

ORDINANCE NO. 2025-01

(Stormwater Management)

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. Summary. This ordinance amends chapter 1014-2 and sections 1014-4.004 and 1014-4.006 of the County Ordinance Code to conform to provision C.3 of the County's National Pollutant Discharge Elimination System stormwater permit issued by the San Francisco Bay Regional Water Quality Control Board on May 11, 2022, and to require approval by the Contra Costa County Board of Supervisors of the Contra Costa Clean Water Program's Stormwater C.3 Guidebook before enforcement of its stormwater control plan criteria and other requirements against development projects subject to section 1014-4.004.

SECTION II. Chapter 1014-2 of the County Ordinance Code is amended to read:

Chapter 1014-2

GENERAL PROVISIONS

1014-2.002 - Intent and purpose.

(a) The intent of this division is to protect and enhance the water quality of the county's unincorporated area watercourses pursuant to and consistent with the Porter-Cologne Water Quality Control Act (Water Code Section 13000 et seq.), the Federal Clean Water Act (33 U.S.C. Section 1251 et seq.) and applicable implementing regulations.

(b) This division also carries out the conditions in the county's National Pollutant Discharge Elimination System (NPDES) permits that require implementation of appropriate source control and site design measures and stormwater treatment measures for new development and redevelopment projects that create or replace impervious surface in amounts that meet or exceed certain thresholds.

(c) It is the purpose of the board of supervisors in enacting this division to protect the health, safety and general welfare of the citizens of the unincorporated areas by:

(1) Eliminating, to the maximum extent practicable, illicit stormwater discharges to the stormwater system, pollutants of which otherwise would degrade the water quality of local streams.

(2) Minimizing increases in nonpoint source pollution caused by stormwater runoff from development that otherwise would degrade local water quality.

(3) Controlling the discharge to the county's stormwater system from spills, dumping, or disposal of materials other than stormwater.

(4) Reducing stormwater runoff rates and volumes and nonpoint source pollution whenever possible through stormwater management controls and ensuring that these management controls are properly maintained and pose no threat to public safety.

(5) Promoting no adverse impact (NAI) policies as developed by the Federal Emergency Management Agency (FEMA) and the Association of State Floodplain Managers (ASFPM), to the maximum extent practicable, in an effort to minimize the adverse impact of new development on stormwater quality or quantity.

(Ord. 2025-01 § 2, 2005-01 § 2, 96-21 § 3).

1014-2.004 - Definitions.

As used in this division, the following words and phrases have the following meanings. Words and phrases in this division not otherwise defined shall be interpreted as defined in the regulations issued by the U.S. Environmental Protection Agency to implement the provisions of the Federal Clean Water Act, and as defined by the State Water Resources Control Board to implement the Porter-Cologne Water Quality Control Act:

(a) "Authorized county employee(s)" means those individuals designated by the director.

(b) "Best management practices" or "BMPs" include both structural devices and operational practices and procedures. "Structural BMPs" are devices, measures, or stormwater management facilities or activities that help to meet development runoff requirements at the premises. "Operational BMPs" include schedules of activities, prohibitions or practices, general good housekeeping, pollution prevention practices, maintenance procedures, and other management practices that prevent or reduce the discharge of pollutants directly or indirectly to watercourses, water bodies and wetlands.

(c) "County's NPDES permits" means the NPDES permits issued jointly to Contra Costa County and other public agencies by the San Francisco Bay Regional Water Quality Control Board and the Central Valley Regional Water Quality Control Board, or any of them, whichever is applicable. County's NPDES permits include CAS612008 and its successors, its predecessors (Permit Nos. CAS0029912 and CAS0083313), and any and all amendments to and reissuances of these NPDES permits.

(d) "Development" as used in this division means on land, in or under water, the placement or erection of any solid material or structure; the discharge or disposal of any dredged material or of any gaseous, liquid, solid or thermal waste; the grading, removing, dredging, mining or extraction of any materials; any change in the density or intensity of use of land, including, but not limited to, a subdivision established pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land; any change in the intensity of use of water, or of access thereto; any construction,

reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural or public agency routine maintenance purposes.

(e) "Development runoff requirements" means the provisions in the county's NPDES permits that contain performance standards to address both the construction and post-construction phase impacts of new projects and redeveloped projects on stormwater quality. These requirements are in provision C.3 of the county's NPDES permits.

(f) "Director" means the director of public works or his or her designee.

(g) "Guidebook" means the most recent version of the Contra Costa Clean Water Program Stormwater C.3. Guidebook approved by the board of supervisors by resolution.

(h) "Illicit discharge" means any discharge to the county's stormwater system that is not composed entirely of stormwater, except for a discharge in compliance with an NPDES permit.

(i) "NPDES" means the National Pollutant Discharge Elimination System, established by the Federal Water Pollution Control Act, as amended, also known as the Clean Water Act (33 U.S.C. Section 1251 and following).

(j) "Pollutant" means any material other than stormwater discharged into the waterways or stormwater system, including, but not limited to, petroleum products or by-products; solid waste; incinerator residue; sewage; sewage sludge; heat; chemical waste; biological materials; radioactive materials; wrecked or discarded equipment; rock; sand; soil; or industrial, municipal or agricultural waste.

(k) "Premises" means any building; structure; facility; land or portion of land whether improved or unimproved; or installation, including a building's grounds or other appurtenances; and adjacent sidewalks and parking areas.

(l) "Responsible person" means the owner or occupant of any premises or any person who engages in any activity from which there is or may be a discharge prohibited by Section 1014-4.006, or any person who releases pollutants to the county's stormwater system.

(m) "Stormwater" water runoff generated when precipitation from rain and snowmelt events flow over land or impervious surfaces without percolating into the ground.

(n) "Stormwater management facility" means any device designed to detain, retain, filter or infiltrate stormwater.

(o) "Stormwater control plan" means a plan that meets those criteria contained in the most recent version of the Contra Costa Clean Water Program Stormwater C.3. Guidebook.

(p) "Stormwater facilities operation and maintenance plan" means a county approved document detailing operation and maintenance requirements for stormwater management facilities incorporated into a project.

(q) "Stormwater system" means that system of facilities (man-made or natural) by which stormwater may be conveyed, including flood control channels, any roads with drainage systems, city streets, catch basins, curbs, gutters, ditches, improved channels, storm drains, or storm drain system, which are not part of a publicly owned treatment works ("POTW") as that term is defined in 40 CFR Section 122.2.

(Ord. 2025-01 § 2, 2005-01 § 2, 96-21 § 3).

1014-2.006 - Responsibility for administration.

The director or his or her designee shall administer this division for the county.

(Ord. 2025-01 § 2, 2005-01 § 2, 96-21 § 3).

SECTION III. Section 1014-4.004 of the County Ordinance Code is amended to read:

1014-4.004 - Stormwater control plan required.

(a) Effective February 15, 2005, the following developments are subject to the requirements of provision C.3 of the county's NPDES permits:

(1) Any development that creates one acre (forty-three thousand five hundred sixty square feet) or more of impervious surface, including roof areas, streets and sidewalks. Excluded from this category is the construction of one single-family home that is not part of a larger plan of development, provided that the home has appropriate pollutant source control and site design measures and uses landscaping to appropriately treat runoff from roof and house-associated impervious surfaces.

(2) Streets, roads, highways and freeways under the county's jurisdiction that create one acre (forty-three thousand five hundred sixty square feet) or more of new impervious surface. Excluded from this category are sidewalks, bicycle lanes, trails, bridge accessories, guardrails and landscape features.

(3) Developments on previously developed sites that result in the addition or replacement of a combined total of one acre (forty-three thousand five hundred sixty square feet) or more of impervious surfaces. Excluded from this category are interior remodels and routine maintenance or repair. Excluded routine maintenance or repair includes roof or exterior surface replacement, pavement resurfacing, repaving and road pavement structural section rehabilitation within the existing footprint, and any other reconstruction work within a public street or road right-of-way where both sides of that right-of-way are developed.

(b) Effective August 15, 2006, the following developments are subject to the requirements of provision C.3 of the county's NPDES permits:

(1) Any development that creates ten thousand square feet or more of impervious surface, including roof areas, streets and sidewalks. Excluded from this category is the construction of one single-family home that is not part of a larger plan of development.

(2) Streets, roads, highways and freeways under the county's jurisdiction that create ten thousand square feet or more of new impervious surface. Excluded from this category are sidewalks, bicycle lanes, trails, bridge accessories, guardrails and landscape features.

(3) Developments on previously developed sites that result in the addition or replacement of a combined total of ten thousand square feet or more of impervious surfaces. Excluded from this category are interior remodels and routine maintenance or repair. Excluded routine maintenance or repair includes roof or exterior surface replacement, pavement resurfacing, repaving and road pavement structural section rehabilitation within the existing footprint, and any other reconstruction work within a public street or road right-of-way where both sides of that right-of-way are developed.

(c) Effective July 1, 2023, the following developments are subject to the requirements of provision C.3 of the county's NPDES permits:

(1) Any new development project on a previously undeveloped site that creates 5,000 square feet or more of impervious surface, including but not limited to roof areas, streets and sidewalks, except for single-family home projects that meet the following criteria:

(A) involve construction of only one single-family home or its appurtenances, (B) create or replace less than 10,000 square feet of impervious surface, and (C) are not part of a larger development or redevelopment plan regulated under this chapter.

(2) Any development project on a previously developed site that creates or replaces 5,000 square feet or more of impervious surface, except for the following:

(A) Single-family home projects that (i) involve construction of only one single-family home or its appurtenances, (ii) create or replace less than 10,000 square feet of impervious surface, and (iii) are not part of a larger development or redevelopment plan regulated under this chapter;

(B) Interior remodels;

(C) Routine maintenance or repair such as roof or exterior wall surface replacement;

(D) Public road and trail projects;

(E) Public works projects that create or replace less than 5,000 contiguous square feet of impervious surface; and

(F) The following pavement maintenance practices: Pothole and square cut patching; overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage; shoulder grading; reshaping or regrading drainage systems; crack sealing; pavement preservation activities that do not expand the road prism; upgrading from a bituminous surface treatment with an overlay of asphalt or concrete without expanding the area of coverage; applying a bituminous surface treatment to existing asphalt or concrete pavement without expanding the area of coverage; layering gravel over an existing gravel road without expanding the area of coverage; and vegetation maintenance. If a project consists of any of a combination of any exempt pavement maintenance practices and non-exempt pavement maintenance practices, the part or parts of the project that are non-exempt will be evaluated as a regulated project.

(3) Construction of new streets or roads (including sidewalks and bicycle lanes), widening of existing streets or roads with additional traffic lanes, and construction of impervious trails that are 10 feet or more in width or located within 50 feet of the top of a creek bank, that are under the county's jurisdiction and create 5,000 square feet or more of newly constructed contiguous impervious surface, except for the following:

(A) Sidewalks built as part of new streets or roads and that direct stormwater runoff to adjacent vegetated areas;

(B) Bicycle lanes built as part of, but that are not hydraulically connected to, new streets or roads and that direct stormwater to adjacent vegetated areas;

(C) Impervious trails that direct stormwater to adjacent vegetated or other non-erodible permeable areas that are at least half as large as the contributing impervious surface area;

(D) Sidewalks, bicycle lanes, or trails constructed as pervious pavement systems; and

(E) State of California highway projects and associated facilities.

(4) Public and other road projects under the county's jurisdiction that involve the reconstruction of streets or roads and that create or replace one contiguous acre or more of impervious surface, excluding the pavement maintenance practices described in subsection (c)(2)(F); and

(5) Single-family home projects that involve construction of only one home or its appurtenances, including the addition of an accessory dwelling unit on a parcel with one single-family home, and that create or replace 10,000 square feet or more of impervious surface and are not part of a larger development or redevelopment plan.

(d) Every application for a development, including but not limited to a rezoning, tentative map, vesting tentative map, parcel map, conditional use permit, variance, development plan, site development permit, design review, or building permit, that is subject to development

runoff requirements in the county's NPDES permits, shall comply with all requirements of the county's NPDES permits and be accompanied by a stormwater control plan that meets the criteria in the guidebook. Applications will not be deemed complete for processing until after the stormwater control plan has been reviewed and approved for completeness.

(e) For any development where a stormwater control plan is required, implementation of an approved stormwater control plan and submittal of an approved stormwater facilities operation and maintenance plan is a condition precedent to the issuance of a certificate of occupancy or final inspection permit.

(f) All stormwater management facilities implemented pursuant to this subsection shall be designed, constructed, maintained, and operated according to all requirements of the county's NPDES permits, the guidebook, 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 also shall 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 use any of the remedies provided in Chapter 1014-6 or otherwise available in law or equity.

(g) If a stormwater control plan requires the construction of stormwater management facilities (structural BMPs), the property owner must provide recorded covenants, easements, or offers of dedication allowing access for inspection and maintenance of those facilities by the county, the Contra Costa Mosquito and Vector Control District, the regional water quality control boards, the fire protection districts, the sanitary or sanitation districts, the municipal improvement districts, the reclamation districts, and other public agencies that have jurisdiction over the property.

(h) Notwithstanding any other provision in this division, a development is exempt from a specific requirement in provision C.3 of the county's NPDES permits if the county's NPDES permits either:

(1) Expressly exempt the development from the requirement; or

(2) Authorize the county to grant an exemption from the requirement, and the director grants an exemption from the requirement to the development in accordance with that authority.

(Ord. 2025-01 § 3, 2005-01 § 3, 96-21 § 3)

SECTION IV. Section 1014-4.006 of the County Ordinance Code is amended to read:

1014-4.006 - Prohibited discharges.

(a) The release of illicit discharges to the county stormwater system is prohibited.

(b) The following unpolluted discharges are exempt from the prohibition set forth in subsection (a) of this section: Flows from riparian habitats or wetlands; diverted stream flows; flows from natural springs; rising ground waters; uncontaminated groundwater infiltration; single family home pumped groundwater; discharges from single family home foundation drains; water from single family home crawl space pumps or footing drains; pumped groundwater from drinking water aquifers (except for well development); and discharges conforming to individual or general NPDES permits.

(c) The following discharges are exempt from the prohibition set forth in subsection (a) of this section to the extent that the discharges are exempt under the county's NPDES permits: Uncontaminated pumped groundwater; discharges from foundation drains; water from crawl space pumps or footing drains; air conditioning condensate; irrigation water; landscape irrigation; lawn or garden watering; individual residential car washing; discharges of water and foam from emergency firefighting activities; and dechlorinated discharges from swimming pool, hot tubs, spas and fountains.

(Ord. 2025-01 § 4, 2005-01 § 3, 96-21 § 3).

SECTION V. Effective Date. This ordinance becomes effective 30 days after passage, and, within 15 days after passage, this ordinance shall be published in the East Bay Times, a newspaper published in this County. This ordinance shall be published in a manner satisfying the requirements of Government Code section 25124, with the names of the supervisors voting for and against it.

PASSED on February 4 2025_____, by the following vote:

AYES: John Gioia, Candace Andersen, Ken Carlson, Shanelle Scales-Preston

NOES: None

ABSENT: Diane Burgis

ABSTAIN: None

/S/ Board Chair Candace Andersen

ATTEST: MONICA NINO, Clerk of the Board of Supervisors and County Administrator

/S/ Deputy Clerk, June McHuen