar days. Such announcements shall provide a reasonable summary of the content of the rule. In addition, the Administrator shall make a reasonable effort to identify, notify, and provide copies to any activities which are specifically designated by the Administrator as subject to a rule or regulation. However, neither the failure of the Administrator to provide such notice nor the failure to receive individual notice shall exempt an activity from that rule or regulation. No regulations promulgated by the Administrator, or amendments thereof, shall be enforced or become effective until thirty (30) calendar days following the date on which notification of the regulations are published.

c. Any person who asserts that he or she is aggrieved by the terms or application of a regulation issued pursuant to this section may appeal the issuance of such regulation by filing a written notice of appeal with the City Clerk of the City Council. The notice of appeal shall specifically identify the regulation or regulations from which the appeal is taken and the reasons for the appeal. Upon receipt of such notice, the City Clerk of the City Council shall schedule the appeal for a public hearing by the City

Council. At the conclusion of the public hearing the City Council shall be vested with jurisdiction to deny the appeal or to rescind or modify the regulation. The City Council's determination in this regard shall be final.

d. Any regulation from which an appeal is filed prior to its effective date shall not become effective until the date of a determination by the City Council of the appeal. Any regulation from which an appeal is filed on or subsequent to the effective date thereof shall remain in full force and effect during the pendency of the appeal, and any decision which rescinds or modifies the regulation shall apply prospectively.

Article 4

Inspection and Monitoring

15.12.300 Scope of Inspections.

a. Prior to commencing any inspection authorized pursuant to this section, the Administrator shall obtain the consent of the owner or occupant of the premises, an administrative inspection warrant or a criminal search warrant. Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Chapter including, but not limited to, random sampling, sampling in areas with evidence of stormwater contamination, illicit connections, discharge of non-stormwater to the City stormwater conveyance system or similar factors.

b. The Administrator may enter upon private property to investigate the source of any discharge to any public street, inlet, gutter, storm drain or the City storm water conveyance system.

c. The Administrator 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 system, pollutants and other discharges from the property;
3. Investigating the natural slope of the premises, including drainage patterns and artificial conveyance systems;
4. Establishing the location of all points of discharge from the property, whether by surface runoff or through a storm drain system;
5. Locating any illicit connection or the source of any prohibited discharge; and
6. Evaluating implementation of BMPs.

d. For purposes of verifying compliance with the provisions of this Chapter, the Administrator 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.

e. The Administrator may inspect all records of the owner or occupant of any premises relating to chemicals or processes presently or previously occurring on-site, including materials and/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 City stormwater conveyance system.

f. The Administrator may conduct any necessary surveillance, 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 City stormwater conveyance system. The Administrator may conduct surveillance and investigate the integrity and layout of all storm drain and sanitary sewer system or other pipelines on the premises using appropriate tests, including, but not limited to, smoke and dye tests or video surveys. The Administrator may conduct any necessary surveillance, take photographs or video tape, make measurements or drawings, and create any other record reasonably necessary to document conditions on the premises.

g. The Administrator may require regular reports from industrial facilities and construction sites discharging into the City stormwater conveyance system.

h. The Administrator may erect and maintain monitoring and sampling devices for the purpose of measuring any discharge or potential source of discharge to the City stormwater conveyance system.

15.12.350 Fees.

The Administrator shall collect such fees as may be authorized by the City Council to provide for the recovery of regulatory costs, including routine inspections and other regulatory functions associated with this Chapter. There shall be no fee assessed to appeal the determination that a person conducts any Subject Activity. Any such fees shall be established by resolution of the City Council.

Article 5 Enforcement

15.12.400 Notice of Non-Compliance.

a. The Administrator may deliver to the owner or occupant of any premises, or to any person responsible for an illicit connection, prohibited discharge, maintenance

of a threatened prohibited discharge, failure to implement BMPs in accordance with Section 15.12.200(b), or any other violation of this Chapter a Notice of Non-Compliance. The Notice of Non-Compliance shall be delivered in accordance with Section 15.12.430 hereof.

b. The Notice of Non-Compliance shall identify the provision of this Chapter which has been violated. The Notice of Non-Compliance shall state that continued non-compliance may result in additional enforcement actions, including the recovery of any costs incurred by the City.

c. The Notice of Non-Compliance shall identify a compliance date that must be met; provided, however, that the compliance date may not exceed ninety (90) days unless the Administrator extends the compliance deadline an additional period not exceeding ninety (90) days when good cause exists for the extension.

15.12.410 Administrative Compliance Orders.

a. The Administrator may issue an Administrative Compliance Order. The Administrative Compliance Order shall be delivered in accordance with Section 15.12.430 hereof. The Administrative Compliance Order may be issued to any of the following:

1. The owner or occupant of any premises requiring abatement of conditions on the premises that cause or may cause a prohibited discharge in violation of this Chapter.

2. A person who fails to implement BMPs in accordance with Section 15.12.200(b).

3. Any person responsible for a prohibited discharge or maintenance of a threatened prohibited discharge.

b. The Administrative Compliance Order may include the following terms and conditions:

1. Specific steps and time schedules for compliance as reasonably necessary to prevent threatened or future unauthorized discharges, including, but not limited to, the threat of any prohibited discharge from any pond, pit, well, surface impoundment, holding or storage area.

2. Specific requirements for containment, cleanup, removal, storage, or proper disposal of any material having the potential to contribute pollutants to stormwater runoff.

3. Specific requirements for the installation of overhead covering.

4. Any terms or conditions reasonably calculated to prevent continued or threatened violations of this Chapter.

5. Any other measures necessary or appropriate to fully implement BMPs in accordance with Section 15.12.200(b).

15.12.420 Cease and Desist Orders.

a. The Administrator may issue a Cease and Desist Order. A Cease and Desist Order shall be delivered in accordance with Section 15.12.430 hereof. A Cease and Desist Order may direct the owner or occupant of any premises, or any other person responsible for any violation of this Chapter, to take any of the following action:

1. Immediately discontinue any prohibited discharge to the City stormwater conveyance system.

2. Immediately discontinue any other violation of this Chapter.

3. Clean up the area affected by the violation.

b. The Administrator may direct by a Cease and Desist Order that any person immediately cease any activity which may lead to a violation of Receiving Water Limitations.

15.12.430 Delivery of Notice.

Any notice of non-compliance, administrative compliance order, cease or desist order or other enforcement order pursuant to the requirements of this Chapter shall be subject to the following requirements:

a. The notice shall state that the recipient has a right to appeal the matter as set forth in Section 15.12.440 of this Chapter.

b. The notice shall state that the recipient or the property owner, or both, may be liable for all enforcement costs incurred by the City in correcting the violation.

c. Delivery shall be deemed complete upon either personal delivery to the recipient or deposit in the U.S. mail postage pre-paid for first class delivery.

d. Where the recipient of the notice is the owner of the property, the address for notice shall be the address from the most recently issued equalized assessment roll for the property.

e. Where the owner or occupant of any premises cannot be located after reasonable efforts of the Administrator, the notice shall be deemed delivered after posting on the premises for a period of ten (10) business days.

15.12.440 Administrative Appeals.

a. Except as set forth in subsection (c) below, any person receiving a notice of non-compliance, a designation as a person who conducts Subject Activities, an

administrative compliance order or who is otherwise subject to an adverse determination pursuant to this Chapter may appeal the matter by requesting an administrative hearing before a hearing officer appointed by the City Council.

b. Any person appealing a notice of non-compliance, administrative compliance order, designation as a person who conducts Subject Activities or other adverse determination shall file, within thirty (30) days of receipt of notice thereof, a written request for an administrative hearing, accompanied by an administrative hearing fee as established by resolution of the City Council, with the Administrator. A hearing on the matter shall thereafter be held before a hearing officer within forty-five (45) days of the filing of the written request unless, in the reasonable discretion of the hearing officer and pursuant to a request by the appealing party, a continuance of the hearing is granted.

c. An administrative hearing on the issuance of a cease and desist order or following an emergency abatement action shall be held within five (5) business days following the issuance of the order or the action of abatement, unless the hearing or the time requirement for the hearing is waived in writing by the party subject to the cease and desist order or the emergency abatement. A request for an administrative hearing shall not be required from the person subject to the cease and desist order or the emergency abatement.

d. The Administrator shall appear in support of the notice, order, designation, determination or emergency abatement action and the appealing party shall appear in support of the withdrawal of the notice, order, designation, determination or in opposition to the emergency abatement action. The City shall have the burden of supporting any enforcement or other action by a preponderance of the evidence. Each party shall have the right to present testimony and other documentary evidence as necessary for the appropriate presentation of the case.

e. Except in the case of a proceeding to determine the validity of a cease and desist order or a hearing following an emergency abatement, the final decision of the hearing officer shall be issued within ten (10) business days of the conclusion of the hearing and shall be delivered by first-class mail, postage prepaid, to the appealing party. In the case of a proceeding to determine the validity of a cease and desist order or a hearing following an emergency abatement, the final decision of the hearing officer shall be issued within five (5) business days following the conclusion of the hearing. The final decision shall include notice that any legal challenge to the final decision shall be made pursuant to the provisions of Code of Civil Procedure Sections 1094.5 and 1094.6 and shall be commenced within ninety (90) days following the final decision. Any administrative hearing fee paid by a prevailing party shall be refunded.

15.12.450 Nuisance and Abatement.

a. Any condition in violation of the provisions of this Chapter, including, but not limited to, the maintenance or use of any illicit connection or the occurrence of any

prohibited discharge, shall constitute a threat to the public health, safety and welfare and is declared and deemed to be a public nuisance.

b. At the request of the Administrator, the City may seek a court order to enjoin or abate the nuisance, or both. Prior to seeking any court order to enjoin or abate a nuisance or threatened nuisance, the Administrator shall provide notice of the proposed injunction or abatement to the owner and occupant, if any, of the premises where the nuisance or threatened nuisance is occurring.

c. At the request of the Administrator, the City may seek an abatement warrant or other appropriate judicial authorization to enter the premises where any nuisance or threatened nuisance is occurring and to abate the condition and restore the area.

d. In the event the nuisance constitutes an imminent danger to public safety or the environment, the Administrator may enter the premises from which the nuisance emanates, abate the nuisance and restore any property affected by the nuisance without prior notice to or consent from the owner or occupant thereof and without judicial warrant.

1. An imminent danger shall include, but is not limited to, exigent circumstances created by the dispersal of pollutants, where such pollutants presents a significant and immediate threat to the public safety or the environment.

2. Notwithstanding the authority of the City to conduct an emergency abatement action, an administrative hearing pursuant to Section 15.12.440 shall follow the emergency abatement action.

15.12.460 Civil Penalties.

a. In addition to any other remedies provided by this Chapter, there is hereby imposed an administrative civil penalty of up to \$5,000 for each violation of this Chapter. Notice of any administrative civil penalty shall be served and proof of service shall be made in the same manner as provided in Section 15.12.430 hereof. The notice shall provide that any administrative civil penalty imposed shall be administratively reviewed by a hearing officer before it is enforced. When violation of this Chapter pertains to a continuing violation that does not create an immediate danger to health or safety, as determined by the Administrator, the violator shall be provided with a reasonable time to correct or otherwise remedy the violation prior to imposition of the penalty. The Administrator shall determine and notify the violator of the time within which the violator must correct or remedy the violation. The notice shall provide that an administrative civil penalty will be imposed if the continuing violation is not remedied or corrected within the time stated.

b. Enforcement of the administrative civil penalty imposed by the Administrator shall be by written order issued by the hearing officer following notice and an opportunity for hearing. Procedures concerning notice, conduct of the hearing, and service shall be as provided in Section 15.12.440 hereof. The order of the hearing

officer concerning the administrative civil penalty shall be in writing resolving the essential issues raised and confirming, amending or rejecting the administrative civil penalty imposed by the Administrator. In reaching a decision concerning any administrative civil penalty, the hearing officer shall be guided by factors including, but not limited to the following: the danger to public health, safety and welfare represented by the violation, recidivism, and any economic benefit associated with non-compliance.

c. The manner of contesting the final order of the hearing officer concerning any administrative civil penalty is governed by Government Code section 53069.4, or any successor provision thereto. Service of the notice of appeal authorized by Government Code section 53069.4 on the City shall be served upon the City Clerk of the City Council.

15.12.470 Criminal Penalties.

a. Any person who negligently or knowingly violates any provision of this Chapter, undertakes to conceal any violation of this Chapter, continues any violation of this Chapter after notice thereof, or fails to implement BMPs in accordance with Section 15.12.200(b) shall be guilty of a misdemeanor and upon conviction thereof be fined not more than \$1,000 or imprisoned for not more than six (6) months in the County Jail, or both.

b. Each day in which a violation occurs and each separate failure to comply with either a separate provision of this Chapter, an administrative compliance order, a cease and desist order, or failure to implement BMPs in accordance with Section 15.12.200(b) shall constitute a separate violation of this Chapter punishable by fines or sentences in accordance herewith.

c. The Administrator may authorize specifically designated City employees to issue citations for misdemeanor violations of this Chapter pursuant to Penal Code section 836.5.

15.12.480 Miscellaneous Enforcement Provisions.

a. Each and every remedy available for the enforcement of this Chapter shall be non-exclusive and it is within the discretion of the Administrator to seek cumulative remedies.

b. The Administrator may request the City to file a civil action in a court of competent jurisdiction seeking an injunction against any threatened or continuing non-compliance with the provisions of this Chapter. Any temporary, preliminary or permanent injunction issued pursuant to this subsection may include an order for reimbursement to the City of all costs incurred in enforcing this Chapter, including, but not limited to, costs of inspection, investigation and monitoring, the costs of abatement undertaken at the expense of the City, costs relating to the restoration of the environment and any other costs or expenses authorized by law.

c. The Administrator may request the City to file an action for civil damages in a court of competent jurisdiction seeking recovery of any of the following:

1. All costs incurred in the enforcement of this Chapter, including, but not limited to, costs relating to investigation, sampling, monitoring, inspection, administrative expenses, all other expenses authorized by law and consequential damages.

2. All costs incurred in mitigating harm to the environment or reducing the threat to human health.

3. Damages for irreparable harm to the environment.

d. The City is authorized to file actions for civil damages resulting from any trespass or nuisance occurring on public property or to the City stormwater conveyance system from any violation of this Chapter where such violation has caused damage, contamination or harm to the environment, public property or the City stormwater conveyance system.

e. The remedies available to the City pursuant to the provisions of this Chapter shall not limit the right of the City or any law enforcement agency to seek any other legal or equitable remedy that may be available to it.

f. Each day in which a violation occurs and each separate failure to implement BMPs in accordance with Section 15.12.200(b) or to comply with either a separate provision of this Chapter, an administrative compliance order, or a cease and desist order shall constitute a separate violation of this Chapter punishable by administrative penalties in accordance with this Chapter.

Article 6

Recovery of Cost of Abatement

15.12.500 Costs of Abatement – Confirmation.

a. When proceedings under this Chapter result in the correction of a violation of this Chapter or in a final determination that a violation exists subsequent to the date specified in any notice issued pursuant to the provisions of this Chapter, the costs of such proceedings incurred by the City may be assessed against the property. Such costs may include, but are not limited to, those incurred in inspecting property, publication, mailing and posting of notices, conducting hearings, processing appeals and pursuing any judicial action. It is the purpose of this section to allow the assessment against property of costs of proceedings if a violation is corrected in any manner.

b. The Administrator shall keep an account of the administrative and other costs of abatement, and shall submit to the City Council for confirmation an itemized written report showing such costs and their proposed assessment to the respective properties. The report shall be filed with the City Clerk of the City Council not later than fifteen (15) calendar days in advance of the confirmation hearing required below.

c. Upon receipt of the report, the City Clerk of the City Council shall schedule a public hearing to receive protests and confirm the report. A statement of the proposed assessment and notice of the time, date and place of the hearing, together with reference to the report on file with the City Clerk, shall be mailed to the owner or owners of each parcel of property proposed to be assessed shown on the last equalized assessment roll available on the date of mailing of the notice or any other address or addresses ascertained to be more accurate. Such notice shall be mailed not later than fifteen (15) calendar days in advance of the hearing. Notice of the time, date and place of the public hearing by the City Council shall be published once in a newspaper of general circulation published with the City. With respect to each property proposed to be assessed for which the name or the owner or owners is not shown on the last equalized assessment roll or no address for an owner is shown on the last equalized assessment roll, the notice shall show the name or names of the owner or owners, if such name or names are shown on the last equalized assessment roll, the assessor's parcel number, the street address of the property, if the property has an address and the address is known to the Administrator, the name of the street or road upon which such property abuts, if the property abuts upon a street or road, the amount of the proposed assessment and reference to the report on file with the City Clerk. Such publication shall be made not later than fifteen (15) calendar days in advance of the hearing.

d. At the time fixed for receiving and considering the report, the City Council shall conduct a public hearing and shall receive and consider any objections from members of the general public or property owners liable to be assessed for the abatement. Written protests or objections shall specify the date, hour and description of the subject property under hearing. The City Council may continue the hearing and delegate to the City Manager or his designee the responsibility of hearing individual protests and submitting a recommendation with respect thereto; provided that the City Council provides an opportunity for individual consideration of each project upon receipt of the recommendation by the City Manager or his designee. The City Council may modify the report if it is deemed necessary. The City Council shall then confirm the report by motion or resolution.

15.12.510 Costs – Assessments.

a. If the costs as confirmed are not paid within thirty (30) days of the date of mailing of the notice or date of publication pursuant to Section 15.12.500 above, such costs shall be assessed against the parcel of land pursuant to Section 25845 of the Government Code, and shall be transmitted to the Tax Collector for collection and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ad valorem taxes.

b. If subsequent to the mailing of the notice of non-compliance and prior to transmittal of the notice of unpaid costs to the Tax Collector for collection as set forth in subsection (a) of this section, the property subject to the notice of non-compliance is sold, or title otherwise transferred to a bona fide purchaser, said costs shall be the responsibility of the owner of record as of the date said notice of non-compliance was placed in the United States postal system or posted on the property.

c. In addition to assessing the unpaid costs as provided in subsection (a) herein, the Tax Collector or his designated representative may pursue any remedy provided by law for collection of the unpaid costs.

15.12.520 Treble Costs.

Pursuant to Government Code section 25845.5, upon entry of a second or subsequent civil or criminal judgment within a two (2) year period finding that an owner is responsible for a condition in violation of this Chapter that may be abated pursuant to Government Code section 25845, a court may order the owner to pay treble the costs of abatement.

15.12.530 Hearing of Protests.

Upon the day and hour fixed for the hearing, the City Council shall hear and pass upon the report of the Administrator together with any such protests or objections. The City Council may make such revision, correction or modification of the report or the charge as it may deem just; and in the event the City Council is satisfied with correctness of the charge, the report of the Administrator (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the City Council on the report and the charge and on all objections or protests shall be final and conclusive.

15.12.540 Assessment for Summary Abatement.

Where the charge to be made is the result of summary abatement pursuant to Section 15.12.460(c), the City Council may determine whether or not the action to abate was proper, and may confirm the charge or not as it may deem proper.

15.12.550 Time for Contest of Assessment.

The validity of any assessment made under the provisions of this Chapter shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is ordered to be placed upon the assessment roll as provided herein.

15.12.560 Filing Copy of Report with County Auditor.

A certified copy of the assessment shall be filed with the County Auditor on or before August 1. The descriptions of the parcels reported shall be those used for the same parcels on the map books of the County Assessor for the current year.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect immediately as an urgency ordinance. On July 1, 2003, the City of Elk Grove will begin to provide storm water drainage services to its citizens. In order to meet these obligations, this ordinance is necessary immediately to ensure the City has ordinances governing the collection of storm water drainage service fees for the territory that it administers. For these reasons, the City Council finds that the immediate passage of this ordinance is

necessary for the immediate preservation of the public peace, health, and safety, the physical integrity of the City and orderly administration of municipal affairs within the City of Elk Grove.

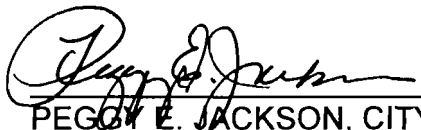
SECTION 6. POSTING. In lieu of publication of the full text of the ordinance within 15 days after its passage, a summary of the ordinance may be published at least five days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

PASSED AND ADOPTED by the City Council of the City of Elk Grove on this 18th day of June 2003.



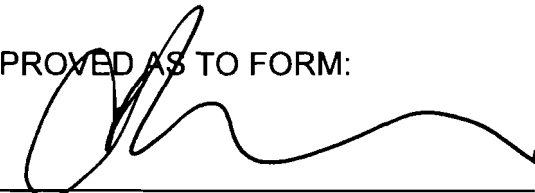
RICK SOARES, MAYOR of the
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI
CITY ATTORNEY

AYES: Soares, Scherman, Cooper, Leary
NOES: None
ABSTAIN: None
ABSENT: Briggs