

ORDINANCE NO. 14- 001

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE
AMENDING CHAPTER 9.30
OF THE PACIFIC GROVE MUNICIPAL CODE
REGARDING STATE WATER RESOURCES CONTROL BOARD WATER QUALITY
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM CENTRAL COAST
REGIONAL WATER QUALITY CONTROL BOARD RESOLUTION NO. R3-2013-0032,
POST-CONSTRUCTION STORMWATER MANAGEMENT REQUIREMENTS FOR
DEVELOPMENT PROJECTS**

WHEREAS, the City of Pacific Grove regulates stormwater management and discharge control as set forth in Pacific Grove Municipal Code (PGMC) Chapter 9.30; and

WHEREAS, On February 5, 2013, the State Water Resources Control Board (SWRCB) adopted Water Quality Order No. 2013-0001, which is a statewide, general National Pollutant Discharge Elimination System (NPDES) storm water permit required under the Federal Clean Water Act section 402(p)(6) that applies to operators of Small MS4s. In addition to the SWRCB's MS4 requirements, on July 12, 2013, the Central Coast Regional Water Quality Control Board (CC RWQCB) adopted Resolution No. R3-2013-0032, Post-Construction Stormwater Management Requirements For Development Projects in the Central Coast Region with an implementation date of March 6, 2014, including the adoption of enforceable mechanisms; and,

WHEREAS, the City has determined that it is appropriate to impose amendments to Pacific Grove Municipal Code (PGMC) Chapter 9.30 to protect the health, safety and security of the public, and will ensure that all these establishments operate fairly and safely; and

WHEREAS, Notice of the public hearing was published in the Monterey Herald on December 9-18, 2013 inclusive, and posted outside City Hall, and placed on the City's website; and

WHEREAS, this ordinance amends Chapter 9.30 of the Municipal Code to enable implementation of RWQCB adopted Resolution No. R3-2013-0032, Post-Construction Stormwater Management Requirements For Development Projects in the Central Coast Region with an implementation date of March 6, 2014; and

WHEREAS, In the enactment of this ordinance, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq.

WHEREAS, Enactment of this Ordinance qualifies for a CEQA Class 8 Categorical Exemption as provided by section 15308 of the CEQA Guidelines. The City Council finds no evidence of unusual circumstances has been submitted within the context, or evidence the project

will cause significant adverse changes in the environment as contemplated by CEQA Guidelines 15300.2.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. Existing Municipal Code section 9 of Chapter 9.30.130, entitled “Requirement to prevent, control and reduce storm water pollutants” shall be amended by the deletion of all text shown in strikethrough text (~~strikethrough text~~) and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

9.30.130 Requirement to prevent, control and reduce storm water pollutants.

(a) Authorization to Adopt and Impose Best Management Practices. The city may adopt, and from time to time amend, requirements identifying best management practices for activities, operations, or facilities which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. as a separate BMP guidance series. BMP requirements may incorporate by reference best management practices promulgated by federal, state of California, or regional agencies. Where best management practices requirements are promulgated in the BMP guidance series, each person who discharges pollutants to the storm drain system or waters of the U.S., and each person owning or operating any facility that may cause such a discharge, shall comply with those BMP requirements.

The public works director will periodically report to the city council on the status of implementation of BMPs and new BMPs that may be developed for inclusion in the BMP guidance series.

(b) Responsibility to Implement Best Management Practices. Notwithstanding the presence or absence of BMP requirements promulgated pursuant to subsection (a) of this section, each person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm water, the storm drain system, or waters of the U.S. shall implement best management practices to the extent they are technologically achievable to prevent and reduce such pollutants. The owner or operator of each commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the city storm drain system and/or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the expense of the owner or operator.

(c) Construction Sites. The city's BMP guidance series shall include best management practices to reduce pollutants in any storm water runoff from construction activities. The city may incorporate BMPs and other requirements in any land use entitlement and construction or building-related permit issued relating to such development or redevelopment. The owner and operator shall comply with the terms, provisions, and conditions of such land use entitlements and building permits and as required by this chapter.

Construction activities subject to BMP requirements shall continuously employ measures to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality, contamination, or unauthorized discharge of pollutants.

(d) New Development and Redevelopment. The City **shall require** ~~BMP guidance series will include~~ appropriate best management practices (**BMP**) to control the volume, rate, and potential pollutant load of storm water runoff from new development and redevelopment projects as ~~may be appropriate~~ **required by the NPDES permit** to minimize the generation, transport and discharge of pollutants. The city shall incorporate BMP requirements in any land use entitlement and construction or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this chapter **and the NPDES permit as it may be amended from time-to-time.**

These requirements may include a combination of structural and nonstructural BMPs, ~~and may include~~ requirements to ensure the proper long-term operation and maintenance of these BMPs, **including inspections and right of entry by City staff or agent to ensure compliance with the requirements of this article or to enforce any provision of this article.**

(e) The provisions and requirements of this chapter shall become effective upon its adoption except that:

(1) The provisions and requirements pertaining to construction sites, as described in subsection (c) of this section, and in the BMP guidance series as described in this subsection (a) of this section, shall not become effective until October 1, 2007; and

(2) The provisions and requirements pertaining to new development and redevelopment, as described in subsection (d) of this section, ~~and in the BMP guidance series as described in~~

~~subsection (a) of this section,~~ shall not become effective until ~~October 1, 2008~~ **March 6, 2014**. [Ord. 07-002 § 2, 2007].

SECTION 2. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

SECTION 3. In accord with Article 15 of the City Charter, this ordinance shall become effective on March 6, 2014.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 15th day of January, 2014, by the following vote:

AYES: Mayor Kampe & Councilmembers Cohen, Cuneo, Huitt, Lucius & Miller

NOES: Councilmember Fischer

ABSENT: None

APPROVED:

BILL KAMPE, Mayor

ATTEST:

DAVID CONCEPCION, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney