

## ORDINANCE NO. 1463

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA REVISING THE ARCATA MUNICIPAL CODE TO IMPLEMENT MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) REQUIREMENTS FOR POST-CONSTRUCTION ACTIVITIES

The City Council of the City of Arcata does ordain as follows:

Section 1: Title VII (Public Works), Chapter 5 (Stormwater Management) of the Arcata Municipal Code, Sections 7999.01 (Findings, purposes and objectives), 7999.02 (Definitions), 7999.05 (Exemptions), and 7999.08 (Building Development and Construction Requirements), is hereby amended by the addition of the following language shown in underscore:

#### **Sec. 7999.01 Findings, purposes and objectives.**

A. This ordinance sets forth standards for discharge into the stormwater drainage facilities for the City of Arcata, and establishes a stormwater pollution control program in compliance with the Clean Water Act (33 USC 1251, *et seq.*) and the United States Environmental Protection Agency (EPA) Phase II stormwater regulations (40 CFR Parts 9, 122-124). This ordinance is based on the following findings:

1. Stormwater runoff may contain or mobilize high levels of contaminants, such as sediment, suspended solids, nutrients (phosphorus and nitrogen), heavy metals and other toxic pollutants, pathogens, toxins, oxygen-demanding substances (organic material), and floatables. These pollutants may be carried into streams, rivers, estuaries and wetlands within the City of Arcata, Humboldt Bay and other waters of the United States.
2. Stormwater discharges generated by construction activities can cause an array of physical, chemical and biological water quality impacts that significantly impair water quality.
3. On December 8, 1999, the United States Environmental Protection Agency (EPA) issued its Phase II stormwater regulation final rule pursuant to authority conveyed in the Clean Water Act Section 1342(p). This rule requires the City of Arcata to develop a stormwater pollution control plan that meets at a minimum the following six criteria: (1) public education and outreach, (2) public involvement, (3) illicit discharge detection and elimination, (4) construction site runoff control, (5) post-construction stormwater management in new development and redevelopment, (6) pollution prevention and good housekeeping.
4. The City has previously adopted programs and ordinances that satisfy some of the minimum criteria of the required stormwater pollution control plan. Specifically, the stormwater Drainage Master Plan, adopted by the City Council on May 21, 1997, and the Creeks and Wetlands Management Plan (Resolution No. 956-30) adopted by the City Council on January 3, 1996, provide for public education, outreach and involvement through the "adopt-a-creek" and "creek clean-up days" programs, and additionally through storm drain labeling and brochures. The construction and post-construction runoff control criteria are satisfied in part through the Grading and Erosion Control Ordinance, Ordinance No. 1255, adopted by the City Council on September 18, 1996, and through conditions imposed by City-approved permits.
5. On February 5, 2013, the California State Water Resources Control Board adopted Water Quality Order 2013-0001 (DWQ) issuing *National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004 Waste Discharge Requirements (WDRs) For*

Storm Water Discharges From Small Municipal Separate Storm Sewer Systems (MS4s) (General Permit), to further implement Phase II regulations.

6. Said 2013 General Permit requires, among other provisions, the City to regulate stormwater runoff from post construction activities.

B. Based on these findings, the purpose of this ordinance is to develop a fully comprehensive stormwater pollution control program, as required by the EPA Storm Water Phase II regulations, and as deemed appropriate to minimize or eliminate the impairment of water quality.

C. The objectives of this ordinance are as follows:

1. To eliminate non-stormwater discharges from public and private properties into the City's stormwater drainage facilities.

2. To reduce to the maximum extent possible contamination of and pollutants entering into the City's stormwater drainage facilities.

3. To initiate the adoption by the City of a Best Management Practices Manual to assist in the reduction or elimination of pollutants in stormwater, and to thereafter impose Best Management Practices on existing and new sources of contamination.

4. To protect and enhance the water quality of the water resources, waterbodies, and wetlands of the City of Arcata in a manner consistent with the Clean Water Act.

5. To protect the health, safety, and general welfare of the residents of the City of Arcata by establishing monitoring, compliance and enforcement procedures.

#### **Sec. 7999.02 Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, are defined as follows:

A. "Best Management Practices" or "BMPs" means a schedule of activities, prohibitions, management practices, or maintenance procedures that prevent or reduce the discharge of pollutants or discharges into the City's stormwater drainage system.

B. "Clean Water Act" means the federal Water Pollution Control Act, also known as the Clean Water Act, 33 USC Section 1251, *et seq.*

C. "Director" means the Environmental Services Director, or his/her designee.

D. "Discharge of pollutants" means the introduction of pollutants into the City's stormwater drainage facilities or any waters of the United States.

E. "Discharger" means the person directly causing or allowing the discharge.

F. "Hazardous Substances" means, without limitation, any material that because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the work place or the environment. Hazardous substances include, but are not limited to, those substances included within the definitions of

"hazardous substance," "hazardous waste," "hazardous material," "toxic substance," "solid waste," or "pollutant or contaminant" in any local, state or Federal law or regulation.

G. "Illicit discharge" means any discharge into the City's stormwater drainage facilities that is not composed entirely of stormwater, with the exceptions as identified herein.

H. "MS4" or "Municipal Separate Storm Sewer" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by the City that discharges into waters of the United States; (ii) designed or used for collecting or conveying storm water; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined in the United States Code of Federal Regulations at 40 CFR 122.2.

I. "MS4 General Permit" means the State Water Resources Control Board NPDES General Permit No. CAS000004—Waste Discharge Requirements for Stormwater Discharges from Small MS4s, issued by Water Quality Order No. 2013-0001-DWQ on February 5, 2013, a copy of which is on file with the City Clerk.

HJ. "National Pollutant Discharge Elimination System permit" or "NPDES permit" means the permit issued pursuant to section 402 of the Clean Water Act, 33 U.S.C. 1342, and administered by the State of California under the authority of the U.S. Environmental Protection Agency, permitting the discharge of pollutants into navigable waters of the United States.

IK. "Pollutant" means any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, cleaning products, industrial wastes, municipal wastes, agricultural wastes, animal wastes, biological materials, radioactive materials, anti-freeze, concrete rinsates, pesticides, fertilizers, herbicides, heat, wrecked or discarded equipment, rock, soil, sand, gasoline, benzene, fuel oil and other petroleum products, wax, phenols, wastewater (as defined in section 7400 of the Arcata Municipal Code), grease, fatty materials, offal or garbage, or other materials which are prohibited by the Clean Water Act and regulations adopted thereto. A pollutant shall also include any increment or increase in the total volume or rate of stormwater runoff resulting from any activity or development occurring after the effective date of this chapter in which a stormwater limit had been set as a condition of approval.

JL. "Stormwater drainage facilities" means the storm and surface water drainage systems comprised of stormwater control facilities and any other natural facilities, which store control, treat, and/or convey storm and surface water. Stormwater facilities shall include all natural and constructed elements used to convey stormwater from the first point of impact with the surface of the earth to a suitable receiving body of water or location, internal or external, to the boundaries of the City. They shall include: pipes, appurtenant features, culverts, streets, curbs, gutters, pumping stations, channels, streams, ditches, wetlands, detention/retention basins, ponds, and other stormwater conveyance and treatment facilities whether public or private. Regardless of whether or not the City shall have recorded rights-of-way or easements, it is presumed that the City has a prescriptive right of access to all storm drainage facilities to inspect for proper operation and maintenance, and to require rehabilitation, or replacement as necessary.

KM. "Stormwater" means any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snow melt, surface runoff and drainage.

## **Sec. 7999.05 Exemptions.**

Notwithstanding any provisions to the contrary, the following types of discharges into the stormwater drainage facilities are exempt from the prohibitions set forth above:

A. Discharges from the following activities when the discharger conducts the activity such that the least amount of non-stormwater as practicable enters the stormwater drainage facilities:

1. Watering of lawns, landscaping, and gardens;
2. Exterior washing of personal motorized vehicles by residents;
3. Draining of water from swimming pools or spas, after the chlorine or other disinfectant concentrate of such water shows a reading of zero concentration on a test kit;
4. Flushing of water lines and hydrants, or other discharges from potable water sources if the chlorine concentration is less than 1.0 milligram per liter measured at the point of entry into the stormwater drainage system;
5. Flows from firefighting;
6. Residential crawl space and basement sump pumps;
7. Condensation from air conditioning units;
8. Gravity drainage from groundwater piping systems, including foundation and footing drains, and roof drainage downspouts;
9. Uncontaminated ground water infiltration to separate storm sewers;
10. Uncontaminated pumped ground water.

B. Discharges from naturally occurring rising ground waters, floodwaters, springs and flows from riparian habitats and wetlands, including diverted stream flows.

## **Sec. 7999.08 Building, Development and Construction Requirements**

A. Any applicant for a building and/or grading permit shall, as a condition of receiving such permit, read and sign a certificate stating that the applicant has read the BMP Manual and shall use approved BMPs for all construction activity. The applicant shall submit for approval a Best Management Practices Plan specifying those methods which will prevent the entry of pollutants into the stormwater drainage facilities, including but not limited to the use of filter materials at drain inlets to retain debris, dirt or other pollutants generated by such work. Property owners and developers shall comply with all terms, provisions, and conditions of City approved Best Management Practices Plans.

B. All development projects shall comply with the post-construction requirements of the MS4 General Permit, Section E.12, *Post Construction Storm Water Management Program*, which may include measures for site design, source control, runoff reduction, stormwater treatment, or baseline hydromodification management as applicable based on project type and size. The City shall incorporate MS4 General Permit post-construction requirements, as applicable, in any land use entitlement and construction or building-related permit to be issued relative to such development. The responsible party and developer shall comply with the terms, provisions, and conditions of such land use entitlements and permits.

Section 2: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the

remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 3: This ordinance is exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Sections 15307 and 15308 of the CEQA Guidelines.

Section 4: This ordinance will take effect thirty (30) days after the date of its adoption.

**DATE:** July 1, 2015

**ATTEST:**

**APPROVED:**

/s/ Bridget Dory  
City Clerk, City of Arcata

/s/ Michael Winkler  
Mayor, City of Arcata

**CLERK'S CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1463, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 1<sup>st</sup> day of July, 2015, by the following vote:

**AYES: WINKLER, PITINO, ORNELAS, PEREIRA, WHEETLEY**

**NOES: NONE**

**ABSENT: NONE**

**ABSTENTIONS: NONE**

/s/ Bridget Dory  
City Clerk, City of Arcata