

## ORDINANCE NO. .

### BOARD OF SUPERVISORS, COUNTY OF SAN MATEO STATE OF CALIFORNIA

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#### AN ORDINANCE REPEALING CHAPTER 4.100 OF TITLE 4 OF THE SAN MATEO COUNTY ORDINANCE CODE, STORM WATER MANAGEMENT AND DISCHARGE CONTROL, AND REPLACING IT WITH CHAPTER 4.100 STORMWATER POLLUTION PREVENTION, DETERMINING THAT THE ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”)

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The Board of Supervisors of the County of San Mateo (“County”), State of California, **ORDAINS** as follows:

**WHEREAS**, the County is committed to protecting the health, safety, and general welfare of its residents and to protecting and enhancing local Watercourses and wetlands, the San Francisco Bay, and the Pacific Ocean; and

**WHEREAS**, the County uses Stormwater regulations to protect people, property, and the environment from damage related to Stormwater runoff, for the purposes stated in Section 4.100.010 of the County of San Mateo Municipal Code; and

**WHEREAS**, the County is subject to the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit, NPDES Permit No. CAS612008, Order No. R2-2022-0018 dated May 11, 2022, and subsequent related Orders issued by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) in compliance with the federal Clean Water Act, Porter-Cologne Water Quality Control Act, and implementing plans and policies including the Water Quality Control Plan for Ocean Waters of California and the Water Quality Control Plan

for the San Francisco Bay Basin, all of which are amended periodically to reflect changes in the law, changes in scientific understanding, and physical and climatic changes; and

**WHEREAS**, a multi-departmental effort was undertaken by the County's Sustainability Department, Department of Public Works, Parks Department, Planning and Building Department, and Environmental Health Services to update the County's regulations pertaining to Stormwater pollution prevention to better comply with changing state and federal regulations and the requirements of the NPDES Permit and subsequent related Orders; and

**WHEREAS**, the continued multi-departmental collaboration and shared responsibility for Stormwater management is necessary to successfully manage Stormwater consistent with the NPDES Permit and subsequent related Orders issued by the Regional Water Board.

**SECTION 1.** Chapter 4.100 of Title 4 of the San Mateo County Ordinance Code is hereby repealed in its entirety and replaced as follows:

**4.100.005 - Title.**

This Chapter shall be known as the "County of San Mateo Stormwater Pollution Prevention Ordinance" and may be so cited.

**4.100.010 - Purpose and intent.**

The purpose of this Chapter is to ensure the health, safety, and general welfare of the County of San Mateo (County) residents and protect and enhance local Watercourses and wetlands by:

- (a) Eliminating Non-Stormwater Discharges to the County Storm Drain System;

- (b) Controlling the discharge to the County Storm Drain System from spills, dumping, or disposal of materials other than Stormwater;
- (c) Reducing Pollutants in Stormwater Discharges to the maximum extent practicable;
- (d) Protecting, to the greatest extent practicable, life, property and the environment from loss, injury, and damage by pollution, erosion, flooding, and other potential hazards of increased and impacted Stormwater resulting from human Development activities;
- (e) Protecting receiving waters from pollution, excessive flows, and other conditions in County watersheds that can increase the rate of streambank erosion and siltation, degrade water quality and aquatic habitats, and endanger aquatic and benthic life within these receiving waters;
- (f) Protecting private property from pollution, excessive flows, and other conditions in County watersheds that can cause flooding and erosion;
- (g) Protecting the functions and values of environmentally critical or protected areas; and
- (h) Meeting or exceeding requirements of the San Francisco Bay Regional Water Quality Control Board and State Water Resources Control Board Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit, NPDES Permit No. CAS612008, Order No. R2-2022-0018 dated May 11, 2022, and subsequent revisions and amendments thereto (NPDES Permit).

The intent of this Chapter is to protect and enhance the water quality of Watercourses and wetlands in a manner pursuant to and consistent with the Clean Water Act, Porter-Cologne Water Quality Control Act (California Water Code Section 13000 *et seq.*), the NPDES Permit, and subsequent revisions and amendments thereto.

#### **4.100.020 - Definitions.**

When used in this Chapter, the following words shall have the meanings ascribed to them in this section:

- (a) “Actual Discharge” means an observed or documented Illicit Discharge that has reached the County’s Storm Drain System. For example, an observed or documented unauthorized Pollutant that discharged from the sidewalk and into a road with drainage system, municipal street, catch basin, curb, gutter, ditch, manmade channel, storm drain, or surface water body would be classified as an Actual Discharge.

- (b) “Areas of Special Biological Significance” (ASBS) means those areas designated by the State Water Resources Control Board as ocean areas requiring protection of species or biological communities to the extent that maintenance of natural water quality is assured. All ASBS are also classified as a subset of “State Water Quality Protection Areas” as defined in the State Water Resources Control Board California Ocean Plan.
- (c) “Areas of Special Biological Significance (ASBS) Watershed” means the areas draining to a designated Area of Special Biological Significance. An ASBS Watershed is protected by Stormwater regulations set forth in the General Exception to the California Ocean Plan with Special Protections (Special Protections) (State Water Resources Control Board Resolution No. 2012-0012, adopted March 20, 2012).
- (d) “Authorized Enforcement Officials” means the Directors of the County Sustainability Department, Planning and Building Department, Parks Department, Department of Public Works, Environmental Health Services, or such Directors’ designees authorized to enforce the provisions of this ordinance.
- (e) “Best Management Practices” (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention practices, maintenance procedures, and other management practices to prevent or reduce the discharge of Pollutants directly or indirectly to Watercourses. BMPs include treatment requirements, permanent site design and treatment measures, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from material storage.
- (f) “County” means the County of San Mateo.
- (g) “County Storm Drain System” is synonymous with “Municipal Separate Storm Sewer System”, or “MS4,” as defined by 40 CFR 122.26(b)(8) and includes but is not limited to those facilities within the County by which Stormwater may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains that are:
  - (1) Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, Stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization or a designated and approved management agency under section 208 of the Clean Water Act that discharges into waters of the United States;
  - (2) Designed or used for collecting or conveying Stormwater;
  - (3) Which is not a combined sewer; and

- (4) Which is not part of a Publicly Owned Treatment Works (POTW), as defined in 40 CFR 122.2.
- (h) “Development” means construction, rehabilitation, Redevelopment, or reconstruction of any public or private residential project (whether single-family, multi-unit, or planned unit development); or industrial, commercial, retail, or other nonresidential project, including public agency projects.
- (i) “Enforcement Response Plan” (ERP) means a reference document(s) for County staff to consistently conduct enforcement actions to ensure responsible parties are compliant with the NPDES Permit.
- (j) “Full Trash Capture Device” means a full capture device or system used as a treatment control, or series of treatment controls, including but not limited to a multi-benefit project (as defined by the State Water Resources Control Board Trash Implementation Program) or a low-impact development control that traps all particles 5 millimeters (mm) or greater, and has a design treatment capacity that is either (1) of not less than the peak flow rate, “Q”, resulting from a one-year, one-hour storm in the subdrainage area, or (2) appropriately sized to, and designed to carry at least the same flows as, the corresponding storm drain.
- (k) “Green Infrastructure” (GI) or “Green Stormwater Infrastructure” (GSI) means a facility that detains and filters Stormwater through plants and soil, or infiltrates Stormwater into native soil, or captures and uses Stormwater for non-potable uses such as irrigation or toilet flushing; examples include, but are not limited to, rain gardens/bioretention systems, flow-through planters, tree well filters, pervious pavement, infiltration trenches, dry wells, deep infiltration wells, subsurface infiltration systems, cisterns, and rain barrels.
- (l) “Illicit Discharge” means any discharge into a Municipal Separate Storm Sewer System (MS4) that is prohibited under local, state, or federal statutes, ordinance codes, or regulations. The term “Illicit Discharge” includes all Non-Stormwater Discharges not comprised entirely of Stormwater and discharges that are identified under Section A “Discharge Prohibitions” of the NPDES Permit, including subsequent revisions and amendments thereto. Illicit Discharge can be further characterized as an “Actual” or “Potential” Discharge based on the observed location of the prohibited discharge. The term “Illicit Discharge” does not include discharges that are regulated by a NPDES Permit, exempted or conditionally exempted discharges pursuant to the NPDES Permit, or those authorized by Executive Order of the State Water Resource Control Board.
- (m) “Impervious Surface” means any surface covered by water-impenetrable materials that prevents the infiltration of Stormwater into the ground, including but not limited to the following: asphalt, concrete, brick, or highly compacted stone pavements; rooftops; pools and other types of lined ponds; and other artificial structures with impenetrable materials as cover.

- (n) "Litter" means any refuse, garbage, rubbish, or other discharged or abandoned objects, articles, and accumulations upon any public or private lot of land in the County, except at lawfully established dumping grounds. Also referred to as trash.
- (o) "Municipal Separate Storm Sewer System" (MS4) means conveyance or system of conveyances (including roads with drainage systems, including municipal streets and private roads with catch basins, curbs, gutters, ditches, human-made channels, or storm drains).
- (p) "Municipal Regional Stormwater Permit" (MRP) means the NPDES Permit that regulates discharges of Stormwater from Municipal Separate Storm Sewer Systems (MS4) to the San Francisco Bay and ocean, in compliance with the federal Clean Water Act and state law.
- (q) "Non-Stormwater Discharge" means any discharge that is not entirely composed of Stormwater that enters a Municipal Separate Storm Sewer System (MS4). Non-Stormwater Discharges are considered an Illicit Discharge unless allowed by the NPDES Permit, NPDES Permit exemption or conditional exemption, or State Water Resource Control Board Executive Order.
- (r) "National Pollutant Discharge Elimination System" (NPDES) means a national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing Stormwater permits, and imposing and enforcing pretreatment requirements, under Clean Water Act Sections 307, 402, 318, and 405.
- (s) "Nuisance" means anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
- (t) "Person" may include one or more Persons, and includes but is not limited to, licensed or unlicensed contractors and subcontractors, owners of property, agents of the property owners, occupants or tenants of the property, whether they be individuals, partnerships, firms, corporations, or organizations. "Person" does not include the County.
- (u) "Pollutant" may include, but are not limited to, dredged soil, sediment, solid waste, incinerator residue, sewage, trash, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, wrecked or destroyed equipment, rock, sand, cellar dirt; and industrial, municipal, and agricultural waste discharge into water. A Pollutant may also include any increment or increase in the total volume of Stormwater runoff resulting from any activity or development occurring after the effective date of this ordinance.
- (v) "Pollutants of Concern or Target Pollutants" means Pollutants identified and determined by the State or Regional Water Board to have significant impacts on

the environment for which specific Pollutant load reductions have been established to improve water quality. Examples include, but are not limited to, total suspended solids; sediment; pathogens (e.g., bacteria, viruses, protozoa); heavy metals (e.g., copper, lead, zinc, and cadmium); petroleum products and Polycyclic Aromatic Hydrocarbons (PAHs); synthetic organics (e.g., pesticides, herbicides, and Polychlorinated Biphenyls (PCBs)); nutrients (e.g., nitrogen and phosphorus fertilizers); oxygen-demanding substances (e.g., decaying vegetation and animal waste); and trash.

- (w) “Potential Discharge” means an observed or documented prohibited discharge that has not entered the County Storm Drain System or surface water body, but which threatens to create an Illicit Discharge if it were to enter into the County Storm Drain System or surface water body. Potential Discharges may include, but are not limited to, housekeeping issues, inadequate waste or materials management, lack of emergency response plans, lack of BMPs, inadequate BMPs, and inappropriate BMPs.
- (x) “Premises” means any building, lot or parcel, real estate, property, or land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips when in common fee ownership of the parcel to which it is adjacent or subject to an easement or right of access that encompasses a responsibility for the Impervious Surfaces or other Development on such adjacent sidewalks and parking strips.
- (y) “Redevelopment” means land-disturbing activity that results in the creation, addition, or replacement of exterior Impervious Surface area on a site on which some past development has occurred.
- (z) “Responsible Party” means Person(s) responsible for complying with Stormwater management including, but not limited to, Non-Stormwater source control and Illicit Discharge. On private property this jointly and severally includes owner(s) of property(ies) of the subject discharge and Person(s) causing or responsible for a Non-Stormwater Discharge or who has conducted an activity or activities in violation of Stormwater control requirements.
- (aa) “Special Land Use” means Special Land Uses, including but not limited to Development or Redevelopment projects on public or private land with uses including but not limited to auto service facilities (Standard Industrial Classification (SIC) Codes: 5013, 5014, 5541, 7532-7534, and 7536-7539), retail gasoline outlets (SIC Code 5541), restaurants (SIC Code 5812), or stand-alone uncovered parking lots (including the uncovered portion of parking structures, unless the uncovered parking area drainage is connected to the sanitary sewer system).
- (bb) “Stormwater” means the runoff generated from rain events that flows over land or Impervious Surfaces, such as paved streets, parking lots, and building rooftops.

- (cc) “Stormwater Discharge” means discharges generated by Stormwater runoff from land and impervious areas such as paved streets, parking lots, and building rooftops during rainfall events that may contain pollutants in quantities that could adversely affect water quality.
- (dd) “Stormwater Management Facility” means a system designed to remove or reduce Stormwater Pollutants and/or control the rate of flow or volume of Stormwater runoff into the County Storm Drain System or the waters of the United States. Stormwater Management Facilities include Stormwater treatment measures such as Low Impact Development (LID) measures and Green Stormwater Infrastructure, hydromodification management facilities, and Full Trash Capture Devices.
- (ee) “Watercourse” includes natural streams, creeks, or modified natural channels through which water flows continuously or intermittently. Watercourses also include “waterbodies”, such as oceans, wetlands, lagoons, lakes, and reservoirs.

#### **4.100.030 - Responsibility for administration.**

This Chapter shall be administered for the County by the Directors of the Sustainability Department, Planning and Building Department, Department of Public Works, Environmental Health Services, and Parks Department, or such Directors’ designees, with coordination efforts led by the Sustainability Department.

#### **4.100.040 - Construction and application.**

- (a) This ordinance is only applicable in the unincorporated areas of the County and on properties owned and occupied by the County wherever they be.
- (b) This ordinance shall be construed to assure consistency with the requirements of the federal Clean Water Act and Porter-Cologne Water Quality Control Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and applicable NPDES Permit, Water Quality Control Plan for Ocean Waters of California (California Ocean Plan) and Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, and any amendment, revision, or reissuance thereof.
- (c) The County is duly authorized and has legal authority to enforce the requirements imposed upon the County by the NPDES Permit and any revisions or amendments thereto.

#### **4.100.050 - Severability and validity.**

If any portion of this ordinance is declared invalid, the remaining portions of this ordinance are to be considered valid.



#### **4.100.060 - Authority to inspect and sample.**

- (a) The County may, within the limitations of applicable state and federal laws, enter any building or any Premises (including, but not limited to, property, facilities, equipment, practices, or operations) at all reasonable times to inspect the same and sample any discharge for any or all of the following purposes, as determined by the County:
  - (1) Routine inspections to ensure implementation of Best Management Practices (BMPs) and other requirements of this Chapter;
  - (2) To investigate, monitor, or remedy Actual or Potential Discharges;
  - (3) Whenever there is reasonable cause to believe that there exists any condition which constitutes a violation of the provisions of this Chapter or of the NPDES Permit, to investigate, monitor, or remedy such condition;
  - (4) To investigate, monitor, or remedy known violations of this Chapter or of the NPDES Permit;
  - (5) To enforce any of the provisions of this Chapter or of the NPDES Permit; or
  - (6) To perform any duty imposed upon the Authorized Enforcement Officials by this Chapter.
- (b) The County must present proper credentials to and obtain consent from the owner, occupant, or any Person apparently having charge of the Premises to enter any building or any Premises. If such building or Premises be unoccupied, the Authorized Enforcement Official shall first make a reasonable effort to locate the owner or other Persons having charge or control of the building or Premises and request entry. In the event the owner and/or occupant refuses entry or cannot be contacted, the authorized enforcement official shall request assistance of the County Attorney's Office to obtain an appropriate warrant for inspection of the Premises, pursuant to the provisions of state law.
- (c) The County has the right to conduct routine sampling and monitoring and establish on any Premise such devices as are necessary to conduct sampling or monitoring operations. The costs of such routine sampling and/or monitoring activities, including test reports and results, shall be borne by the County. The County may pursue cost recovery from the Responsible Party if sampling results determine reasonable cause to believe that the Responsible Party is engaged in an activity and/or operating a facility that is causing or contributing to Stormwater pollution or contamination, Illicit Discharges, contaminated building materials, and/or the discharge of other unlawful material, to the County Storm Drain System. Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of

this Chapter, including but not limited to random sampling and/or sampling in areas with evidence of Stormwater contamination or Illicit Discharges to a storm drain, or similar factors.

- (d) Whenever the County determines there exists reasonable cause to believe that the owner and/or occupant of a Premises is engaged in an activity and/or operating a facility that is causing or contributing to Stormwater pollution or contamination, Illicit Discharges, and/or the discharge of other unlawful material, to a storm drain, the authorized enforcement official may require the owner and/or occupant to conduct sampling and/or monitoring activities on the Premises, and to furnish such test results and reports as the authorized enforcement official may determine. The burden and cost of undertaking such sampling and monitoring activities, including test results and reports, shall be borne by the owner of the Premises under review. The type and method of sampling and monitoring shall bear a reasonable relationship to the need for testing and monitoring and to the benefits to be obtained, as determined by the authorized enforcement official. The County may pursue cost recovery for reasonable sampling and/or monitoring performed on behalf of the recipient of any such request, provided there has been demonstrated recalcitrance or noncompliance.
- (e) Whenever a condition is found to exist in violation of this Chapter that, in the opinion of the County, presents an immediate and present danger to the public health, safety and/or welfare requiring immediate remedial action to prevent injury to Persons or property, the authorized enforcement official shall take whatever reasonable and appropriate action deemed necessary to neutralize the danger, including but not limited to, entry upon private Premises for inspection, sampling and monitoring, and abatement. Emergency response actions taken by the County in order to neutralize the danger shall be at the expense of the Responsible Party. The Responsible Party will be charged for staff time, equipment, and materials used in these efforts. In addition, the County may pursue civil action to recover from the Responsible Party any fines and penalties paid by the County for the violation.

#### **4.100.070 - Compliance with Chapter.**

- (a) Failure to comply with any terms, conditions, or requirements of any applicable permit, maintenance agreement, compliance directive, or other written notice, including, but not limited to, discharge standards, monitoring requirements, or reporting requirements, shall constitute noncompliance with this Chapter.
- (b) The omission to act by the County and/or the failure of the County to take cognizance of the nature of the operation of the Responsible Party and/or the properties of the Responsible Party's discharge shall not relieve the user of the responsibility to comply with the provisions of this Chapter. It is the responsibility of the user to make determinations as to the nature of its operation and waste discharge characteristics and to take such actions as may be required under this

Chapter prior to any discharge into the County Storm Drain System or receiving water, whether or not the user has been informed by the authorized enforcement official of the requirements which may apply to the user regarding its discharge.

- (c) Liability for damages as a result of any discharges in violation of this Chapter shall be the responsibility of the Person(s) causing or responsible for the discharge, and such Persons shall defend, indemnify, and hold harmless the County in any administrative or judicial enforcement action relating to such discharges.

#### **4.100.080 - Drainage Manual.**

All terms and provisions set forth in the County Drainage Manual, and amendments thereto, available online and from the County's Planning and Building Department, are hereby incorporated herein by reference and shall have the same force and effect as though fully set forth in this Chapter. To the extent that terms set forth in the County Drainage Manual are inconsistent with the terms of this Chapter, the terms set forth in this Chapter shall apply.

#### **4.100.090 - Enforcement Response Plans.**

All terms and provisions set forth in the County's Stormwater Enforcement Response Plans (ERPs), and amendments thereto, available online and from the County's Planning and Building Department, are hereby incorporated herein by reference and shall have the same force and effect as though fully set forth in this Chapter. To the extent that terms set forth in the County's Stormwater ERPs are inconsistent with the terms of this Chapter, the terms set forth in this Chapter shall apply.

#### **4.100.100 - Waiver procedures.**

It is the intent of this ordinance to protect the public health and safety and enhance water quality while respecting the rights of private property owners to the economically viable use of land. It is not the intent of this ordinance to prohibit all economically viable use of private lands, nor to result in a confiscatory impact. Accordingly, the purpose of this section is to provide for an administrative procedure for a waiver or modification of a particular provision of this ordinance in the event that the strict application of this ordinance would result in the denial of all economically viable use of real property.

An applicant for a waiver of a provision of this ordinance shall file a waiver application and applicable fee with the Director of the Planning and Building Department or their designee by submitting a written request identifying the specific provision sought to be waived or modified, and proposing alternative means and methods of Development or Stormwater Management Facility design that best accomplishes the purposes of this ordinance without denying all economically viable use of the property. The applicant shall provide all documentation and information required by the Director

or their designee to determine whether application of the provision in question will prohibit any economically viable use of the land in question or otherwise have a confiscatory impact.

The Director may approve, deny or conditionally approve a waiver application after considering whether: (1) the strict application of the provision in question will prohibit any economically viable use of the land in question or otherwise have a confiscatory result; (2) approval of such a waiver could result in a direct threat to the public health or safety or non-compliance with NPDES Permit requirements; and, (3) the alternative means and methods of Development or Stormwater Management Facility design required to accomplish the purposes of this ordinance.

#### **4.100.110 - Notification of spills and other Illicit Discharges.**

As soon as any Responsible Party or Person(s) in charge of a facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed release of materials, Pollutants, or waste which may result in Pollutants or Non-Stormwater Discharges entering the County Storm Drain System, such Person shall take all necessary steps to ensure the discovery and containment and cleanup of such release and shall notify the County of the occurrence immediately. Notification of any spill or release that is considered an emergency (e.g., an eminent threat to life, property, or the environment) shall be made to 911. All nonemergency notifications shall be made, at a minimum, using the nonemergency number, 311 or by reporting directly to the Sustainability Department by phone during standard business hours at 1-888-442-2666 or by email at [sustainability@smcgov.org](mailto:sustainability@smcgov.org). Whenever a hazardous material is released, all other applicable local, state and federal reporting requirements must also be adhered to.

#### **4.100.120 - Illicit Discharge.**

The discharge of Non-Stormwater to the County Storm Drain System is prohibited. All discharges of material other than Stormwater must be with a NPDES Permit and this ordinance. It is unlawful for any Person to commence or continue any Illicit Discharge to the County Storm Drain System. This prohibition applies to all connections made to the County Storm Drain System. Alteration is inclusive of all connections made in the past, regardless of whether made under a permit or whether permissible under the law or practices applicable or prevailing at the time of the connection to the County Storm Drain System. Connections that pre-date the passage of this ordinance must receive written permission from the Director of the Department of Public Works or their designee to continue with the discharge of Non-Stormwater materials.

#### **4.100.130 - Exceptions to discharge prohibition.**

The following discharges are exempt from the prohibition set forth in section 4.100.120:

- (a) The prohibition on discharges shall not apply to any discharge regulated under an NPDES Permit issued to the discharger and administered by the State of California under authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.
- (b) Discharges from the following activities will not be considered a source of Pollutants to waters of the United States, and accordingly are not subject to the prohibition on discharges when managed in accordance with the conditions for exempted and conditionally exempted discharges in the applicable NPDES Permit: water line flushing and other discharges from potable water sources, landscape irrigation, and lawn watering; irrigation water; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; water from foundation drains; water from crawl space pumps and footing drains; pumped groundwater from drinking water aquifers (excluding well development discharges); air conditioning condensate; flows from natural springs; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool, hot tub, spa, and fountain discharges (if otherwise allowed by the County and if discharge to the sanitary sewer or landscaped area is infeasible); and flows from firefighting and other emergency response activity, when conducted with appropriate BMPs.
- (c) Discharges to Areas of Special Biological Significance (ASBS) in compliance with State Water Resources Control Board Special Protections for ASBS, Governing Point Source Discharges of Storm Water and Nonpoint Source Waste Discharges (Resolution No. 2012-0012) and revisions and amendments thereto.

#### **4.100.140 - Reduction of Pollutants in Stormwater.**

Any Person engaged in activities which may result in Pollutants entering the County Storm Drain System shall undertake measures to eliminate such Pollutants through BMP implementation, including applicable source control measures. Examples of source Pollutant activities include ownership and use of facilities such as parking lots, vehicle fueling stations, commercial and industrial facilities to address Pollutant sources associated with outdoor areas involving processing and manufacturing, contaminated building materials, material storage, waste storage and disposal, vehicle and equipment storage and maintenance, parking and access roads, washing (including restaurant equipment and mats), or drainage from indoor areas; rooftop equipment; contaminated and erodible surface areas; and other sources; and stores fronting County roads and streets.

#### **4.100.150 - Littering and dumping.**

No Person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left, or maintained, any refuse, rubbish, Litter, garbage, or other discharge, in or upon any street, alley, sidewalk, unpaved road shoulder, storm drain,

inlet, catch basin, conduit or other drainage structures, outdoor business place, or upon any public or private lot of land, so that the same might be or become a Pollutant, except in lawfully established dumping grounds. The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in front of which there is a paved sidewalk or unpaved road shoulder, shall maintain the area free of Litter to the maximum extent practicable. Debris from said area shall not be swept or otherwise made or allowed to be deposited into the street or gutter but shall be disposed of in receptacles maintained on said real property as required for the disposal of garbage. No Person shall throw or deposit Litter in any Watercourse or waterbody within the County.

#### **4.100.160 – Trash reduction.**

The County may require additional trash reduction measures to further the purpose and requirements of this Chapter. The County may enforce trash reduction measures that include, but are not limited to, enhanced trash control practices to minimize trash, or the installation of a single Full Trash Capture Device or series of devices that traps trash particles to the standards specified by the Regional Water Board. All Full Trash Capture Device(s) installed for this purpose will be required to record an Operation & Maintenance Agreement with the County, ensuring the device(s) will be properly maintained.

#### **4.100.170 - Source control standards for Special Land Uses.**

Persons owning or operating Special Land Uses shall implement source control measures such that the use does not result in discharge of Pollutants to the County Storm Drain System. Under the permitting process for Special Land Uses, new Development and Redevelopment projects shall incorporate required source controls, site design, and Stormwater treatment measures to address discharge of Pollutants in Stormwater runoff, including trash, as outlined by the San Mateo Countywide Water Pollution Prevention Program.

#### **4.100.180 - Best Management Practices for pollution prevention.**

Any Responsible Party undertaking any activity or operation, or operating a facility or business, which may cause or contribute to Stormwater pollution or contamination, Illicit Discharge, and/or discharge of Non-Stormwater Discharge into the County Storm Drain System, shall utilize BMPs to prevent or reduce the discharge of Pollutants directly or indirectly to the County Storm Drain System. Temporary and permanent BMPs shall be implemented for pollution prevention as stated in the County Drainage Manual and NPDES Permit for activities including, but not limited to, routine municipal operations and housekeeping, erosion and sediment control, all phases of construction, new Development or Redevelopment, or standard operations at industrial and commercial facilities including mobile businesses. Every Person undertaking such activity or operation, or owning or operating such facility, shall comply with local,

regional, and state guidelines and requirements to minimize discharge and transport of Pollutants of Concern.

#### **4.100.190 - Watercourse protection.**

- (a) Every Person owning, leasing, renting, or in control of the property through which a Watercourse passes shall keep and maintain that part of the Watercourse within the property reasonably free of trash, loose sediment, debris, excessive vegetation, and other obstacles which would and/or could pollute, contaminate, or significantly retard the flow of water through the Watercourse; shall maintain existing privately owned permitted structures within a Watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the Watercourse; and shall not remove riparian and or bank vegetation beyond that actually necessary for said maintenance, nor remove any vegetation in such a manner as to increase the vulnerability of the Watercourse to erosion. Any modifications to the Watercourse that include changes within channel, bank, or riparian corridor are subject to permits as required by the County Planning and Building Department or applicable state and federal regulating agencies.
- (b) No Person shall commit or cause to be committed any of the following acts, unless a written permit has first been obtained from the relevant County and/or state permitting agencies:
  - (1) Discharge into or connect any pipe or channel to a Watercourse or conveyance that leads to a Watercourse;
  - (2) Modify the natural flow of water in or into a Watercourse;
  - (3) Construct, alter, enlarge, connect to, change or remove any structure within a Watercourse, or within thirty feet (30) of the center line of any creek, or twenty feet (20) of the top of a bank, whichever provides a larger buffer from the Watercourse;
  - (4) Deposit in or remove any material, including vegetation, from a Watercourse including its banks, except as permitted and required for necessary maintenance;
  - (5) Place any loose or unconsolidated material within a Watercourse or so close to its side, channel, or bank as to cause a diversion of the flow, or to cause a probability of such material being carried away by Stormwaters passing through such Watercourse.
- (c) All regulations pertaining to Watercourse shall also apply broadly to ASBS Watersheds.

#### **4.100.200 - Stormwater Management Facility maintenance.**

- (a) Maintenance and repair of any Stormwater Management Facility shall be the responsibility of the facility owner.
- (b) For regulated Stormwater Management Facilities:
  - (1) A facility owner (except when the owner is a public agency with an established Stormwater maintenance program) shall be required to enter into an Operation and Maintenance (O&M) Agreement with the County, prior to the County granting a certificate of occupancy or other approval of project completion, to ensure the continued proper operation and maintenance of the facility and to allow access and inspection by the County, the local vector control agency, and the Regional Water Board. The O&M Agreement shall be recorded in the office of the County Recorder with the property Deed of Trust and be binding upon all owners of the property.
  - (2) The O&M Agreement shall be accompanied by a Stormwater Management Facility maintenance plan. The plan shall include: a description of the location and general characteristics of the site; the location and nature of the County Storm Drain System and creeks and/or waters of the United States to which the site drains; and a plan and schedule for routine inspection and maintenance of the Stormwater Management Facilities. Routine maintenance tasks shall include such items as trimming, care and replacement of vegetation; replacement of mulch and compost; sweeping of Impervious Surfaces and cleaning of any inlets, outlets, piping, screens and/or filters.
  - (3) The facility owner shall provide the County with proof of maintenance in an annual report. The County has the right to mandate a maintenance schedule for the Stormwater Management Facility as outlined in the O&M Agreement and to review and amend maintenance plans as needed.
  - (4) If maintenance is provided by a third party (other than the facility owner or the County), the facility owner shall provide the County with a copy of the agreement with the third-party vendor. The facility owner shall remain responsible for compliance with the O&M Agreement, and shall remain liable for any Illicit Discharge even if the event was caused due to negligence on behalf of the third party.
- (c) For non-regulated Stormwater Management Facilities, Stormwater Management Facilities required by the County (e.g., for project compliance with the County Drainage Manual), a Stormwater management owner's consent form will be signed by the owner, certifying that they will inspect and maintain the property's Stormwater management features after construction.

**4.100.210 – Stormwater management during grading and/or construction.**



Any Person engaged in construction or grading work in the County shall install, maintain, and replace controls and BMPs in order to prevent Non-Stormwater Discharges including, but not limited to, Target Pollutants, erosion and sediment runoff onto roadways or into the County Storm Drain System, as outlined in the County Drainage Manual, is required for any construction and/or grading for which such a plan is deemed necessary by the Planning and Building Department. The Planning and Building Department Director, or Director's designee, shall have the authority to stop construction and/or grading work on a site where adequate controls and/or BMPs are not in place. Grading shall also adhere to the County of San Mateo Regulations for Excavating, Grading, Filling and Clearing on Lands in Unincorporated San Mateo County, and all other applicable County regulations.

#### **4.100.220 - Violations.**

Violation of any provision of this Chapter, or failure to comply with any of the mandatory requirements of this Chapter, including documents incorporated by reference herein, constitute a violation under Chapter 1.40 (Administrative Remedies) of the County Ordinance Code. Remedies identified in the ERPs shall be in addition to those identified in Chapter 1.40. The provisions of Chapter 1.40 shall not supersede any other sections of this Chapter, other County ordinances, or state laws and regulations which address legal or administrative remedies and penalties available for certain specific violations including, but not limited to, penalties set by Board resolution and Chapter 5.64 of the County Ordinance Code.

#### **4.100.230 - Discharge in violation of NPDES Permit.**

Any discharge that results in or contributes to a violation of the NPDES Permit 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 Responsible Party's(ies'), including any business, property owner or other associated business that hired any offending agent or contractor, and such Persons shall defend, indemnify, and hold harmless the County in any administrative or judicial enforcement action relating to such discharge.

#### **4.100.240 - Responsibility for violations.**

The Responsible Party of any facility is responsible for any violation by an employee or contractors of any provision of this Chapter or any regulation adopted pursuant to this Chapter. For violations which occur in areas of the public right-of-way or on lands owned by a California public entity, only the Person(s) causing a Non-Stormwater Discharge or who has conducted an activity or activities in violation of Stormwater control requirements shall be deemed the Responsible Party.

#### **4.100.250 - Continuing violations.**

In cases where compliance with this ordinance cannot be achieved by the Authorized Enforcement Officials, the County may coordinate with or refer the issue to other agencies such as the District Attorney and applicable state and federal agencies to remedy the noncompliance.

#### **4.100.260 - Concealment.**

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

#### **4.100.270 - Civil actions.**

In addition to any remedies provided in this section, any violation of this section may be enforced by civil action brought by the County. In any such action, the County may seek, and the court shall grant, as appropriate, any or all of the following remedies or any such remedy deemed appropriate by the County;

- (1) A temporary and/or permanent injunction.
- (2) Assessment of the violator for the costs of any investigations, inspections, or monitoring surveys which led to the discovery and confirmation of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.
- (3) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation, including reasonable attorney's fees and court costs.

#### **4.100.280 - Administrative enforcement powers.**

In addition to the other enforcement powers and remedies established by this ordinance, any authorized enforcement official has the authority to utilize administrative remedies.

#### **4.100.290 - Remedies not exclusive.**

Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

#### **4.100.300 - Fees.**

The County may adopt reasonable fees to recover the cost of setting up and operating a Stormwater pollution prevention program. Fees and charges may include permit application and processing fees, monitoring and inspection, compliance actions, fees for filing appeals, and other charges deemed necessary to carry out the

requirements out of this Chapter. These fees relate solely to the matters covered by this Chapter and are separate from all other fees, fines, and penalties charged by the County.

**SECTION 2. REPEAL OF CONFLICTING ORDINANCES.** That all ordinances or parts of ordinance in conflict herewith are hereby repealed.

**SECTION 3. EFFECTIVE DATE.** This ordinance shall become effective thirty (30) days after adoption by the Board of Supervisors.

**SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.** The Board of Supervisors finds that this ordinance is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15308 for Actions by Regulatory Agencies for Protection of the Environment.

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