

ORDINANCE NO. 3519 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

**AMENDING MONTEREY CITY CODE CHAPTER 31.5 STORM WATER MANAGEMENT
ARTICLE 2 URBAN STORM WATER QUALITY MANAGEMENT AND DISCHARGE
CONTROL FOR CONSISTENCY WITH STATE REGULATIONS**

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, the City of Monterey (City) regulates storm water management and discharge control as set forth in Monterey City Code Chapter 31.5 Storm Water Management, and as mandated by the State Water Resources Control Board (SWRCB) and Central Coast Regional Water Quality Control Board (Regional Board), and the City is authorized by Article XI, Sections 5 and 7 of the State Constitution to make and enforce regulations to promote and protect the health, safety, and security of the public;

WHEREAS, on February 5, 2013, the SWRCB adopted Water Quality Order No. 2013-0001, which is a statewide National Pollutant Discharge Elimination System (NPDES) General Permit required under federal Clean Water Act section 402(p)(6) for small municipalities that operate storm drainage systems that discharge storm flows to waters of the United States;

WHEREAS, regulations in the NPDES General Permit Section E.6.a Legal Authority require, among other regulations, small municipalities to review and revise relevant ordinances or other regulatory mechanisms, or adopt any new ordinances or other regulatory mechanisms, to obtain adequate legal authority, to the extent allowable under state or local law, to control pollutant discharges into and from, as applicable, its Municipal Separate Storm Sewer System (MS4), and to meet the requirements of the NPDES General Permit;

WHEREAS, the City intends to comply with the NPDES General Permit requirement to regulate water quality and drainage impacts of urbanization caused by, among other factors, illegal discharges or connections, construction activities, and watercourse disturbances, which shall be accomplished by revision to Monterey City Code Chapter 31.5 as well as make reference to the extensive water quality regulations mandated by the SWRCB and Regional Board;

WHEREAS, NPDES General Permit Section E.6.a Legal Authority requires the City to review and revise relevant ordinances to establish adequate legal authority to control pollutant discharges into and from the Storm Drain System to meet the requirements of the NPDES General Permit, which in this action include code revisions necessary to address NPDES Section B. Discharge Prohibitions, Section E.10 Construction Site Runoff Control Program, and E.12 Low Impact Development Design Standards; and

WHEREAS, the City of Monterey Planning Office determined the project is exempt from the California Environmental Quality Act (CEQA) Guidelines (Article 19, Section 15308, Class 8) because the project proposes to enact water quality regulations applicable to discharge

prohibitions, construction activities, and watercourse protection, to assure the maintenance and protection of the environment. Furthermore, the project does not qualify for any of the exceptions to the categorical exemptions found at CEQA Guidelines Section 15300.2, as described below:

Exception a - Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located - a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. The proposed project is the enactment of water quality regulations applicable to discharge prohibitions, construction activities, and watercourse protection to protect the environment and itself does not create a physical change to any sensitive environments.

Exception b - Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. The proposed project enacts local water quality regulations applicable to discharge prohibitions, construction activities, and watercourse protection, and thus through this environmental protection, the project will have no negative cumulative impact to the environment.

Exception c - Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The proposed project enacts local water quality regulations applicable to discharge prohibitions, construction activities, and watercourse protection to protect the environment and itself does not create a physical change to the environment, and thus no significant negative effect to the environment will occur.

Exception d - Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements, which are required as mitigation by an adopted negative declaration or certified Environmental Impact Report (EIR). The proposed project is the enactment of water quality regulations applicable to discharge prohibitions, construction activities, and watercourse protection to protect the environment and itself does not create a physical change to the environment or scenic highways. There will be no impact to the scenic resources such as trees, historic buildings, rock outcroppings, or similar resources.

Exception e - Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. The proposed project enacts local water quality regulations applicable to discharge prohibitions, construction activities, and watercourse protection to protect the environment, and itself does not create a physical change to the environment nor impact hazardous waste sites.

Exception f - Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource. The project enacts local water quality regulations applicable to discharge

prohibitions, construction activities, and watercourse protection to protect the environment, and itself does not create a physical change to the environment nor impact historical resources.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 3: Monterey City Code, Chapter 31.5, Article 2, Section 31.5-5 is hereby amended to read as follows:

“Section 31.5-5. Purpose and Intent.

The purpose and intent of this Article is to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of waters of the state and waters of the United States, and protect water bodies in a manner pursuant to and consistent with the Clean Water Act Section 402(p)(6), Porter-Cologne Water Quality Control Act (California Water Code § 13000 et seq.), State Water Resources Control Board (SWRCB) Water Quality Order No. 2013-0001-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004 Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (NPDES General Permit), Central Coast Regional Water Quality Control Board Resolution No. R3-2013-0032 Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region, and per subsequent amendments thereto, by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges to the storm drain system. The NPDES General Permit and Central Coast Regional Water Quality Control Board Resolution No. R3-2013-0032 are hereby adopted and incorporated by reference in this chapter as if fully set forth herein.”

SECTION 4: Monterey City Code, Chapter 31.5, Article 2, Section 31.5-12 is hereby deleted.

SECTION 5: Monterey City Code, Chapter 31.5, Article 2, Section 31.5-12 is hereby added to read as follows:

“Section 31.5-12 Prohibition of Discharges.

(a) No person or entity shall discharge or cause to be discharged into the municipal Storm Drain System or waters of the state, any materials, including but not limited to, Pollutants or waters containing any Pollutants that may cause or contribute to a violation of applicable water quality standards, other than storm water. Wastes deposited temporarily in the street in proper waste receptacles for the purpose of solid waste collection are exempted from this prohibition. Examples of prohibited discharges or illegal connections to the Storm Drain System include, but are not limited to:

- i. Water from the cleaning of gas stations, vehicle service garages, or other types of vehicle service facilities;
- ii. Water, cleansers, or solvents from the cleaning of vehicles, machinery or equipment, and other such commercial and industrial activities;
- iii. Water from the washing or rinsing of vehicles containing soap, detergents,

- solvents, or other cleaners (except individual residential car washing per §31.5-12(c));
- iv. Water from the washing or rinsing of vehicles, with or without soap, from auto body repair shops, including water from the cleaning or rinsing of vehicle engine, undercarriage, or auto parts cleaning;
- v. Vehicle fluids;
- vi. Mat wash and hood cleaning water from food service facilities;
- vii. Food and kitchen cleaning water from food service facilities;
- viii. Grease, food, or wash waters from food or kitchen service facilities, or mobile food vendors;
- ix. Leakage from dumpsters or trash containers.
- x. Water from the cleaning or rinsing of garbage dumpster areas and areas where garbage is stored or contained;
- xi. Water from pressure washing, steam cleaning, and hand scrubbing of sidewalks, gutters, plazas, alleyways, outdoor eating areas, steps, building exteriors, walls, driveways, and other outdoor surfaces;
- xii. Wastewater or cleaning fluids from carpet cleaning;
- xiii. Swimming pool and spa water (not dechlorinated);
- xiv. Wash out from concrete trucks, or ready-mix concrete washout;
- xv. Runoff from areas where hazardous substances, including diesel fuel, gasoline and motor oil are stored, except as allowed by §31.5-14;
- xvi. Super-chlorinated water normally associated with the disinfection of potable water systems;
- xvii. Construction debris and fluids, such as, but not limited to, paint, dirt or sediment, construction wastes, rinse or wash waters; and
- xviii. Sewage, or other forms of pollutants, from recreational activities including boating and camping, and from recreational vehicles and boats.

(b) Discharges to the municipal Storm Drain System of material other than storm water is prohibited and are illegal, except as allowed under Section 31.5-12(c) or as otherwise authorized by a separate NPDES permit, waiver, or waste discharge order issued to a discharger and administered by the State of California under the authority of the federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted by the City for any discharge to the Storm Drain System. The commencement, conduct or continuance of any illicit discharge to the Storm Drain System is prohibited except as described in §31.5-12(c).

(c) The following non-storm water discharges are not prohibited, except as noted in NPDES General Permit Attachment C Areas of Special Biological Significance (ASBS) Specific Provisions, provided any pollutant discharges are identified and appropriate control measures to minimize the impacts of such discharges are developed and implemented by the responsible person or entity. This provision does not obviate the need to obtain any other appropriate permits for such discharges:

- (i) water line flushing;
- (ii) individual residential car washing;
- (iii) diverted stream flows;
- (iv) rising ground waters;

- (v) uncontaminated ground water infiltration (as defined at 40 C.F.R. Section 35.2005(20)) to separate storm sewers;
- (vi) uncontaminated pumped ground water;
- (vii) discharges from potable water sources;
- (viii) foundation drains;
- (ix) air conditioning condensation;
- (x) springs;
- (xi) water from crawl space pumps;
- (xii) footing drains;
- (xiii) flows from riparian habitats and wetlands;
- (xiv) dechlorinated swimming pool discharges;
- (xv) incidental runoff from landscaped areas, which is defined as unintended amounts (volume) of runoff, such as minimal over-spray from sprinklers that escapes the area of intended use. Water leaving an intended use area is not considered incidental if it is due to: the facility design; excessive application; intentional; or due to negligence and

Discharges or flows from fire-fighting activities. These non-storm water discharges need only be addressed where they are identified as a significant source of pollutants to waters of the U.S., such as posing a threat to water quality standards.

- (d) With written concurrence of the Regional Board, the City may exempt in writing other non-storm water discharges which are not a source of pollutants to the Storm Drain System, waters of the State, or U.S.”

SECTION 6: Monterey City Code, Chapter 31.5, Article 2, Section 31.5-15(c) is hereby amended to read as follows:

“(c) Construction Sites. BMPs to reduce pollutants in any storm water runoff activities shall be incorporated in any land use entitlement and/or construction or building-related permit. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and/or building permits as required by the City and as required by the NPDES General Permit and as amended thereto, including, but not limited to, the requirement to submit, implement, and maintain site-specific construction BMPs as applicable for erosion and sediment control, soil stabilization, source controls, materials and stockpile management, dewatering, and similar pollution prevention measures to prevent dumping or illegal discharges during construction into the Storm Drain System. ”

SECTION 7: Monterey City Code, Chapter 31.5, Article 2, Section 31.5-18 is hereby amended to read as follows:

“Section 31.5-18. Watercourse Protection.

- (a) Every person or entity owning property through which a watercourse passes, or such owner’s lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, or remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner or such owner’s lessee, shall be responsible for

maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property.

- (b) Watercourse protection shall be identified in the development planning stage of real property by the person or entity owning the property through which a watercourse passes, in order to retain creeks, wetlands, and riparian areas that provide habitat, and to remediate degraded water quality. Such considerations include, but are not limited, to preservation and setbacks from creeks, wetlands, and riparian habitats in compliance with applicable local, state, and federal laws and regulatory permit authorities, such as U.S. Army Corps of Engineers, Regional Board, SWRCB, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Association (NOAA) Monterey Bay National Marine Sanctuary, and in conformance with low impact development site assessment and design standards of the NPDES General Permit and Regional Board Resolution No. R3-2013-0032, and as amended thereto."

SECTION 8: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 9: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 7th day of July, 2015, by the following vote:

AYES:	5	COUNCILMEMBERS:	Downey, Haffa, Smith, Barrett, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:



Mayor of said City

