



Staff Report

September 11, 2018

TO: Honorable Mayor and Members of the Town Council
FROM: Britton Snipes, Town Engineer/Public Works Director
DATE: September 11, 2018
RE: Public Hearing of Ordinance Enacting Chapter 10.08 of the Municipal Code Establishing the Stormwater Quality Management and Discharge Control

Recommendation

Staff recommends that the Town Council introduce for first reading an ordinance enacting Chapter 10.08 of the Municipal Code establishing the Stormwater Quality Management and Discharge Control.

Issue Statement and Discussion

The Federal Clean Water Act provides the regulations for the reduction of pollutants discharged into the waters of the United States. These regulations are enforced through the requirements of a National Pollutant Discharge Elimination System (NPDES) permit.

The Town of Loomis has a Municipal Separate Storm Sewer System (MS4) permit from the State of California Regional Water Board - that satisfies the NPDES requirements. The MS4 permit requires the Town to ensure we do our best to reduce the risk of polluting the natural waterways. We do this by having new improvements conform to the South Placer Stormwater Design Manual and maintaining our existing storm drain system.

The Town's MS4 permit also requires the Town to prohibit non-storm water discharges into the stormwater conveyance system, except as otherwise permitted by federal law. The permit and this chapter require regular compliance inspections and enforcement at certain commercial and industrial facilities, as defined by the permit. Adopting this chapter will provide the Town with the legal authority to accomplish the following goals:

1. To reduce the discharge of pollutants in storm water to the maximum extent practicable;
2. To effectively prohibit non-storm water discharges into the storm water conveyance system;
3. To comply with the requirements of the Federal Clean Water as they apply to the discharge of pollutants into and from the Town's stormwater conveyance system;
4. To fully implement the Town's comprehensive storm water management program as required by the Regional Board;
5. To protect the physical integrity and function of the Town's storm water 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 Town's stormwater conveyance system;

7. To establish appropriate enforcement procedures and penalties for violations of the provisions of this chapter.

CEQA

There are no CEQA issues

Financial and/or Policy Implications

There are no appreciable fiscal impacts which will result from the adoption of the proposed ordinance.

Attachment

- A. Ordinance enacting Chapter 10.08 of the Municipal Code establishing the Stormwater Quality Management and Discharge Control

TOWN OF LOOMIS

ORDINANCE NO. __

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS
ENACTING CHAPTER 10.08 OF THE MUNICIPAL CODE ESTABLISHING THE
STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL**

Section 1. Chapter 10.08 of the Town of Loomis ("the Town") Municipal Code shall be known as "Stormwater Quality Management and Discharge Control" and is enacted as follows:

Sections:

- 10.08.010 Purpose and Intent
- 10.08.020 Findings
- 10.08.030 Applicability
- 10.08.040 Definitions
- 10.08.050 Responsibility for Administration
- 10.08.060 Conflicts with other laws.
- 10.08.070 Discharge Prohibitions
- 10.08.080 Exemptions to prohibited discharges
- 10.08.090 Discharge in violation of existing NPDES permit
- 10.08.100 Discharge in violation of Town NPDES permit—indemnifications
- 10.08.110 Acts potentially resulting in violation of Federal Clean Water Act and/or Porter-Cologne Act
- 10.08.120 Right of entry—Inspections
- 10.08.130 Concealment and abetting
- 10.08.140 Reduction of pollutants in stormwater, best management practices
- 10.08.150 Containment and notification of illegal discharges
- 10.08.160 Coordination with hazardous materials inventory and response program
- 10.08.170 Enforcement authority and discretion
- 10.08.180 Enforcement of violations
- 10.08.190 Administrative appeals
- 10.08.200 Civil actions
- 10.08.210 Nuisance abatement--Urgency abatement
- 10.08.220 Regulatory fee structure authorized

STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL

10.08.010 Purpose and Intent

- A. The purpose of this chapter is to ensure that the Town is compliant with state and federal laws and fulfills its requirements to:
 - 1. Protect the health, safety, and general welfare of the citizens of Loomis;
 - 2. Enhance and protect the quality of waters of the state in Loomis by reducing pollutants in stormwater discharges to the maximum extent practicable and controlling non-stormwater discharges to the storm drain system;
 - 3. Cause the use of best management practices (10.08.040 Definitions A. Best Management Practices) by Loomis and its citizens and businesses that will reduce the adverse effects of polluted runoff discharges on waters of the state; and
 - 4. Implement Town design standards (Title 12, Article VII of the Loomis Municipal Code).
- B. This chapter seeks to promote these purposes by:

1. Prohibiting illicit discharges to the storm drain system;
2. Establishing the authority to adopt requirements for stormwater management, including source control requirements, to reduce pollution to the maximum extent practicable;
3. Establishing the authority to adopt requirements for development projects to reduce stormwater pollution and erosion both during construction and after the project is complete; and
4. Establishing the authority that will enable the Town to implement and enforce any stormwater management plan adopted by the Town.

10.08.020 Findings.

The Town Council has determined that the health, safety, and general welfare of the citizens of Loomis are adversely affected by the discharge of pollution into storm drain systems and waters of the state. The Council further finds that any violation of this chapter constitutes a public nuisance.

10.08.030 Applicability.

This chapter applies to all of the Town.

10.08.040 Definitions.

As used in this chapter:

- A. "Best management practices" or "BMP" mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent the discharge of pollution directly or indirectly into stormwater, receiving waters, or stormwater conveyance systems. BMP also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. BMP also includes any measure required by the State Water Resources Control Board or the Regional Board.
- B. "Council" means the Town Council of the Town of Loomis.
- C. "Development" means any activity that moves soils or substantially alters the pre-existing vegetated or man-made cover of any land. Development includes any activity that may be considered new development or redevelopment. This also includes, but is not limited to, grading, digging, cutting, scraping, stockpiling or excavating of soil, placement of fill materials, paving, pavement removal, exterior construction, substantial removal of vegetation where soils are disturbed including, but not limited to, removal by clearing or grubbing, or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse. Development does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of the facility, nor does it include emergency construction activities (i.e., land disturbances) required to protect public health and safety.
- D. "Discharge" means the release, threatened release, or placement of any material into the Town storm drain system, including, but not limited to, stormwater, wastewater, solid materials, liquids, hazardous waste, raw materials, debris, litter, or any other substance.
- E. "Enforcement agency" means the Town Public Works Department or other agency or individual authorized by the Council to act as the enforcement agency.
- F. "Enforcement official" means Town Public Works Director or other designee authorized by the Council to enforce compliance with this chapter.
- G. "Hazardous material inventory and release response plan" means those documents prepared by the Town in compliance with the State Water Resources Control Board's NPDES permit regulations.

- H. "Illicit connection" means an illicit connection defined by either of the following:
1. Any drain or water conveyance facility, either surface or subsurface, which allows an illicit discharge to enter the storm drain system, including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connection to the storm drain system from indoor drains and sinks, regardless of whether such drain or connection has 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 the Town.
- I. "Illicit discharge" means any direct or indirect non-stormwater discharge to the Town municipal storm drain system, except as otherwise exempted, including the introduction of pollution into the storm drain system.
- J. "Implementation plan" means the document describing the Town programs, measures, and plans for complying with the stormwater discharge requirements imposed on the Town under the Trash Provisions of the State Water Resources Control Board's General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems.
- K. "Industrial activity" means activities subject to NPDES permits as defined in 40 CFR 122.26(b)(14).
- L. "Low-impact development (LID)" means a sustainable practice that benefits water supply and contributes to water quality protection. Unlike traditional stormwater management, which collects and conveys stormwater runoff through storm drains, pipes, or other conveyances to a centralized stormwater facility, LID takes a different approach by using site design and stormwater management to maintain the site's pre-development runoff rates and volumes. The goal of LID is to approximate a site's pre-development hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain stormwater runoff close to the source of rainfall.
- M. "Maximum extent practicable (MEP)" means a technology-based standard established by Congress in the Clean Water Act Section 402(p)(3)(B)(iii) for stormwater discharge to apply to all small municipal separate storm sewer system (MS4) operators regulated under the NPDES program. MEP is generally the result of emphasizing pollution prevention and source control BMPs as the preferred method of preventing water pollution. The MEP approach is an ever-evolving, flexible, and advancing concept, which considers technical and economic feasibility. As knowledge about controlling urban runoff continues to evolve, so does what constitutes MEP.
- N. "Municipal separate storm sewer system (MS4)" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned by a state, county, city, town, or other public body, that is designed or used for collecting or conveying stormwater, which is not a combined sewer, and which is not a part of a publicly owned treatment works.
- O. "National pollutant discharge elimination system" or "NPDES" means the primary permitting program under the Clean Water Act (33 U.S.C. Section 1251 et seq.) which regulates certain defined discharges to surface water. The NPDES program is administered by the Regional Water Quality Control Board or the State Water Resources Control Board pursuant to Division 7, Chapter 5.5 of the California Water Code (commencing with Section 13370) to control discharges from point sources to waters of the United States.
- P. "Non-stormwater discharge" means a discharge to the storm drain system that is not composed entirely of stormwater and that has been polluted, as defined in this section.
- Q. "Pollutant" means anything which causes or contributes to pollution, as defined in this section. Pollutants include, but are not limited to, paints, varnishes, solvents, oil, automotive fluids, yard wastes, refuse, rubbish, garbage, litter, discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, detergents, soaps, hazardous substances, hazardous waste, sewage, fecal coliform and pathogens, dissolved

and particulate metals, animal wastes, wastes and residues that result from constructing a building or structure (including, but not limited to, sediments, slurries, and concrete rinses), and noxious or offensive matter of any kind.

- R. "Pollution" means the human-made or human-induced alteration of the quality of waters to a degree that causes or contributes to an exceedance of water quality standards contained in the statewide water quality control plan, the California Toxics Rule (40 CFR 131.38(d)(2)), or in the applicable Regional Water Quality Control Board basin plan.
- S. "Porter-Cologne Act" means the Porter-Cologne Water Quality Control Act, as amended (California Water Code Section 13000 et seq.).
- T. "Property owner" means any person, entity, company, and/or authorized representative having title to real property within the geographic area affected by this chapter.
- U. "Regional Water Quality Control Board" means the Central Valley Regional Water Quality Control Board.
- V. "Storm drain system," also "municipal storm drain system," means facilities owned or operated by the Town by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drain, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the Town and are not part of a publicly owned treatment works as defined at 40 CFR Section 122.2.
- W. "Stormwater" means any surface flow, runoff, and drainage consisting entirely of water from precipitation events, which has not been polluted.
- X. "Stormwater Pollution Prevention Plan (SWPPP)" means a document that describes the BMPs to be implemented by the owner or operator of a business or a construction site to eliminate prohibited non-stormwater discharges and /or reduce to the maximum extent practicable pollutant discharges to the stormwater drain system.
- Y. "Urgency abatement" means the remediation of discharge or a threatened discharge conditions which cause or threaten to cause an imminent threat to public health, safety, welfare, the environment, or a violation of a NPDES permit.
- Z. "Waters of the state" means all surface watercourses and water bodies, including lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, marshes, inlets, canals, and all other bodies of surface waters (Porter Cologne Section 13050(e)), and which are within the Town. This definition includes, but is broader than, waters of the United States.
- AA. "Waters of the United States" means surface watercourses and water bodies as defined at 40 CFR Section 122.2, including natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

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 Environmental Protection Agency, as amended, and which are not specifically defined in this section, shall, when used in this chapter, have the same meaning as set forth in such act or regulation.

10.08.050 Responsibility for Administration.

The Town Manager of the Town or the Town Manager's designee shall administer the provisions of this chapter.

10.08.060 Conflicts with other laws.

In the event of any conflict between this chapter and any federal or state law or regulation, that requirement which establishes the higher standard for public health shall govern. To the extent permitted by law, nothing in this chapter shall preclude enforcement of any other applicable law, regulation, order, permit, or Town ordinance.

10.08.070 Discharge Prohibitions.

Except as provided in Section 10.08.090 Exemptions to prohibited discharges of this chapter, it is unlawful for any person to make or cause to be made any illicit discharge into the storm drain system. Notwithstanding the exemptions provided by Section 10.08.090 Exemptions to prohibited discharges see below, if the enforcement agency determines any otherwise exempt discharge causes or significantly contributes to violations of any standard contained in an implementation plan or SWPPP, or conveys significant quantities of pollutants to surface water(s) or watercourse(s), or is a danger to public health or safety, such discharge shall be prohibited from entering the storm drain system. (Insert Loomis Ordinance No that adopts this code section)

10.08.080 Exemptions to prohibited discharges.

Discharges from the following activities shall not be prohibited except as otherwise provided by this chapter:

- A. Water line flushing and discharges from potable water sources;
- B. Landscape irrigation and lawn watering;
- C. Diverted stream flows and irrigation water;
- D. Springs, rising groundwater, and flows from riparian habitat and wetlands;
- E. Uncontaminated groundwater infiltration (as defined at 40 Code of Federal Regulation Section 35.2005(b)(20));
- F. Uncontaminated pumped groundwater, foundation drains, footing drains, and water from crawl space pumps;
- G. Air conditioning condensation;
- H. Individual residential car washing;
- I. Dechlorinated swimming pool discharges; and
- J. Firefighting flows. (Insert Loomis Ordinance No that adopts this code section)

10.08.090 Discharge in violation of existing NPDES permit.

Any person subject to any individual and/or industrial NPDES stormwater discharge permit shall comply with all provisions of such permit and any regulations or ordinances promulgated thereto, including requirements of the grading and erosion prevention ordinance of Chapter 12.04. Proof of compliance with such permit may be required in a form acceptable to the enforcement agency prior to or as a condition of a subdivision map, site plan, building permit, or development, redevelopment, or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

10.08.100 Discharge in violation of Town NPDES permit—indemnification.

Any discharge that would result in or contribute to a violation of any NPDES permit for stormwater discharges to the Town issued by the State Water Resources Control Board or Regional Board and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) so causing or responsible for the discharge, and such persons shall defend, indemnify and hold harmless the Town in any administrative or judicial enforcement action relating to such discharge.

10.08.110 Acts potentially resulting in violation of Federal Clean Water Act and/or Porter-Cologne Act.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards. This chapter does not intend or imply that compliance to these minimum standards will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants into the waters of the state. This chapter shall not create liability on the part of the Town, or any agent or employee thereof for any damage that results from any discharger's reliance upon this chapter or any administrative decision made thereunder.

10.08.120 Right of entry—Inspections.

- A. The enforcement official is authorized to enter any building or premises for the purpose of making an inspection to enforce this chapter, subject to compliance with the requirements of applicable law.
- B. The enforcement official may conduct inspections related to purposes of implementing this chapter on private or public property, subject to compliance with the requirements of applicable law. 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, visual evidence, complaints received, knowledge or physical evidence of industrial activities or other pollutant sources, random sampling, sampling in areas with evidence of stormwater contamination, illicit connections, discharge of non-stormwater to the Town storm drain system, or similar factors.

10.08.130 Concealment and abetting.

Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a violation of this chapter.

10.08.140 Reduction of pollutants in stormwater, best management practices.

- A. **General Requirements.** Any person engaging in activities that may result in pollutants entering the storm drain system shall implement BMPs and, where applicable, strategies of the West Placer Storm Water Quality Design Manual to the maximum extent practicable to prevent and reduce such pollutants.
- B. **Maintenance.** All BMPs shall be protected and maintained to ensure continuous and fully effective performance as designed.
- C. **Illicit Connection.** The construction, use, maintenance, or continued existence of illicit connections is prohibited. This prohibition includes illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connections. Upon final adoption of this chapter, any property owner or lessee who maintains an illicit connection shall, within thirty (30) days from the effective date of this chapter, disconnect and discontinue use of such connection.
- D. **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 drain system, or waters of the state, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution.
- E. **Construction Activities.** Any person performing construction work within the Town shall implement appropriate BMPs and, where applicable, strategies of the West Placer Storm Water Quality Design Manual to prevent the discharge from the site of soil or construction wastes or debris, including contaminants from construction materials, tools, and equipment to the stormwater drainage system.
- F. **Sidewalks.** Every property owner or any tenant in legal possession of the property upon which there is a paved sidewalk shall maintain that portion of the sidewalk on the property free of dirt or litter to the maximum extent practicable. Sweepings from the sidewalk shall not be swept into or otherwise allowed to enter the gutter or roadway, storm drain system, or any waters of the state, but shall instead be disposed of in receptacles maintained as required for proper disposal of solid waste.
- G. **Watercourse Protection.** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other

obstacles that may pollute, contaminate, or significantly retard the flow of water through the watercourse. Any owner or lessee that conducts development as defined in this chapter shall maintain existing privately-owned structures within or adjacent to a watercourse such that the effective functioning and physical integrity of the watercourse is protected, and in a manner, which does not cause pollution and, where applicable, is consistent with the West Placer Storm Water Quality Design Manual.

- H. Development. The Town may incorporate appropriate BMPs, including, where applicable, strategies set forth in the West Placer Storm Water Quality Design Manual, to control the volume, rate, and potential pollutant loading of stormwater runoff from development. These required BMPs will be contained in any land use entitlement and construction or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this chapter.
- I. Paved Areas. Persons owning, operating, or maintaining a paved area, including, but not limited to, the paved areas of a parking lot, gas station, paved private street, road, or driveway, and related storm drain systems shall clean those structures as frequently and as thoroughly as practicable in a manner that does not result in discharge of pollutants to the storm drain system. Where applicable, upgrades to paved areas shall comply with the strategies and standards set forth in the West Placer Storm Water Quality Design Manual, unless otherwise determined to be appropriate by the Town.

10.08.150 Containment and notification of illegal discharges.

Any person owning or occupying the premises who has knowledge of any illicit discharge from or across those premises which might enter the storm drain system, except as provided in Section 10.08.090 Exemptions to prohibited discharges of this chapter, shall:

- A. Immediately take all reasonable action necessary to contain and abate the illicit discharge, and
- B. Notify the enforcement agency or its designated contact person within twenty-four (24) hours of the illicit discharge. The enforcement agency may require the owner of the property and/or the responsible person to take corrective actions within a specified time pursuant to this chapter.

10.08.160 Coordination with hazardous materials inventory and response program.

Any business subject to the Town's hazardous materials inventory and release response plan shall be responsible for compliance with the hazardous materials inventory and release response plan and this chapter and shall provide for such compliance through its internal practices and policies.

10.08.170 Enforcement authority and discretion.

Any person who violates a provision of this chapter may be subject to administrative, civil, or criminal liability as provided in this chapter.

- A. Primary Authority. The enforcement agency is empowered to use any of the enforcement provisions of this chapter, and the provisions found in Sections 1.16.010 and 1.20.040 of this code where appropriate to correct violations of, and secure compliance with the provisions of this chapter.
- B. Discretionary Enforcement; Duty of Care. Enforcement of this chapter shall be at the sole discretion of the enforcement official. This chapter is not intended to and shall not be construed or given effect in a manner which imposes upon the Town, or any officer or employee thereof, a mandatory duty of care towards persons or property within the Town or outside of the Town so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

10.08.180 Enforcement of violations.

- A. Verbal Warnings of Noncompliance. Whenever the enforcement official determines that a violation has occurred, the enforcement official may issue a verbal warning to any person and/or owner responsible for the violation. Verbal warnings shall include the nature of the violation and specify any corrective action necessary

to abate the violation. Issuance of a verbal warning is not a necessary precondition to any other enforcement measure authorized under this chapter.

- B. **Written Notice of Noncompliance.** Whenever the enforcement official determines that a violation has occurred, the enforcement official may issue a written notice of noncompliance to any person and/or owner responsible for the violation. Each written notice of noncompliance shall contain the following information:
1. The date of the violation;
 2. The address or a definite description of the location where the violation occurred;
 3. The chapter section violated and a description of the violation;
 4. A suggestion of how the violation can be corrected;
 5. A time limit by which the violation shall be corrected, after which further enforcement and/or corrective actions may be taken by the Town if the violation is not fully corrected;
 6. The name and signature of the individual preparing the notice of noncompliance; and
 7. Notice of potential liability under the federal Clean Water Act or the Porter Cologne Act.
- C. **Administrative Compliance Order.** Whenever the enforcement official determines that a violation has occurred, the enforcement official may serve an administrative compliance order to any person and/or owner responsible for the violation.
1. Each administrative compliance order shall contain the following:
 - i. The date of the violation;
 - ii. The address or a definite description of the location where the violation occurred;
 - iii. The chapter section violated and a description of the violation;
 - iv. An order to cease all activities which are believed to be causing the violation;
 - v. A time limit by which the violation shall be corrected, after which corrective actions will be taken by the Town if the violation is not fully corrected;
 - vi. A statement that the Town will charge the person and/or owner for all administrative costs associated with enforcement actions;
 - vii. An order prohibiting the continuation or repeated occurrence of the violation;
 - viii. The name and signature of the individual preparing the citation;
 - ix. A statement outlining the procedure for appeal of the order; and
 - x. Notice to the violator of potential liability under the federal Clean Water Act or Porter Cologne Act.
 2. Each administrative compliance order may also contain the following:
 - i. **Abatement.** Where a violation is found to be ongoing or at risk of repetition, the enforcement official may prescribe what action must be undertaken to abate the violation.
 - ii. **Stop Work Order.** Where a violation is found to occur as part of construction, the enforcement official may issue a stop work order as part of an administrative compliance order. A stop work

order shall specify what, if any, construction activities may continue while the stop work order is effective and shall further specify what abatement must be undertaken before the enforcement official will consider lifting the stop work order.

- iii. Fines. The enforcement official may impose monetary fines for each violation of this chapter. Such fines shall be in the amounts specified in Section 1.20.080 of this code.
- D. Infraction. The enforcement official is authorized to issue citations for infractions of this section using the provisions found in Sections 1.16.010 and 1.20 of this code.
- E. Misdemeanor. Any violation of this chapter may be punished as a misdemeanor using the provisions of Section 1.16.010 of this code.
- F. Service. The enforcement officer is authorized to use the provisions of Section 1.20.40 to serve a notice of noncompliance, citation, and/or administrative compliance order to effectuate the provisions of this chapter.
- G. Separate Violation.
 - 1. Each day in which a violation occurs and each separate failure to comply with any provision of this chapter shall constitute a separate offense and be separately punishable by penalties in accordance with this chapter.
 - 2. A violation of the provisions of this chapter 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 discharge or threatened discharge.

10.08.190 Administrative appeals.

- A. Any person receiving an administrative compliance order under this chapter, or any person required to perform monitoring, analysis, reporting or corrective activities by any enforcement official and who is aggrieved by this decision of the enforcement official may appeal the decision in writing to the Town Manager within ten (10) days following the effective date of the decision. Upon receipt of such appeal, the director of public works shall cause to be prepared a report concerning the matter and shall set the matter for hearing at the earliest practical date. At such hearing, the Town Manager may base his or her decision on additional evidence, and may reject, affirm or modify the enforcement official's decision.
- B. The decision of the Town Manager may be appealed to the Town Council by filing a notice of appeal with the clerk of the Town Council within fifteen (15) days of receipt of the decision of the Town Manager. Such appeal shall be in writing and shall set forth fully the grounds for the appeal. The clerk of the Town Council shall thereupon fix a time and place for a public hearing of such appeal. The clerk of the Town Council shall give notice to the appellant of the time and place of hearing by serving it personally or by depositing it in the U.S. Post Office, postage prepaid, addressed to the appellant at his last known address at least five (5) days prior thereto.
- C. At the hearing before the Town Council, the appellant may appear in person or by counsel and present any relevant evidence relating to the grievance; the enforcement agency may present evidence in rebuttal thereof. The hearing may be continued from time to time, not to exceed thirty (30) days in all. The Town Council shall conduct a hearing and make findings as appropriate, and may uphold, modify, or reverse the decision of the Town Manager. The decision of the Town Council shall be final.

10.08.200 Civil actions.

In addition to any other remedies provided in this section, any violation of this chapter may be enforced by civil action brought by the Town. In any such action, the Town may seek, as appropriate and allowed by law, any or all of the following remedies:

- A. A temporary restraining order, preliminary and permanent injunction; or

- B. Reimbursement for the costs of any investigation, inspection or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing action under this division; or
- C. Costs incurred in removing, correcting, or terminating the adverse effect(s) resulting from the violation; or
- D. Compensatory damages for loss or destruction of water quality, wildlife, fish, and aquatic life. Costs and damages under this subsection shall be paid to the Town and shall be used exclusively for costs associated with monitoring and establishing a stormwater discharge pollution control system and/or implementing or enforcing the provisions of this chapter.

10.08.210 Nuisance abatement-Urgency abatement.

- A. Nuisance Abatement. The enforcement agency may, in addition to other authorized procedures set forth in this chapter, take action to abate any nuisance in accordance with the procedures found in Section 7.04.010 of this code and as permitted by law. The costs of any such abatement undertaken by the Town shall be borne by the owner and shall be collectable in accordance with the provisions of Section 7.04.160 of this code.
- B. Urgency Abatement. The enforcement agency may, in addition to other authorized procedures, take immediate action to abate any discharge or threatened discharge from any source to the storm drain system when, in the discretion of the enforcement agency, the discharge or threatened discharge causes or threatens to cause a condition which presents an imminent danger to the public health, safety, or welfare, or the environment, or a violation of an NPDES permit as permitted by law. The enforcement agency will first make reasonable attempts to contact and compel the responsible person and/or owner to abate the discharge or threatened discharge in a satisfactory manner. The costs of any such abatement shall be borne by the owner and shall be collectable in accordance with the provisions of Sections 7.04.160 and 7.04.170 of this code.

10.08.220 Regulatory fee structure authorized.

The enforcement agency shall collect such fees as may be authorized by the Town to establish and collect regulatory costs, which include routine inspections and other regulatory functions associated with this chapter. Any such fees shall be established by resolution of the Town Council.