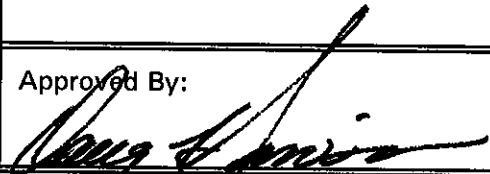


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I. Policy:


The Fresno Metropolitan Flood Control District shall, in cooperation and coordination with other regulatory agencies, implement an action program to eliminate non-storm water discharges to the District storm drainage system which may occur through illicit connections or discharges.

II. Purpose:

It is the objective of the District to eliminate from the storm drainage system those non-storm water discharges prohibited by the federal Clean Water Act, the state Porter-Cologne Act, and the District National Pollutant Discharge Elimination System (NPDES) discharge permit. Such elimination shall be for the purpose of protecting water quality within the District and to minimize the expenditure of public resources required to operate and maintain the District's facility systems.

III. Definitions:

A. Illicit Connections: Any physical connection to a storm drainage system which allows non-storm water or pollutants to

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enter District channels, basins, storm drains, or pumping plants including but not limited to:

1. Any connections which allow sewage, process wastewater, and wash water;
2. All connections from indoor drains or sinks; and
3. All unapproved, undocumented drains from roofs, loading docks, and hazardous materials handling areas, directly connected to the storm drainage system.

B. Illicit Discharges: Any non-storm water flow either intentionally or inadvertently discharged to the District's storm drainage system; provided, however, that discharges made pursuant to NPDES point source discharge permits and discharges specifically exempted pursuant to federal and state regulations, local ordinances, and the District's Prohibited and Conditionally Allowable Non-Storm Water Discharges Policy shall not be considered illicit discharges.

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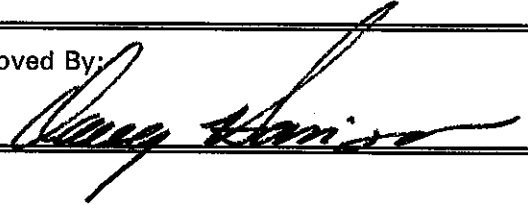
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C. Non-Storm Water Discharges: Discharges consisting of any solid or liquid other than rainfall runoff, including but not limited to industrial process water, wastewater, vehicle/machinery wash water or solvents, dewatering water from contaminated sites, concrete wash waters, saw-cut slurry residue, steam cleaning waters, incidental waters discharged from mechanical street sweeping operations, paint rinsate waters, waste container wash waters, chlorinated waters, and solid and liquids from other sources. Some non-storm water discharges are conditionally allowed into the District's storm drainage system.

D. Operator: The owner of the property, business, or activity causing the discharge is generally considered to be the party or parties responsible for compliance with NPDES storm water quality regulations. District efforts to secure compliance shall be directed first to the business or activity owner, or other designated representative who is authorized to direct operations or improvements at the subject site. Correspondence may also be directed to the corporate level or property owner, when necessary to effect compliance.

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E. Storm Water: Surface runoff and drainage produced solely by rain storm events and snow melt.

IV. Regulatory References:

A. Federal Water Pollution Control Act (Clean Water Act): Prohibits non-storm water discharges to storm water drainage systems; requires operators of municipal storm drainage systems to effectively prohibit non-storm water discharges and to implement best management practices to reduce storm water pollutants to the maximum extent practicable. (33 U.S.C. Sections 1251-1357)

B. Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): Designated employees must report to local officials, within 72 hours, the illegal discharge or threatened illegal discharge of hazardous waste which is likely to cause substantial injury to public health or safety. [Health and Safety Code Sections 25180.7(b)]

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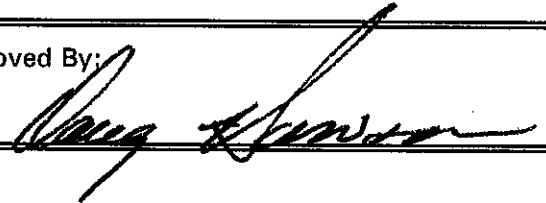
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C. NPDES Storm Water Regulations: Regulations promulgated by the U.S. EPA to establish application and compliance requirements for municipal and industrial storm water permits. The regulations require manufacturing, transportation, mining, construction, waste-related industries, and others generating polluted storm water to secure stormwater discharge permits, to eliminate non-storm water discharges, to prepare and implement storm water pollution prevention plans, and to monitor and report storm water discharge quality and permit compliance. (40 CFR Part 122.26)

D. State NPDES General Permits for Storm Water Discharges: Issued by the California Water Resources Control Board, two General Permits apply to all regulated industrial and construction related storm water discharges (the General Industrial Activities Storm Water Permit and the General Construction Activity Storm Water Permit, respectively). The General Permits impose the same requirements as are set forth in paragraph IV.C of this policy, to reduce storm water pollutants.

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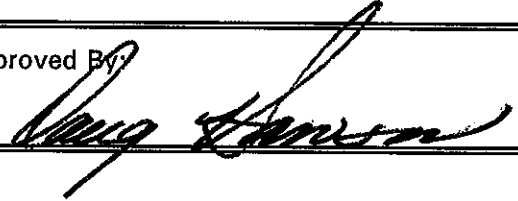
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E. Fresno County Code (FCC) Section 8.28.020: Specifically prohibits discharges of industrial waste into facilities other than sanitary sewers.


F. FCC Section 14.12.030(c), Fresno Municipal Code Section 9-502(c), and Clovis Municipal Code Section 6-4.02: Prohibit discharges of sewage/liquid wastes into facilities other than sanitary sewers.

G. FCC Section 8.24.040: Prohibits sewage discharges into waterways.

H. FCC Section 13.40.010: Prohibits dumping of debris into any public waters.

I. FCC Chapters 8.22, 8.24, 8.28 and 13.40: Prohibit improper disposal of waste materials; Section 8.22.020 imposes liability for all cleanup costs upon any person responsible for illegal dumping.

(See Appendix A for excerpts of related local ordinances.)


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V. Procedure:

When the District has reason to suspect, or receives a complaint or other evidence of an illicit connection or discharge, the following procedures shall be followed:


A. Proposition 65 Compliance: Whenever an employee obtains information in the course of his or her official duties of an illicit discharge or threatened illicit discharge of a hazardous material which is likely to cause substantial injury to public health or safety, the employee shall, within 72 hours, report such information to the County of Fresno, Department of Community Health (County Health) and the District Environmental Resources Manager. County Health shall notify the County Board of Supervisors as required by law.

B. Emergency Response: If a District employee understands or believes that an illicit discharge may cause or threatens to cause immediate or emergency hazards to responding personnel, the public or the environment, he or she shall immediately call emergency dispatch (911). Response to such an incident shall be performed by the County Health Emergency

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Response Team or city fire department. In no event shall a District employee perform, or allow others to perform, response activities for which they are not adequately trained.

C. Storm Drainage System Inspection: In the event an illicit discharge which, due to its chemical characteristics, physical characteristics, quantity, or concentration, is not a threat to the health and safety of the responding District employee (hereinafter, "inspector"), the responding employee shall, using reasonable and appropriate safety precautions, inspect the storm drainage system in the vicinity of the suspect area to confirm the discharge and identify, locate, and characterize the source and type of discharge. Examples of such discharges include but are not limited to the release of used motor oil; small quantities of paints, paint thinners, and solvents; used antifreeze; and other non-hazardous liquid or solid waste.

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The inspection shall be documented on the Incident Response Report (Exhibit 1), noting the evidence found of the illicit discharge(s) and of the potential source(s). The location and ownership of the potential source shall be identified on an Assessor's Parcel Map. County Health shall be notified as required in Section A for all incidents found to involve hazardous materials.


D. Facilities Regulated by NPDES General Permits: The inspector shall determine if the potential source of an illicit discharge is an industrial activity which is subject to an NPDES storm water permit requirement. If so, the inspector shall request to meet with the site operator to discuss storm water discharge requirements and regulations. The inspector shall provide the operator an explanation of the NPDES permit requirements and copies of the relevant State General Permit and District compliance assistance documents.

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E. Permission to Enter to Inspect: The inspector shall request permission to enter the premises of the suspected illicit discharger to inspect the site, facilities, and operations. Only upon permission of the operator shall an inspection proceed on private property.


Under the State NPDES General Permits, the District is delegated the authority to inspect private facilities subject to NPDES storm water permits. The District inspector may assert this authority to operators of regulated facilities, but shall not enter any site unless permission to inspect is verbally granted.

1. If the District inspector is denied inspection access, the inspector shall elevate the matter to a supervisory level in the Environmental Resources Department. The following steps shall be implemented:

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a. A letter shall be prepared and mailed to the site operator describing the suspected violation of the Clean Water Act, citing the District's authority, and requesting an appointment to inspect. The letter shall be followed with telephone communication.

b. If access continues to be denied, the complaint and related documentation shall be referred to County Health for suspected illegal dumping violations and/or to the Regional Water Quality Control Board (Regional Board) for suspected violations of storm water discharge regulations. The District shall request the County and/or Regional Board to perform an inspection within a reasonable time, and to report resolution of the matter to the District.

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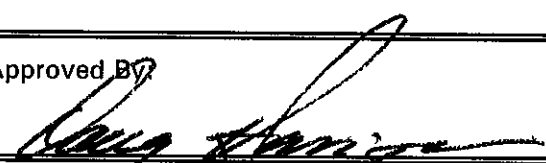
2. If permission to inspect is granted:

a. The inspection shall be documented on the Storm Water Quality Management Inspection Report (Exhibit 2).

b. All violations of storm water regulations and related local ordinances shall be noted on the inspection report, including specified corrective measures to be taken within specified time intervals. The completed report shall be reviewed with the site operator.


F. Illicit Connections.

1. Suspected unapproved, undocumented directly-connected drains shall be confirmed through facility inspection, review of master plan sheets, site grading plans or facility records available at the District office. If a connection is not documented, the site operator shall be provided written notice to: (a) secure District approval of the connection or (b) disconnect the

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subject drain(s), with reasonable time (no less than 30 days) given to comply and submit documentation to the District. Approval may be withheld by the District if the direct connection is determined by the District to be a potential source of non-storm water discharges, or is determined to cause hydraulic overload of the storm drainage system.

2. If the notice requires disconnection of the drain(s) the site operator shall be referred to the City of Fresno, Department of Public Utilities, Wastewater Management Division, or County Health, as applicable, for direction with regard to securing proper wastewater disposal and associated permits. A copy of the notice shall be provided to the District Engineer, Environmental Resources Manager, Operations Engineer, and the appropriate wastewater regulatory agency.

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3. If there is inadequate effort by the operator to secure approval of or eliminate the illicit connection(s) within the specified time period, the District shall provide notice of its authority and intent to plug the connection to the District's system. The operator shall be requested to attend a meeting to consult with staff at the District office. At the meeting the operator shall be provided a final specific time period in which to demonstrate substantial progress toward compliance. Failing such progress, the District shall install a temporary plug. A plug may only be installed with the express written authorization of the General Manager-Secretary. The plug may be removed upon the operator's demonstration, to the satisfaction of the District, of compliance with all District requirements.

G. Other Violations. If there is evidence of illicit discharges or other violations of storm water regulations or related local ordinances, the operator shall be provided a written notice, including a detailed listing of the violations, applicable storm water quality compliance

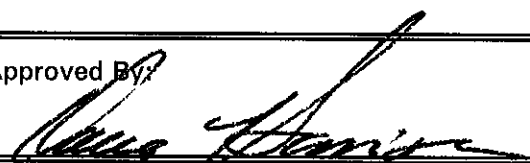
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information, and a warning to correct the violation(s) within a specified period of time.

H. Reinspection. A facility shall be reinspected approximately 30 days after the written notice provided pursuant to sections F., and G. Physical observations, facility management directives, construction permits, and other evidence may be used to document efforts by the site operator to comply.

I. Continuing Violations. If violations persist, a complaint and all relevant documentation shall be filed with County Health and/or the Regional Board.

J. Record Keeping. All documentation related to a complaint associated with an NPDES regulated facility shall be placed in District file 510.1714, labeled by site address. The District's NPDES regulated facility inventory shall be updated and amended as necessary. Incident reports of other violations of storm water regulations not related to NPDES regulated facilities shall be placed in District file 530.30.

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VI. Attachments

- Exhibit 1: Incident Response Report
- Exhibit 2: Storm Water Quality Management Inspection Report
- Appendix A: Related Local Ordinances

INCIDENT RESPONSE REPORT

File No. 530.30

- POLLUTANT DISCHARGE INCIDENT
- HAZARDOUS MATERIAL RELEASE INCIDENT
- COMPLAINT/SERVICE REQUEST

Inspection Date: _____
Time: _____

District Representative: _____

WEATHER	Bright Sun	Clear	Overcast	Rain	Snow
TEMPERATURE	To 32°	32° - 30°	50° - 70°	70° - 85°	85° & up
WIND	Still	Moderate	High		

Date of Complaint: _____ Time: _____ am/pm Drainage Area: _____

Responsible Party: _____

Location/ Address: _____

Description of Complaint/Incident: _____

District Facilities Involved: _____

On-Site Scene Commander (Hazardous Incident): _____

Clean-up Oversight Agency: _____

Clean-up Enforcement Actions: _____

Date Clean-up Complete: _____ District Approval (Initials): _____

Comments: _____

- Distribution:
- 1 > General Manager-Secretary
 - 2 > Assistant General Manager
 - 3 > District Engineer
 - 4 > Operations Engineer
 - 5 > Environmental Resources Manager



STORM WATER QUALITY MANAGEMENT INSPECTION REPORT

Fresno Metropolitan Flood Control District
Storm Water Quality Management Program
5469 E. Olive, Fresno, CA 93727
(209) 456-3292

Date of Inspection: _____

Inspector: _____

Facility Name: _____

Site Address: _____

Drainage Area: _____

Mailing Address: _____

Owner/Operator: _____

SIC: _____

Business Type or Activity: _____

Federally regulated NPDES storm water site

YES Mandatory

Has filed an NOI

YES Storm water exposed to industrial processes

Has a SWPPP

NO

SWPPP is being implemented

Type of Inspection: Routine Reinspection Complaint

Comments or Identified Problems:

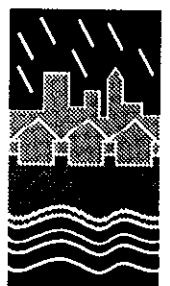
Corrective Actions:

Corrective actions must be implemented within _____ days.

Reinspection Necessary. Reinspect After _____

Owner/Operator Signature _____ Date: _____

Inspector's Signature _____ Date: _____



Clean Storm Water

**APPENDIX A
SPECIFIC LOCAL ORDINANCES**

A1 COUNTY OF FRESNO

A1.1 Legal Authority to Control Improper Discharges From Industrial Activity

Chapter 15.28 of the Fresno County Code (FCC) codifies the adoption of Chapter 70 of the Appendix of the UBC to address all excavation and grading in the county, along with some exceptions and superseding provisions. The entire code chapter is attached at the end of this section.

FCC Chapters 8.28, 8.60 (Storage of Hazardous Substances in Underground Tanks) and Chapter 15.04 contain sections which provide the County with authority to control improper discharges by industrial units. The relevant code sections are noted below.

8.28.020 Disposal permit--Required.

It is unlawful for any person to dispose of any industrial waste other than through a sewer system operated by a public agency or other than in strict conformity with the terms of a permit therefor previously issued by the health officer in accordance with Chapter 8.50 of this code. (Ord. 88-020 §3 (part); prior code §446.)

8.60.020 Adoption of state law and regulations by reference.

The provisions of Chapter 6.7 of Division 20 of the California Health and Safety Code and the regulations adopted thereto by the State Water Resources Control Board are adopted by reference. (Ord. 0-86-009 §1 (part).)

15.04.120 Public nuisance in construction and demolition.

Any person to whom a permit has been issued as provided herein for the repair, alteration, demolition or construction of any structure shall comply with each of the following:

- A. Take reasonable precaution to prevent or control the movement of windborne dust created by such activities. Dust resulting from sandblasting, grading, trenching, demolition or movement of earth or building material or the use of unpaved property by vehicles shall be immediately settled by wetting the same.*
- B. Promptly remove all dust and mud tracked into a public street by the movement of vehicles, equipment, materials and personnel to and from the construction or demolition site.*
- C. During the progress of the construction, the contractor shall promptly remove all garbage, waste, food, trash, litter from construction, and all other items likely to attract or harbor rats or vermin on the job site. Any waste paper, cartons or building materials cluttering the site that may be considered an attractive nuisance or a personal hazard shall be promptly removed. No garbage, waste, food or trash shall be buried on the job site. The permittee shall provide an adequate number of suitable trash containers on the job site.*
- D. At the time of final inspection following completion of the work under the permit, the streets and the construction site shall be left free of organic, inorganic, combustible waste materials. (Ord. 0-84-008 (part): Ord 470-A-36 §1 (part), 1974.)*

A1.2 Legal Authority to Prohibit Illicit Connections and Discharges

FCC Section 14.12.030, Subsection C below provides some language which declares unlawful the disposal of sewage or liquid wastes into any drainage system, and Subsection A ensures that sewage and other liquid waste is conveyed to an approved point of disposal.

14.12.030 Mandatory sewer connections.

- A. Every building or structure in which plumbing fixtures are to be initially installed and every premises having existing piping installed thereon which conveys sewage or other liquid waste to an approved point of disposal shall be connected to the public sewer, if it is available.*

- B. *Notwithstanding any provision to the contrary, buildings or structures connected to a septic tank or cesspool, at the time a public sewer becomes available, shall be connected to the public sewer within three years after the sewer becomes available and written notice thereof given by the county provided that if the health officer determines the continued use of the septic tank or cesspool will create a health menace, the property shall be connected within the time specified by the health officer.*
- C. *No person shall cause, suffer or permit the disposal of sewage, or other liquid wastes, into any drainage system on any lot which is not connected to a public sewer when such connection is required by this section. (Ord. 470-A-39 §2 (part), 1974.)*

A1.3 Legal Authority to Control Dumping or Disposal of Materials Other Than Storm Water into a Separate Storm Water Sewer

FCC Chapters 8.22, 8.24, 8.28 and 13.40 contain sections that prohibit littering and improper disposal of waste materials. Other sections in Chapter 8.20 and 14.12 indirectly assist in controlling pollution by mandating the proper containment and disposal of sewage and solid waste. Relevant sections of the County Code that would directly or indirectly assist the Storm Water Management Program are noted below:

8.22.020 Liability for cleanup costs.

Any person who deposits, causes to be deposited or permits the deposit of any waste matter in or upon any public highway or road, including any portion of the right-of-way thereof, or upon any private road or other private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for waste disposal purposes, or in or adjacent to any waterway, canal, irrigation ditch or any other body of water, shall be liable for all costs to cleanup or remove such waste material. A county enforcement officer shall either cause such waste matter to be cleaned up or removed at the expense of the person responsible for its deposit or shall give notice to such person to cleanup or remove it. The failure or refusal to cleanup or remove such waste matter upon

notification is a violation of this section. Each day that waste deposited in violation of this section remains after notice shall be considered a separate violation.

If the waste matter is not removed or cleaned up after notice has been given and the enforcement officer determines that the public interest requires immediate cleanup or removal, the enforcement officer may, without further notice, cause such removal or cleanup. The person responsible for deposit of the waste matter shall be liable for all costs of such removal or cleanup. (Ord. 88-001 §1 (part), 1988)

8.24.010 Unsanitary conditions prohibited.

It is unlawful for any person to maintain, permit or allow to exist upon his property or premises, or in or upon any property or premises which he is then and there occupying or leasing, any kind of water closet, privy, cesspool or other container for refuse matter in an unsanitary condition. (Prior Code §440)

8.24.040 Sanitary facilities--Discharge into waterways.

It is unlawful for any person to hereafter establish or install any sanitary facility which is designed to or which does discharge any contents or effluent, whether previously filtered or otherwise treated or not, from any privy, water closet, cesspool or septic tank into any river, stream, canal, lake or other surface body of water, or discharge the same in such near proximity thereto that the same might reasonably be expected to enter such waters by seepage, percolation, drainage or otherwise and in no event within one hundred feet of the high water mark of such body of water. (Prior Code §441.2)

13.40.010 Dumping debris.

It is unlawful for any person to dump or place in any public waters any human waste, sewage, garbage, trash, gasoline, oil, sawdust, debris or other foreign matter whether from a boat, the shore or any other place. (Prior code §585.)

8.20.060 Garbage.

The owner or tenant of any premises, business establishment, or industry shall be responsible for the satisfactory removal of all solid waste accumulated on the property or premises. In areas where public collection service is available, garbage shall not be allowed to remain on the premises for more than seven days to prevent the propagation, harborage, or attraction of flies, rodents, or other vectors, and the creation of nuisances, except when disruptions in normal collection schedules occur due to strikes, severe weather conditions, "Acts of God," or official holidays. Where it is deemed necessary by the health officer because of the propagation of vectors and for the protection of public health, more frequent removal of garbage shall be required. (Ord. 87-007 §7 (part): prior code §452.)

8.26.060 Use of Authorized Facilities

Used and waste tires shall only be transported to facilities which are legally authorized by Federal, State and local regulations to accept tires for resale, recapping, recycling, processing, transformation, or disposal. Tire Dealers and Waste Tire Haulers shall retain copies of manifests and receipts or other appropriate documentation to verify that used or waste tires were authorized to authorized facilities.

A1.4 Legal Authority Which Requires Compliance with Conditions in Ordinances, Permits or Contracts

FCC Chapter 1.12 General Penalty provides for penalties that are applicable if any provision of the County Code is violated. Relevant sections of the chapter are noted below:

1.12.010 Penalty for violations.

Unless otherwise specifically provided, any person violating any provisions or failing to comply with any of the mandatory requirements of the ordinances of the county is guilty of a misdemeanor. Any person convicted of a misdemeanor under the ordinances of the county shall be punished by a fine of not more than five hundred

dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment.

Each such person is guilty of a separate offense for each and every day during any portion of which any violation of the ordinances of the county is committed, continued or permitted by any such person, and he shall be punished accordingly. (Ord. 561 §7, 1974; Ord. 552 §1, 1973; prior code §6)

1.12.020 Infractions--Penalty.

When specifically provided in the chapter which makes any act or failure to comply with any mandatory provision thereof a violation of this code, that such violation constitutes an infraction, then the penalty for such violation shall be a fine not to exceed two hundred dollars. Each day or portion of day that any act or failure to act, that is declared to be an infraction, is continued or permitted shall be a separate violation. Any person charged with or convicted of an infraction shall be subject to the provisions of Section 19c and 19d of the Penal Code of the state of California. (Ord. 566 §1, 1974.)

Penalties and enforcement procedures that apply to Chapter 8.22 are noted below.

8.22.030 Penalty.

Any person, firm or corporation violating the provisions of Section 8.22.020 shall be guilty of an infraction.

8.22.040 Public nuisance--Procedure.

Any violation of Sections 8.22.020 or 8.22.050 of this chapter is declared to be a public nuisance which may be abated by the enforcement officer through cleanup or other appropriate means. In addition to the criminal penalties provided by Section 8.22.030, the enforcement officer may institute a civil action against the person determined to have deposited, or caused or permitted the deposit of waste matter to collect the reasonable costs of abatement.

The court in which such a proceeding is heard may assess the person violating this chapter the reasonable cost of abatement and assess a civil penalty in an amount not to exceed one thousand dollars for each day the waste matter remains deposited in violation of Section 8.22.020, including each day after notice is given until the waste matter is removed or cleaned up either by the enforcement officer or the person violating this chapter. In determining the amount of civil penalty, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, the fact of any past violations, and corrective action, if any, taken by the violator.

Abatement costs and penalties collected under the provisions of this chapter shall be deposited with the Fresno County auditor-controller/treasurer to be utilized to assist in funding of the unauthorized dumping abatement program. (Ord. 88-001 §1 (part), 1988).

A1.5 Authority to Carry Out Inspections, Surveillance, and Monitoring Procedures Necessary for Code Compliance

Pursuant to FCC Chapter 1.08, the County has the right of entry for inspection for code enforcement. The relevant section is noted below.

1.08.010 Right of entry for inspection.

Whenever necessary to make an inspection to enforce any ordinance or resolution, or whenever there is reasonable cause to believe there exists an ordinance or resolution violation in any building or upon any premises within the jurisdiction of the county, any authorized official of the county, may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him by ordinance; provided, that except in emergency situations or when consent of the owner or occupant to the inspection has been otherwise obtained, he shall give the owner or occupant, if they can be located after reasonable effort, twenty-four hours' written notice of the authorized official's intention to inspect. The notice transmitted to the owner or occupant shall state that

such person has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner of occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Ord. 550 §1, 1973: prior code §8.)

A2 CITY OF FRESNO

A2.1 Legal Authority to Control Improper Discharges from Industrial Activity

The City of Fresno has adopted by reference Chapter 70 of the UBC Appendix in its Municipal Code to regulate all excavation and grading activities associated with construction activity. In addition, the City of Fresno has, via its General Plan, the authority to regulate surface mining operations located along the banks and in the bed of the San Joaquin River. As required by the California Surface Mining and Reclamation Act (SMARA) of 1975, in 1987, the City of Fresno adopted by resolution an amendment to the City General Plan Conservation Element. This amendment established revised mineral resource management policies for surface mining operations in the San Joaquin River. Some of the policies/implementation strategies adopted by the City are relevant to the program as these require that mining operators do not conduct activities that could lead to pollution of the river waters. Relevant policies are noted below.

- c. Mining operations adjacent to any flowing stream be separated from the stream by closed dikes and by prohibiting mining operations within the stream.*
- d. All water utilized in the plant operation be disposed of behind a closed dike so that it will not cause impairment of water in any stream.*
- e. Extraction operations comply with U.S. Environmental Protection Agency, Reclamation Board, Army Corps of Engineers, State Lands Commission, Regional Water Quality Control Board, State Fish and Game Department, State Mine and Geology Board and Air Resources Board regulations.*
- f. All reasonable and practical measures be taken to protect the habitat of fish and wildlife.*
- g. The operation comply with City's flood hazard policies and regulations.*
- h. Temporary stream or watershed diversion be restored.*

- i. *Permanent piles or dumps of mine waste rock and overburden be stabilized and that toxic materials be removed or protected to control leaching.*
- j. *Grading and revegetation shall be designed to prevent excessive erosion and to convey surface runoff to natural drainage courses or interior basins designed for water storage.*

A2.2 Legal Authority to Prohibit Illicit Discharges and Connections

Fresno Municipal Code Section 9-502, subsections (a) and (c) declare unlawful the disposal of sewage or other liquid waste except into a public sewer, and prohibits the disposal of same into any other drainage system.

SECTION 9-502. SEWER CONNECTION REQUIRED

(a) Every building or structure in which plumbing fixtures are installed, and every premises having piping thereon which conveys sewage or other liquid wastes to an approved point of disposal shall be connected to the public sewer if it is available, except in the R-A, AE-5, and AE-20 zone districts, on a lot at least two not acres in size, and provided the lot, if not served by community water system contains one dwelling unit or septic system per 2.0 acres, such connection may be deferred until the use of the land changes either through district amendment or special permit. A public sewer is available, for the purposes of this section, if the sewer has been constructed and is available for use in any public street, alley or right-of-way within 100 feet for the first unit plus 50 feet for each additional unit, to be measured along such public street, alley or right-of-way from the nearest property line to the sewer. For the purpose of this section, the number of units computed shall include all units developed on contiguous property held under one ownership.

(b) Notwithstanding any provision to the contrary, buildings or structures connected to a septic tank or cesspool at the time a public sewer becomes available shall be connected to the public sewer within three years after the sewer becomes available or, if the property has previously been subject to an earlier connection date by reason of requirements of a jurisdiction other than the city, then said connection

shall be made on or before said earlier date, provided that if the Health Officer determines the continued use of the septic tank or cesspool will create an immediate health menace, the property shall be connected within the time specified by the Health Officer. Buildings or structures not connected as required by this section are public nuisances.

(c) No person shall cause, suffer or permit the disposal of sewage, or other liquid wastes into any drainage system on any lot which is not connected to a public sewer when such connection is required by this section.

(d) Cemeteries will not be subject to the requirements of Section 9-502, except that any facilities used for other than cemetery purposes and separate major maintenance facilities fronting a public street will be required to connect to the city sewer system subject to the availability of sewers as provided in Section 9-502. (Orig. Ord. 4726; Am. Ord. 5415, 1958; Am. Ord. 5777, 1960; Am. Ord. 6466, 1964; Am. Ord. 6882, 1966; Am. Ord. 6889, 1966; Am Ord. 82-100, §1, eff. 10-15-82; Am. Ord. 85-22, §1, eff. 3-22-85).

A2.3 Legal Authority to Control Dumping or Disposal of Materials Other Than Storm Water into a Separate Storm Water Sewer

The following sections in the Fresno Municipal Code were noted which are utilized to control littering and improper disposal of waste.

SECTION 9-409. UNAUTHORIZED DISPOSAL OF SOLID WASTE PROHIBITED.

(a) No person shall throw or deposit, or cause to be thrown or deposited, any solid waste matter in or upon any vacant lot, street, alley, gutter, highway, park or other public place or keep any residential rubbish or solid waste matter except in the manner prescribed by this article. (Orig. Ord. 3593 and 4197; Am. Ord. 5311, 1958; Am. Ord. 6442, 1964; Am. Ord. 6562, 1965.)

SECTION 9-410. DISPOSAL OF WASTE MATTER. *No person shall throw or deposit, or cause to be thrown or deposited, any waste matter other than building materials for which a permit has been granted, except in the manner in this article prescribed, in or upon any vacant lot, street, alley, gutter, highway, park or other public place or keep any garbage, mixed garbage or rubbish or waste matter except in the manner in this article prescribed. (Orig. Ord. 3914.)*

SECTION 9-805. PROHIBITED ACTIVITIES. *It is unlawful for any person to keep, maintain, or deposit on any property in the city any of the following:*

(a) Rubbish or junk, including but not limited to refuse, garbage, scrap metal or lumber, concrete, asphalt, tin cans, tires and piles of earth.

(b) Combustible material likely to become easily ignited or debris resulting from any fire and which constitutes a fire hazard, as defined in the Uniform Fire Code as adopted by the city pursuant to Section 9-701.101 of this Code. (Added Ord. 82-117, §4, eff. 11-26-82; Am. Ord. 86-128, §1, eff. 9-12-86).

SECTION 11-101. DISCHARGING OF WATER. *No person owning or having in his possession or under his control any water pipe or drain shall permit the water therefrom to run across any sidewalk or public street so as to injure the same or obstruct the free travel thereon. (Orig. Ord. 1076).*

SECTION 11-102. THROWING OF DIRT, FILTH, ETC. *No person shall throw or deposit, or permit to be thrown or deposited any dirt, paper, filth, sweepings of any store, house, shop or office, or any ashes, shavings, filth water, offal, straw, wood, stones, earth, manure, refuse matter or rubbish of any kind whatsoever, into any street or public place. No person or persons having control of premises from which any of the aforesaid articles shall be or may have been thrown or deposited in any street, or public place shall fail to remove the same therefrom within four hours after receiving knowledge thereof. (Orig. Ord. 1076).*

SECTION 11-103. THROWING OF NAILS, GLASS, ETC. *No person shall throw, deposit or place in or upon any street, any nails, tacks, crockery, scrap iron,*

tin, wire, bottles, glass, thorns or thorny clippings, or thorny branches of trees or bushes, or any other article or thing likely to puncture or injure the tire of any vehicle. (Orig. Ord. 1076).

SECTION 11-104. THROWING CONFETTI, ETC., ON STREETS. *No person shall throw upon any street, or upon any person on any street, any flour, lime, bran, plaster, chalk, cut up paper, paper ribbon, confetti, or other similar substance. (Orig. Ord. 1076).*

A2.4 Legal Authority Which Requires Compliance with Conditions in Ordinances, Permits, or Contracts

Chapter 1, Article 1 of the Fresno Municipal Code sets forth the penalties that are applicable if any provision of the Code is violated, unless specified differently in the relevant chapter. The relevant sections of this chapter are noted below:

SECTION 1-105. CODE VIOLATION PENALTIES.

(a) No person shall violate any provision or fail to comply with any of the requirements of this Code. Any person violating any of the provisions or failing to comply with any of the requirements of this Code shall be guilty of a misdemeanor unless:

(1) Such Code provision makes violation thereof an infraction; or

(2) The City Attorney files a complaint charging the offense as an infraction;

or

(3) The court, with the consent of the defendant, determines that the offense is an infraction, in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.

Any person convicted of a misdemeanor under the provisions of this Code, unless provision is otherwise herein made or unless the provision violated is a provision of

the Charter of the city, shall be punishable by a fine of not exceeding one thousand dollars (\$1,000) or by imprisonment in the jail of the city or in the county jail of Fresno County for a period of not more than one year, or by both such fine and imprisonment.

(b) Any person violating any of the provisions or failing to comply with any of the requirements of this Code shall be guilty of an infraction if the Code provision under which the person is charged makes violation thereof an infraction or if the City Attorney elects to treat such violation as an infraction in accordance with subsection (a) above. Every violation determined to be an infraction is punishable as provided by the general law of the State for violations of city ordinances. Except as otherwise provided by law, all provisions of law or ordinance relating to misdemeanors shall apply to infractions.

(c) Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person and shall be punished accordingly.

(d) In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the City Attorney may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

(e) In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be, by this city, summarily abated as such, and each day that such condition continues shall be regarded as a new and separate offense. (Orig. Ord. 4789; Am Ord. 5312, 1958; Am. Ord. 75-44, § 1, eff. 6-2-75; Am. Ord. 81-7, § 1, eff. 2-27-81).

The sewer and water disposal chapter in FMC provides penalties that apply for violation of that chapter's provisions. The relevant subsection is noted below.

SECTION 9-510. DUTY OF ENFORCEMENT.

(h) Any user who is found to have violated an order of the Council, or who willfully or negligently fails to comply with any provision of this article, or the orders, rules, regulations and permits issued hereunder, shall be fined not more than six thousand dollars (\$6,000.00) for each offense (California Government Code, Section 54740). Each day on which a violation may occur or continue shall be deemed a separate and distinct offense. The city may petition the Superior Court to impose, assess and recover such sums or to issue a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such violation. In addition to the penalties provided herein, the city may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this article or the orders, rules, regulations, and permits hereunder. (Orig. Ord. 4279; Am. Ord. 76-33, §2, eff. 5-9-76; Am. Ord. 83-41, §4, eff. 7-1-83; Am. Ord. 89-10, §2, eff. 2-17-89).

A2.5 Authority to Carry Out Inspections, Surveillance and Monitoring Procedures Necessary to Ensure Code Compliance

The right of entry is provided to the City Public Works Department to inspect any premises in the city for enforcement of the sewage and water disposal chapter of the Fresno Municipal Code. The relevant Code section is noted below.

SECTION 9-509. RIGHTS OF INSPECTION. *The officers, employees and inspectors of the Public Works Department shall have the right to enter upon the premises of any person at reasonable hours to inspect and to determine whether this article is being violated. (Orig. Ord. 4279)*

A3 CITY OF CLOVIS

A3.1 Legal Authority to Control Improper Discharges from Industrial Activity

Chapter 8-1 of the Clovis Municipal Code (CMC) codifies the adoption of the Appendix Chapter 70 of the UBC as applicable to all grading and excavation carried out within the City. Chapter 7.2 requires that permits must be obtained before any excavation is conducted. Chapter 4-4 codifies the adoption of the Uniform Fire Code (UFC). UFC provides for the regulation of storage of flammable materials and liquids, which reduces the possibility of contamination of storm water. Relevant code sections are noted below:

Sec. 8-1.01.2. Uniform Building Code adopted.

For the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings and structure in the City, providing for the issuance of permits, the 1988 Edition of the Uniform Building Code, Appendices, and California Building Standard Code Additions, as prepared by the International Conference of Building Officials, three (3) copies of which have been filed for use and examination by the public in the office of the City Clerk as provided by Sections 50022.1 et seq. of the Government Code of the State, is hereby adopted by reference thereto as if fully set forth in this chapter. (§3, Ord. 88-12, eff. July 6, 1988, as amended by §3, Ord. 90-2, eff. March 22, 1990).

Sec. 9-2.310. Grading and erosion control.

Every map approved pursuant to the provisions of this chapter shall be conditioned on compliance with the requirements for grading and erosion control, including the prevention of sedimentation or damages to off-site property, set forth in Appendix Chapter 70 of the Uniform Building Code, 1973 Edition, Volume I, as adopted and amended by the City. (§2, Ord. 387, eff. October 20, 1965, as amended by §6, Ord. 75-25, eff. May 5, 1975).

Sec. 7-2.01. Permit required.

No person shall make any excavation or dig any trench, or remove or destroy in any way any curb, gutter, sidewalk, or street pavement, or alter or tear up the surface, or install any sidewalk, curb, gutter, driveway approach, drainage well, street or alley pavement, sewer, pipeline, conduit, pole, tank, or anything else in or upon any public street, alley, sidewalk, or other public place in the City without first securing a permit from the Superintendent of Streets and filing the bonds specified and required by the provisions of this chapter. (§1, Ord. 310).

Sec. 4-4.101. Adoption of the Uniform Fire Code.

For the purposes of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain Code known as the Uniform Fire Code, 1979 Edition, recommended by the Western Fire Chief's Association and the International Conference of Building Officials, including Appendices A through E, save and except such portions as are deleted, modified, or amended by the provisions of this chapter, three (3) copies of which are on file in the office of the City Clerk, is hereby adopted and incorporated in this chapter as fully as if set out at length, and the provisions thereof shall be controlling within the City. (§1, Ord. 74-16, eff. June 19, 1974, as amended by §1, Ord. 80-17, eff. July 16, 1980).

In addition to the above, conditions relating to grading and drainage have been enumerated by City of Clovis for the approval of tract maps, site plans and parcel maps. These approval conditions, among other things, include:

- compliance with requirements of the Flood Control District regarding drainage
- provision of retention basin capacity by the developer/subdivider to accommodate increased runoff generated by the site

A3.2 Legal Authority to Prohibit Illicit Connections and Discharges

The code section of the Clovis Municipal Code noted below requires the proper disposal of sewage or liquid waste. Subsection (c) declares unlawful disposal of sewage/liquid wastes into any drainage system.

Sec. 6-4.02. Sewer connections: Required.

- (a) Every building or structure in which plumbing fixtures are installed and every premises having drainage piping thereon which conveys sewage or other liquid waters to a legal point of disposal shall be connected to the public sewer if it is available. A public sewer shall be available, for the purposes of this section, if the sewer has been constructed and is available for use in any public street, alley, or right-of-way adjacent to a lot or within 100 feet thereof, measured along a public street, alley, or right-of-way to the nearest property line to the sewer.*
- (b) Building or structures connected to septic tanks or cesspools at the time a public sewer becomes available shall be connected to the public sewer within three (3) years after the sewer becomes available; provided, however, if the Council determines that the continued use of the septic tank or cesspool will create a health menace, the property shall be connected within the time specified by the Council.*
- (c) No person shall cause, suffer, or permit the disposal of sewage or other liquid wastes into any drainage system on any lot which is not connected to a public sewer when such connection is required by the provisions of this section. (§2, Ord. 328)*

A3.3 Legal Authority to Control Dumping or Disposal of Materials Other Than Storm Water into a Separate Storm Water Sewer

The sections of the Clovis Municipal Code noted below provide the City with authority to control improper dumping and other activities that can potentially lead to storm water pollution.

Sec. 4-4.204. Weeds and other rubbish prohibited: Nuisances declared.

No person, whether such person is the owner, agent, or person in control of any lot or parcel of land within the City, shall maintain, permit, or allow such premises to be maintained in such a condition where weeds, rubbish, refuse, dirt, debris, or other materials are likely to create condition which may affect the health, safety, comfort, or welfare of the residents in the vicinity of neighboring properties or the aesthetics thereof. The existence of any of the following conditions is prohibited and is hereby declared to be a public nuisance:

- (a) Weeds, rubbish, refuse, dirt, debris, or any other matter or material which affects aesthetics or any become a fire hazard;*
- (b) Weeds, rubbish, refuse, dirt, debris, or any other matter or material which may provide a breeding place or refuge for rodents, insects, or other vermin;*
- (c) Weeds which may produce pollen which is injurious to the health, safety, comfort, or welfare of the residents of the City and weeds which are otherwise subject to abatement by law; and*
- (d) Other vegetation or materials which, because of lack of maintenance, create conditions which may become a fire or health hazard or preclude abatement of the property or affect the aesthetics thereof. (§1, Ord. 73-44, eff. January 16, 1974, as amended by §1, Urgency Ord. 87-7, eff. February 17, 1987).*

Sec. 5-8.38. Garbage on streets and sidewalks.

Any person who shall place, or cause to be placed, upon any public way, street, or sidewalk, and any person owning, occupying or having the control of any premises who shall suffer to remain in front thereof, upon the sidewalk or the half of the street

or way next to such premises, any refuse matter, garbage, or filth, or anything which shall obstruct the free passage of such street or sidewalk for more than one hour at a time, shall be guilty of a misdemeanor.

The provisions of this section shall not apply to goods or merchandise in the course of delivery or to foods or merchandise within the inner two (2') feet in width of the sidewalk placed for the purposes of display and advertisement. Each day of the continuance of the obstruction forbidden shall constitute a separate misdemeanor. (§5, Ord. 363, eff. August 19, 1964).

Sec. 6-3.13. Depositing garbage in unlawful places.

It shall be unlawful for any person to throw or deposit, or cause to be thrown or deposited, any waste matter, other than building materials for which a permit has been granted, in or upon any vacant lot, street, alley, gutter, highway, park, or other public place or to keep any garbage, rubbish, or waste matter except in the manner provided in this chapter.

It shall be unlawful for any person to deposit garbage or rubbish into any container belonging to or being paid for by another person. (§1, Ord. 469, eff. July 1, 1969, as amended by §11, Ord. 86-13, eff. June 4, 1986)

Sec. 6-3.14. Burning garbage or waste material unlawful.

It shall be unlawful for any person to burn garbage at any place within the City, and it shall be unlawful for any person to burn any waste material in or on any alley, street, street right-of-way, or public place. (§1, Ord. 469, eff. July 1, 1969)

A3.4 Legal Authority Which Requires Compliance with Conditions in Ordinances, Permits, or Contracts

Title 1, Chapter 2 of the Clovis Municipal Code provides for criminal and civil penalties for the violation of any part of the municipal code, unless specified otherwise under a chapter. Any person violating the code is charged with a misdemeanor, which is punishable by fine

or imprisonment or both. In addition, subsections in various chapters noted earlier also provide for violations and penalties. All relevant code sections are noted below:

Sec. 1-2.01. Violations: Penalties.

(a) No person shall violate any provision or fail to comply with any of the requirements of this Code or the provisions of any Code adopted by reference by this Code. Any person violating any of the provisions or failing to comply with any of the requirements of this Code, or of any such Code adopted by reference, shall be guilty of a misdemeanor unless:

- (1) Such Code provision makes the violation thereof an infraction; or*
- (2) The City Attorney files a complaint charging the offense as an infraction;*
or
- (3) The court, with the consent of the defendant, determines that the offense is an infraction, in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.*

Any person convicted of a misdemeanor under the provisions of this Code herein made shall be punishable by a fine not exceeding Five Hundred and no/100ths (\$500.00) Dollars, or by imprisonment in the jail of the City of in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment.

(b) Any person violating any of the provisions or failing to comply with any of the requirements of this Code shall be guilty of an infraction if the Code provision under which the person is charged makes the violation thereof an infraction, or if the City Attorney elects to treat such violation as an infraction in accordance with subsection (a) of this section. Every violation determined to be an infraction shall be punishable as provided by the general laws of the State for violations of city ordinances. Except as otherwise provided by law, all provisions of laws or ordinances relating to misdemeanors shall apply to infractions.

- (c) *Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be punished accordingly.*
- (d) *In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the City Attorney may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.*
- (e) *In addition to the penalties provided by this section, any condition caused or permitted to exist in violation of any of the provisions of this Code, or the provisions of any Code adopted by reference by this Code, shall be deemed a public nuisance and may be summarily abated by the City, and each day such condition continues shall be regarded as a new and separate offense. (§1, Ord. 81-44, eff. February 17, 1982).*

Sec. 1-2.01.1 Citation of violators.

A person violating any procedure of this Code or charged with an infraction or misdemeanor shall, except as otherwise provided by law, be cited, processed, taken before a magistrate, or released as provided in the Penal Code of the State. (§2, Ord. 81-44, eff. February 17, 1982).

Sec. 1-2.01.2 Failure to appear: Misdemeanor.

Any person wilfully violating his written promise to appear in court shall be guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally cited or arrested. (§3, Ord. 81-44, eff. February 17, 1982).

Sec. 1-2.02. Prohibited acts.

Whenever in this Code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

Sec. 1-2.03. Imposition of penalties.

The provisions of this Code which declare certain crimes to be punishable as therein mentioned devolve a duty upon the court authorized to pass sentence and impose the punishment described.

Sec. 1-2.04. Determination of punishment.

Wherever in this Code the punishment for a crime is left undetermined between certain limits, the punishment to be inflicted in a particular case shall be determined by the court authorized to pass sentence, within such limits as may be prescribed by this Code.

Sec. 1-2.05. Place of confinement.

Every person found guilty of violating any of the provisions of this Code and sentenced to imprisonment shall be imprisoned in the City Jail or County Jail.

Relevant enforcement authority is also noted in other chapters (Chapters 8-104, 4-4, and 6-3) of the Clovis Municipal Code. These are noted below.

Sec. 8-104. Amendments: Section 205.

Section 205 of said Building Code is hereby amended to read as follows:

Sec. 204. Violations and Penalties. It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy, or maintain any building or structure in the City, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the Code. Any person violating any of the provisions of this Code shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable as provided in Section 1-2.01 of Chapter 2 of Title 1 of the Clovis Municipal Code. Each separate day, or any portion thereof, during which any violation of this Code

occurs or continues shall be deemed to constitute a separate offense and, upon conviction thereof, shall be punishable as provided in this section.

Sec. 4-4.218. Violations: Misdemeanors.

Any person who maintains, permits, or allows weeds, rubbish, or other matter prohibited by the provisions of Section 4-4.203 of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable as set forth in Section 1-2.01 of Chapter 2 of Title 1 of this Code.

Sec. 4-4.219. Violations: Alternative remedies: Injunctions.

As an additional remedy, the maintenance of weeds, rubbish, or other materials prohibited by the provisions of Section 4-4.203 of this article is declared to be a public nuisance and may be subject to abatement summarily by a restraining order.

Sec. 6-3.18. Violations.

Any person who does any act declared to be unlawful under the provisions of this chapter, and any person who maintains, keeps, or collects garbage or rubbish in a manner declared to be unlawful under the provisions of this chapter, shall be guilty of a misdemeanor.

A3.5 Authority to Carry Out Inspections, Surveillance, and Monitoring Procedures Necessary to Ensure Code Compliance

The following section of the Clovis Municipal Code provides the City the authority to enter premises for enforcement of the City Sanitary Code.

Sec. 6-4.17. Right of entry.

The officers, employees, and inspectors of the City shall have the right to enter upon the premises of any person at reasonable hours to inspect and determine whether the provisions of this chapter are being violated.