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ORDINANCE NO. 03633

**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, CALIFORNIA**

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**STORM WATER MANAGEMENT AND DISCHARGE CONTROL PROGRAM**

**AN ORDINANCE ADDING CHAPTER 12, SECTIONS 5009 TO 5034, TO PART TWO OF DIVISION IV OF THE SAN MATEO COUNTY ORDINANCE CODE.**

The Board of Supervisors of the County of San Mateo ordains as follows:

**SECTION 1.** Chapter 12 entitled **STORM WATER MANAGEMENT AND DISCHARGE CONTROL PROGRAM** shall be added to **PART TWO** of **DIVISION IV** of the San Mateo County Ordinance Code and shall read as follows:

**CHAPTER 12. STORMWATER MANAGEMENT AND DISCHARGE CONTROL**

**Article 1. GENERAL PROVISIONS.**

**Section 5009. PURPOSE AND INTENT**

The purpose of this Chapter is to ensure the future health, safety, and general welfare of the County of San Mateo citizens by: eliminating non-storm water discharges to the municipal separate storm sewer; controlling the discharge to municipal separate storm sewers from spills, dumping or disposal of materials other than storm water; and reducing pollutants in storm water discharges to the maximum extent practicable.

The intent of this Ordinance is to protect and enhance the water quality of our watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Clean Water Act.

**Article 2. DEFINITIONS.**

**Section 5010. DEFINITIONS.** When used in this Chapter, the following words shall have the meanings ascribed to them in this Section:

**Section 5010.1. Discharge.** Any addition of any pollutant to navigable waters from any point source or any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

Section 5010.2. Illicit Discharge. Any discharge to the County Storm Sewer System that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting and other emergency response activities.

Section 5010.3. Pollutant. Dredged soil, solid waste, incinerator residue, sewage, garbage, 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 shall also include any increment or increase in the total volume of storm water runoff resulting from any activity or development occurring after the effective date of this Ordinance.

Section 5010.4. Storm Water. Storm water runoff and surface runoff and drainage.

Section 5010.5. Authorized Enforcement Official. The Director of Environmental Health or his/her designees is hereby authorized to enforce the provisions of this Ordinance.

Section 5010.6. Best Management Practices ("BMPs"). Pollution prevention practices as defined and described in the California Storm Water Best Management Practice Handbook prepared by the California State Storm Water Quality Task Force entitled: "Construction Activity, Industrial/Commercial, and Municipal" and on file at the Environmental Health Division.

Section 5010.7. County. The County of San Mateo.

Section 5010.8. County Storm Sewer System. Includes but is not limited to those facilities within the County by which storm water 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, which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR § 122.2.

Section 5010.9. Non-Storm Water Discharge. Any discharge that is not entirely composed of storm water except those noted within an NPDES Permit and this Ordinance.

Section 5010.10. Premises. Any building, lot parcel, real estate, or land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Section 5010.11. Watercourse. A natural stream, creek, or man-made uncovered channel through which water flows continuously or intermittently.

Section 5010.12. Litter. Any refuse, garbage, rubbish, or other discarded or abandoned objects, articles, and accumulations upon any public or private lot of land in the County, except at lawfully established dumping grounds.

Section 5010.13. **Nuisance** 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.

### **Article 3. ADMINISTRATION.**

#### **Section 5011. RESPONSIBILITY FOR ADMINISTRATION.**

This Chapter shall be administered for the County by the Director of Environmental Health and his/her designees.

#### **Section 5012. CONSTRUCTION AND APPLICATION.**

This Ordinance shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and NPDES permit No. CA0029921 and any amendment, revision or reissuance thereof.

#### **Section 5013. SEVERABILITY AND VALIDITY.**

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

#### **Section 5014. WAIVER PROCEDURES.**

It is the intent of this Ordinance to protect the public health & safety and enhance water quality while respecting the rights of private property owners to 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.

Section 5014.1. An applicant for a waiver of a provision of this Ordinance shall file a Waiver Application with the Director of the Division of Environmental Health on a form provided by the Director identifying the provision sought to be waived or modified. The applicant shall file a complete form and shall provide all documentation and information required by the Director 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.

Section 5014.2. The Director may approve, deny or conditionally approve a Waiver Application upon determining whether the application of the provision in question will prohibit any economically viable use of the land in question or otherwise have a confiscatory result and that approval of such a waiver will not result in a public nuisance which would constitute a

direct threat to the public health or safety.

#### **Article 4. DISCHARGE REGULATIONS AND REQUIREMENTS**

##### **Section 5015. DISCHARGE OF POLLUTANTS.**

The discharge of non-storm water discharges to the County storm sewer system is prohibited. All discharges of material other than storm water must be in compliance with a NPDES Permit issued for the discharge (other than NPDES Permit No. CA0029921) and this Ordinance.

**Section 5016. EXCEPTIONS TO DISCHARGE PROHIBITION.** The following discharges are exempt from the prohibition set forth in Section 1, above:

**Section 5016.1.** The prohibition on discharges shall not apply to any discharge regulated under a National Pollutant Discharge Elimination System (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.

**Section 5016.2.** Dischargers from the following activities will not be considered a source of pollutants to waters of the United States when properly managed: water line flushing and other discharges from potable water sources, municipal street cleaning, municipal park maintenance, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising ground waters, infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, or flows from fire fighting and other emergency response activity, and accordingly are not subject to the prohibition on discharges.

##### **Section 5017. DISCHARGE IN VIOLATION OF PERMIT.**

Any discharge that would result in or contribute to a violation of NPDES Permit No. CA0029921, the terms of which are incorporated herein by reference, and which is on file in the County's Department of Health Services, Division of Environmental Health, and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) 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 discharge.

##### **Section 5018. ILLICIT DISCHARGE.**

It is prohibited to commence or continue any illicit discharges to the County storm sewer

system. This prohibition applies to all connections made to the storm sewer system and is not limited to existing connections.

#### **Section 5019. REDUCTION OF POLLUTANTS IN STORM WATER.**

Any person engaged in activities which will or may result in pollutants entering the County storm sewer system shall undertake measures to reduce such pollutants. Examples of such activities include ownership and use of facilities which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, commercial facilities, stores fronting county roads and streets, etc.

#### **Section 5020. LITTERING.**

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left, or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, 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.

Section 5020.1. 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, shall maintain said sidewalk free of litter to the maximum extent practicable.

Section 5020.2. No person shall throw or deposit litter in any pond, lake, stream or any other body of water.

#### **Section 5021. STANDARD FOR PARKING LOTS AND SIMILAR STRUCTURES.**

Persons owning or operating a parking lot, gas station pavement, or similar structure shall clean those structures as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the County storm sewer system.

#### **Section 5022. BEST MANAGEMENT PRACTICES FOR NEW DEVELOPMENTS AND REDEVELOPMENTS.**

Any construction contractor performing work shall provide filter materials at the catch basin to retain any debris and dirt flowing in to the County's storm sewer system. County may establish controls on the volume and rate of storm water runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants.

#### **Section 5023. COMPLIANCE WITH BEST MANAGEMENT PRACTICES.**

Every person undertaking any activity or operation, or operating a facility, which may

cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, shall utilize Best Management Practices to prevent or reduce the discharge of pollutants directly or indirectly to the County's Storm Sewer System.

#### **Section 5024. WATERCOURSE PROTECTION.**

Every person owning property through which a watercourse passes, or such person's lessee or tenant, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the watercourse; shall maintain existing privately owned 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 healthy bank vegetation beyond that actually necessary for said maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.

#### **Article 5. INSPECTION AND ENFORCEMENT.**

##### **Section 5025. AUTHORITY TO INSPECT.**

The County Health Officer or other duly authorized representative of the County shall visit all premises from time to time and examine the sanitary conditions of said premises and determine whether the provisions of this Ordinance are complied with.

##### **Section 5026. AUTHORITY TO SAMPLE AND ESTABLISH SAMPLING DEVICES.**

The County shall have the right to establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the official may take samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on-site.

##### **Section 5027. NOTIFICATION OF SPILLS.**

As soon as any person 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-storm water discharges entering the county storm sewer system, such person shall take all necessary steps to ensure the discovery and containment and clean up of such release and shall notify the County of the occurrence by telephoning 363-4305 and confirming the notification by correspondence to the Division of Environmental Health, 590 Hamilton St., Redwood City, CA 94063. In the event that a hazardous material is released, all other applicable reporting requirements must be adhered to.

**Section 5028. REQUIREMENT TO TEST OR MONITOR.**

Any authorized enforcement official may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, undertake such monitoring activities and/or analyses and furnish such reports as the official may specify.

**Section 5029. VIOLATIONS CONSTITUTING MISDEMEANORS.**

Violations of any provision of this Chapter, or failure to comply with any of the mandatory requirements of this Chapter shall constitute a misdemeanor; except that notwithstanding any other provisions of this Chapter, any such violation constituting a misdemeanor under this Chapter may, at the discretion of the District Attorney, be charged and prosecuted as an infraction.

**Section 5029.1. INFRACTIONS.**

Every violation determined to be an infraction is punishable by: a fine not exceeding one hundred dollars (\$100) for a first violation; a fine not exceeding two hundred dollars (\$200) for a second violation of the ordinance within one year; a fine not exceeding five hundred dollars (\$500) for each additional violation of the ordinance within one year.

**Section 5029.2. RESPONSIBILITY FOR VIOLATIONS.**

The owner, manager, or operator of any facility is responsible for any violation by an employee of any provision of this chapter or any regulation adopted pursuant to this chapter.

**Section 5029.3. CONTINUING VIOLATIONS.**

Unless otherwise provided, a person, firm, corporation or organization, shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

**Section 5029.4. CONCEALMENT.**

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

**Section 5030. CIVIL ACTIONS.**

In addition to any other 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 County:

**Section 5030.1. A Temporary and/or permanent injunction.**

**Section 5030.2. Assessment of the violator for the costs of any investigations, inspections, or monitoring surveys which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.**

**Section 5030.3. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation, including reasonable attorney's fees and court costs.**

**Section 5031. 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.

**Section 5032. REMEDIES NOT EXCLUSIVE.**

Remedies under this Article 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.

**Article VI. COORDINATION WITH OTHER PROGRAMS.**

**Section 5033. COORDINATION WITH HAZARDOUS MATERIALS INVENTORY AND RESPONSE PROGRAM.**

The first revision of the business plan for any facility subject to the County's hazardous materials inventory and response program shall include a program for compliance with this Chapter, including the prohibitions on non-storm water discharges and illicit discharge, and the requirement to reduce storm water pollutants to the maximum extent practicable.

**Article VII. COLLECTION OF FEES.**

**Section 5034. FEES**

Owners and/or operators shall be charged fees in accordance with the San Mateo County Ordinance Code, Section 5522.3.

**SECTION 2.** This ordinance shall be effective thirty (30) days from the date of passage thereof.

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