

**STATEMENT OF LEGAL AUTHORITY
FOR THE CITY OF ELK GROVE
TO IMPLEMENT AND ENFORCE STORMWATER PERMIT
REQUIREMENTS**

This document shall serve as written certification to the Central Valley Regional Water Quality Control Board that the City of Elk Grove has adequate legal authority to implement and enforce each of the requirements contained in 40 CFR 122.26(d)(2)(i)(A-F), as well as those requirements specified in the National Pollution Discharge Elimination System (NPDES) Permit No. CAS082597, Order No. R5-2008-0142 ("Permit"). Provision 6 of the NPDES Permit states:

Each Permittee shall provide to the Executive Officer a statement certified by its chief legal counsel that it has adequate legal authority to implement and enforce each of the requirements contained in 40 CFR 122.26(d)(2)(i)(A-F) and this Order, including any modifications thereto in effect when the certified statement is provided. This statement shall be included in Permittees' revised SQIP(s), which shall describe the following:

- a. Citation of urban runoff related ordinances adopted by the Permittees and the reasons they are enforceable;
- b. Progressive enforcement policy and how it will be effectively implemented;
- c. Identification of the local administrative and legal procedures available to mandate compliance with urban runoff related ordinances and therefore with the conditions of this Order;
- d. Description of how these ordinances are implemented and how enforcement actions under these ordinances may be appealed;
- e. Description of whether the municipality can issue administrative orders and injunctions or if it must go through the court system for enforcement actions; and
- f. Description of the Permittee's stormwater management structure. There might be different departments that are to develop, implement, and enforce various components of the program. Summarize how the various departments communicate and coordinate activities.

General Statement of Adequate Legal Authority

The City of Elk Grove had adequate legal authority to implement and enforce each of the requirements contained in 40 CFR 122.26(d)(2)(i)(A-F), as well as those requirements specified in the NPDES Permit.

Provision 6(a). Urban Runoff Related Ordinances.

The stormwater related ordinances adopted by the City of Elk Grove are generally contained in Chapter 15.12, "Stormwater Management and Discharge Control," of the

Elk Grove City Code. Certain ordinances relating to the management and control of stormwater discharges from construction and grading activities are contained in Chapter 16.44, "Land Grading and Erosion Control," of the Elk Grove City Code. These ordinances are enforceable by the City of Elk Grove pursuant to the authority granted under Article XI, Section 7 of the California Constitution. The ordinances were adopted in order to protect and promote public health, safety and general welfare, and the ordinances are not in conflict with general laws.

Provision 6(b). Progressive Enforcement Policy.

The City of Elk Grove, pursuant to its authority, has adopted procedures, standards, sanctions/fines and remedies for the enforcement of the Elk Grove Municipal Code. These may be found in Title 1, Chapters 1.04-1.12.

On or around March 17, 2004, the City entered into a Memorandum of Understanding with the County of Sacramento, Environmental Management Department (EMD), to track, inspect and insure compliance of the City's commercial and industrial facilities per California Regional Water Quality Control Board NO. R5-2002-0206. Chapter 15.12 of the City of Elk Grove Municipal Code was amended by Ordinance 26-2004 on August 18, 2004; which provided the County of Sacramento, Environmental Management Department, the necessary authority to conduct inspections and enforcement activities pursuant to the Agreement between the City and County dated March 17, 2004.

In addition to the City ordinances, the County has a progressive enforcement policy for this portion of the City's compliance, which is founded in the County's stormwater ordinance, and those ordinances of the Permittees, including the City of Elk Grove's stormwater ordinance. Enforcement of the City of Elk Grove provisions is conducted by the City of Elk Grove.

Provision 6(c). Compliance Procedures.

The applicable administrative and legal procedures are contained in Chapter 15.12 and Chapter 16.44 of the Elk Grove City Code. Article 2 of Chapter 15.12 of the Elk Grove City Code lists the general prohibitions against discharges to the stormwater system, and against illegal connections to the stormwater system. Article 3 of Chapter 15.12 provides for the containment and notification of discharges to the City's stormwater conveyance system, as well as the adoption of Best Management Practices ("BMPs") in order to minimize discharges to the stormwater system. Article 4 provides for inspection and monitoring of discharges to the stormwater system. Article 5 provides for enforcement of the stormwater discharge regulations by the City. Chapter 16.44 requires City-approved permits for construction and grading activities.

Provision 6 (d). Implementation and Appeals.

The provisions of Chapter 15.12 and Chapter 16.44 are implemented by the Administrator of the City of Elk Grove's Department of Public Works, and his order of designees. (See EGCC 15.12.080.) The Administrator conducts any necessary inspections, develops necessary regulations, and determines when to seek administrative, civil or criminal penalties. Section 16.44.300 provides for appeals of grading permit conditions. Enforcement actions under Chapter 15.1 2 may be appealed under the process set forth in Section 15.12.440. In general, persons may request an administrative hearing before a hearing officer appointed by the City Council. At the hearing, the Administrator appears on behalf of the City, and the City bears the burden to support any enforcement action by a preponderance of the evidence. Each party has the right to present testimony and other evidence as necessary for the appropriate presentation of the case. If necessary, the challenging party may appeal the decision of the administrative hearing officer pursuant to the provisions of the Code of Civil Procedure sections 1094.5 and 1094.6.

Provision 6(e). Administrative Orders and Injunctions.

Under the stormwater ordinances, the City can issue various types of administrative orders, including cease and desist orders. The City is not required to go through the court system for enforcement actions, but Chapter 15.12, at Sections 15.12.400-480, provides that the City may pursue enforcement actions through the court system.

Provision 6(f). Stormwater Management Structure.

The City of Elk Grove Stormwater Management Program resides within the Department of Public Works. The Director of Public Works is the designated administrator of the Order who is responsible for overseeing the program and certifying all compliance deliverables. The City has staff in various departments to conduct the management, engineering, planning, and maintenance activities required by the Stormwater Permit. A detailed description of the City's program organization and staffing is included in Section 6.2-Program Management, of the 2009 Stormwater Quality Improvement Plan (SQIP).

CERTIFICATION

I certify that the foregoing is true and correct:

Date: _____



Susan B. Cochran
City Attorney for the City of Elk Grove

CHAPTER 15.12

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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

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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.

Any term(s) defined in the Federal Clean Water Act, as amended, and/or defined in the regulations for the stormwater discharge permitting program issued by the United States Environmental Protection Agency, as amended, and which are not specifically defined in this Chapter shall, when used in this Chapter, have the same meaning as set forth in said Act or regulation. *(COEG Ord. No. 26-2004, eff. 8-19-04)*

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

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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

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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.

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- w. State General Construction Activity Permit shall mean the State Water Resources Control Board's Water Quality Order No. 99-08-DWQ, National Pollution Discharge Elimination System (NPDES) General Permit No. CAS000002 Waste Discharge Requirements (WDRS) for Discharges of Storm Water Runoff Associated With Construction Activity, and any successor documents.
- x. State General Industrial Activity Permit shall mean the State Water Resources Control Board's Water Quality Order No. 97-03-DWQ, National Pollution Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities, and any successor document.
- y. "Stormwater" means surface runoff and drainage resulting from storm events and snow melt.
- z. "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, or for which a requirement has been imposed by the state or federal government on the City to conduct stormwater regulatory activities focused on the activity.
- aa. "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.
- bb. "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.
- cc. "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. *(COEG Ord. No. 26-2004, eff. 8-19-04)*

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

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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.

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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

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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. Upon finding that any continuance of the discharge poses an immediate significant threat to the environment or to public health and safety, the Administrator may waive the thirty day waiting period and require immediate cessation of the discharge. (*COEG Ord. No. 26-2004, eff. 8-19-04*)

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

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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, or for which a requirement has been imposed by the state or federal government for the City to conduct stormwater regulatory activities focused on the Subject Activity in question.

b. Any person who the Administrator determines is conducting any Subject Activity shall prevent or reduce the discharge of pollutants from those activities, to the maximum extent practicable, 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. *(COEG Ord. No. 26-2004, eff. 8-19-04)*

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

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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

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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.

15.12.235 BMP Maintenance Requirements. The Administrator may require a property owner to establish, document, and conduct a maintenance program, subject to approval, for any BMP. This requirement may apply to BMPs required by the City or BMPs that were voluntarily installed pursuant to Section 15.12.220. Such a maintenance program may be required when the Administrator determines that proper maintenance is necessary to protect public safety, health, infrastructure, or the environment, or to otherwise meet the purposes of this Chapter. Maintenance requirements established pursuant to this subsection must be appropriate for the site conditions and design of BMPs. *(COEG Ord. No. 26-2004, eff. 8-19-04)*

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.

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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. In addition, the Administrator may require the owner or occupant to furnish, within a reasonable time period, copies of all such records. (*COEG Ord. No. 26-2004, eff. 8-19-04*)

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.

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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.

15.12.330 Reporting Requirements. a. The Administrator may require any person to report information for purposes related to the goals of this Chapter. Required information may include but is not limited to the following: characterization of industrial activities; compliance with this Chapter, compliance with State General Permit requirements; compliance with Administrative Enforcement Orders or other enforcement actions; discharge monitoring; training; and BMP implementation, effectiveness, and maintenance.

b. The Administrator may require information to be submitted on an as needed basis.

c. The Administrator may require submitted information to be compiled, summarized, analyzed or organized in a reasonable manner that facilitates its interpretation or other use. As necessary to facilitate the use of information, the Administrator may also specify the medium and format of required submittals.

d. Failure to provide information in a timely manner as required by the Administrator, or knowingly or negligently providing false information shall be a violation of this Chapter. (*COEG Ord. No. 26-2004, eff. 8-19-04*)

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-

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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:

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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 (b) below, any person receiving a notice of non-compliance, a designation as a person who conducts Subject Activities, an administrative compliance order, or an Administrative Citation pursuant to Chapter 1.12, or who is otherwise subject to an adverse determination pursuant to this Chapter may appeal the matter by requesting an administrative appeals hearing before an Appeals Hearing Officer pursuant to Chapter 1.11 of this Code.

(COEG Ord. 19-2005, eff. 06-10-05)

- b. An administrative appeals hearing on the issuance of a cease and desist order or following an emergency abatement action shall be held within seven (7) working 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 appeals hearing shall not be required from the person subject to the cease and desist order or the emergency abatement.

(COEG Ord. 19-2005, eff. 06-10-05)

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c. At any administrative appeals hearing, the administrative appeals officer shall permit any interested party, including, but not limited to the Administrator and/or the appealing party to present evidence and argument in support of or against the imposition of the notice of non-compliance, order, designation, determination, administrative citation or abatement action.

(COEG Ord. 19-2005, eff. 06-10-05)

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 or any other law, the Administrator is authorized to impose Administrative Civil Penalties in an amount established by resolution of the City Council, pursuant to Chapter 1.12 of the City Code, upon any person for each violation of this Chapter. Each day, or a portion thereof, that a violation continues constitutes a new violation. Administrative Civil Penalties are subject to the appeal procedures in Chapter 1.11 of this Code.

(COEG Ord. 19-2005, eff. 06-10-05)

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b. In addition to any other remedies provided by this Chapter or any other law, the Administrator may also seek and recover reimbursement from any person whose conduct or activity results in any fine, penalty or other charges being imposed upon the City by any authorized Federal, State, or Local Government agency, including, but not limited to, the Central Valley Regional Water Quality Control Board, for violations of the terms of the City's National Pollution Discharge Elimination System ("NPDES") Permit or otherwise, up to the actual amount of the fine, penalty, or charge imposed upon the City. Claims for reimbursement by the City shall be made by written request on forms approved by the Administrator. Claims for reimbursement shall be due and payable as directed by the Administrator in the written request for reimbursement, but in no event shall a claim for reimbursement be due and payable any later than thirty (30) days after presentation of the claim for reimbursement to the responsible person, unless the Administrator finds good cause to allow later payment. Claims for reimbursements by the City are subject to the appeal procedures in Chapter 1.11 of this Code.
(COEG Ord. 19-2005, eff. 06-10-05)

c. In reaching a decision concerning an Administrative Civil Penalty or a claim of reimbursement in any appeal proceeding under this Chapter, the Appeals 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, any economic benefit associated with non-compliance, and any economic impact to the City or the public as a result of the violation.
(COEG Ord. 19-2005, eff. 06-10-05)

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.

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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.

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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.

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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.

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Article 7 Commercial and Industrial Facilities

15.12.600 Findings.

a. One of the requirements of the municipal stormwater permit (NPDES No. CAS0082597) to which the City is a co-permittee, is to track, inspect, and ensure compliance with stormwater ordinances at certain commercial and industrial facilities.

b. The Sacramento County Environmental Management Department (EMD), as both the State-designated Certified Unified Program Agency (CUPA) and the Environmental Health Agency for Sacramento County, is currently tracking and inspecting the majority of commercial and industrial facilities subject to the provisions of the municipal stormwater permit.

c. Utilizing EMD to fulfill the commercial and industrial inspection program requirements under the municipal stormwater permit will result in greater program efficiency, reduced program costs, reduced impacts to the regulated business community, and is in the best interest of the City.

d. On March 17, 2004, the City Council authorized the City Manager to enter into an agreement with EMD for fulfilling the NPDES permit inspection requirements with respect to commercial and industrial facilities.

e. Under the Agreement, the City is required to amend the stormwater ordinance as necessary to authorize the County EMD to implement the stormwater compliance program for commercial and industrial facilities. The City must make any necessary amendments to the stormwater ordinance to the extent necessary to authorize EMD to:

1. Conduct all necessary inspections or re-inspections of regulated facilities within the incorporated City area;
2. Take any necessary enforcement actions as authorized by the Municipal Code and consistent with a City-approved enforcement plan;
3. Investigate and follow-up referred complaints at eligible facilities;
4. Establish and collect fees necessary to recover program implementation costs.

f. The term of the Agreement is July 1, 2004 through June 30, 2010, unless sooner terminated, or extended by the City and County. *(COEG 26-2004, Eff. 8-16-04)*

15.12.610 Purpose and Intent.

a. The purpose of this Article is to fulfill the requirements of the Agreement between the City and Sacramento County, authorized by the City Council on March 17, 2004, whereby the County shall assume responsibility for providing tracking, inspection, and enforcement of the City's stormwater ordinance with respect to commercial and industrial facilities within the incorporated City area as required by the municipal stormwater permit.

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b. It is the intent of the City Council in adopting this Article to provide the necessary amendments in order to authorize the County to accomplish the following goals:

1. Conduct all necessary inspections or re-inspections of regulated facilities within the incorporated City area;
2. Take any necessary enforcement actions as authorized by the Municipal Code and consistent with a City-approved enforcement plan;
3. Investigate and follow-up referred complaints at eligible facilities;
4. Establish and collect fees necessary to recover program implementation costs. *(COEG 26-2004, Eff. 8-16-04)*

15.12.620 Delegation of Authority to County EMD

a. Pursuant to the Agreement authorized by the City Council on March 17, 2004, whereby the County shall assume responsibility for tracking, inspecting, and enforcing the City's stormwater ordinance at certain commercial and industrial facilities specified in the municipal stormwater permit, the term "Administrator," as used in this Chapter shall also mean the Director of the Sacramento County Environmental Management Department and his or her designees.

b. Any administrative or civil enforcement by the Director of the Sacramento County EMD or his or her designees of any provision of this Chapter under this Article shall be governed by and conducted pursuant to Chapter 15.12 of the Sacramento County Code.

c. Sacramento County may establish and collect from commercial and industrial facilities located within the City such fees as may be necessary to cover the actual costs incurred by Sacramento County to include these facilities in its commercial and industrial compliance program, provided that the fees are established and collected in accordance with the provisions of the Agreement and all applicable legal requirements.

d. The delegation of authority to Sacramento County under this Article is limited to only that required by the March 17, 2004 Agreement, as may be necessary to allow the Director of the County EMD to track, inspect, and ensure compliance with the City's stormwater ordinance at commercial and industrial facilities as required under the municipal stormwater permit. *(COEG 26-2004, Eff. 8-16-04)*

15.12.630 Expiration of This Article.

The provisions of this Article 7 shall remain in effect only to the extent that the March 17, 2004 Agreement between the City and County EMD, or any successor agreement, remains in effect. Upon expiration of the Agreement, or any successor agreement, the provisions of this Article shall expire. *(COEG 26-2004, Eff. 8-16-04)*

CHAPTER 16.44

LAND GRADING AND EROSION CONTROL

Sections:

- 16.44.010 Purpose
- 16.44.020 Definitions
- 16.44.030 Delegation
- 16.44.040 Administration
- 16.44.050 Permits Required
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- 16.44.065 Exemptions
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- 16.44.080 Application Contents
- 16.44.090 Plans
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- 16.44.140 Environmental Review
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- 16.44.160 Contents of Permit
- 16.44.170 Conditions
- 16.44.180 Procedure for Imposition
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- 16.44.250 Cessation of Work
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- 16.44.280 Grounds for Suspension and Revocation
- 16.44.290 Method of Suspension or Revocation
- 16.44.300 Appeals
- 16.44.310 Appeal Fee
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- 16.44.330 Actions on Appeals
- 16.44.340 Notices
- 16.44.350 Action Against and Release of Security
- 16.44.360 Violations

16.44.370 Laws not Enforced

16.44.010 PURPOSE. It is the intent of the Board of Supervisors in enacting this Chapter to minimize damage to surrounding properties and public rights-of-way, the degradation of the water quality of watercourses, and the disruption of natural or County authorized drainage flows caused by the activities of clearing and grubbing, grading, filling and excavating of land, and sediment and pollutant runoff from other construction related activities, and to comply with the provisions of the County's National Pollutant Discharge Elimination System (NPDES) Permit Number, CA0082597, issued by the California Regional Water Quality Control Board (Regional Board).

These goals will be achieved by establishing administrative procedures, minimum standards of review, and implementation and enforcement procedures for controlling erosion, sedimentation and other pollutant runoff, including construction debris and hazardous substances used on construction sites, and the disruption of existing drainage and related environmental damage caused by the aforementioned activities.

16.44.020 DEFINITIONS. As used in this Chapter, the following words and phrases shall have the meanings given in this section:

(1) "Administrator" means the Administrator of the Public Works Agency of Sacramento County or his or her designated representative(s).

(2) "Applicant" means any person who submits an application for a permit pursuant to this Chapter.

(3) "Civil engineer" means a professional engineer in the branch of civil engineering holding a valid certificate of registration issued by the State of California.

(4) "Clearing and grubbing" means moving or removing by manual or mechanical means trees, vegetation and/or the top four (4) inches or greater of soil.

(5) "Compaction" means the act of compacting or consolidating soil and rock material to a specified density, and the resulting compacted state of the material.

(6) "Construction site" means any land area on which the activity of clearing and grubbing, grading, excavating, or filling is occurring.

(7) "County" is the County of Sacramento.

(8) "County Specifications" means the County Improvement Standards, County Standard Construction Specifications and other standards included in applicable County ordinances, regulations and manuals, as amended from time to time.

(9) "Engineering geology" means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

(10) "Environmental Coordinator" is the County official designated by the County Executive to prepare and process environmental documents.

(11) "Erosion" means the transport of the ground surface or soil as a result of the movement of wind or water.

(12) "Erosion control measures" means seeding, mulching, vegetative buffer strips, sod, plastic covering, burlap covering, watering and other measures which control the movement of the ground surface or soil.

(13) "Grade" is the elevation of the ground surface as measured from a known vertical control.

(14) "Grading" includes the act or result of digging, excavating, transporting, spreading, depositing, filling, compacting, settling, or shaping of land surfaces and slopes, and other operations performed by or controlled by human activity involving the physical movement of rock or soil.

(15) "Hazardous Substances" means those materials listed in Title 40 of the Code of Federal Regulations (40 CFR) Part 117 and/or 40 CFR Part 302.

(16) "National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Clean Water Act.

(17) "Permittee" means the applicant in whose name a valid permit is issued pursuant to this Chapter and the applicant's agents, employees and designated representative(s).

(18) "Person" means any individual, corporation, partnership, association of any type, public agency or any other legal entity.

(19) "Pollutants" is as defined in Title 40 CFR Part 122.

(20) "Runoff" is surface runoff and drainage related to storm events, snow melt, street washwaters related to street cleaning or maintenance and other waters associated with the construction activity which are or may be introduced into the municipal separate storm sewer system.

(21) "Sediment" means soil or earth material deposited by water.

(22) "Sediment control measures" means dikes, sediment detention traps, sediment detention basins, filters, fences, barriers, swales, berms, drains, check dams, and other measures which control the deposit of soil or earth material.

(23) "Site" means a parcel or parcels of real property owned by one or more than one person on which activity regulated by this Chapter is occurring or is proposed to occur.

(24) "Slope" is an inclined ground surface the inclination of which is expressed as a percent.

(25) "Structure" means anything constructed or erected which requires location on the ground or attached to something having location on the ground.

(26) "Watercourse" means a river, stream, creek, basin, lake, pond, waterway, or channel, natural or man-made, having a defined bed and banks. Whenever a watercourse consists of an ordinary channel, and in addition thereto, an overflow channel, the watercourse shall be deemed to include all property lying between the banks of the overflow channel.

(27) "Wetlands" means those areas that are inundated or saturated by surface or

ground water at a frequency sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs and marshes.

16.44.030 DELEGATION. Whenever in this Chapter an authority or power is vested in or a duty is imposed upon an officer or official, an employee subordinate to the officer or official to whom an appropriate delegation has been made shall be entitled to exercise the power or authority and perform the duty.

16.44.040 ADMINISTRATION. Except as otherwise provided, the Administrator is responsible for administering this Chapter and Grading and Erosion Control Permits, and is authorized from time to time to promulgate and enforce rules or regulations consistent with and necessary to implement the purposes, intent and express terms of this Chapter.

Any rules or regulations promulgated by the Administrator, or amendments thereof, shall be filed with the Clerk of the Board of Supervisors. The Clerk shall cause said rules or regulations to be published in a newspaper of general circulation within ten calendar days. No rules or regulations promulgated by the Administrator, or amendments thereof, shall be enforced or become effective until thirty (30) calendar days following the date on which the rules or regulations are published. Any person shall have fifteen (15) days after the date of publication in which to file an appeal in accordance with the provisions of Section 16.44.300.

16.44.050 PERMITS REQUIRED. Except as provided by Sections 16.44.060, 16.44.065 or 16.44.070, a Grading and Erosion Control Permit shall be required to (1) grade, fill, excavate, store or dispose of 350 cubic yards or more of soil or earthly material or (2) clear and grub 1 acre or greater of land within the unincorporated area of the county.

A separate permit is required for work on each site unless sites are contiguous, have the same ownership, and are included in the approved plan. Any determination by the Administrator as to whether a permit is required may be appealed pursuant to the provisions of Section 16.44.300.

16.44.060 PERMITS NOT REQUIRED. (A) A Grading and Erosion Control Permit shall not be required to (1) grade, fill, excavate, store or dispose of less than 350 cubic yards of soil or earthly material or (2) clear and grub less than 1 acre of land within the unincorporated area of the county or (3) for the grading, filling, excavating, storing, disposing, or clearing and grubbing for:

- (a) Swimming pools, basements, or footings of structures if authorized by a valid building permit;
- (b) Underground utilities;
- (c) Mining or quarry operations, if a use permit has been granted by the County.
- (d) Refuse disposal sites operated by a governmental agency;

(e) The production of planted agricultural crops;

(B) Notwithstanding the provisions of subsection (A) hereof exempting specified activities from the otherwise applicable permit requirements, the activities described in subsection (A) shall be subject to the standards and requirements of this Chapter. Any building permit issued in connection with the activities described in subsection (A) or in connection with any building permit issued for a single family residence on an individual lot may be conditioned on compliance with the standards and requirements of this Chapter. Any inspections required pursuant to this Chapter or any other Chapter of Title 16 of the Sacramento County Code shall include a determination of compliance with the purpose of this Chapter.

16.44.065 EXEMPTIONS. A Grading and Erosion Control Permit shall not be required for, and the provisions of this Chapter shall not apply to, grading, filling, excavating, storing, disposing, or clearing and grubbing for situations where, in the determination of the Administrator, there is a clear and imminent danger to life or property, or threat of loss of services for which there is an overriding public concern. The Administrator may, at the time of granting such exemption, impose conditions in accordance with Section 16.44.170, including but not limited to, the requirement for the posting of security. Such exemption must be requested from the Administrator and approved in writing prior to the commencement of any activity regulated by this Chapter.

16.44.070 IMPROVEMENT PLANS. Where an improvement plan is being processed in conjunction with either an approved tentative, parcel, or final map; or a development plan is being processed in accordance with the provisions of Title 12 of this code, such plan shall also be considered as a request to undertake those activities regulated by this Chapter. Such plans shall be reviewed and approved, conditionally approved or denied in accordance with the standards and requirements set forth in this chapter and other applicable county specifications. For an approved tentative, parcel, or final map, or development plan; any submitted improvement plans shall include provisions to require compliance with the standards and requirements of this Chapter. If an improvement plan is approved, then a Grading and Erosion Control Permit shall not be required.

16.44.080 APPLICATION CONTENTS. The application for a Grading and Erosion Control Permit shall be filed in the Office of the Administrator, and on a form and submitted with such information as is prescribed by the Administrator, including the following:

(A) The name, address and telephone number of the applicant and the applicant's engineer;

(B) The address and parcel number of the location for which the permit is sought;

(C) A copy of all entitlements granted for the property by the County, including conditions of approval and the environmental documentation;

(D) A copy of all required state and federal permits;

- (E) Plans conforming with the requirements of Section 16.44.090;
- (F) Specifications conforming with the requirements of Section 16.44.100, if the Administrator expressly requires this information;
- (G) Security conforming with the requirements of Section 16.44.110;
- (H) Right of Entry conforming with the requirements of Section 16.44.120;
- (I) Fees conforming with the requirements of Section 16.44.130;
- (J) Other information as may be required by the Administrator.

16.44.090 PLANS. Plans shall be prepared by a civil engineer in conformance with County Specifications and shall include the following:

- (A) A vicinity map indicating the site location and significant geographic features;
- (B) A site delineation map indicating boundary lines of the property and each lot or parcel into which the site is proposed to be divided;
- (C) The location of on-site and surrounding watercourses and wetlands, existing and proposed drainage systems, and drainage area boundaries and acreages. Additional hydrologic analysis shall be provided as required by the Administrator;
- (D) The location of existing and proposed roads and structures on the site, and on adjacent property;
- (E) Accurate contours at two foot intervals for slopes up to ten percent and five foot intervals for slopes over ten percent showing topography of existing ground and locations of existing vegetation, including all oak trees, all other trees over six inches in diameter measured at four and one-half feet above the ground, groves of trees, and natural features such as rock outcroppings. Spot elevations will be required where relatively flat conditions exist. The spot elevations or contour lines shall be extended off-site for a minimum distance of fifty (50) feet, or one hundred (100) feet in flat terrain;
- (F) Elevations, location, extent and slope of all proposed grading shown by contours, cross-sections or other means, and location of any disposal areas, fills or other special features to be included in the work;
- (G) A statement of the quantity of material to be excavated, the quantity of material to be filled, whether such excavation or fill is permanent or temporary, and the amount of such material to be imported to or exported from the site;
- (H) A delineation of the area to be cleared and grubbed;
- (I) A statement of the estimated starting date, grading completion date, and when site improvements will be completed;
- (J) The location, implementation schedule, and maintenance schedule of all erosion control measures and sediment control measures to be implemented or constructed prior to, during or after the proposed activity;
- (K) A description of measures designed to control dust and stabilize the construction site road and entrance;
- (L) A description of the location and methods of storage and disposal of construction materials;
- (M) Any additional plans required by the Administrator.

16.44.100 SPECIFICATIONS. When required by the Administrator, the following information shall be prepared and signed by a civil engineer, and submitted with the application for a Grading and Erosion Control Permit:

- (A) Preparation of natural ground to occur prior to placement of fill, including provisions for removal of organic or deleterious materials;
- (B) Quality control of native or imported fill material;
- (C) Degree of compaction;
- (D) Gradient of cut and fill slopes;
- (E) Geotechnical engineering or engineering geology reports used in the development of the above information.

16.44.110 SECURITY. (A) Prior to issuance of the permit, the applicant shall provide security in an amount estimated by the Administrator to be the cost for stabilizing the activity site if the site is abandoned or work is stopped during the performance of the activity described in the permit. The security shall be one of the following, subject to the approval of the Administrator;

- (1) Bond or bonds by one or more duly authorized corporate sureties.
 - (2) A deposit, either with the County or a responsible escrow agent or trust company, at the option of the County, of money or negotiable bonds of the kind approved for securing deposits of public moneys.
 - (3) An instrument of credit from an agency of the state, federal or local government when an agency of the state, federal, or local government provides at least 20 percent of the financing for the project, or from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary are on deposit and guaranteed for payment, or a letter of credit by such financial institution.
- (B) The security shall be released to the permittee upon either:
- (1) Issuance of a certificate of completion, provided no administrative or legal action against such security has been commenced prior to that date and the permittee has complied with the provisions of Section 16.44.260; or
 - (2) Voluntary relinquishment of the permit by the holder thereof to the County, provided no administrative or legal action against such security has been commenced prior to that date and the permittee has complied with the provisions of Section 16.44.250.

16.44.120 RIGHT OF ENTRY. Whenever any portion of the work requires entry onto adjacent property for any reason, the applicant shall obtain the written consent of the adjacent property owner or his authorized representative, and shall file a copy of said consent with the Administrator before a permit for such work may be issued.

16.44.130 PERMIT FEES. A fee shall be paid by the applicant to the County for plan checking and review, materials testing, site inspections, processing, issuance and other services performed by the Administrator in connection with the investigation of an

application for, and administration of, a Grading and Erosion Control Permit. The fees for these services shall be in the amount of the actual costs incurred by the County based on the hourly rate of the personnel performing the services, including all overhead costs, and as determined by the Accounting and Fiscal Services Section of the Public Works Agency.

A minimum deposit of seven hundred and fifty dollars (\$750) shall be paid by the applicant at the time of and with the filing of the application with the Administrator. In the event the accrued costs exceed the initial deposit, the County shall submit a monthly bill to the applicant for the amount owing as of the date on the bill. Interest of one and one-half percent (1-1/2%) per billing period (28 day cycle) compounded each billing period shall be added to the unpaid balance due to any amount which has not been paid in full within twenty-eight (28) days from the date on the bill.

The Administrator shall not perform any services for an applicant if an amount owing is not paid within twenty-eight (28) days, until such time that all amounts owing and interest thereon is paid in full. The balance of fees owing shall be paid in full prior to final inspection. In the event the actual costs do not exceed the minimum deposit amount, the County shall reimburse the applicant the difference between the deposit amount and the actual total charges.

16.44.140 ENVIRONMENTAL REVIEW. Grading and erosion control permits, and amendments thereto, are subject to the requirements of the California Environmental Quality Act (CEQA). The applicant shall furnish a copy of the application to the Environmental Coordinator for preparation and processing of the appropriate environmental documents. The Administrator is authorized to hold public hearings on Negative Declarations, Draft Environmental Impact Reports and Final Environmental Impact Reports prepared on applications for Grading and Erosion Control Permits, for the purposes of receiving comments from the public. The Administrator shall not approve a Grading and Erosion Control Permit prior to considering the applicable environmental document and complying with the requirements of CEQA and the County Procedures for Preparation and Processing of Environmental Documents.

16.44.150 APPLICATION REVIEW. The Administrator shall review and approve, conditionally approve or deny Grading and Erosion Control Permit applications and improvement plans in accordance with the provisions of this Chapter. Grading and Erosion Control Permit applications and improvement plans shall be issued or approved unless the Administrator finds in writing that:

(A) The applicant has failed to provide sufficient or adequate plans, information or other data necessary to allow determinations respecting compliance with the provisions of this Chapter or County Specifications;

(B) The environmental review has not been completed, other provisions of this code or of state law pertaining to environmental review have not been satisfied, or the activity will have significant adverse environmental impacts which cannot be substantially mitigated. Where the activity will have significant adverse impacts, the Administrator may approve the

permit in accordance with the provisions of this Chapter, Title 20, and the California Environmental Quality Act of 1970;

(C) The proposed activity will violate provisions of this Chapter, County Specifications, or state or federal laws, and such violation cannot be resolved by the imposition of conditions pursuant to Section 16.44.170.

(D) The proposed activity will adversely affect surrounding properties and public rights-of-way, the water quality of watercourses, and existing drainage.

16.44.160 CONTENTS OF PERMIT. The Grading and Erosion Control Permit shall include but not be limited to a complete description of the activity for which it is issued, the property for which it is issued, the date of issuance and the date of expiration, and a description of any and all conditions upon which the permit has been issued. The permit shall be kept at the site during the activity for which the permit was issued. A Grading and Erosion Control Permit authorizes the permittee to undertake only that activity described in the permit and only on the property for which the permit is issued.

16.44.170 CONDITIONS. The Administrator may at the time of issuance of the Grading and Erosion Control Permit impose such conditions as are necessary to ensure compliance with this Chapter, County Specifications, or state or federal laws. Such conditions shall be reasonably related to the public needs created by the proposed activity. Conditions to mitigate environmental impacts of the activity may also be imposed by the Administrator.

16.44.180 PROCEDURE FOR IMPOSITION. Any condition imposed pursuant to the provisions of Section 16.44.170 shall be embodied, together with the reasons therefor, in the permit and served upon the applicant or permittee.

16.44.190 TERM. A Grading and Erosion Control Permit shall be effective on the date of issuance, and shall remain in force for one year, unless suspended or revoked by the Administrator, or voluntarily relinquished by the permittee. Before the expiration of a permit, a permittee may apply for an extension of time in which to complete the activity. One extension of not more than one year may be granted by the Administrator.

16.44.200 TRANSFERABILITY. A Grading and Erosion Control Permit shall not be transferable or assignable from one person to another, unless approved by the Administrator and the person to whom the permit is to be transferred agrees to comply with the requirements of the original permit and to any conditions imposed therein.

16.44.210 DENIAL OF PERMIT. The Administrator shall deny an application for a Grading and Erosion Control Permit if any of the findings in Section 16.44.150 are made. Notice shall be served on the applicant, in writing with the reasons stated therefor, pursuant to the provisions of Section 16.44.340.

16.44.220 AMENDMENT OF PERMIT. Any proposed changes in the activity authorized by the permit shall be submitted to the Administrator for review. The permittee shall not undertake or allow activity to occur which does not conform with the plans or conditions of the original permit, unless approved by the Administrator. The Administrator shall review any proposed changes in the same manner and pursuant to the same standards as the original application.

16.44.230 REQUEST FOR INSPECTION. Requests for inspection of any site subject to the provisions of this Chapter shall be made to the Administrator at the following phases of activity. Such a request shall be made at least two full business days in advance of the desired day of inspection.

(A) When the site has been cleared of vegetation and unapproved fill, and scarified, benched, or otherwise prepared and before any fill is placed; and the erosion control and sediment control measures to be implemented in this phase have been placed;

(B) When approximate final elevations have been established; drainage terraces, swales and other drainage devices have been graded and are ready for paving; berms have been installed at the top of slopes; and the erosion control and sediment control measures to be implemented in this phase have been placed;

(C) When work has been completed; slope planting established and irrigation systems installed, if required; and the erosion control and sediment control measures to be implemented in this phase have been placed.

The Administrator, upon inspection of the site, shall notify the person or permittee (1) that the phase of work inspected is approved, or (2) what deficiencies, corrections or other work needs to be completed before approval of that phase.

16.44.240 REPORTS. Notification to the Administrator shall be required within twenty-four (24) hours following the failure of authorized measures to prevent erosion or sediment from leaving the construction site; the deposit of debris or material on adjoining property or public rights-of-way, or; the interference with any existing watercourses or drainage facilities.

16.44.250 CESSATION OF WORK. If activity is ceased on site for any reason for a period in excess of fifteen (15) calendar days, and before the activity being conducted under the permit is completed, all necessary steps shall be taken to prevent damage through erosion or sedimentation to adjoining properties or to the public rights-of-way or to any natural or artificial drainage facilities or watercourses. The premises shall also be graded to blend into the adjacent terrain. The Administrator shall be notified as soon as possible, but no later than fifteen (15) calendar days, after the cessation of work.

16.44.260 COMPLETION OF WORK. After completion of work in accordance with and conforming with an approved permit and delivery to the County of record plans and a

grading plan as finally implemented, and payment of all fees, the Administrator shall issue a certificate of completion.

16.44.270 INSPECTION. The Administrator may enter and inspect property for which a Grading and Erosion Control Permit has been applied to determine applicability or compliance with this Chapter and County Specifications. The Administrator may also inspect any and all property on which grading, filling, clearing and grubbing or excavating activities are occurring.

16.44.280 GROUNDS FOR SUSPENSION AND REVOCATION. A Grading and Erosion Control Permit may be suspended if:

(A) The physical state of the property differs from the descriptions, plans or information furnished to the Administrator in the permit application;

(B) The activity does not conform to the approved plans, grades, conditions or terms of the permit;

(C) The activity is in violation of this Chapter, County Specifications, or state or federal laws;

(D) Any reports required to be submitted to the Administrator have not been submitted; or,

(E) Any of the information contained in reports submitted to the Administrator is in error.

16.44.290 METHOD OF SUSPENSION OR REVOCATION. The Administrator may suspend or revoke a Grading and Erosion Control Permit by issuing a notice of suspension or revocation, stating the reasons therefor, and serving same, upon the permittee. Upon suspension or revocation of a permit, in accordance with the provisions of this Section, the permittee shall immediately cause all grading, filling, excavating, storing, disposing or clearing and grubbing to cease until written authorization is received from the Administrator to proceed with the activity.

The permittee shall have fifteen (15) calendar days after the date of service of the suspension or revocation in which to file an appeal in accordance with the provisions of Section 16.44.300. If such an appeal is filed, the suspension or revocation shall remain in force and be effective until a final decision on the appeal is issued by the Board of Supervisors.

If the Administrator suspends a permit, such permit may either be reinstated or revoked by the Administrator, depending upon whether the permittee corrects the grounds stated for the suspension in the notice issued by the Administrator. If the permittee fails to remedy

the grounds for suspension within a time period specified by the Administrator, but in no event later than sixty (60) calendar days, the Administrator shall revoke the permit.

16.44.300 APPEALS. If the applicant for a Grading and Erosion Control Permit, the

permittee, or other persons whose property rights may be affected is dissatisfied with any determination made by the Administrator, such person may appeal to the Board of Supervisors. Any such appeal shall be in writing, shall state the specific reasons therefor and grounds asserted for relief, and shall be filed with the Clerk of the Board of Supervisors not later than fifteen (15) calendar days after the date of the action being appealed. If an appeal is not filed within the time or in the manner prescribed above, the right to review of the action against which the complaint is made shall be deemed to have been waived.

16.44.310 APPEAL FEE. The Board of Supervisors shall by resolution adopt and, from time to time, amend a fee for the filing of appeals. Such fee shall be for the sole purpose of defraying costs incurred for the administration of appeals. The fee for an appeal shall be paid at the time of and with the filing of an appeal. No appeal shall be deemed valid unless the prescribed fee has been paid.

16.44.320 APPEAL HEARINGS. After the filing of an appeal within the time and in the manner prescribed by Section 16.44.300, the Board of Supervisors shall conduct a hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date and place of the hearing shall be served upon the Administrator and the appellant not later than ten days preceding the date of the hearing.

16.44.330 ACTIONS ON APPEALS. The Board of Supervisors shall review the entire proceeding or proceedings relating to the act or decision being appealed, de novo, and may make any order it deems just and equitable, including the granting of a Grading and Erosion Control Permit. Any hearing may be continued from time to time.

At the conclusion of the hearing, the Board of Supervisors shall prepare a written decision which either grants or denies the appeal, and contains findings of fact and conclusions. The written decision, including a copy thereof, shall be filed with the Clerk of the Board of Supervisors. The Clerk shall serve such decision on the applicant or permittee and the Administrator. The decision of the Board of Supervisors shall become final upon the date of filing and service with respect to any appeal.

16.44.340 NOTICES. Any notice authorized or required by this Chapter shall be deemed to have been filed, served and effective for all purposes on the date when it is personally delivered in writing to the party to whom it is directed or deposited in the United States mail, first class postage prepaid, and addressed to the party to whom it is directed.

Whenever a provision in this Chapter requires a public hearing to be conducted, notice of the time, date, place and purpose of the hearing shall be published at least once not later than ten (10) calendar days in advance of the date of commencement of the hearing in a newspaper of general circulation which is published within the County. The same type of notice shall also be served on each permittee whose permit may be affected by the action taken at the conclusion of the hearing.

16.44.350 ACTION AGAINST AND RELEASE OF SECURITY. The Administrator may commence action against the security provided by a permittee if:

(A) The permittee ceases activities on site prior to completion of work without complying with the provisions of Section 16.44.250;

(B) The permittee fails to comply with the terms of the permit;

(C) The activity has caused or is threatening to cause damage or injury to persons, property or the environment.

The monies so obtained shall be used solely to finance remedial work undertaken by the County or a private contractor under contract to the County, and to reimburse the County for any administrative costs and expenses incurred in remedying the situation, including attorneys fees and legal costs incurred in any necessary action to obtain the security.

16.44.360 VIOLATIONS. Except as otherwise specifically provided, pursuant to the provisions of Government Code Section 25132, violation of any of the provisions contained in this Chapter shall constitute an infraction subject to a fine of one hundred (100) dollars for each day or any portion thereof a violation continues.

Violation of any of the provisions of this Chapter following notice to the permittee by the Administrator advising of the violation and ordering a cessation thereof, shall pursuant to the provisions of Section 1.01.190 contained in Title 1 of this Code, constitute a misdemeanor.

Violation of any of the provisions of this Chapter may be remedied by injunction or other civil proceeding commenced in the name of the County pursuant to direction by the Board of Supervisors.

16.44.370 LAWS NOT ENFORCED. There are many ordinances and other laws applicable to activities permitted under this Chapter which are not sought to be enforced under this permitting process. Such laws include, but are not limited to, building, floodplain management, and land development measures. The issuance of a Grading and Erosion Control Permit shall not be deemed to constitute a representation that the activity so permitted or the property upon which such activity is occurring complies with such other ordinances or other laws. Nor shall the existence of such an unrevoked permit be deemed to preclude any criminal or civil remedy for violation of such other ordinances or laws. The possession of a Grading and Erosion Control Permit shall not be deemed to relieve the holder of the requirement to apply for or obtain any other license or permit required by ordinance or statute.

Conservation and Air Quality Element

This Element of the General Plan addresses several important topics:

- **Conservation** of the City's natural resources, and
- The preservation and enhancement of local and regional **Air Quality** through reductions in the emission of pollutants and energy use.
- The preservation and enhancement of **Water Quality** in streams and rivers and in the underground aquifer.

CONSERVATION

Conservation is an important issue not only for Elk Grove but for every jurisdiction in the Sacramento region and in California. Many of the resources on which the city relies are available in limited and/or finite amounts (energy, for example); resources such as natural riparian habitat, watershed, and other types of open land uses would also be threatened by unplanned development.

Resources in Elk Grove which require the implementation of conservation-oriented policies include:

- **Energy**
- **Water supplies**
- **Land for future development**
- **Agricultural lands and soils**
- **Lands within the Primary Zone of the Sacramento River Delta**
- **Natural habitats**
- **Trees**
- **Air quality**
- **Surface and Groundwater Quality and Supply**

Other "resources" which are addressed in other elements of the General Plan are also important. These include:

- The rural character of the eastern portion of Elk Grove
- The capacity of drainage systems to provide flood protection for developed areas of the city
- Open space for a variety of uses

Please refer to the Land Use and Public Facilities and Finance elements for discussion of and policies related to rural areas, and to the Safety Element of this General Plan for additional discussion of and policies related to flooding.

ENERGY

Energy supplies (electricity and natural gas) are supplied to the city by the Sacramento Municipal Utility District (SMUD); details regarding energy supplies are provided in the *General Plan Background Report*. An additional major source of energy supplies in the Planning Area is Suburban Propane, which maintains a distribution facility in Elk Grove on Grant Line Road near State Route 99.



Electrical distribution facilities in Elk Grove

This General Plan addresses conservation of energy through policies and programs aimed at making the city's homes and businesses as energy-efficient as possible. Policies and programs in the Circulation Element of this General Plan also seek to reduce energy consumption by encouraging the use of transport modes other than single-occupant vehicles and by making the flow of vehicles on the city's roadways as smooth as possible.

WATER SUPPLIES

Domestic water supplies in Elk Grove are provided by two major providers: the County of Sacramento

Water Agency and the Elk Grove Water Service. Details on the areas in which these suppliers provide service can be found in the *General Plan Background Report*.



The historic water tower in Old Town remains part of the city's water supply system

In addition to these providers, homes and businesses in a large area of Elk Grove (primarily east of Bradshaw Road) rely on private wells, which tap the underground aquifer beneath the city.

This Element of the General Plan contains policies and programs intended to make more efficient use of water supplies.

LAND FOR FUTURE DEVELOPMENT

As discussed in the Land Use Element, Elk Grove is expected to continue developing for the foreseeable future, adding new homes and businesses primarily on lands now either vacant or in agricultural use. Policies and programs intended to ensure an adequate supply of land for future development are contained in the Land Use, Housing, and Public Facilities and Finance elements of this General Plan.

AGRICULTURAL LANDS AND SOILS

Agriculture has historically been an important part of Elk Grove's land use and economy. Soils within Elk Grove are capable of supporting a number of crops, many of which are still grown (please see the *General Plan Background Report* for further information on soils within Elk Grove and the Planning Area).



Farming remains a part of Elk Grove, but has been in decline and is not expected to be as dominant in the future.

However, Elk Grove's recent history has seen the development of large areas of the city (and, to a lesser extent, the Planning Area) that had previously been farmed. A number of factors, including the growth of the Sacramento region in general, increasing prices related to the production of agricultural crops (energy, water, fertilizers, etc.), stable or declining prices for many crops, and increasing values for land which can be developed with urban uses, have led many property owners to either stop farming altogether or to shift their operations to other parts of Sacramento County or elsewhere.

This General Plan provides for a pattern of land uses (see the *Land Use Element* for further information) which will result in the loss of agricultural use of soils over a large portion of the city (generally, the area south of Elk Grove Boulevard and west of Hwy 99) which has historically been used for large-scale farming. Although this General Plan designates a large area of the city (generally east of Bradshaw Road) for

rural uses, the small parcel sizes in this area will most likely limit agricultural uses to “hobby” farming, the raising of animals either for personal enjoyment or on a small commercial scale, or the growing of specialty crops such as nursery plants.

In the Planning Area outside the current (2004) city limits, this General Plan envisions the potential for converting some additional lands from agriculture to urban uses in the “Urban Study Areas” east of Grant Line Road and south of Kammerer Road. Although the conversion of these lands to urban uses by the City of Elk Grove would require annexation and the completion of detailed planning for these areas, the loss of agricultural production in these areas is a potential that this General Plan considers.

Within Elk Grove, the City considers agriculture (outside of the rural areas designated on the *Land Use Policy Map*) to be an interim use. This Element of the General Plan provides policies and programs that support the use of these for farming while property owners wish to continue this use. The City does not seek to reverse the conversion of agricultural lands to urban uses in the developing areas of Elk Grove, or to curtail the use of non-agricultural lands in order to preserve farming uses on adjacent or nearby properties.

SACRAMENTO RIVER DELTA

Although not within the current incorporated boundaries of Elk Grove, a portion of the Sacramento River Delta is inside the larger Planning Area of the General Plan (please see the *Introduction for a description and map of the Planning Area*). Therefore, the City’s long-term land use policies will require coordination with the Delta Protection Commission (a state agency) once these lands are included within the corporate boundary of Elk Grove.



The Sacramento River Delta

The Delta Protection Commission in 2000 adopted the following Mission Statement and Vision for the Delta:

MISSION STATEMENT:

The mission of the Commission is to guide the protection of the Delta's unique natural quality, cultural viability, economic vitality, and recreational opportunity through:

- *Protection, maintenance, and enhancement and restoration of the overall quality of the Delta environment including agriculture, wildlife habitat, and recreational activities;*
- *Assurance of orderly, balanced conservation and development of Delta land resources; and*
- *Improvement of flood protection to ensure an increased level of public health and safety.*

VISION STATEMENT:

The vision of the Delta Protection Commission is a region in which the essential land uses and unique natural qualities flourish in self-sustaining harmony.

NATURAL HABITAT

As discussed earlier in this Element, although substantial new development is currently (2003) occurring in several areas of Elk Grove, large areas of the city remain in agricultural or “rural” uses. These open lands, combined with the city’s location near the Cosumnes and Sacramento rivers and within the range of many native plant and animal species, results in the use of many areas of Elk Grove as habitat for native plants and animals. (Please see the *General Plan Background Report* for detailed information on existing habitat

and plant and animal species in Elk Grove.)



Elk Grove's creeks provide important habitat for many native plants and animals, as well as serving as a community and aesthetic resource

This Element provides policies and programs intended to reduce impacts to plants and animals which will result from the loss of habitat to development (see the discussion of *Agricultural Lands* above). This General Plan, as discussed earlier, envisions the development of many areas currently used as habitat by native plants and animals; the loss of this habitat is viewed as an unavoidable result of urbanization, and while impacts to native species can be reduced or mitigated, this Plan does not seek to entirely eliminate these impacts.

TREES

Mature trees—both native oaks and other native and non-native species—form an important part of Elk Grove's aesthetic, open space, and historical heritage. Because they provide relief from the primarily flat terrain of the city, as well as shade, shelter for animals and other plants, and ties to the area's historical past, mature trees are viewed as an important resource to be protected and conserved. Trees also provide other benefits, including improvements in water quality, shade for buildings, and reduction in pollution, which also justify their protection as a resource.



Oaks and other trees form a shaded canopy over a portion of Sheldon Road in the rural area of Elk Grove.

This Element provides policies and programs aimed at preserving and protecting large mature trees of all types.

AIR QUALITY

Air quality in the Sacramento region is, unfortunately, among the worst in the United States. A combination of poor air circulation, high summertime temperatures, and numerous sources of pollution both locally and at distant locations combine to create air pollution which frequently exceeds state and federal standards. (For more information on current air quality, please see the *General Plan Background Report*.)



Regional air quality frequently does not meet state and federal standards, but the City of Elk Grove seeks to help achieve improvements in air quality

The City recognizes that Elk Grove can play a role in the improvement of local and regional air quality. To that end, this Element contains policies and programs that seek to reduce the consumption of fossil fuels, whose burning in engines and at generating plants is a major source of air pollutants.

This General Plan also contains policies and programs in the Circulation Element, which are intended to reduce the use of private motor vehicles in favor of walking, cycling, and public transit, and to reduce roadway congestion.

WATER QUALITY

The quality of Elk Grove's surface and subsurface (groundwater) supplies is important not only to its residents—all of the city's drinking water supplies are derived from a combination of surface water and groundwater—but for the plants and animals who rely on water to survive. This Element addresses the issue of protecting and preserving water quality through reduction in pollutants discharged to the ground, or to surface waters via urban runoff. This Element also addresses protection and enhancement of water quality in local creeks through efforts to preserve natural creek buffers and natural creek alignments and control/reduce runoff discharge volume, rate, velocity, and/or temperature.

The establishment and implementation of conservation-oriented policies can have numerous benefits, including the establishment of more efficient and cost-effective land uses which minimize the unnecessary use of limited resources. The Conservation and Air Quality policies of the General Plan implement these Guiding and Focused Goals:

Guiding Goal 1: A High Quality of Life for All Residents

Focused Goal 1-3: A balanced and efficient transportation system

Focused Goal 1-5: Excellence in the design of new development

Focused Goal 1-9: A pattern of land use which enhances the community character of Elk Grove, provides employment and shopping opportunities to serve residents and the region, which provides for use of transit, and which protects Elk Grove's unique historical and natural features

Guiding Goal 2: Diversified Economic Base

Focused Goal 2-2: A balance between the numbers and types of workers residing in Elk Grove and opportunities for employment in the city

Guiding Goal 3: Protection of the Natural Environment

Focused Goal 3-1: Development which recognizes environmental constraints and is designed and operated to minimize impacts on the environment

Focused Goal 3-2: Open space lands in proximity to Elk Grove that provide for agricultural use and habitat for native species

Focused Goal 3-3: Natural resources managed and protected for the use and enjoyment of current and future generations

Focused Goal 3-4: Preservation and enhancement of Elk Grove's natural areas, in particular the areas within the floodplain of the Cosumnes River

Guiding Goal 4: Preservation and Enhancement of Elk Grove's Unique Historic and Natural Features

Focused Goal 4-1: Preservation and enhancement of Elk Grove's historic structures and districts

Focused Goal 4-2: Preservation of the large oak and other tree species which are an important part of the City's historic and aesthetic character

Guiding Goal 5: Preservation of the Rural Character of Elk Grove

Focused Goal 5-1: Retention of those areas identified for 2-acre and larger lots on the Land Use Map as a rural area through land use and infrastructure controls

Focused Goal 5-2: Maintenance of those features that provide the character of Elk Grove's rural areas, including: large oak and other trees, small local roadways, animal keeping and raising, equestrians, agriculture, and limited commercial opportunities

The following policies and action items implement these goals:

CONSERVATION POLICIES: CONSERVATION OF ENERGY

Policies related to Energy Conservation are found in the Air Quality section of this Element.

CONSERVATION POLICIES: CONSERVATION OF WATER

CAQ-1 Reduce the amount of water used by residential and non-residential uses by encouraging water conservation.

CAQ-1-Action 1 Implement the City's Water Conservation Ordinance.

CAQ-1-Action 2 Actively encourage water conservation by both agricultural and urban water users.

CAQ-1-Action 3 Work with urban and agricultural water purveyors to establish long range conservation plans which set specific conservation objectives and utilize, to the extent possible, a common

planning horizon, plan framework and estimating/ forecasting procedures.

CAQ-1-Action 4 Promote the use of drought-tolerant vegetation to minimize water consumption by providing information to developers and designers.

CONSERVATION POLICIES: CONSERVATION OF LAND FOR FUTURE DEVELOPMENT

Policies related to future use of land for development are found in the Land Use Element of this General Plan.

CONSERVATION POLICIES: CONSERVATION OF AGRICULTURAL USES

CAQ-2 The loss of agricultural productivity on lands designated for urban uses within the city limits as of January 2004 is accepted as a consequence of the development of Elk Grove. As discussed in the Land Use Element, the City's land use concept for the Planning Area outside the 2004 city limits anticipates the retention of significant areas of agricultural production outside the current city limits.

(Please see the Land Use Concept Map in the Land Use Element for further information.)

CAQ-3 The City of Elk Grove considers the only mitigation for the loss of agricultural land to consist of the creation of new agricultural land in the Sacramento region equal in area, productivity, and other characteristics to the area that would be lost due to development. The protection of *existing* agricultural land through the purchase of fee title or easements is not considered by the City to provide mitigation, since programs of this type result in a net loss of farmland.

Please see the Open Space Policies section of the Parks, Trails, and Open Space Element of this General Plan for further discussion of the City's policies regarding agricultural lands.

CAQ-4 While agricultural uses are anticipated to be phased out within the city limits, the City recognizes the right of these uses to continue as long as individual owners/farmers desire. The City shall not require buffers between farmland and urban uses, relying instead on the following actions to address the impacts of farming on urban uses:

CAQ-4-Action 1 Implement the City's "Right to Farm" ordinance.

CAQ-4-Action 2 Prospective buyers of property adjacent to agricultural land shall be notified through the title report that they could be subject to inconvenience or discomfort resulting from accepted farming activities as per provisions of the City's right-to-farm ordinance.

CONSERVATION POLICIES: CONSERVATION OF SOILS

CAQ-5 Roads and structures shall be designed, built and landscaped so as to minimize erosion during and after construction.

CONSERVATION POLICIES: LANDS WITHIN THE PRIMARY ZONE OF THE SACRAMENTO RIVER DELTA

Note to reader: No portion of the Primary Zone of the Sacramento River Delta is currently within the 2002 city limits, although a portion of the Primary Zone is within the larger Planning Area for this General Plan (see the Introduction for a description of the Planning Area).

CAQ-6 Within the Primary Zone of the Legal Delta (as defined by the State of California in the State Water Code, Section 12220), the City's land use and other policies shall conform with the "Land Use and Resource Management Plan for the Primary Zone of the Delta" developed by the Delta Protection Commission.

CAQ-6-Action 1 Coordinate with the Delta Protection Commission by providing updates on the status of any requests by the City to include any lands in the

Primary Zone in the City's sphere of influence or incorporated boundaries.

CAQ-6-Action 2 Prior to the annexation of any land in the Primary Zone of the Legal Delta, ensure that this General Plan is consistent with the Delta Protection Commission's Act and Plan as it affects the area within the Primary Zone.

CONSERVATION POLICIES: CONSERVATION OF NATIVE AND NON-NATIVE HABITATS, PLANTS, AND ANIMALS

CAQ-7 Encourage development clustering where clustering would facilitate on-site protection of woodlands, grasslands, wetlands, stream corridors, scenic areas, or other appropriate natural features as open space, provided that:

1. Urban infrastructure capacity is available for urban use.
2. On-site resource protection is appropriate and consistent with other General Plan Policies.
3. The architecture and scale of development is appropriate for the area.
4. Development rights for the open space area are permanently dedicated and appropriate long-term management is provided for by either a public agency, homeowners association, or other appropriate entity.

This policy shall not apply in the Rural Residential area east of State Route 99, where clustering of development is not permitted.

CAQ-8 Large trees (both native and non-native) are an important aesthetic (and, in some cases, biological) resource. Trees which function as an important part of the City's or a neighborhood's aesthetic character or as natural habitat should be retained to the extent possible during the development of new structures, roadways (public and private, including roadway widening), parks, drainage channels, and other uses and structures.

If trees cannot be preserved onsite, offsite mitigation or payment of an in-lieu fee may be required by the City. Where possible, trees planted for mitigation should be located in the same watershed as the trees, which were removed.

Trees that cannot be protected shall be replaced either on-site or off-site as required by the City.

CAQ-8-Action 1 When reviewing native or non-native trees for preservation, considering the following criteria:

- Aesthetic value
- Biological value
- Shade
- Water quality benefits
- Runoff reduction
- Air quality (pollutant reduction)
- Health of the tree(s)
- Suitability for preservation in place
- Safety hazards posed by the tree(s)

CAQ-8-Action 2 Develop a list of trees which shall be considered generally exempt from preservation. These may include trees, which pose a threat to public safety, to native trees, or to natural habitat.

CAQ-8-Action 3 Develop a list of trees which may be used when providing replacement trees for the loss of native and non-native trees.

CAQ-8-Action 4 Implement the City's Tree Preservation Ordinance.

CAQ-8-Action 5 Amend the City's Tree Preservation Ordinance to conform with the policies of this General Plan and to expand protection to non-native trees.

CAQ-8-Action 6 Develop a list of trees that should not be planted due to their invasive nature (that is, their ability to escape cultivation or to dominate natural areas) and provide this information to the public and the development community.

CAQ-8-Action 7 Retain the services of a qualified arborist(s) under contract to the City to provide information to decision-makers and staff on the suitability of trees for preservation.

CAQ-8-Action 8 Consider the use of revised standard roadway cross-sections which do not require the removal of trees in order to provide additional roadway capacity.

CAQ-8-Action 9 Provide funds for education, programs, and materials emphasizing the value and importance of trees. Support private foundations with local funds for their tree planting efforts. Encourage the harvesting of native seeds and plants prior to the clearing of project sites.

CAQ-9 Wetlands, vernal pools, marshland and riparian (streamside) areas are considered to be important resources. Impacts to these resources shall be avoided unless shown to be technically infeasible. The City shall seek to ensure that no net loss of wetland areas occurs, which may be accomplished by avoidance, re-vegetation and restoration onsite or creation of riparian habitat corridors.

CAQ-9-Action 1 As part of the development review process, ensure that all potentially affected wetland areas are identified, and provide mitigation to ensure that no net loss occurs. Mitigation should occur within the same watershed as the impact, where feasible.

CAQ-9-Action 2 Coordinate with the California Department of Fish and Game and the U.S. Fish and Wildlife Service in the review of development projects.

CAQ-10 Consider the adoption of habitat conservation plans for rare, threatened, or endangered species.

CAQ-10-Action 1 As appropriate, work with the County of Sacramento and other

agencies on a Habitat Conservation Plan or other mechanism to implement this policy.

CAQ 11 The City shall seek to preserve areas, where feasible, where special-status plant and animal species and critical habitat areas are known to be present or potentially occurring based on City biological resource mapping and data provided in the General Plan EIR or other technical material that may be adversely affected by public or private development projects. Where preservation is not possible, appropriate mitigation shall be included in the public or private project. "Special-status" species are generally defined as species considered to be rare, threatened, endangered, or otherwise protected under local, state, and/or federal policies, regulations or laws.

CAQ-11 Action 1 The City shall require a biological resources evaluation for private and public development projects in areas identified to contain or possibly contain special-status plant and animal species based on City biological resource mapping and data provided in the General Plan EIR or other technical material. The biological resources evaluation shall determine the presence/absence of these special-status plant and animal species on the site. The surveys associated with the evaluation shall be conducted during the appropriate seasons for proper identification of the species. Such evaluation will consider the potential for significant impact on special-status plant and animal species, and will identify feasible mitigation measures to mitigate such impacts to the satisfaction of the City and appropriate governmental agencies (e.g., U.S. Fish and Wildlife Service, California Department of Fish and Game and U.S. Army Corps of Engineers) where necessary (e.g., species listed under the State and/or Federal Endangered Species Act). Mitigation measures may include, but are not limited to, the following:

- For special-status plant species: On- or off-site preservation of existing populations from direct and indirect impacts, seed and soil collection or plant transplant that ensures that the plant population is maintained.
- For special-status animal species: avoidance of the species and its habitat as well as the potential provision of habitat buffers, avoidance of the species during nesting or breeding seasons, replacement or restoration of habitat on- or off-site, relocation of the species to another suitable habitat area, payment of mitigation credit fees.
- Participation in a habitat conservation plan.

CONSERVATION POLICIES: PROTECTION OF WATER QUALITY AND SUPPLY

CAQ-12 The City shall seek to ensure that the quality of groundwater and surface water is protected to the extent possible.

CAQ-12-Action 1 Continue to cooperate with the County, other cities, and the Regional Water Quality Control Board regarding compliance with the NPDES permit system, and support other water quality improvement projects in order to maintain compliance with the Basin Plan.

CAQ-12-Action 2 Implement the City's NPDES permit on all public and private development projects and activities.

CAQ-12-Action 3 Collect information on design, construction, and operation techniques which help prevent water pollution, and provide this information to the public and the development community.

CAQ-13 Implement the City's NPDES permit through the review and approval of development projects and other activities regulated by the permit.

CAQ-14 The city shall seek to minimize the amount of impervious surfaces and directly connected impervious surfaces in areas of new development and redevelopment and use on-site infiltration of runoff in areas with appropriate soils where the infiltration of storm water would not pose a potential threat to groundwater quality.

CAQ-15 The City shall encourage water supply service providers and County Sanitation District 1 to design water supply and recycled water supply facilities in a manner that avoids and/or minimizes significant environmental effects. The City shall specifically encourage the Sacramento County Water Agency to design well facilities and operation to minimize surface flow effects to the Cosumnes River.

CAQ-16 Future land uses that are anticipated to utilize hazardous materials or waste shall be required to provide adequate containment facilities to ensure that surface water and groundwater resources are protected from accidental releases. This shall include double-containment, levees to contain spills, and monitoring wells for underground storage tanks, as required by local, state and federal standards.

CONSERVATION POLICIES: FLOODING AND DRAINAGE

CAQ-17 The City recognizes the value of naturally vegetated stream corridors, commensurate with flood control and public acceptance, to assist in removal of pollutants, provide native and endangered species habitat and provide community amenities.

CAQ-18 Post-development peak storm water runoff discharge rates and velocities shall be designed to prevent or reduce downstream erosion, and to protect stream habitat.

CAQ-19 Encourage the retention of natural stream corridors, and the creation of natural stream channels where improvements to drainage capacity are required.

CAQ-19-Action 1 Re-vegetation using native plant species shall be encouraged; use of non-native species shall be discouraged. Use of invasive species shall be prohibited.

CAQ-19-Action 2 The City shall permit stream channel realignment only:

- When necessary to eliminate flood hazards, after alternatives to provide flood capacity while protecting the natural alignment have been shown to be infeasible; or
- To protect and preserve natural features and vegetation which would otherwise be removed; or
- If the existing channel has been significantly disrupted by agricultural improvements or other man-made changes.

CAQ-19-Action 3 The City shall require, to the maximum extent practical, retention of topographic diversity and variation when channels are realigned or modified, including:

- "Self-sustaining" meander characteristics,
- Berms,
- Naturalized side slope, and
- Varied channel bottom elevation,

consistent with the characteristics of the watershed, public safety, and other site-specific considerations.

CAQ-19-Action 4 Where existing streams support riparian vegetation, evaluate

options for constructing secondary flood control channels or other facilities for flood control and water quality purposes.

CAQ-19-Action 5 Channel lowering of existing natural streams shall occur only after consideration of alternatives (including surface drainage systems which do not require channel lowering) and only when it is necessary to accommodate the gravity drainage of storm runoff and/or accommodate floodflows under existing bridge structures.

CAQ-19-Action 6 All storm drainage improvements on natural streams shall be designed where feasible to maintain water flows necessary to protect and enhance existing fish habitat, native riparian vegetation, water quality, and/or ground water recharge.

CAQ-19-Action 7 Improvements in water-courses shall be designed for low maintenance, and to accommodate peak flows with vegetation (including mitigation plantings) in the channel. Channel modifications shall retain marsh and riparian vegetation whenever possible.

CO-19-Action 8 Development design shall maximize the total floodplain frontage that is open to public view. Development adjacent to stream corridors shall be encouraged to provide a public street paralleling at least one side of the corridor with vertical curbs, gutters, foot path, street lighting, and post and cable barriers to prevent vehicular entry.

CAQ-19-Action 9 Trails along stream corridors shall be located to minimize wildlife impacts and shall be restricted to non-motorized traffic.

CAQ-19-Action 10 Except where approved by the City as part of the development of a public or private development project, no grading, clearing, tree cutting, debris disposal or any other similar action shall be allowed

in stream corridors except for normal channel maintenance.

CAQ-20 Fill may not be placed in any 100-year floodplain as delineated by currently effective FEMA Flood Insurance Rate Maps or subsequent comprehensive drainage plans unless specifically approved by the City.

No fill shall be permitted in wetland areas unless approved by the City and appropriate state and federal agencies.

CAQ-21 Development adjacent to a natural stream(s) shall provide a "stream buffer zone" along the stream.

"Natural streams" shall be generally considered to consist of the following, subject to site-specific review by the City:

- Deer Creek
- Elk Grove Creek
- Laguna Creek and its tributaries
- Morrison Creek
- Strawberry Creek
- White House Creek

The following are examples of desired features for this transition zone; the specific design for each transition zone shall be approved on a case-by-case basis by the City.

Stream buffer zones should generally measure at least 50 (fifty) feet from the stream centerline (total width of 100) feet or more, depending on the characteristics of the stream, and shall include:

1. Sufficient width for a mowed fire-break (where necessary), access for channel maintenance and flood control, and for planned passive recreation uses.
2. Sufficient width to provide for:
 - a. Quality and quantity of existing and created habitat,
 - b. Presence of species as well as species sensitivity to human disturbance,
 - c. Areas for regeneration of vege-

tation,

- d. Vegetative filtration for water quality,
- e. Corridor for wildlife habitat linkage,
- f. Protection from runoff and other impacts of urban uses adjacent to the corridor
- g. Trails and greenbelts.

3. The stream buffer zone should not include above ground water quality treatment structures designed to meet pollutant discharge requirements.

CAQ-22 Stream crossings shall be minimized and be aesthetically compatible with the natural appearance of the stream channel. The use of bridges and other stream crossings with natural (unpaved) bottoms shall be encouraged to minimize impacts to natural habitat.

CAQ-23 Uses in the stream corridors shall be limited to recreation and agricultural uses compatible with resource protection and flood control measures. Roads, parking, and associated fill slopes shall be located outside of the stream corridor, except at stream crossings.

CAQ-24 Open space lands within a stream corridor shall be required to be retained as open space as a condition of development approval for projects that include a stream corridor. Unencumbered maintenance access to the stream shall be provided.

CONSERVATION POLICIES: CONSERVATION OF OTHER NATURAL RESOURCES/RECYCLING AND RE-USE OF MATERIALS

CAQ-25 The City shall encourage:

- Recycling,
- Reduction in the amount of waste, and
- Re-use of materials to reduce the amount of solid waste generated in Elk Grove.

CAQ-25-Action 1 The City shall comply with the requirements of AB939 with regard to meeting state-mandated targets for reductions in the amount of solid waste generated in Elk Grove.

CAQ-25-Action 2 The City shall provide information to businesses and residents on available options to implement the City's waste reduction targets.

CAQ-25-Action 3 Encourage the use of recycled concrete in all base material utilized in City and private road construction.

CAQ-25-Action 4 Include a requirement for the use of recycled base material in all requests for bids for City roadway construction projects.

CAQ-25-Action 5 Establish procurement policies and procedures, which facilitate purchase of recycled, recyclable or reusable products and materials where feasible.

CAQ-25-Action 6 Outside contractors bidding to provide products or services to the City, including printing services, shall be required to demonstrate that they will comply with City recycled materials policies.

CAQ-25-Action 7 The City shall actively promote a comprehensive, consistent and effective recycled materials procurement effort among other governmental agencies and local businesses.

CONSERVATION POLICIES: AIR QUALITY

CAQ-26 It is the policy of the City of Elk Grove to minimize air pollutant emissions from all City facilities and operations to the extent feasible and consistent with the City's need to provide a high level of public service.

CAQ-26-Action 1 The City shall encourage all its employees to use transportation alternatives such as public

transit, bicycling, walking, and carpooling for commute and other work-related trips. The City shall provide information on these and other applicable programs to all employees.

CAQ-26-Action 2 All City facilities shall incorporate energy-conserving design and construction techniques.

CAQ-26-Action 3 The City shall encourage City contractors and vendors to reduce emissions from their operations (such as by using low emission vehicles), and shall consider including a preference for low emission contractors and vendors in City requests for proposals where appropriate.

CAQ-27 The City shall promote energy conservation measures in new development to reduce on-site emissions and power plant emissions. The City shall seek to reduce the energy impacts from new residential and commercial projects through investigation and implementation of energy efficiency measures during all phases of design and development.

CAQ-27-Action 1 Provide information to the public and builders on available energy conservation techniques and products.

CAQ-27-Action 2 Encourage the use of trees planted in locations that will maximize energy conservation and air quality benefits. Encourage the use of landscaping materials which produce lower levels of hydrocarbon emissions.

CAQ-27-Action 3 During project review, City staff shall consider energy conservation and, where appropriate, suggest additional energy conservation techniques.

CAQ-27-Action 4 During project review, ensure that "Best Available Control Technology" is properly used and implemented.

CAQ-27-Action 5 Encourage new commercial uses to limit delivery hours to non-peak hours.

CAQ-28 The City shall emphasize “demand management” strategies which seek to reduce single-occupant vehicle use in order to achieve state and federal air quality plan objectives.

CAQ-28-Action 1 Implement the requirements for designated carpool and vanpool parking for all new office developments.

CAQ-28-Action 2 All City facilities shall include designated carpool and vanpool spaces, and all City staff shall be encouraged to take part in ridesharing.

CAQ-29 The City shall seek to ensure that public transit is a viable and attractive alternative to the use of private motor vehicles.

CAQ-29-Action 1 Consider implementation of a development impact fee to provide funding for the development of new public transit facilities in Elk Grove.

CAQ-29-Action 2 The City shall review all options for providing public transit to the residents and businesses of Elk Grove and seek to implement the option which provides the most effective and cost-efficient service.

CAQ-30 All new development projects which have the potential to result in substantial air quality impacts shall incorporate design, construction, and/or operational features to result in a reduction in emissions equal to 15 percent compared to an “unmitigated baseline” project. An “unmitigated baseline project” is a development project which is built and/or operated without the implementation of trip-reduction, energy conservation, or similar features, including any such features which may be required by the Zoning Code or other applicable codes.

CAQ-30-Action 1 The City shall develop and implement “Emission Reduction Measures” to achieve the reduction required by this policy. These Emission Reduction Measures should consider the following:

- Cost-effectiveness
- A maximum cost for measures, and consideration of a waiver from full compliance if this maximum cost would be exceeded.
- Credits for emission reductions already in place (e.g., for buildings in the latter phases of a multi-phased project which included emission reduction measures in its design) or which are required to mitigate other impacts.

CAQ-31 The City shall support intergovernmental efforts directed at stringent tailpipe emission standards and inspection and maintenance programs for all feasible vehicle classes and revisions to the Air Quality Attainment Plan to accelerate and strengthen market-based strategies consistent with the General Plan.

CAQ-31-Action 1 The City shall ensure that all City vehicles conform with applicable emission standards and the time of purchase and continuing throughout their use by the City. The City shall consider pollutant emissions as one criterion for vehicle purchasing decisions, seeking to purchase lower-emitting vehicles.

CAQ-31-Action 2 The City shall participate in intergovernmental groups seeking to improve local and regional air quality.

CAQ-31-Action 3 In conjunction with Sacramento Metropolitan Air Quality Management District, support and participate in a public education and outreach program dealing with air quality issues, with a goal of attaining a solid foundation of public support for needed air quality measures.

CAQ-31-Action 4 The City shall consider

the adoption of an ordinance to discourage excessive idling of diesel-powered and other heavy vehicles to reduce air pollutant emissions.

CAQ-32 As part of the environmental review of projects, the City shall identify the air quality impacts of development proposals to avoid significant adverse impacts and require appropriate mitigation measures, potentially including—in the case of projects which may conflict with applicable air quality plans—emission reductions in addition to those required by Policy CAQ-30.

CAQ-32-Action 1 Coordinate with the Sacramento Metropolitan Air Quality Management District on the review of proposed development projects, specifically including projects that could conflict with any applicable air quality plans and/or the State Implementation Plan.

CAQ-33 The City shall require that public and private development projects use low emission vehicles and equipment as part of project construction and operation, unless determined to be infeasible.

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Parks, Trails, and Open Space Element

Parks, Recreation, and Open Space are important components of the quality of life desired by the residents of Elk Grove. This Element of the General Plan addresses the City's goals, policies, and actions to ensure that the City's desires and/or needs for parks, recreation, and open space are recognized and addressed as the development of the city continues.

PUBLIC PARKS AND RECREATION



One of the city's many ballfields

Elk Grove is home to numerous public parks, some of which are owned and operated by the Elk Grove Community Services District (CSD), an independent agency which operates in Elk Grove and surrounding areas (see the *Background Report for additional information on the Elk Grove CSD*). The Elk Grove CSD has an adopted Master Plan of Parks, which identifies standards for public parks, desired locations for new facilities, and standards for the development of new parks.

This General Plan envisions that the City will take a more active role in defining the locations, sizes, and facilities provided at public parks, as well as in expanding the number of trails in Elk Grove. At the same time, the City will continue to work with the Elk Grove CSD.

TRAILS AND OPEN SPACE



Multi-use trails provide opportunities for cycling, pedestrian, and equestrian uses

An important component of the community's vision for the future of Elk Grove is the retention of significant amounts of open space in the Planning Area (please see the *Introduction to this General Plan for a description of the Planning Area*), and the creation of a trails system to link the developed portions of Elk Grove with these areas. Although the area within the current city limits is envisioned to be for the most part developed with urban uses (please see the *Land Use Element for a map and discussion of proposed land uses*), the City recognizes that there are many important open space resources in the Planning Area, including the Cosumnes River, the Delta, and agricultural areas.



Open spaces are an important part of the City's vision for the future

This General Plan therefore provides policies and programs to ensure that trails and open space are addressed as development proceeds within the city, and to ensure that the City's vision for trails and open space as well as other habitat and conservation needs in the Planning Area is considered by the County of Sacramento, the Local Agency Formation Commission, and other agencies in the area outside the city limits.



Major power line corridors are proposed to serve as part of a community-wide open space network.

The Parks, Recreation, and Open Space Element implements the following Goals of the City of Elk Grove:

Guiding Goal 1: A High Quality of Life for All Residents

Focused Goal 1-2: Outdoor recreation opportunities for all residents

Focused Goal 1-7: Active and passive park facilities and recreation programs that satisfy the leisure time and recreation needs of all residents

Focused Goal 1-8: Creation and maintenance of a strong, positive community image for Elk Grove

Guiding Goal 2: Diversified Economic Base

Focused Goal 2-3: Creation of Elk Grove as a desired place to locate major employment-generating uses

Guiding Goal 3: Protection of the Natural Environment

Focused Goal 3-2: Open space lands in proximity to Elk Grove which provide for agricultural use and habitat for native species

Focused Goal 3-3: Natural resources managed and protected for the use and enjoyment of current and future generations

Focused Goal 3-4: Preservation and enhancement of Elk Grove's natural areas, in particular the areas within the floodplain of the Cosumnes River

Guiding Goal 4: Preservation and Enhancement of Elk Grove's Unique Historic and Natural Features

Focused Goal 4-2: Preservation of the large oak and other tree species which are an important part of the City's historic and aesthetic character

Guiding Goal 5: Preservation of the Rural Character of Elk Grove

Focused Goal 5-2: Maintenance of those features that provide the character of Elk Grove's rural areas, including: large oak and other trees, small local roadways, animal keeping and raising, equestrians, agriculture, and limited commercial opportunities

**PARKS, TRAILS, AND OPEN SPACE POLICIES:
PARKS AND TRAILS**

PTO-1 The City of Elk Grove supports the development, maintenance, and enhancement of parks and trails serving a variety of needs at the neighborhood, area, and citywide level. The City may seek to accomplish the provision of parks and trails in cooperation with the Elk Grove Community Services District.

PTO-1-Action 1 As part of the review of development projects, ensure that public parks and trails are provided which meet the City's criteria and which implement the City's Parks and Trails Master Plan.

PTO-2 The City specifically supports the provision of parkland at a rate which exceeds the levels historically (prior to adoption of this General Plan) provided in Elk Grove. Parks shall be provided which meet community needs and desires.

PTO-2-Action 1 The City shall conduct a "nexus study" to determine the demand for parkland in the city and the reasonable relationship between the demand and the type of development project to support the imposition of parkland dedication and/or fees.

PTO-2-Action 2 To the extent consistent with applicable state law, the City shall develop criteria defining the types of parks and trails to be developed, including criteria defining desired:

- Park types and sizes

- Park facilities by type
- Locational criteria
- Spacing
- Trails and related facilities by type and function

PTO-2-Action 3 The City shall adopt a comprehensive Parks and Trails Master Plan which provides information on parks criteria, planned parks, and off-street recreational, walking, equestrian, and multi-use trails. Prior to the adoption of the parks standards and the Parks and Trails Master Plan, the City shall require the provision of parks as part of development projects to implement the City's parkland standards. The size, location, and facilities provided in these parks may be determined on a case-by-case basis.

PTO-3 Funding for maintenance of parks and/or trails shall be assured to the City's satisfaction prior to the approval of any Final Subdivision Map which contains or contributes to the need for a public parks and facilities.

PTO-3-Action 1 The City shall pursue the implementation of funding mechanisms to provide for the long-term maintenance of parks and/or trails in those instances where funding is not available from other sources. Such mechanisms may include local or regional assessment districts, homeowners associations, or other methods as determined appropriate by the City.

PTO-4 New residential developments may be required to, at a minimum, provide parks consistent with the Quimby Act (CA Govt. Code Section 66477), through land dedication, fees in lieu, or on-site improvements at a standard of five (5) acres of land for parks per 1,000 residents. Land dedication and/or payment of in-lieu fees shall be required consistent with state law. Land dedication and/or fees may be required pursuant to other policies in this Element with or without the use of the authority provided in the Quimby Act, or in

combination with the Quimby Act and other legal authority.

PTO-4-Action 1 The City shall adopt standards designating which types of lands shall be considered "parks" for the purpose of implementing Quimby Act requirements.

PTO-5 The City encourages the Elk Grove Community Services District to develop self-supporting recreation programs for those activities that go beyond providing for basic recreation needs. Examples include outdoor and indoor sports complexes, aquatic centers, and community centers. The City may also develop and operate such programs independently.

PTO-6 The City encourages park development adjacent to school sites and the formation of joint use agreements between school and park districts.

PTO-6-Action 1 During the review of proposed development projects, comment to the Elk Grove Community Services District and the Elk Grove Unified School District to encourage location of schools adjacent to parks.

Please see the Public Facilities/Finance Element for additional policies related to the locations of public schools.

PTO-7 The trails system in Elk Grove should provide for connectivity, so that all trails are linked to the extent possible for greater use as recreational and travel routes. The following features should be included in the trails system in Elk Grove:

- Trails should link residential areas with parks, commercial and office areas, and other destinations.
- Trails along major roadways should avoid meanders or other design features which make bicycle use less convenient or safe.
- Trails should be located off-street to the extent possible.

- Easements such as access roads should be placed in joint use as trails.

PTO-8 The City's desired trails system is shown in Figure PTO-2. Flexibility shall be considered when making decisions on specific trail locations within projects, so long as the trails shown in figure PTO-2 are implemented and other policies (such as connectivity) are incorporated in the trails system.

PTO-8-Action 1 As part of the review of development projects, ensure that trails are provided which meet the City's criteria and which implement the City's desired trails plan.

PTO-9 Funding for maintenance of City trails shall be assured prior to the approval of any project which contains a City-owned trail.

PTO-10 Trailheads should be provided at appropriate locations to provide safe starting points on the trails system for equestrians, cyclists, and pedestrians.

PTO-10-Action 1 Develop standards for and locations of potential trailhead locations, including sufficient space for the off-street parking of equestrian trailers and vehicles.

PTO-10-Action 2 To the extent possible, coordinate with the Elk Grove CSD in the review of projects containing trails.

PTO-11 Trails which parallel streams should be primarily located beyond the riparian corridor and wetlands to minimize wildlife impacts and shall be restricted to non-motorized traffic.

PTO-12 Trails should be designed with the safety of users and adjacent property owners in mind. To the extent possible, the bicycle trails system should provide safe, off-street options suitable for use by children and less-experienced riders.

PTO-12-Action 1 Involve the Elk Grove Police Department in the review of proposed trail locations and designs.

PTO-13 Recreational trails should not be placed adjacent to or on farmland if feasible alternative routes exist elsewhere in the vicinity. However, if no other feasible routes exist, trail facilities should be designed in cooperation with adjacent property owners to minimize adverse impacts on farming practices.

PTO-14 The City supports the use of volunteers and community groups to provide maintenance and safety patrols on trails.

PARKS, TRAILS, AND OPEN SPACE POLICIES: OPEN SPACE

PTO-15 The City views open space lands of all types as important resource which should be preserved in the region, and supports the establishment of multi-purpose open space areas to address a variety of needs, including, but not limited to:

- Maintenance of agricultural uses;
- Wildlife habitat
- Recreational open space
- Aesthetic benefits
- Flood control

To the extent possible, lands protected in accordance with this policy should be in proximity to Elk Grove, to facilitate use of these areas by Elk Grove residents, assist in mitigation of habitat loss within the city, and provide an open space resource close to the urbanized areas of Elk Grove.

PTO-15-Action 1 Consider the establishment of a citywide fee and/or assessment system which would provide funding for the purchase of open space land or easements and the maintenance of these areas.

PTO-15-Action 2 Work with the County of Sacramento and other resource

agencies to develop a regional open space plan which provides for multiple uses of open space (e.g., agriculture and wildlife foraging)

PTO-15-Action 3 Consider using funds collected under existing (2003) fee programs (e.g., Swainson's Hawk mitigation and East Franklin Specific Plan agricultural mitigation) to fund this expanded open space program.

PTO-16 Stream corridors, floodways, electrical transmission corridors, and similar features shall be considered for inclusion in the citywide trails and open space system.

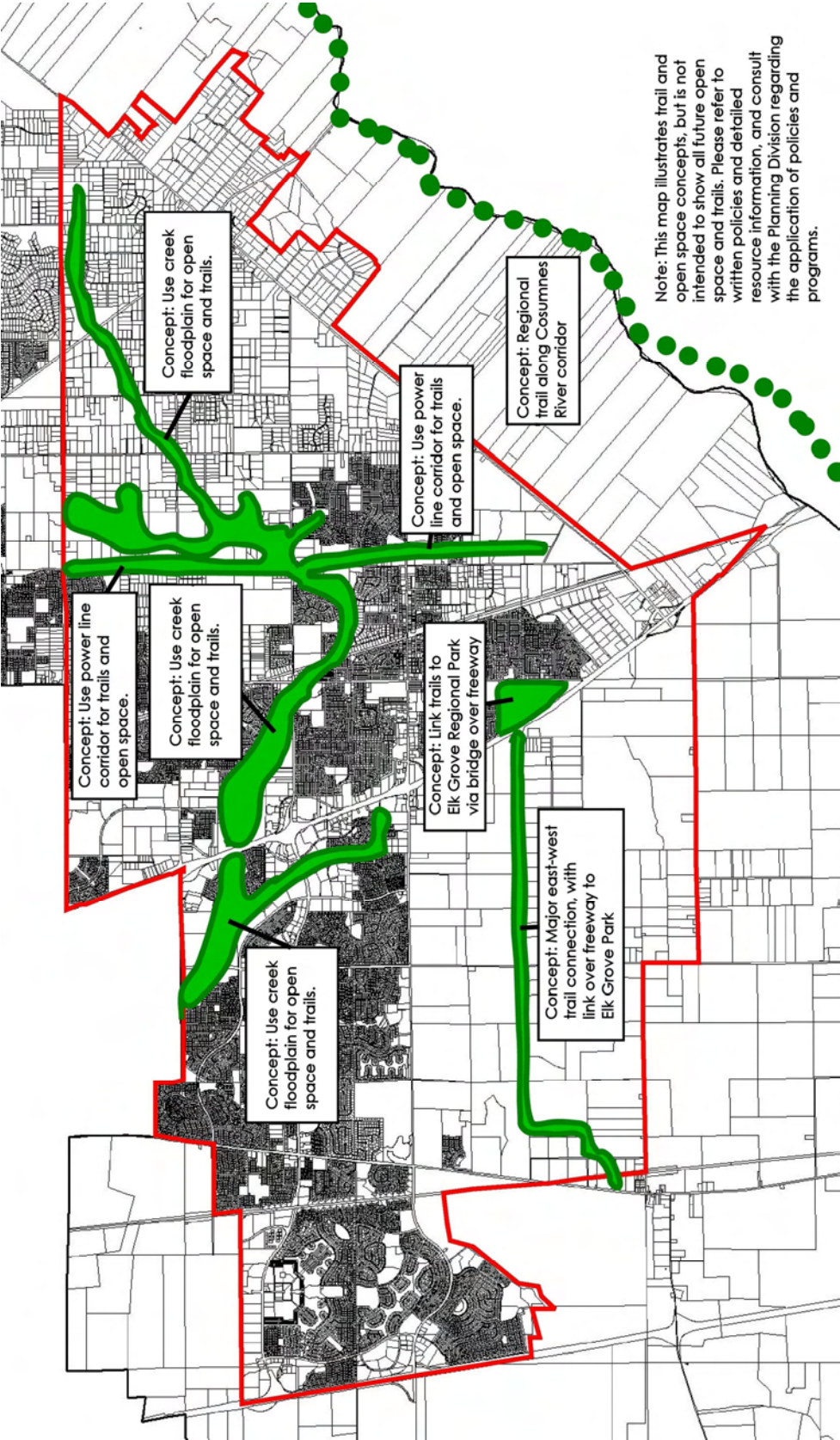
PTO-16-Action 1 Involve the Elk Grove CSD in the identification of appropriate open space and trails corridors which could be identified in this General Plan and the Elk Grove CSD's Master Plan.

PTO-17 The City encourages the creation of a regional trail/open space system which links the Cosumnes River with the Sacramento River and provides for trail connections between Elk Grove and these open space areas. The City's vision for regional open space and trails is shown in Figure PTO-1 and in the "Planning Area Land Use Concept" in the Land Use Element of this General Plan.

PTO-17-Action 1 Within the Cosumnes River floodplain, the City will encourage the dedication or acquisition of easement or fee title for trails as part of an overall trail system linking the Cosumnes and Sacramento rivers. *Note: This policy affects lands within the planning area but outside of the 2002 city limits only.*

PTO-18 To the extent possible, retain natural drainage courses in all cases where preservation of natural drainage is physically feasible and consistent with the need to provide flood protection.

Figure PTO-1: Open Space Policy Map



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Public Facilities and Finance Element

This Element of the General Plan addresses the following public facilities issues:

- **Water Service**, including both potable (drinkable) and non-potable water delivery.
- **Sewer Service**, and
- **Financing and construction** of public facilities

This Element also addresses the following public services:

- **Public Libraries** and
- **Public Schools**

*Note: The City's policies related to **solid waste**, another public facility, are contained in the Conservation and Air Quality Element. Policies related to **police and fire protection** are in the Safety Element. Policies related to **parks** are located in the Parks, Trails, and Open Space Element.*

WATER SERVICE

Domestic water service in Elk Grove is provided by two public water service providers—the Sacramento County Water Agency and the Elk Grove Water Service—and, in the eastern portion of the city, by private wells tapping the underground aquifer.



Drinking water in Elk Grove comes from both surface water (such as rivers) and wells.

Water supply is important both from the standpoint of health and convenience, but also the need for water to help suppress fires and support the efforts of the Elk Grove Community Services District's fire personnel.

For detailed information on water service in Elk Grove, please see the Background Report.

SEWER SERVICE

Sewer service in the Planning Area is provided by County Sanitation District 1 (CSD-1), which maintains an extensive system of sewer lines and treatment facilities.

For detailed information on CSD-1, please see the Background Report, which accompanies this General Plan.

FINANCE OF PUBLIC FACILITIES

Because they involve projects that will ultimately be owned and/or operated by public agencies, and because they involve substantial costs, public facilities projects (roads, water lines, etc.) are often financed either totally or in part with public funds.



So-called "zipper streets" that combine narrow and wide sections are the result of deferred roadway construction policies in place prior to the incorporation of Elk Grove

Although many variations of public funding are available, most types involve the collection of money from either new development or existing development, or both. Funds can be collected in the form of:

- Property assessments
- Connection or “hookup” fees (such as for connection to a public water system)
- Impact fees

The funds collected are then used to fund the construction of facilities in one of several basic ways:

- Construction is funded directly when sufficient money is available (commonly known as “pay-as-you-go” financing)
- The public agency uses its ability to borrow funds (often through the issuance of bonds) to provide “up-front” financing, repaying the loans through fees or assessments charged on future development.

In Elk Grove, much of the infrastructure development which occurred prior to the incorporation of the City used a “pay-as-you-go” approach (although bond financing was used for some facilities). The policies of the County of Sacramento also allowed the incremental construction of roadways—for instance, a planned 6-lane roadway would first be built with 2 or 4 lanes, with the final lanes added at a later date.

Based on a review of past practices, the County also apparently attempted to avoid building facilities (primarily roadways) on land that was not being developed at the time.

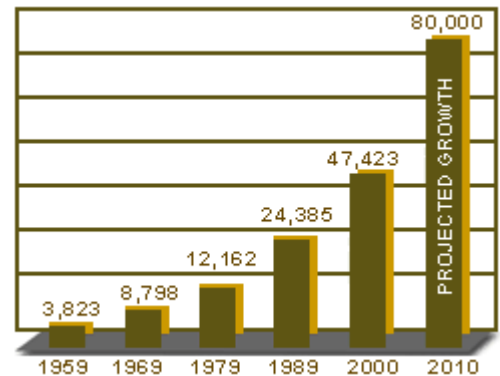
The most visible result of these policies in Elk Grove is the so-called “zipper street,” which goes from a fully improved section to a narrow, two-lane section and then back again to a four-lane roadway (as shown in the photo on the previous page). Other, less visible examples of infrastructure built in increments have included sewer, drainage, and water systems.

This Element expresses the City’s policy to construct infrastructure facilities through the use of “up front” financing so that roadways, drainage facilities, etc., can be completed with the initial phase of construction, avoiding the use of interim facilities and the creation of traffic congestion and other problems resulting from insufficient capacity.

PUBLIC SCHOOLS

Public schools in Elk Grove and the Planning Area are provided by the Elk Grove Unified School District (EGUSD), an independent agency which provides elementary, middle school, and high schools, as well as special education facilities and services.

The Elk Grove Unified School District is known for the high quality of its schools, which consistently perform well in standardized tests. Growth in the District’s service area in recent years has resulted in the need to add substantial new capacity, both at new schools and at existing schools. Projected student enrollment in EGUSD schools as of 2002 is shown below:



Source: EGUSD web site, 11/2002

Under state law, the Elk Grove Unified School District can in most cases act independently of the City in the location, construction, and operation of public schools. In practice, the City and the EGUSD have enjoyed a cooperative working relationship; however, this General Plan recognizes that the District is not bound by the City’s policies or regulations, and that the City is limited by state law in its ability to coordinate development of new homes and other uses with the availability of public schools.

This Element of the General Plan, therefore, stresses cooperation with the District to the extent permitted by law, and expresses the City’s desires with regard to public schools.

Additional information on the Elk Grove Unified School District is included in the General Plan Background Report.

The following Goals of the City of Elk Grove are implemented in this Public Facilities and Finance Element:

Guiding Goal 1: A High Quality of Life for All Residents

Focused Goal 1-4: High quality public facilities and services

Focused Goal 1-5: Excellence in the design of new development

Focused Goal 1-8: Creation and maintenance of a strong, positive community image for Elk Grove

Guiding Goal 2: Diversified Economic Base

Goal 2-4: Creation of Elk Grove as a desirable place to establish a business, particularly major employment-generating uses

Guiding Goal 5: Preservation of the Rural Character of Elk Grove

Focused Goal 5-1: Retention of those areas identified for 2-acre and larger lots on the Land Use Map as a rural area through land use and infrastructure controls

PUBLIC FACILITIES AND FINANCE POLICIES: GENERAL POLICIES

PF-1 Except when prohibited by state law, the City shall require that sufficient capacity in all public services and facilities will be available on time to maintain desired service levels and avoid capacity shortages, traffic congestion, or other negative effects on safety and quality of life.

PF-1-Action 1 Consider participating in efforts to develop regional water solutions, such as the Water Forum.

PF-2 The City shall coordinate with outside service agencies—including water and sewer providers, the Elk Grove Community Services District, and the Elk Grove Unified School District--during the review of plans and development projects.

PUBLIC FACILITIES AND FINANCE POLICIES: WATER SERVICE

PF-3 Water supply and delivery systems shall be available in time to meet the demand created by new development, or shall be assured through the use of bonds or other sureties to the City's satisfaction.

PF-3-Action 1 The following shall be required for all development projects, excluding subdivisions:

- An assured water supply and delivery system shall be available at the time of project approval. The water agency providing service to the project may provide several alternative methods of supply and/or delivery, provided that each is capable individually of providing water to the project.
- All required water infrastructure for the project shall be in place at the time of project approval, or shall be assured through the use of bonds or other sureties to the City's satisfaction. Water infrastructure may be phased to coincide with the phased development of large-scale projects.

PF-3-Action 2 The following shall be required for all subdivisions to the extent permitted by state law:

- Proposed water supply and delivery systems shall be identified at the time of tentative map approval to the satisfaction of the City. The water agency providing service to the project may provide several alternative methods of supply and/or delivery, provided that each is capable individually of providing water to the project.
- The agency providing water service to the subdivision shall demonstrate prior to the approval of the Final Map by the City that sufficient capacity shall be available to accommodate the subdivision plus existing development, and other approved projects in the same service area, and other projects

that have received commitments for water service.

- Offsite and onsite water infrastructure sufficient to provide adequate water to the subdivision shall be in place prior to the approval of the Final Map or their financing shall be assured to the satisfaction of the City, consistent with the requirements of the Subdivision Map Act.
- Offsite and onsite water distribution systems required to serve the subdivision shall be in place and contain water at sufficient quantity and pressure prior to the issuance of any building permits. Model homes may be exempted from this policy as determined appropriate by the City, and subject to approval by the City.

PF-4 The City shall require new utility infrastructure for electrical, natural gas and other infrastructure services avoid sensitive resources, be located so as to not be visually obtrusive, and, if possible, be located within roadway rights-of-ways or existing utility easements.

PF-5 The City supports the use of reclaimed water for irrigation wherever feasible.

PF-6 The City shall seek to protect the quality and quantity of groundwater resources, including those which serve households and businesses which rely on private wells.

PF-7 The City shall require that water flow and pressure be provided at sufficient levels to meet domestic, commercial, industrial, and firefighting needs.

PUBLIC FACILITIES AND FINANCE POLICIES: SEWER SERVICE

PF-8 Sewage conveyance and treatment capacity shall be available in time to meet the demand created by new development, or shall be assured through the use of bonds or other sureties to the City's satisfaction.

PF-8-Action 1 The following shall be required for all development projects, excluding subdivisions:

- Sewer/wastewater treatment capacity shall be available at the time of project approval.
- All required sewer/wastewater infrastructure for the project shall be in place at the time of project approval, or shall be assured through the use of bonds or other sureties to the City's satisfaction.

PF-8-Action 2 The following shall be required for all subdivisions to the extent permitted by state law:

- Sewage/wastewater treatment capacity shall be available at the time of tentative map approval.
- The agency providing sewer service to the subdivision shall demonstrate prior to the approval of the Final Map by the City that sufficient capacity shall be available to accommodate the subdivision plus existing development, and other approved projects using the same conveyance lines, and projects which have received sewage treatment capacity commitment.
- Onsite and offsite sewage conveyance systems required to serve the subdivision shall be in place prior to the approval of the Final Map, or their financing shall be assured to the satisfaction of the City, consistent with the requirements of the Subdivision Map Act.
- Sewage conveyance systems within the subdivision shall be in place and connected to the sewage disposal system prior to the issuance of any building permits. Model homes may be exempted from this policy as determined appropriate by the City, and subject to approval by the City.

PF-9 Development along corridors identified by sewer providers in their Master Plans as locations of future sewerage conveyance facilities shall incorporate appropriate easements as a condition of approval.

PF-10 The City shall strongly discourage the extension of sewer service into any area designated for Rural Residential land uses. Sewers shall not be used to accommodate lot sizes smaller than 2 (two) gross acres in the Rural Residential area, and lot sizes shall be large enough to accommodate septic systems. This policy shall not be construed to limit the ability of any sewer agency to construct "interceptor" lines through or adjacent to the Rural Residential area, provided that no "trunk" or service lines are provided within the Rural Residential area.

PF-11 The installation of "dry sewers" shall not be required as a condition of approval of development in the Rural Residential land use category.

PF-12 To reduce the potential for health problems and groundwater contamination resulting from the use of septic systems, the City shall take the following actions:

PF-12-Action 1 The City shall prepare and implement a public information campaign aimed at homeowners in areas with septic systems on the proper design, use, and care of septic systems.

PF-12-Action 2 The City shall consider adopting Plumbing Code revisions to allow the use of updated technologies which offer an alternative to septic systems for the treatment of sewage on individual sites.

PF-13 Residential development on lots smaller than two (2) gross acres shall be required to connect to public sewer service. This policy shall not apply to lots smaller than 2 gross acres in the Rural Residential land use category which existed as legal lots as of the date of adoption of this General Plan; these lots shall not be required to connect to public sewer service as a condition of development.

PF-14 Independent community sewer systems may not be established for new development.

PUBLIC FACILITIES AND FINANCE POLICIES: PUBLIC LIBRARIES

PF-15 The City shall cooperate with the County of Sacramento in the planning and implementation of future library facilities and facility expansions in Elk Grove.

PUBLIC FACILITIES AND FINANCE POLICIES: PUBLIC SCHOOLS

PF-16 Specific plans shall identify all existing and planned school sites and should include guidelines and conceptual examples for incorporating new schools into overall neighborhood design.

PF-17 While recognizing that school siting and development are not within the jurisdiction of the City to control, the City strongly encourages the School District to consider the following criteria:

- Traffic impacts on nearby roadways are addressed and mitigated to meet City standards for level of service.
- Schools should serve as a focal point of neighborhood activity and be interrelated with churches, parks, greenways and off-street paths whenever possible.
- Almost all residences will be within walking distance of a school (one mile or less) and all residences are within two miles of a school whenever possible.
- New schools are adjacent to neighborhood and community parks whenever possible and designed to promote joint use of appropriate facilities.
- New schools should link with trails, bikeways, and pedestrian paths wherever possible.

PF-18 The City supports state legislative efforts to secure additional state funding for school construction and ensure maintenance of local district priorities for funds in the state school bond program.

PUBLIC FACILITIES AND FINANCE POLICIES: FINANCING AND PHASING OF PUBLIC FACILITIES

PF-19 Public facilities should be phased in a logical manner which avoids "leapfrog" development and encourages the orderly development of roadways, water and sewer, and other public facilities. The City shall not provide public financing or assistance for projects that do not comply with the planned phasing of public facilities. Interim facilities may be used only if specifically approved by the City Council.

PF-20 The City shall require secure financing for all components of the transportation system through the use of special taxes, assessment districts, developer dedications, or other appropriate mechanisms in order to provide for the completion of required major public facilities at their full planned widths or capacities in one phase. For the purposes of this policy, "major" facilities shall include the following:

- Any roadway of a collector size or above, including any roadway shown on the Circulation Plan in this General Plan.
- All wells, water transmission lines, treatment facilities, and storage tanks needed to serve the project.
- All sewer trunk and interceptor lines and treatment plants or treatment plant capacity.

The City shall use its financial capacity to facilitate implementation of this policy if necessary, including, but not limited to:

- Issuing bonds,
- Using City funds directly, with repayment from future development fees
- Fee programs
- Developer financing

PF-21 New development shall fund its fair share portion of its impacts to all public facilities and infrastructure as provided for in state law.

PF-22 Infrastructure financing plans which specify the extent, timing and estimated cost of all necessary infrastructure shall be required for the approval of urban uses in the Laguna Ridge and Southeast Policy Areas, as defined in this General Plan. The resulting financing mechanisms shall be implemented prior to the development of urban uses.

PF-23 The City will coordinate with independent public service providers, including schools, parks and recreation, reclamation, water, transit, electric and other service districts, in developing financial and service planning strategies.

PF-24 Fee programs and/or other finance mechanisms for roadway and related infrastructure shall include sufficient funding for all of the following items:

- Design, engineering, environmental compliance, and construction of roadway lanes, traffic signals, and bridges.
- Right of way acquisition, design, engineering, environmental compliance, and construction costs sufficient to ensure that "zipper streets" are not created by non-participating owners. *(Please see the introduction to the Circulation Element for a discussion of the "zipper street" phenomenon.)*
- Drainage and other facilities related to new roadway construction.
- Installation of landscaped medians and streetscaping where appropriate.
- Installation of sidewalks or other facilities where needed to provide safe passage for pedestrians.

PF-25 Fee programs and/or other finance mechanisms for roadway and related infrastructure shall include sufficient funding for all of the following items:

- Design, engineering, environmental compliance, and construction of roadway lanes, traffic signals, and bridges.

- Right of way acquisition and design/engineering/environmental compliance/construction costs sufficient to ensure that “zipper streets” are not created by non-participating owners. *(Please see the introduction to the Circulation Element for a discussion of the “zipper street” phenomenon.)*
- Drainage and other facilities related to new roadway construction.
- Installation of landscaped medians and streetscaping where appropriate.

Fee programs and/or other finance mechanisms shall be reviewed regularly to ensure that sufficient funding will be available to construct all required facilities.

PF-26 To minimize damage to roadways and to reduce inconvenience to residents and businesses, the City shall seek to ensure that all utilities located in roadways are installed in a single operation. Multiple installations in which separate utilities are installed at different times and/or in different trenches, are specifically discouraged.

PF-26-Action 1 Work with utility providers to coordinate the installation or upgrading of utilities and eliminate multiple trenching of city streets.

PUBLIC FACILITIES AND FINANCE POLICIES: OPEN SPACE ACQUISITION

Please see the Conservation Element and the Parks, Trails, and Open Space Element for policies related to the public financing of open space acquisition.

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ORDINANCE NO. 26-2004

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING CHAPTER 15.12
OF THE ELK GROVE MUNICIPAL CODE
RELATING TO STORM WATER DRAINAGE SERVICES**

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 15.12 of the City of Elk Grove Municipal Code in order to comply with federal stormwater regulations and NPDES Municipal Stormwater Permit No. CAS082597, and to provide the County of Sacramento, Environmental Management Division with the necessary authority to conduct inspections and enforcement activities pursuant to the Agreement between the City and the County dated March 17, 2004.

SECTION 2. FINDINGS.

1. One of the requirements of the Municipal Stormwater Permit (NPDES No. CAS0082597) to which the City is a co-permittee is to track, inspect, and ensure compliance with the Stormwater Ordinances at certain commercial and industrial facilities.
2. The Sacramento County Environmental Management Department ("EMD"), as both the state-designated Certified Unified Program Agency ("CUPA") and the environmental health agency for Sacramento County, is currently tracking and inspecting the majority of commercial and industrial facilities subject to the provisions of the Municipal Stormwater Permit.
3. On March 17, 2004, the City Council authorized the City Manager to enter into an Agreement with EMD for fulfilling the NPDES Permit inspection requirements with respect to certain commercial and industrial facilities.
4. Under the Agreement, the City is required to amend the Stormwater Ordinance as necessary to authorize the County EMD to implement the stormwater compliance program for commercial and industrial facilities. The City must make any necessary amendments to the Stormwater Ordinance to the extent necessary to authorize EMD to:
 - a. Conduct all necessary inspections or re-inspections of regulated facilities within the incorporated City area;

- b. Take any necessary enforcement actions as authorized by the Municipal Code and consistent with a City-approved enforcement plan;
 - c. Investigate and follow-up referred complaints at eligible facilities;
 - d. Establish and collect fees necessary to recover program implementation costs.
5. The term of the Agreement is July 1, 2004 through June 30, 2010, unless sooner terminated, or extended by the City and County.
6. The purpose of this ordinance is to fulfill the requirements of the Agreement between the City and Sacramento County, authorized by the City Council on March 17, 2004, whereby the County shall assume responsibility for providing tracking, inspection, and enforcement of the City's Stormwater Ordinance with respect to commercial and industrial facilities within the incorporated City area as required by the Municipal Stormwater Permit.
7. Although the NPDES Permit and the Agreement between the City and County do not require inspections to commence on July 1, 2004, County EMD has threatened to forego inspections on certain industrial facilities within the City's jurisdiction, if those facilities had been scheduled to be inspected after July 1, 2004, and until such time as the City adopts these revisions to the Stormwater Ordinance. Although the County is required to conduct such inspections at least once prior to June 30, 2007, the County has steadfastly maintained that it will be unable to reschedule any such inspections missed, unless the City adopts this urgency ordinance.
8. On June 28, 2004, the Central Valley Regional Water Quality Control Board issued a Notice of Violation to the City of Elk Grove. In the Notice, the Regional Board alleged that the City had failed to effectively implement its stormwater management program, and ordered the City to take several steps to bring the program into compliance with the NPDES Permit. The Notice of Violation alleged that the City's Stormwater Ordinance does not provide the proper authority necessary under the NPDES Permit, and ordered the City to undertake a review of the Ordinance with respect to the NPDES Permit, and make any revisions necessary. Although the Regional Board has since acknowledged that the City's Stormwater Ordinance enforcement provisions are sufficient under the NPDES Permit, City staff has reviewed the Ordinance, and identified certain revisions to other portions of the Stormwater Ordinance which are necessary under the NPDES Permit. In particular, the necessary revisions include a requirement that covered individuals and entities maintain best management practices, and conduct various reporting activities.

9. 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, with federal stormwater regulations, and to allow the County EMD to conduct inspections and enforcement activities against certain commercial and industrial facilities within the City's jurisdiction pursuant to the March 17, 2004 Agreement between the City and County.

SECTION 3. AMENDMENT. Chapter 15.12 "Stormwater Management and Discharge Control," of the Elk Grove Municipal Code, is amended to read as follows:

Chapter 15.12

STORMWATER 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.
- 15.12.235 BMP Maintenance Requirements.

Article 4 Inspection, Monitoring and Reporting

- 15.12.300 Scope of Inspections.
- 15.12.330 Reporting Requirements

- 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 7 Commercial and Industrial Facilities
- 15.12.600 Findings.
- 15.12.610 Purpose and Intent.
- 15.12.620 Delegation of Authority to County EMD
- 15.12.630 Expiration of this Article

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 National Pollutant Discharge Elimination System 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 effectively to 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.

Any term(s) defined in the Federal Clean Water Act, as amended, and/or defined in the regulations for the stormwater discharge permitting program issued by the United States Environmental Protection Agency, as amended, and which are not specifically defined in this Chapter shall, when used in this Chapter, have the same meaning as set forth in said Act or regulation.

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. State General Construction Activity Permit shall mean the State Water Resources Control Board's Water Quality Order No. 99-08-DWQ, National Pollution Discharge Elimination System (NPDES) General Permit No. CAS000002 Waste Discharge Requirements (WDRS) for Discharges of Storm Water Runoff Associated With Construction Activity, and any successor documents.

x. State General Industrial Activity Permit shall mean the State Water Resources Control Board's Water Quality Order No. 97-03-DWQ, National Pollution Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities, and any successor document.

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

z. "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, or for which a requirement has been imposed by the state or federal government on the City to conduct stormwater regulatory activities focused on the activity.

aa. "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.

bb. "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.

cc. "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 accepted 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. Upon finding that any continuance of the discharge poses an immediate significant threat to the environment or to public health and safety, the Administrator may waive the thirty day waiting period and require immediate cessation of the discharge.

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, or for which a requirement has been imposed by the state or federal government for the City to conduct stormwater regulatory activities focused on the Subject Activity in question.

b. Any person who the Administrator determines is conducting any Subject Activity shall prevent or reduce the discharge of pollutants from those activities, to the maximum extent practicable, 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 stormwater 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 stormwater 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 stormwater 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 Clerk of the City Council. The 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 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 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.

15.12.235 BMP Maintenance Requirements.

The Administrator may require a property owner to establish, document, and conduct a maintenance program, subject to approval, for any BMP. This requirement may apply to BMPs required by the City or BMPs that were voluntarily installed pursuant to Section 15.12.220. Such a maintenance program may be required when the Administrator determines that proper maintenance is necessary to protect public safety, health, infrastructure, or the environment, or to otherwise meet the purposes of this Chapter. Maintenance requirements established pursuant to this subsection must be appropriate for the site conditions and design of BMPs.

Article 4

Inspection, Monitoring and Reporting

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 stormwater 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 run-off 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. In addition, the Administrator may require the owner or occupant to furnish, within a reasonable time period, copies of all such records.

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.

15.12.330 Reporting Requirements.

a. The Administrator may require any person to report information for purposes related to the goals of this Chapter. Required information may include but is not limited to the following: characterization of industrial activities; compliance with this Chapter, compliance with State General Permit requirements; compliance with Administrative Enforcement Orders or other enforcement actions; discharge monitoring; training; and BMP implementation, effectiveness, and maintenance.

b. The Administrator may require information to be submitted on an as needed basis.

c. The Administrator may require submitted information to be compiled, summarized, analyzed or organized in a reasonable manner that facilitates its interpretation or other use. As necessary to facilitate the use of information, the Administrator may also specify the medium and format of required submittals.

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

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 noncompliance 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 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 City 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 noncompliance 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 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 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 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 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.

Article 7

Commercial and Industrial Facilities

15.12.600 Findings.

a. One of the requirements of the municipal stormwater permit (NPDES No. CAS0082597) to which the City is a co-permittee, is to track, inspect, and ensure compliance with stormwater ordinances at certain commercial and industrial facilities.

b. The Sacramento County Environmental Management Department (EMD), as both the State-designated Certified Unified Program Agency (CUPA) and the Environmental Health Agency for Sacramento County, is currently tracking and inspecting the majority of commercial and industrial facilities subject to the provisions of the municipal stormwater permit.

c. Utilizing EMD to fulfill the commercial and industrial inspection program requirements under the municipal stormwater permit will result in greater program efficiency, reduced program costs, reduced impacts to the regulated business community, and is in the best interest of the City.

d. On March 17, 2004, the City Council authorized the City Manager to enter into an agreement with EMD for fulfilling the NPDES permit inspection requirements with respect to commercial and industrial facilities.

e. Under the Agreement, the City is required to amend the stormwater ordinance as necessary to authorize the County EMD to implement the stormwater compliance program for commercial and industrial facilities. The City must make any necessary amendments to the stormwater ordinance to the extent necessary to authorize EMD to:

1. Conduct all necessary inspections or re-inspections of regulated facilities within the incorporated City area;
2. Take any necessary enforcement actions as authorized by the Municipal Code and consistent with a City-approved enforcement plan;
3. Investigate and follow-up referred complaints at eligible facilities;
4. Establish and collect fees necessary to recover program implementation costs.

f. The term of the Agreement is July 1, 2004 through June 30, 2010, unless sooner terminated, or extended by the City and County.

15.12.610 Purpose and Intent.

a. The purpose of this Article is to fulfill the requirements of the Agreement between the City and Sacramento County, authorized by the City Council on March 17, 2004, whereby the County shall assume responsibility for providing tracking, inspection, and enforcement of the City's stormwater ordinance with respect to commercial and industrial facilities within the incorporated City area as required by the municipal stormwater permit.

b. It is the intent of the City Council in adopting this Article to provide the necessary amendments in order to authorize the County to accomplish the following goals:

1. Conduct all necessary inspections or re-inspections of regulated facilities within the incorporated City area;
2. Take any necessary enforcement actions as authorized by the Municipal Code and consistent with a City-approved enforcement plan;

3. Investigate and follow-up referred complaints at eligible facilities;
4. Establish and collect fees necessary to recover program implementation costs.

15.12.620 Delegation of Authority to County EMD

a. Pursuant to the Agreement authorized by the City Council on March 17, 2004, whereby the County shall assume responsibility for tracking, inspecting, and enforcing the City's stormwater ordinance at certain commercial and industrial facilities specified in the municipal stormwater permit, the term "Administrator," as used in this Chapter shall also mean the Director of the Sacramento County Environmental Management Department and his or her designees.

b. Any administrative or civil enforcement by the Director of the Sacramento County EMD or his or her designees of any provision of this Chapter under this Article shall be governed by and conducted pursuant to Chapter 15.12 of the Sacramento County Code.

c. Sacramento County may establish and collect from commercial and industrial facilities located within the City such fees as may be necessary to cover the actual costs incurred by Sacramento County to include these facilities in its commercial and industrial compliance program, provided that the fees are established and collected in accordance with the provisions of the Agreement and all applicable legal requirements.

d. The delegation of authority to Sacramento County under this Article is limited to only that required by the March 17, 2004 Agreement, as may be necessary to allow the Director of the County EMD to track, inspect, and ensure compliance with the City's stormwater ordinance at commercial and industrial facilities as required under the municipal stormwater permit.

15.12.630 Expiration of This Article.

The provisions of this Article 7 shall remain in effect only to the extent that the March 17, 2004 Agreement between the City and County EMD, or any successor agreement, remains in effect. Upon expiration of the Agreement, or any successor agreement, the provisions of this Article shall expire.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effective immediately as an urgency ordinance. As of July 1, 2004, the Sacramento County Environmental Management Department is responsible for conducting inspections on certain commercial and industrial facilities within the City's jurisdiction. In order to conduct these inspections, and to allow the County to reschedule any inspections which may have been missed in the intervening time since July 1, 2004, this ordinance is necessary immediately. 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.

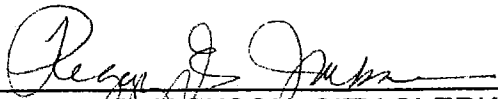
SECTION 5. PUBLICATION. In lieu of publication of the full text of the ordinance within 15 days after its passage, a summary of the ordinance may be published at least five days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the 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 August 2004.



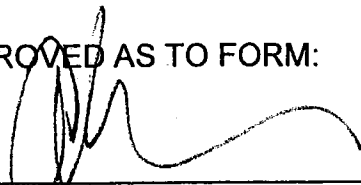
SOPHIA SCHERMAN, MAYOR
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI
CITY ATTORNEY

Effective Date: August 18, 2004

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

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