

ORDINANCE NO. 3486
ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS
AN ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS AMENDING MARIN
COUNTY CODE CHAPTER 23.18, URBAN RUNOFF POLLUTION PREVENTION AND
CHAPTER 24.04, DEVELOPMENT STANDARDS

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN ORDAIN AS FOLLOWS:

SECTION 1. Sections .020, .030, .050, .070, and .093 of Chapter 23.18 of the Marin County Code are hereby amended to read as follows (changes shown in underline additions/strikeout deletions format):

Amend Section 23.18.020 as follows:

23.18.020 PURPOSE AND INTENT

The purpose of this chapter is to ensure the future health, safety and general welfare of Marin County residents by:

- (a) Minimizing discharges other than storm runoff to storm drains or watercourses;
- (b) Controlling the discharge to storm drains or watercourses from spills, dumping or disposal of materials other than rain water;
- (c) Reducing pollutants in stormwater discharges to the maximum extent practicable.
The intent of this chapter 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 (Ord. 3439 § 9, 2006; Ord. 3225 § 2 (part), 1996) and the Porter-Cologne Water Quality Control Act (Water Code section 13000 et seq.)
- (d) Complying with the County's National Pollutant Discharge Elimination System (NPDES) permit that require implementation of appropriate source control and site design measures and stormwater treatment measures for projects.
- (e) Maintaining pre-development stormwater runoff rates and preventing nonpoint source pollution whenever possible, through stormwater management controls and ensuring that these management controls are properly maintained.

Amend Section 23.18.030 as follows:

23.18.030 DEFINITIONS

Any terms defined in the federal Clean Water Act and acts amendatory thereof or supplementary thereto, and/or defined in the regulations for the stormwater discharge permitting program issued by the Environmental Protection Agency on November 16, 1990 (as may from time to time be amended) as used in this chapter shall have the same meaning as in that statute or regulations. These terms include, but are not limited to, the following:

- (a) "Authorized enforcement official" means the director of the department of public works of the county of Marin.

(b) “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 waters of the United States. BMPs also include treatment requirements, operating procedures, structural devices and practices to control site runoff, spillage or leaks, sludge or waste recycling or disposal, or drainage from raw material storage.

(c) “County” means the unincorporated area of Marin County.

(d) “Development runoff requirements” shall mean the provisions in the County’s NPDES permit that contain design standards or performance criteria to address both the construction and post-construction phase impacts of new projects and redeveloped projects on stormwater quality and quantity.

(e) “Discharge” means 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.

(f) Guidance Manual shall mean the most recent version of the Guidance for Applicants: Stormwater Quality Manual for Development Projects in Marin County.

(g) “Illicit connection” means any device or method which conveys nonstormwater.

(h) “Illicit discharge” means any discharge to a county storm drain that is not composed entirely of stormwater except discharges pursuant to a National Pollution Discharge Elimination System (NPDES) permit and discharges resulting from fire fighting activities.

(i) “NPDES permit” shall mean the NPDES general permit applicable to the County of Marin, Water Quality Order No. 2003-0005 – DWQ, General Permit No. CAS000004, and any subsequent amendment, reissuance or successor to this NPDES permit.

(j) “Nonstormwater discharge” means any discharge that is not entirely composed of stormwater.

(k) “Pollutant” means dredged soil, solid waste, incinerator residue, sewage, pet wastes, manure, garbage, sewage sludge, munitions, chemical wastes, radioactive materials, heat, wrecked or discarded equipment, sediment, dumped yard wastes, and industrial and municipal waste discharges into water.

(l) “Premises” means any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

(m) “Storm drains” 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, which are not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

(n) “Stormwater” or “storm runoff” means stormwater runoff, snow melt runoff, and surface runoff and drainage.

(o) "Stormwater control plan" shall mean a plan that meets those criteria contained in the most recent version of the Guidance Manual.

(p) "Stormwater facilities operation and maintenance plan" shall mean a plan identifying the locations and characteristics of stormwater management facilities on a newly developed or redeveloped site and describing maintenance activities, schedules, and responsibilities to ensure the ongoing proper operation of those facilities.

(q) "Stormwater management facility" shall mean any device designated to detain, retain, filter, or infiltrate stormwater.

(r) "Watercourse" means any natural or once natural flowing river, creek, stream, swale or drainage way, whether perennial, intermittent or ephemeral. Includes natural waterways that have been channelized but does not include channels, ditches, culverts or other above or below ground constructed conduits, i.e., storm drains. (Ord. 3225 § 2 (part), 1996)

Amend Section 23.18.050 as follows:

23.18.050 CONSTRUCTION AND APPLICATION

This chapter shall be construed to assure consistency with the requirements of the federal Clean Water Act and acts amendatory thereof or supplementary thereto, and applicable implementing regulations, including the current and future versions of the water quality control plan for the San Francisco Bay basin and the NPDES permit. (Ord. 3225 § 2 (part), 1996)

Amend Section 23.18.070 as follows:

23.18.070 DISCHARGE IN VIOLATION OF PERMIT

Any discharge that would result in or contribute 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 responsibility of the person(s) so 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. (Ord. 3225 § 2 (part), 1996)

Amend Section 23.18.093 as follows:

23.08.093 BEST MANAGEMENT PRACTICES FOR NEW DEVELOPMENTS AND REDEVELOPMENTS

Any construction contractor performing work in the county shall implement appropriate BMPs to prevent the discharge of construction wastes or contaminants from construction materials, tools and equipment from entering a county storm drain. In addition:

Any construction contractor performing work in the county shall implement appropriate BMPs to prevent the discharge of construction wastes or contaminants from construction materials, tools and equipment from entering a county storm drain. In addition:

A. All construction plans submitted to the county pursuant to any permit application shall consider the potential for erosion and sedimentation at the construction site and shall comply with county code Sections 24.04.625 and 24.04.627.

B. Prior to and/or during construction, the director of public works may establish controls on the volume and rate of stormwater runoff from new developments and redevelopment as may be appropriate to minimize peak flows or total runoff volume. These controls may include limits on impervious area or provisions for detention and retention of runoff on-site.

C. The director of public works may require, as a condition of project approval, permanent controls designed for the removal of sediment and other pollutants. The selection and design of such controls shall be in general accordance with criteria established or recommended by federal, state and local agencies. Where physical and safety conditions allow, the preferred control measure is to retain drainageways above ground and in as natural a state as possible or other biological methods such as vegetated swales. (Ord. 3225 § 2 (part), 1996)

D. Stormwater Control Plan Requirements:

(a) For each new development and redevelopment project subject to the development runoff requirements, or where required by the nature and extent of a proposed project and where deemed appropriate by the agency, every applicant will submit a stormwater control plan that meets the criteria in the most recent version of the Guidance for Applicants: Stormwater Quality Manual for Development Projects in Marin County and shall implement conditions of approval that reduce stormwater pollutant discharges through the construction, operation and maintenance of treatment measures and other appropriate source control and site design measures. Increases in runoff shall be managed in accordance with the development runoff requirements.

(b) Implementation of an approved stormwater control plan and submittal of an approved stormwater facilities operation and maintenance plan by the applicant shall be a condition precedent to the issuance of a building permit or a construction permit for a project subject to this section. Financial security may be required to ensure that stormwater management facilities operate and are maintained following construction for a period which may be determined by the agency. Financial security shall consist of an irrevocable letter of credit, cash deposit, or performance bond as determined by the agency.

(c) All stormwater management facilities shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design guidelines are outlined in the Guidance Manual.

(d) All stormwater management facilities shall be maintained according to the Guidance Manual and the approved stormwater facilities operation and maintenance plan. The person(s) or organization(s) responsible for maintenance shall be designated in the plan. Unless a different time period is provided for in the plan, those responsible for maintenance shall inspect the stormwater management facility at least annually. The plan shall also describe how the maintenance costs will be funded. Upon the failure of a responsible person to maintain a stormwater management facility in accordance with this chapter or the plan, the County may perform the maintenance and recover its costs from the responsible person as provided in section 23.18.140.

(e) For each new development and redevelopment project subject to the development runoff requirements, or where deemed appropriate by the agency, access by the County to stormwater management facilities for inspections, as provided in Section 23.18.020, and through such means as may be appropriate, including, but not limited to, legal agreements, recorded covenants or easements, shall be provided by the property owner.

SECTION 2. Sections .625(c) and .627 of Chapter 24.04 of the Marin County Code are hereby amended to read as follows (changes shown in underline additions/strikeout deletions format):

Amend Paragraph 24.04.625(c) as follows:

24.04.625 EROSION AND SEDIMENT CONTROL

(a) All disturbed surfaces including but not limited to cut and fill slopes, building pads, driveways and areas cleared of vegetation shall be protected against erosion by measures which the agency determines to be appropriate to the site, phase of construction and time of year.

(b) When required by the agency, a project shall have an erosion and sediment control plan which addresses both interim (during construction) and final (post construction) control measures. The specific control measures to be utilized shall be subject to the review and approval of the agency and shall be in general accordance with the current "Manual of Standards for Erosion and Sediment Control Measures" published by the Association of Bay Area Governments. The plan shall be implemented by October 15th or earlier if so required by the agency.

(c) Grading operations shall not be conducted during the rainy season (October 15th through April 15th) without prior approval from the agency. Such approval shall only be given upon clear demonstration, to the satisfaction of the agency, that at no stage of the work will there be any substantial risk of increased sediment discharge from the site. When grading operations are permitted during the rainy season, a phasing plan and work schedule shall be required to insure that the smallest practicable area of erodible land is exposed at any one time and the time of exposure is minimized. The phasing plan and work schedule must be approved by the agency prior to the start of grading or prior to October 1st at the discretion of the agency. Financial security may be required to insure that control measures are implemented and maintained. (Ord. 3181 § 5 (part), 1994)

Amend Section 24.04.627 as follows:

24.04.627 STORM WATER POLLUTION PREVENTION PLAN

(a) Where required by the nature and extent of a proposed project and where deemed appropriate by the agency, a project shall have a Storm Water Pollution Prevention Plan (SWPPP) which addresses both temporary (during construction) and permanent (post construction) measures to control erosion and sedimentation, and to prevent pollutants from entering storm drains, drainage systems, and watercourses. These measures are hereinafter referred to as best management practices (BMPs). The SWPPP may incorporate the erosion and sediment control plan described in §24.04.625. The specific BMPs to be used shall be subject to the review and approval of the agency and shall be in general accordance with current maximum extent practicable standards and technology for BMPs, the County's current

municipal stormwater NPDES permit (as defined in Section 23.18.030), the current *Action Plan Storm Water Management Plan* for the cities and County of Marin, and the requirements of Chapter 23.18.

(b) In addition to the county requirements, a project may require coverage under the general construction activity stormwater permit issued by the State Water Resources Control Board (SWRCB). If required, then a notice of intent (NOI) must be filed with the SWRCB for said coverage and a copy of the NOI and the SWPPP must be submitted to DPW prior to issuance of a county permit for construction.

(c) Construction-phase temporary BMPs include erosion and sediment controls and pollution prevention practices. Erosion control BMPs may include, but are not limited to, scheduling and timing of grading activities, timely revegetation of graded slopes, the use of hydroseed and hydraulic mulches, and installation of erosion control blankets. Sediment control may include properly sized detention basins, dams, or filters to reduce entry of suspended sediment into the storm drain system and watercourses, and installation of construction entrances to prevent tracking of sediment onto adjacent streets. Pollution prevention practices may include designated washout areas or facilities, control of trash and recycled materials, tarping of materials stored on-site, and proper location of and maintenance of worker sanitary facilities. The combination of BMPs used, and their execution in the field, must be customized to the site using up-to-date standards and practices. The agency will provide references to current guidance manuals and BMP information on request.

(d) Financial security may be required to insure that temporary measures to control stormwater pollution prevention are implemented and maintained during construction and after construction for a period determined by the agency. Financial security shall consist of an irrevocable letter of credit, cash deposit, or performance bond as determined by the agency.

(e) Where required by the nature and extent of a proposed project and where deemed appropriate by the agency, a project shall include a stormwater control plan section within the SWPPP. The stormwater control plan shall address permanent BMPs that control pollutant sources, treat runoff, and control the rate and duration of runoff that meet the criteria in the most recent version of the Guidance Manual (as defined in Section 23.18.030) and the applicable development runoff requirements of Chapter 23.18. Permanent BMPs may include but are not limited to, site and drainage design features that route runoff from roofs and paved surfaces to landscaped areas, engineered bioretention facilities, roofs over areas where vehicles are washed or repaired, and facilities for cleaning equipment such as mats used in restaurant kitchens. The Guidance Manual contains specific guidance applicable to the project category.

(f) Where required by the nature and extent of a proposed project and where deemed appropriate by the agency, the project shall have a stormwater facilities operation and maintenance plan describing the maintenance responsibilities, practices, and schedules as required in Chapter 23.18 and in the Guidance Manual.

(g) If a project applicant is required to include permanent BMPs (including Structural or Treatment control BMPs) in project plans, the applicant shall provide verification of maintenance provisions through such means as may be appropriate, including, but not limited to, legal agreements, covenants, and project conditions of approval, as determined by the agency.

