

ORDINANCE NO. 1751

BOARD OF SUPERVISORS, COUNTY OF AMADOR, STATE OF CALIFORNIA

AN ORDINANCE ADDING A NEW CHAPTER 7.23 TO THE AMADOR COUNTY CODE
RELATING TO STORM WATER

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

SECTION 1. The Board of Supervisors of the County of Amador finds that under State Water Quality Control Board's Water Quality Order No. 2013-0001-DWQ relating to Waste Discharge Requirements (WDRs) for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s), the County is required to establish adequate legal authority to implement the requirements of that Order.

SECTION 2. A new Chapter 7.23 is hereby added to the Amador County Code as follows:

“Chapter 7.23

STORM WATER

Sections:

- 7.23.010 Purpose.
- 7.23.020 Regulatory consistency.
- 7.23.030 Acronyms, abbreviations and definitions.
- 7.23.040 Applicability.
- 7.23.050 Responsibility for administration.
- 7.23.060 Ultimate responsibility of discharger.
- 7.23.070 Prohibition of illicit discharges.
- 7.23.080 Prohibition of illicit connections.
- 7.23.090 Requirement to eliminate or secure approval for illicit connections.
- 7.23.100 Waste disposal prohibitions.
- 7.23.110 Excess irrigation runoff prohibition.
- 7.23.120 Requirements for reducing pollutants in storm water.
- 7.23.130 Adoption of best management practices.
- 7.23.140 Requirement to monitor and analyze.
- 7.23.150 Inspection and monitoring.
- 7.23.160 Implementation.
- 7.23.170 Notification of spills.
- 7.23.180 Requirement to remediate.
- 7.23.190 Enforcement – violations.
- 7.23.200 Appeal.
- 7.23.210 Severability clause.

7.23.010 Purpose.

The purpose and intent of this Chapter is to meet the requirements of the California State Water Resources Control Board Order No. 2013-0001DWQ and any subsequent amendments thereto; and protect and promote the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C.§1251 et seq.), and the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm discharges to the storm drainage system.

7.23.020 Regulatory consistency.

This Ordinance shall be construed to ensure consistency with the requirements of the Clean Water Act, State Porter-Cologne Act, State NPDES permits, and statutes and regulations that amend or supplement those Acts or permits.

7.23.030 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 Program.
- (b) **BEST MANAGEMENT PRACTICES (BMPS):** Schedules of activities, prohibition of 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 pollutants to the County storm drainage system and to waters of the U.S. 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 the State of California Water Quality Control Plan.
- (d) **CLEAN WATER ACT (CWA):** The Federal Water Pollution Control Act (33 U. S. C. 125 et seq.) and any subsequent amendments thereto.
- (e) **CORRECTIVE ACTION PLAN:** A required plan of action, which may include BMPs, to address non-storm water discharges and pollutants of concern to the maximum extent practicable (MEP).
- (f) **COUNTY:** The County of Amador, unincorporated areas.

(h) COUNTY STORM DRAINAGE SYSTEM: Those public facilities which are owned, operated, maintained or controlled by the County by which storm water may be collected and/or conveyed to waters of the U.S., including, but not limited to, any 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 publically owned treatment works.

(i) CONSTRUCTION ACTIVITY: Any project that involves soil disturbing activities with the potential to discharge pollutants to the County storm drainage system, including but not limited to, clearing, grading, paving and disturbances to ground such as stockpiling, and excavation.

(j) DISCHARGE: Any addition or introduction of any pollutant, storm water, or any other substance whatsoever into the County storm water drainage system or waters of the U.S.

(k) 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 waters of the U.S.

(l) ILLEGAL DISCHARGE: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7.23.070 of this Ordinance.

(m) 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 drainage system, including but not limited to, any conveyances which allow any non-storm water, and waste 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 drainage system which has not been documented in plans, maps, or equivalent records and approved by County.

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

(o) MAXIMUM EXTENT PRACTICABLE (MEP): Refers to the technology based standard established by Congress in the Clean Water Act U. S. C. §1342 (p) (3) (B) (iii) that municipal discharges of storm water must meet. To achieve the maximum extent practicable standard, jurisdictions must employ whatever Best Management Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. MEP emphasizes pollutant reduction and source control BMPs to prevent pollutants from entering storm water runoff. MEP may require treatment of the storm water runoff if it

contains pollutants. The MEP standard is an ever-evolving, flexible, and advancing concept, which considers technical and economic feasibility.

(p) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES): A 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 CWA.

(q) NON-STORM WATER DISCHARGE: Any discharge to the County storm drainage system or to waters of the U. S. that is not composed entirely of storm water.

(r) POLLUTANT: Means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. (Federal Clean Water Act)

(s) 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, waters for beneficial uses.

(t) PORTER-COLOGNE ACT: The Porter-Cologne Water Quality Control Act and as amended (California Water Code Sec 13000 et seq.). A California state law that establishes enforceable water quality standards.

(u) RWQCB: The California Regional Water Quality Control Board, Central Valley Region.

(w) STATE CONSTRUCTION GENERAL PERMIT: The State Water Resources Control Board's Order No. 2013-0001-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004, Waste Discharge Requirements (WDRS) for Discharges of Storm Water Runoff Associated with Construction Activity, and any successor documents.

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

(y) WATER QUALITY CONTROL PLAN: A basic 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.

(z) WATERS OF THE UNITED STATES: 40 CFR 122.2 defines "Waters of the United States" as:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

2. All interstate waters, including interstate "wetlands;"

3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - c. Which are used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as waters of the United States under this definition;
5. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the United States.

(aa) UNREASONABLE AFFECT ON WATER QUALITY: To create a nuisance as defined in the Porter-Cologne Act. Nuisance means anything which meets all of the following requirements:

1. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
2. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
3. Occurs during, or as the result of, the treatment or disposal of wastes.

7.23.040 Applicability.

A. This chapter shall apply to all water entering the County storm drainage system or water of the U.S., generated on any developed and undeveloped lands lying within the unincorporated boundary areas of Amador County as identified in the Phase II (small) Municipal Separate Storm Sewer System (MS4). The maps of the unincorporated boundary areas of Amador County are available and on file in the Department of Public Works.

B. Notwithstanding the provisions of this ordinance, any person subject to an Industrial or Construction activity NPDES storm water discharge permit, anywhere in the County, shall comply with all provisions of that permit. Proof of compliance with the permit shall 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.

D. This Ordinance shall not apply to non-urban Timber or Agricultural operations. Excepting therefrom illicit discharges from a timber or agricultural operation that enters the County's storm drainage system shall be subject to this Chapter.

7.23.050 Responsibility for administration.

The Director of Public Works of the County or his/her designee shall administer, implement, and enforce the provisions of the Ordinance. Any powers granted or duties imposed upon the County may be delegated to persons or entities acting in the beneficial interest of or in the employ of the County.

7.23.060 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 United States caused by that person. This Section shall not create liability on the part of Amador County, or any agent or employee of the County, for any damages that result from any discharger's reliance on this Chapter or any administrative decision in compliance with this Chapter.

7.23.070 Prohibition of illicit discharges.

A. No person shall discharge or cause to be discharged into the storm drain system any materials, including, but not limited to, pollutants, in volumes or quantities which may unreasonably affect water quality, or waters containing any pollutants, in volumes or quantities which may unreasonably affect water quality, that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illicit discharge into the storm drain system is prohibited except as described as follows:

1. Discharges from the following activities will not be considered a source of pollutants to the storm drain system when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illicit discharges unless determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act or this chapter:
 - a. Water line flushing;
 - b. Individual residential car washing;
 - c. Diverted stream flows;
 - d. Rising groundwater;
 - e. Uncontaminated groundwater infiltration to the storm drain system;
 - f. Uncontaminated pumped groundwater;
 - g. Discharges from potable water sources;

- h. Foundation drains;
- i. Air conditioning condensation;
- j. Springs;
- k. Water from crawl space pumps;
- l. Footing drains;
- m. Flows from riparian habitats and wetlands;
- n. Dechlorinated swimming pool discharges;
- o. Incidental runoff from landscaped areas;
- p. Discharges or flows from fire fighting

- 2. With prior written concurrence of the Regional Water Quality Control Board, the County of Amador may exempt in writing other non-storm water discharges which are not a source of pollutants to the storm drainage system.

7.23.080 Prohibition of illicit connections.

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

7.23.090 Requirements to eliminate or secure approval for illicit connections.

- A. The County may require by written notice that a person responsible for an illicit connection to the storm drain system comply with the requirements of the Chapter to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of this Chapter.
- B. If, subsequent to eliminating a connection found to be in violation of the Chapter, the responsible person can demonstrate that an illegal discharge will no longer occur, said person may request County approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

7.23.100 Waste disposal prohibitions.

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 drain system, or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution, in volumes or quantities which may unreasonably

affect water quality. Wastes deposited in streets in proper waste receptacles for the purpose of collection are exempted from this prohibition.

7.23.110 Excess irrigation runoff prohibition.

Non-stormwater runoff discharge that is not incidental is prohibited. No person shall allow irrigation runoff in excess of incidental runoff to occur. Any person responsible for controlling runoff in excess of incidental runoff shall:

1. Detect leaks (for example, from broken sprinkler heads) and correct leaks within 72 hours of learning of the leak;
2. Properly design and aim sprinkler heads;
3. Not irrigate during precipitation events; and
4. Manage ponds containing recycled water such that no discharge occurs unless the discharge is a result of a 25-year, 24-hour storm event or greater, and the appropriate Regional Water Board is notified by email no later than 24 hours after the discharge. The notification is to include identifying information, including the Permittee's name and permit identification number.

7.23.120 Requirements for reducing pollutants in storm water.

A. RESPONSIBILITY TO IMPLEMENT BEST MANAGEMENT PRACTICES. Any person engaged in activities or operations, or owning facilities or property anywhere in the County which will or may result in pollutants, in volumes or quantities which may unreasonably affect water quality, entering storm drainage systems, or waters of the U.S., shall implement BMPs to the maximum extent practicable 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, in volumes or quantities which may unreasonably affect water quality, into the storm drainage system or waters of the U.S.
2. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

B. Any person performing construction and grading work anywhere in the County shall implement appropriate Best Management Practices to prevent the discharge of construction waste, debris or contaminants, in volumes or quantities which may unreasonably affect water quality, from construction materials, tools and equipment from entering the storm drainage system.

7.23.130 Adoption of best management practices.

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, in volumes or quantities which may unreasonably affect water quality, or contamination of stormwater, the storm drainage system or waters of the U.S. Where BMP requirements are promulgated by the County, any Federal, State, or regional agency for any activity, operation, or facility that would otherwise cause the discharge of pollutants, in volumes or quantities which may unreasonably affect water quality, to the storm drain system or water of the United States, 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 developments and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants, in volumes or quantities which may unreasonably affect water quality, and as required by the County's NPDES MS4 General Permit. 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.

7.23.140 Requirement to monitor and analyze.

The County may require by written notice that any person engaged in any activity and/or owning or operating any facility that may cause or contribute to stormwater pollution, in volumes or quantities which may unreasonably affect water quality, 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 the County as deemed necessary to determine compliance with this Section.

7.23.150 Inspection and monitoring.

A. Whenever necessary to enforce any of the provisions of this code, or whenever the Director has reasonable cause to believe exists in or upon any premises any such violation concerning storm water, the Director may enter such premises at all reasonable times to inspect the same or to perform any duty imposed upon the Director by this Code; provided that if such premises be occupied, he or she shall first identify himself or herself as an Amador County Official and request entry; and if such premises be unoccupied, he or she shall first make a reasonable effort to locate the property owner and request entry. If such entry is refused, the Director shall have the recourse to every remedy provided by law to secure entry. County Officials shall not enter property which is posted to prohibit entry and shall not enter property which is protected by a closed gate except where the Official has obtained an inspection warrant or where there is an immediate threat to public health or safety.

B. During any inspection in compliance with this Section, the County may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

7.23.160 Implementation.

The intent of this Ordinance is not to punish and fine citizens of Amador County, but to educate them in ways to prevent and reduce pollution from entering the County storm drainage system and waters of the U.S. As such, education shall be the primary means to implement the provisions of the Ordinance. Where violations are discovered, initial contact with property owners and/or business operator shall be to gain compliance through education and a corrective action plan. If compliance is not gained through initial education and a corrective action plan, if necessary, further enforcement actions shall be pursued in accordance with Chapter 2.06.100 “Administrative Abatement of Violation” of the Amador County Code.

7.23.170 Notification of spills.

A. 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, in volumes or quantities which may unreasonably affect water quality, 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.

(1) 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).

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

7.23.180 Requirement to remediate.

Whenever the County finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution, in volumes or quantities which may unreasonably affect water quality, of stormwater, the storm drainage system, or waters of the U.S., the County 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 as determined by a corrective action plan or in compliance with the Enforcement Section of this Ordinance.

7.23.190 Enforcement - violations.

A. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of the Ordinance. Failure to comply with this Ordinance, including the failure to implement a corrective action plan may be an infraction and may be punishable by fines as specified in Government Code Section 25132 or any successor statute.

B. Any condition caused or permitted to exist in violation of any of the provisions of the Chapter is a threat to public health, safety, and welfare and shall constitute a public nuisance and a misdemeanor and shall be subject to enforcement in accordance with Chapter 2.06.100 “Administrative Abatement of Violation” of the Amador County Code.

C. 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 the potential liability.

7.23.200 Appeal.

Any person receiving a Notice of Violation under Section 7.23.190 above may appeal the determination by the Director to the Board of Supervisors. The notice of appeal must be received by the Clerk of the Board within 10 days of the Notice of Violation. Hearing on the appeal before the Board of Supervisors shall take place within 45 days from the date of the County’s receipt of the notice of appeal. All decisions by the Board of Supervisors shall be final.

7.23.210 Severability clause.

The provisions of the Ordinance are separate and severable. If any provision of the ordinance codified in the 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 the Chapter irrespective of the invalidity of the provision held to 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.


SECTION 3. This ordinance, or a summary thereof, shall be published within fifteen days after the date hereof in a newspaper of general circulation printed and published in the County of Amador, State of California, and shall become effective thirty days after the date hereof.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 9th day of June, 2015, by the following vote:

AYES: Brian Oneto, John Plasse, Louis D. Boitano, Richard M. Forster, and Lynn Morgan

NOES: None

ABSENT: None



Brian Oneto, Chairman, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California



Deputy