

ORDINANCE NO. \_\_\_\_\_

**DRAFT ORDINANCE ADDING CHAPTER 16.30 TO  
TITLE 16 OF THE MENDOCINO COUNTY CODE -  
"MENDOCINO COUNTY CODE ESTABLISHING THE STORMWATER  
RUNOFF POLLUTION PREVENTION PROCEDURE**

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

Chapter 16.30 is added to Title 16 of the Mendocino County Code to read as follows:

**Chapter 16.30.**

**STORMWATER RUNOFF POLLUTION PREVENTION PROCEDURE  
(hereinafter SRPPP).**

This Chapter shall be known and cited as the "STORMWATER RUNOFF POLLUTION PREVENTION PROCEDURE".

**16.30.010. FINDINGS AND PURPOSE.**

Recognizing the health and safety benefits of clean water, the purpose of this chapter is to ensure that activities within Mendocino County minimize the addition of new pollutants to waterways, and reduce present pollutant levels and sediments carried to the area and regional waterways through stormwater runoff, to the maximum extent feasible. The concerns of stormwater management to mitigate pollutant and sediment loading, will include concepts of slowing water flows to allow infiltration and other filtering Best Management Practices (BMPs) to work in harmony with the topography, and ensuring that designs for pollutant management are part of the planning and approval processes of new developments. Meeting these goals can include:

- (a) Reducing non-stormwater discharge into the stormwater system and area creeks by slowing runoff and maximizing infiltration.
- (b) Eliminating the spillage, dumping, and disposal of materials and pollutants into the storm drainage system and watercourses.
- (c) Reducing pollutant loads in stormwater and runoff through the use of appropriate Best Management Practices.
- (d) Reducing the runoff of oil and gas pollutants into area stormwater systems and creeks by filtration and/or bio-remediation of commercial/retail/industrial parking lots.

**16.30.020. ACRONYMS, ABBREVIATIONS AND DEFINITIONS:**

- (a) **AUTHORIZED NON-STORM WATER DISCHARGES:** Categories of discharges that are not composed entirely of storm water but are not found to pose a threat to water quality as defined in the Storm Water Management Plan.
- (b) **BEST MANAGEMENT PRACTICES (BMPS):** 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 direct and indirect discharge of pollutant to the County storm drainage system and to natural surface waters. BMPS shall also be defined to include, but not limited to, structural controls, source controls, treatment controls, training requirements, operating and maintenance procedures, practices to control plant site runoff, erosion and sediment control reduction practices, spillage or leaks, sludge or waste disposal or drainage from raw materials storage.
- (c) **BENEFICIAL USES:** Existing or potential uses of receiving waters as defined in a State of California Water Quality Control Plan.
- (d) **BIOREMEDIATION:** the treatment of pollutants or waste by the use of microorganisms (as bacteria) that break down the undesirable substances.
- (e) **CLEAN WATER ACT (CWA):** The Federal Water Pollution Control Act (33 U.S.C.125 et seq.) and any subsequent amendments thereto.
- (f) **COUNTY:** The County of Mendocino.
- (g) **COUNTY STORM DRAINAGE SYSTEM:** Those publicly owned facilities which are owned, operated, maintained or controlled by the County by which storm water may be collected and/or conveyed to natural surface waters, including, but not limited to, any roads with drainage systems, county roads, catch basins, water quality basins, detention basins, constructed wetlands, drainage channels, curbs, gutters, ditches, sumps, pumping stations, storm drain inlets, storm drains and other drainage structures which are not part of a publicly owned treatment works.
- (h) **CONSTRUCTION ACTIVITY:** Activities subject to the NPDES Construction General Permits or successor permit issued by the State of California or any instrument of the County that established pollutant control provisions for construction activities. These include construction projects typically resulting in land disturbance of 1 acre or more. Such activities include, but are not limited to, clearing and grubbing, grading excavating and demolition.
- (i) **DISCHARGE:** Any addition or introduction of any pollutant, storm water, or any other substance whatsoever into the County storm water drainage system or natural surface waters.
- (j) **DISCHARGER:** Any person who discharges, or causes to discharge, either directly or indirectly storm water or any other material into the County storm

drainage system or natural surface waters.

(k) **ILLEGAL DISCHARGE:** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in C. 1. a. of this Ordinance.

(l) **ILLICIT CONNECTION** means one of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater, backwash water, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by County.

(m) **INFILTRATION:** The process of water entry into a soil from rainfall, snowmelt, or irrigation.

(n) **INDUSTRIAL ACTIVITY:** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

(o) **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES):** A permit issued by either the Regional Water Board or the State Water Quality 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 natural surface waters.

(p) **NON-STORM WATER DISCHARGE:** Any discharge to the County storm drainage system, or to natural surface waters that is not composed entirely of storm water.

(q) **POLLUTANT:** Anything that causes or contributes to pollution. Pollutants may include, but are not limited to, solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive material, dredged soil, rock and sand, industrial waste, feces, 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 501(6) of the Federal Clean Water Act.

(r) **POLLUTION:** Human made or human induced alteration of the quality of waters by waste or pollutants to a degree which unreasonably affects, or has potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses.

(s) **RWQCB:** The California Regional Water Quality Control Board, North Coast

Region.

(t) **SOURCE CONTROL:** Means a site planning approach, a constructed component of a development project, or an operational activity that is included as part of a development project for the purpose of either 1) preventing pollutants from contacting storm water, or 2) reducing the quantity of runoff that drains from a developed site to the storm drain system. Examples of source controls include site designs that promote infiltration by reducing impervious surfaces, trash storage enclosures, disconnecting roofs from the storm drain system, street sweeping, and the regular inspection and cleaning of storm drain inlets.

(u) **STATE CONSTRUCTION GENERAL PERMIT:** The State Water Resources Control Board's Order No. 99-08-DWQ, National Pollutant 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.

(v) **STORM WATER:** Surface runoff and drainage resulting from storm events and snowmelt.

(w) **STORM WATER MANAGEMENT PLAN:** The County's documented strategy of how the discharge of pollutants to storm water will be reduced to the maximum extent practicable through the implementation of BMPs designed to protect water quality and requirements of the Municipal Stormwater Permit.

(x) **SWPPP:** Storm Water Pollution Prevention Plan. The RWQCB requires that dischargers whose projects disturb 1 or more acres of soil are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP should contain a site map(s) which shows the construction site perimeter, existing and proposed buildings, lots, roadways, storm water collection and discharge points, general topography both before and after construction, and drainage patterns across the project. The SWPPP must list Best Management Practices (BMPs) the discharger will use to protect storm water runoff and the placement of those BMPs. Additionally, the SWPPP must contain a visual monitoring program; a chemical monitoring program for "non-visible" pollutants to be implemented if there is a failure of BMPs; and a sediment monitoring plan if the site discharges directly to a water body listed on the 303(d) list for sediment. Section A of the Construction General Permit describes the elements that must be contained in a SWPPP.

(y) **WATERCOURSE:** a natural or artificial channel through which water flows.

(z) **WATER QUALITY CONTROL PLAN:** A basin plan required by the California Water Code (Section 13240) that consists of a designation or establishment of beneficial uses to be protected in waters within a specific area (i.e., basin), water quality objectives to protect those uses, and a program of implementation needed for achieving the objectives.

(aa) WATERS OF THE UNITED STATES: Surface watercourses and water bodies as defined at 40 CFR 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

**16.30.030. RUNOFF WATER QUALITY AND DISCHARGE MANAGEMENT.**

(a) PURPOSE. The provisions of this Section are intended to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses and water bodies in compliance with the Federal Clean Water Act (Chapter 26, Subchapter I, Section 1251, and Code of Federal Regulations, Title 40, Chapter Parts 122 and 123), by reducing pollutants in stormwater discharges to the maximum extent practicable.

(b) APPLICABILITY. This Section shall apply to all water entering watercourses or County storm drainage systems within the unincorporated area of Mendocino County.

1. RESPONSIBILITY FOR ADMINISTRATION. The Mendocino County Water Agency shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the Mendocino County Water Agency may be delegated to persons or entities acting in the beneficial interest of or in the employ of Mendocino County.
2. REGULATORY CONSISTENCY. This Ordinance shall be construed to ensure consistency with the requirements of the Federal Clean Water Act, State Porter-Cologne Act, State NPDES permits, and statutes and regulations that amend or supplement those Acts or permits.
3. ULTIMATE RESPONSIBILITY OF DISCHARGER. The requirements of this Section are minimum standards; therefore this Section does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the U.S. caused by that person. This Section shall not create liability on the part of Mendocino County, or any agent or employee of the County, for any damages that result from any discharger's reliance on this Section or any administrative decision in compliance with this Section.

**16.30.040. DISCHARGE PROHIBITIONS - GENERAL.**

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water to the maximum extent practicable. The commencement, conduct or continuance of any other discharge to the storm drainage system and watercourses is prohibited, except for the following.

(a) The following types of discharges will be considered authorized non-storm water discharges to the storm drainage system and watercourses when properly managed to ensure, to the maximum extent practicable, that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act, or this Ordinance : potable water line flushing; uncontaminated pumped groundwater and other discharges from potable water sources; diverted stream flows; rising groundwater; uncontaminated groundwater infiltration to the storm drain system as defined at 40 C.F.R. Chapter 35.2005(20); uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps; air conditioning condensation; uncontaminated non-industrial roof drains; springs; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; irrigation water; and flows from fire fighting.

(b) This prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the County for any discharge to the storm drainage system and watercourses.

(c) Notwithstanding the requirements of §16.30.130 (Authority to Inspect), the County Water Agency may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

#### **16.30.050. DISCHARGE PROHIBITION - ILLICIT CONNECTIONS.**

The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(a) The County Water Agency may require by written notice that a person responsible for an illicit connection to the storm drainage system and watercourses comply with the requirements of this Section to eliminate or secure approval for the connection by a specified date.

(b) If, subsequent to eliminating a connection found to be in violation of this Section, the responsible person can demonstrate that an illegal discharge will no longer occur, the person may request County approval to reconnect. The reconnection or reinstallation of the connection shall be at the expense of the responsible person.

**16.30.060. DISCHARGE PROHIBITION - WASTE DISPOSAL.**

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drainage system or watercourses, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that they may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

**16.30.070. DISCHARGE PROHIBITION - DISCHARGES IN VIOLATION OF INDUSTRIAL OR CONSTRUCTION ACTIVITY NPDES STORM WATER DISCHARGE PERMIT.**

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of the permit. Proof of compliance with the permit may be required in a form acceptable to the County as a condition of a subdivision map, site plan, building permit, encroachment permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

**16.30.080. REGULATIONS AND REQUIREMENTS - PREVENTION, CONTROL, AND REDUCTION OF STORM WATER POLLUTANTS.**

(a) **AUTHORIZATION TO ADOPT AND IMPOSE BEST MANAGEMENT PRACTICES.** The County may adopt requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the storm drainage system or watercourses. Where BMP requirements are promulgated by Mendocino County, any Federal, State, or regional agency for any activity, operation, or facility that would otherwise cause the discharge of pollutants to the storm drain system or water of the U.S., every person undertaking the activity or operation, or owning or operating the facility shall comply with these requirements.

(b) **NEW DEVELOPMENT AND REDEVELOPMENT.** The County may adopt requirements identifying appropriate BMPs to control the volume, rate, and potential pollutant load of storm water runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants. The County may incorporate these requirements into land use entitlements and construction or building-related permits to be issued for the new development or redevelopment.

(c) **RESPONSIBILITY TO IMPLEMENT BEST MANAGEMENT PRACTICES.** Notwithstanding the presence or absence of requirements promulgated in compliance with §16.30.080 (a) and §16.30.080 (b), any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm drainage systems, or watercourses shall implement BMPs to the *maximum extent practicable standards to prevent and reduce the pollutants.*

1. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drainage system or watercourses.
2. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.
3. Best Management Practices required by the County can be reviewed at the Planning and Building Services Department, Department of Transportation, or the County Water Agency.

**16.30.090. REGULATIONS AND REQUIREMENTS - WATERCOURSE PROTECTION.**

Every person owning property through which a watercourse passes, or the person's lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The owner or lessee shall obtain all necessary permits from outside agencies for any work done within the watercourse.

**16.30.100. REGULATIONS AND REQUIREMENTS - REMEDIATION.**

Whenever the County Water Agency finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of stormwater, the storm drainage system, or watercourses, the County Water Agency may require by written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a specified time in compliance with the Enforcement Section of this Ordinance.

**16.30.110. REGULATIONS AND REQUIREMENTS - MONITORING AND ANALYSIS.**

The County Water Agency may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility that may cause or contribute to stormwater pollution, illegal discharges, and/or non-stormwater discharges to the storm drainage system or watercourses, to undertake at that person's expense any monitoring and analyses and furnish

reports to Mendocino County as deemed necessary by the County Water Agency to determine compliance with this Section.

**16.30.120. REGULATIONS AND REQUIREMENTS - NOTIFICATION OF SPILLS.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials that are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or watercourses from said facility, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of the release. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the County Water Agency within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of the establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. These records shall be retained for at least three years.

(a) In the event of a release of a hazardous material the person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911).

(b) In the event of a release of non-hazardous materials, the person shall notify the County Water Agency in person or by phone or facsimile no later than 5:00 p.m. of the next business day.

**16.30.130. INSPECTION AND MONITORING.**

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

(b) **AUTHORITY TO SAMPLE, ESTABLISH SAMPLING DEVICES, AND TEST.** During any inspection in compliance with this Section, the County Water Agency may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

**16.30.140. SITE DEVELOPMENT AND MAINTENANCE STANDARDS - APPLICABILITY OF PROVISIONS.**

The following provisions apply as determined by this Section, to any proposed land use or development involving grading activities, or the construction of a new structure that requires a permit in compliance with this Development Code. Compliance with the provisions of this Section shall be required through planning permit or subdivision conditions of approval. Any necessary pollution control measures shall be installed prior to construction, or the occupancy of a structure or site, as deemed appropriate by the County. In all cases, the applicant/permittee is responsible for ensuring compliance with the following provisions.

(a) An applicant proposing a project with land disturbance of one acre or more, or any industrial facility shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) in compliance with the requirements of the Federal Clean Water Act, U.S. Environmental Protection Agency (EPA), the (California) State Water Resources Board, and shall comply with the County Standard Urban Stormwater Mitigation Plan (SUSMP). The applicant shall submit to the County Planning Department proof of an application for a NPDES permit and their Waste Discharge Identification Number issued by the State. The applicant shall submit a copy of the SWPPP to the County prior to the processing of any planning permit or subdivision application, or the granting of any construction permits.

(b) Projects disturbing less than an acre that create 5,000 feet or more of new impervious surfaces shall meet the requirements of the Standard Urban Stormwater Mitigation Plan (SUSMP), by implementing appropriate source controls.

**16.30.150. SITE DEVELOPMENT AND MAINTENANCE STANDARDS - RESPONSIBILITY FOR ADMINISTRATION.**

This Section shall be administered by the Mendocino County Water Agency in coordination with the Planning Department.

**16.30.160. SITE DEVELOPMENT AND MAINTENANCE STANDARDS - REGULATORY CONSISTENCY.**

This Ordinance shall be construed to assure consistency with the requirements of:

- (a) The Federal Water Pollution Control Act, 33 USCS § 1251 et seq., and the applicable implementing regulations;
  - 1. The mandates and rulings of the US Environmental Protection Agency (EPA);
  - 2. The NPDES permit of Mendocino County;
  - 3. The Mendocino County General Plan; and

4. Other existing or future NPDES Permits and any amendments, revisions or reissuance thereof by either Federal, State, County, or City regulatory agencies.

**16.30.170. SITE DEVELOPMENT AND MAINTENANCE STANDARDS - CONDITIONS, COVENANTS, AND RESTRICTIONS.**

This Ordinance requires that any applicable conditions, covenants, and restrictions (CC&Rs) include statements encouraging homeowners, and persons in control of homes and businesses to:

- (a) Prevent the improper disposal of litter, lawn/garden clippings and pet feces into streets or other areas where runoff may carry pollutants into the storm drainage system;
- (b) Remove dirt, trash and debris from sidewalks and alleys that may contribute pollutants to urban runoff;
- (c) Recycle oil, glass, plastic, and other materials to prevent improper disposal into the storm drainage system;
- (d) Properly dispose of household hazardous waste to prevent improper disposal into storm drainage system; and
- (e) Properly use and conserve water.

**16.30.180. SITE DEVELOPMENT AND MAINTENANCE STANDARDS - LONG-TERM MAINTENANCE.**

Provisions for the long-term maintenance or repair of post-construction BMPs, including structural BMPs must be made, according to the SUSMP Guidelines.

**16.30.190. SITE DEVELOPMENT AND MAINTENANCE STANDARDS - EROSION CONTROL.**

Erosion shall be controlled in compliance with the latest edition of the "California Storm Water BMP Handbooks".

**16.30.200. SITE DEVELOPMENT AND MAINTENANCE STANDARDS - HAZARDOUS AND TOXIC MATERIALS CONTROL.**

The use of toxic and hazardous materials shall be controlled, with the project applicant contacting the Environmental Health Division for the following plans for control, if required:

(a) A Hazardous Materials Handling and Spill Response Plan, for industrial facilities;

(b) A plan for handling grease, (Fats, Oils, and Grease Control), for restaurants. If on sewer, contact your local Sewer District

#### **16.30.210. DRAINAGE STRUCTURE STENCILING**

Where a catch basin or other drainage structure is required for a proposed project, written and/or graphic information discouraging the dumping, discarding, and/or discharge of pollutants into the storm drainage system shall be permanently affixed to the structure in a location approved by the Water Agency. The information shall be provided on a metal or plastic plaque and permanently affixed to the structure, stamped into the concrete, or as approved by the Water Agency or his or her designee.

#### **16.30.220. PROJECT SITE BEST MANAGEMENT PRACTICES.**

The owner, occupant or other person in charge of day-to-day operation of each premise within the County shall implement the Best Management Practices, as applicable, as follows:

(a) For premises with parking lots with more than twenty-five (25) parking spaces exposed to stormwater, the owner, occupant or other person in charge of day-to-day operation shall use BMPs to reduce the discharge of pollutants to the maximum extent practicable. Such measures may include rear sweeping or other measures, if effective.

(b) For premises which fall under the requirements for the SWPPP per Federal Law, copies of the site SWPPP, and all annual and monitoring reports shall be provided to the County Water Agency.

#### **16.30.230. ENFORCEMENT - VIOLATIONS.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. A violation of, or failure to comply with, any of the requirements of this Ordinance shall constitute a public nuisance and a misdemeanor and shall be subject to enforcement.

#### **16.30.240. ENFORCEMENT - ACTS POTENTIALLY RESULTING IN A VIOLATION OF THE FEDERAL CLEAN WATER ACT AND/OR CALIFORNIA PORTER-COLOGNE ACT.**

Any person who violates any provision of this Ordinance or any provision of any requirement issued in compliance with this Ordinance may also be in violation of the Clean Water Act and/or the Porter-Cologne Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any

enforcement action authorized under this Section shall also include written notice to the violator of this potential liability.

**16.30.250. ENFORCEMENT - NOTICE OF VIOLATION.**

Whenever the County Water Agency finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the County Water Agency may order compliance by written notice of violation to the responsible person. The notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation or maintenance of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which remediation or restoration must be completed. The notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the County or a contractor designated by the County Water Agency, with the cost of the work charged to the violator in compliance with §16.30.320 (Abatement by County).

**16.30.260. ENFORCEMENT - URGENCY ABATEMENT.**

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

**16.30.270. ENFORCEMENT - ADMINISTRATIVE CIVIL PENALTIES.**

In addition to any other remedies provided by County Code or State Law, there is hereby imposed the following civil penalty for each violation of this Ordinance, as imposed by the Enforcement Officer:

(a) No less than Twenty-Five Dollars (\$25) per day and no more than One Hundred Dollars (\$100) per day for the first violation; no less than One Hundred Dollars (\$100) per day and no more than Two Hundred Dollars (\$200) per day for a second violation of the same ordinance within one (1) year; and no less than Two Hundred Dollars (\$200) and no more than Five Hundred Dollars (\$500) per day for each additional violation of the same ordinance within one (1) year for each day that the violation exists after the date of mailing of the notice of violation through to its abatement by whatever means.

(b) The Enforcement Officer shall have the sole and exclusive discretion to set the amount of civil penalties within the ranges set forth in this Section. The Enforcement Officer shall not impose a penalty greater than the minimum amount in range of civil penalties set forth in this Section, unless the Enforcement Officer's department has established a written policy setting forth how civil penalties within the ranges are determined. Such policy shall take into account the facts and circumstances of the violation including, but not limited to, whether or not the violation poses a threat to human health, safety or to the environment; the seriousness or gravity of the violation; the length of time the violation has existed; the culpability of the person in violation or the willfulness of the violation; the sophistication of the persons creating or causing the violation; the extent of the violation and its effect on adjoining properties; attempts, if any, to comply with the applicable ordinances; and any other information which might be relevant to the determination of penalty to be imposed by this Section.

(c) If the penalty is imposed for violation of Sections 8.75.030(D) and (E), in Chapter 8.75 in the Uniform Nuisance Abatement Procedure, hereafter referred to as "Nuisance Ordinance", there shall be imposed a fine of Two Hundred Fifty Dollars (\$250), plus the actual costs of abatement.

(d) At the discretion of the Enforcement Officer, or his or her designee, or upon the appeal of the property owner, the determination may be referred to a Hearing Officer of the County, duly appointed to hear such matters as described in Sections 8.75.080 through 8.75.110 in the Nuisance Ordinance. The determination of the Hearing Officer as to the amount of charges properly imposed under this Section shall be final, subject only to judicial review.

(e) The charges imposed by this Section shall not apply if the property owner establishes all of the following:

1. that, at the time he or she acquired the property, a violation of this Ordinance already existed on the property;
2. the property owner did not have actual or constructive notice of the existence of that violation; and
3. within thirty (30) days after the mailing of notice of the existence of that violation, the property owner initiates and pursues, with due diligence, good faith efforts, as determined solely by the Enforcement Officer, to meet the requirements of this Ordinance.

(f) In the event a property owner, in the opinion of the relevant Department Head(s), abates the stormwater discharge in a timely manner after the Notice and Order to Abate has been issued, the relevant Department Head(s) has (have) the authority to waive or reduce the amount of penalties owed, if in his or her opinion such a reduction is warranted.

**16.30.280. ENFORCEMENT - HEARING OFFICER.**

Pursuant to Government Code Section 25845(i), the Chief Executive Officer shall contract with at least three (3) individuals as defined in Government Code Section 27720 et seq. to act as Hearing Officers on a rotating basis for the appeals described in this Section. The Hearing Officer shall have all powers and authorities described in Government Code Section 25845.

**16.30.290. ENFORCEMENT - APPEAL PROCEDURE.**

Any owner or other person in possession of the property may appeal a Notice and Order to Abate to a person designated as a Hearing Officer described in this Section, except in cases regarding Animal Control issues which shall be appealed to the Animal Care and Control Advisory Board. The appeal shall be submitted in writing, specify the grounds upon which the appeal is taken, contain the name, address and telephone number of the appellant, be accompanied by the payment of an appeal fee in an amount established by Resolution by the Board of Supervisors and be filed with the Department specified on the Notice and Order to Abate within ten (10) calendar days of the issuance of the Notice and Order to Abate. Timely appeal shall stay any further abatement action until the hearing is conducted. The Hearing Officer shall notify the parties in writing of the date and location of the hearing, at least ten (10) days prior to said date.

**16.30.300. ENFORCEMENT - HEARING PROCEDURES.**

(a) Pursuant to Government Code Section 25170, the Hearing Officer may issue subpoenas as necessary to require the attendance at the hearing of persons or the production of books, papers or other things related to the subject matter of the hearing.

(b) The Enforcement Officer with jurisdiction to cause the abatement of the alleged stormwater discharge shall first describe the acts or conditions constituting a stormwater discharge and shall respond specifically to the grounds set out in the demand for hearing. Thereafter, the objector shall present whatever evidence is relevant to refute the allegation.

(c) Formal rules of evidence or procedure in any proceeding subject to this Chapter shall not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Any failure to make a timely objection to offered evidence constitutes a waiver of the objection.

(d) In a proceeding alleging a violation of Section (D) or (E) in Section 8.75.030 of the Uniform Nuisance Abatement Procedure, the presence of at least two (2) pieces of addressed mail or other identifying information in the dumped material shall be deemed to create a rebuttable presumption that the person so identified is responsible for the dumped material and is subject to the penalties and remedies provided for in the Nuisance Ordinance.

(e) The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified an interpreter by either the State of California or the County of Mendocino.

(g) The hearing may be continued from time to time upon request of a party to the hearing and upon a showing of good cause therefore.

#### **16.30.310. ENFORCEMENT - DETERMINATION.**

(a) At the conclusion of the hearing, the Hearing Officer shall determine, in writing, based on the evidence before it:

1. Whether the acts or conditions specified in the Notice of Abatement exist;
2. Whether those acts or conditions constitute a stormwater discharge;
3. If a stormwater discharge is determined to exist, whether it should be abated by the County; and

(b) The appropriateness of the penalty imposed.

1. If the Hearing Officer finds that the alleged stormwater discharge does exist and should be abated, abatement of the stormwater discharge shall be ordered. An Order of Abatement is final immediately, unless the order or a provision of this code expressly provides otherwise.

#### **16.30.320. ENFORCEMENT - ABATEMENT BY OWNER OR COUNTY.**

A copy of the written Findings of Fact and Order of Abatement shall be served personally or by mail upon each objector and all other persons upon whom the Notice and Order to Abate was served. The order may direct that any occupancy, use or activity cease immediately if its existence or continuation is found to be an immediate threat to health or safety. Otherwise, abatement shall be commenced by the owner within five (5) calendar days of the service of the Findings of Fact and Order, or any longer period provided in the order, and shall continue with reasonable diligence until complete. Reasonable diligence shall be determined by the Enforcement Officer.

(a) Upon the failure, neglect, or refusal to properly comply with the Order of Abatement issued by the Hearing Officer within the prescribed time period, the Enforcement Officer, authorized to enforce the ordinance codified in this Section

or other designated County employee, may cause to be done whatever work is necessary to abate the public stormwater discharge. An account of the cost of abatement shall be kept for each separate assessor's parcel involved in the abatement.

(b) When the County has completed the work of abatement, or has paid for such work, the actual cost thereof, together with an administrative cost, including reasonable attorney's fees, and all fines shall be charged to the owner of the property. The combined amounts shall be included in a bill and sent by mail to the owner, or his or her agent for payment, if not paid prior thereto. The bill shall apprise the owner that failure to pay the bill within fifteen (15) days from the date of mailing, may result in a lien upon the property.

**16.30.340. ENFORCEMENT - FAILURE OF OWNER TO ABATE OR APPEAL.**

If, within ninety (90) days from the issuance of the Notice and Order to Abate, the property owner has not filed a timely appeal in accordance with Section 16.30.290, or has failed to pay any outstanding fines or penalties, the amount of the penalties as established pursuant to Section 16.30.270 for the ninety (90) day period shall be totaled and the same shall be considered due and owing. Notice of the amount of penalties shall be mailed to the property owner by certified mail, addressed to the owner, his or her agent, at the address shown on the last equalized assessment roll or as otherwise known. Any continuing violation after the aforesaid ninety (90) day period shall be considered a subsequent offense and the penalty for such new violation shall be the basis for a second or third violation and the procedures set forth in this Ordinance shall be followed as if the violation was a new violation. Nothing in this Section shall be interpreted to extend the time given to the property owner to abate the stormwater discharge as set forth in the Notice and Order to Abate.

**16.30.350. ENFORCEMENT - REPORT AND NOTICE OF LIEN HEARING.**

The Board of Supervisors delegates the responsibility to conduct a lien hearing in conformance with this Ordinance to a Hearing Officer.

If the bill for the cost of the abatement, administrative costs, attorney fees, and all fines imposed pursuant to §8.75.075 or §8.75.125 are not paid within thirty (30) days of issuance of an order pursuant to §8.75.110 or the date of mailing of the notice described in §8.75.125, the Enforcement Officer authorized to enforce the ordinance shall render an itemized report in writing to the Clerk of the Board for submittal to the Hearing Officer listing the costs of abatement, administrative fee, attorney fees and all fines and/or fees. The Hearing Officer may then order for a lien hearing and confirmation. Names and addresses of persons having any record interest in the property shall be attached to the report. At least ten (10) days prior to said hearing, the Hearing Officer through the Clerk of the Board shall give notice, by certified mail, of said hearing to the record owner of each assessor's parcel involved in the abatement, the holder of any mortgage or deed or trust of record, if known, and any other person known to

have a legal interest in the property. Said notice shall describe the property by street number or some other description sufficient to enable identification of the property and contain a statement of the amount of the proposed lien.

**16.30.360. HEARING ON ACCOUNT AND PROPOSED LIEN.**

At the time and place fixed in the notice, the Hearing Officer will hear and consider the account and proposed lien amount, together with objections and protests thereto. At the conclusion of the hearing, the Hearing Officer may make such modifications and revisions of the proposed account and lien amount as it deems just, and may order the account and proposed lien amount confirmed or denied, in whole or in part, or as modified and revised. The determination of the Hearing Officer as to all matters contained therein is final and conclusive.

**16.30.370. NOTICE OF LIEN.**

Upon confirmation of a lien by the Hearing Officer, the Enforcement Officer shall notify the owners by certified mail, return receipt requested, of the amount of the pending lien confirmed by the Hearing Officer and advise them that they may pay the account in full within thirty (30) days to the Enforcement Officer in order to avoid the lien being recorded against the property. If the lien amount is not paid by the date stated in the letter, the Enforcement Officer shall prepare and have recorded in the office of the County Recorder of Mendocino County a notice of lien. The notice shall contain:

- (a) A legal description, address and/or other description sufficient to identify the premises;
- (b) A description of the proceeding under which the lien was made, including the order of the Hearing Officer confirming the lien;
- (c) The amount of the lien;
- (d) A claim of lien upon the described premises.

**16.30.380. LIEN.**

Upon the recordation of a Notice of Lien, the amount claimed shall constitute a lien upon the described premises, pursuant to Section 25845 of the California Government Code. Such lien shall be at parity with the liens of State and County taxes.

**16.30.390. COLLECTION WITH ORDINARY TAXES.**

After recordation, the Notice of Lien shall be delivered to the County Auditor, who will enter the amount of the lien on the assessment roll as a lien. Thereafter, the amount set forth shall be collected at the same time and in the same manner

as ordinary County taxes, and is subject to the same penalties and interest, and to the same procedures for foreclosure and sale in case of delinquency, as are provided for ordinary County taxes; all laws applicable to the levy, collection and enforcement of County taxes are hereby made applicable to such lien.

**16.30.400. ATTORNEYS' FEES.**

Pursuant to Government Code section 25845(c), in any action, administrative proceeding, or matter commenced by the County to abate a nuisance, or to collect the cost of abatement or any penalty or fee related thereto, the prevailing party shall recover its attorneys' fees. The recovery of attorneys' fees under this section is limited to those actions, administrative proceedings, or matters in which the County chooses at the initiation of the action, administrative proceeding, or matter to seek the recovery of its own attorneys' fees. In no event shall an award of attorneys' fees under this chapter exceed the reasonable amount of attorneys' fees incurred by the County in the action or proceeding.

**16.30.410. ENFORCEMENT - USE OF MONEY COLLECTED UNDER THIS CHAPTER.**

All money collected for penalties for violations of this Ordinance and all money collected for recovery of costs of enforcement of this Section shall be made available to the Department responsible for the enforcement action for training and further code enforcement actions.

**16.30.420. ENFORCEMENT - VIOLATIONS.**

It shall be unlawful for any person to refuse to allow any officer, employee, agent, or contractor of the County to enter upon any premises for the purpose of abating the public stormwater discharge or to interfere in any manner whatever with such officer, employee, agent, or contractor.

**16.30.430. ENFORCEMENT - SEVERABILITY CLAUSE.**

The provisions of this Ordinance are separate and severable. If any provision of the ordinance codified in this Chapter is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed the ordinance codified in this Chapter irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Chapter, or the validity of its application to other persons or circumstances.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Mendocino, State of California, on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by the following roll call vote:

AYES:  
NOES:  
ABSENT:

**WHEREUPON**, the Chairman declared the Ordinance passed and adopted and **SO ORDERED**.

\_\_\_\_\_  
CHAIR, Board of Supervisors

ATTEST: KRISTI FURMAN  
Clerk of Said Board

By: \_\_\_\_\_

APPROVED AS TO FORM:  
JEANINE B. NADEL, County Counsel

By: \_\_\_\_\_