

Chapter 12.28

URBAN RUNOFF POLLUTION PREVENTION

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ARTICLE I. TITLE, PURPOSE AND GENERAL PROVISIONS

12.28.010 Title. This chapter shall be known as the "town urban runoff pollution prevention ordinance" and may be so cited. (Ord. 529 Div. 1(part), 1995).

12.28.020 Purpose and intent. The purpose of this chapter is to ensure the future health, safety, and general welfare of Ross citizens by:

1. Minimizing discharges other than storm runoff to storm drains or watercourses;
2. Controlling the discharge to storm drains or watercourses from spills, dumping or disposal of materials other than rainwater;
3. Reducing pollutants in storm water 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. 529 Div. 1(part), 1995).

12.28.030 Definitions. (a) 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:

(1) "Discharge" means (a) any addition of any pollutant to navigable waters from any point source, or (b) 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.

(2) "Illicit discharge" means any discharge to a county storm drain that is not composed entirely of storm-water except discharges pursuant to a national pollution discharge elimination system (NPDES) permit and discharges resulting from fire fighting activities.

(3) "Illicit connection" means any device or method which conveys nonstormwater discharge to a county storm drain.

(4) "Pollutant" means dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, radioactive materials, heat, wrecked or discarded equipment, cellar dirt, and industrial, municipal, and agricultural waste; or sand and gravel placed in such a way as to be carded away by stormwater into the stormdrains and watercourses of the town.

(5) "Stormwater or storm runoff" means stormwater runoff, snow melt runoff, and surface runoff and drainage.

(b) When used in this chapter, the following words shall have the meanings ascribed to them in this subsection:

(1) "Authorized enforcement official" means the director of the department of public works of the town.

(2) "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, and practices to control site runoff, spillage or leaks, sludge or waste recycling or disposal, or drainage from raw material storage.

(3) "Town" means the town of Ross.

(4) "Storm drains" means and includes but is not limited to those facilities within the town by which storm-water 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.

(5) "Nonstormwater discharge" means any discharge that is not entirely composed of stormwater.

(6) "Premises" means any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.. "Watercourse" means any natural or once natural flowing river, creek, stream, swale or drainageway, 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. 529 Div. I(part), 1995).

12.28.040 Responsibility for administration. This chapter shall be administered for the town by the director of public works. Where storm drains and/or watercourses have been accepted for maintenance by a public agency legally responsible for certain storm drains and/or watercourses, then the responsibility for enforcing the provisions of this chapter may be assigned to such agency (through contract or agreement executed by the town and such agency) with respect to those storm drains and/or watercourses for which they have accepted maintenance. (Ord. 529 Div. I(part), 1995).

12.28.050 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 basin plan and any amendments, revisions or reissuance thereof. (Ord. 529 Div. I(part), 1995).

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ARTICLE II. DISCHARGE REGULATIONS AND REQUIREMENTS

12.28.060 Discharge of Pollutants. (a) The discharge of nonstormwater discharges to a town storm drain is prohibited. All discharges of material other than storm-water must be in compliance with a NPDES permit issued for the discharge.

(b) Exceptions to Discharge Prohibition. The following discharges are exempt from the prohibition set forth in subsection (a) of this section:

(1) The prohibition on discharges shall not apply to any discharge regulated under a NPDES permit issued to the discharger and administered by the state of California under authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.

(2) Discharges from the following activities will not be considered a source of pollutants to waters of the United States when properly managed: water line flushing and other discharges from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, using groundwaters, infiltration to separate storm drains, uncontaminated pumped groundwater, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washing, flows from riparian habitats and wetlands, flows from fire fighting, or permitted use of reclaimed water. (Ord. 529 Div. 1(part), 1995).

12.28.070 Discharge in violation of permit. In the future, the regional board may issue an NPDES permit for stormwater discharges to the town, individually or in association with other Marin County municipalities. Any discharge that would result in or contribute to a violation of that 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 town in any administrative or judicial enforcement action relating to such discharge. (Ord. 529 Div. 1(part), 1995).

12.28.080 Illicit discharge and illicit connections. The establishment, use, maintenance, or continuance of illicit connections to a town storm drain, and/or commencement or continuance of any illicit discharges to a town storm drain is prohibited. This prohibition is expressly retroactive and applies to connections made in the past, regardless of whether made under a permit or other authorization or whether permissible under the law or practices applicable or prevailing at the time of the connection. (Ord. 529 Div. 1(part), 1995).

12.28.090 Reduction of pollutants in urban runoff. Any person engaged in activities which will or may result in pollutants entering a town storm drain shall undertake all practicable measures to cease such activities and/or eliminate or reduce such pollutants. Such activities include, but are not limited to, ownership, operation and/or use of parking lots, gasoline stations, industrial facilities, commercial facilities and stores fronting town streets.

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(1) Littering. Except for pollutants lawfully disposed of by way of containers or at lawfully established dumping grounds, no person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the town, such that, in the opinion of the authorized enforcement official, the same might be or become a pollutant discharged to the waters of the United States.

The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the town in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt and/or litter to the maximum extent practicable. Sweepings from said sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained on said real property as required for the recycling or disposal of garbage.

(2) Standard for Parking Lots and Similar Structures. Persons owning or operating a parking lot, gas station or similar facility shall clean same as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to a town storm drain.

(3) Best Management Practices for New Developments and Redevelopments. Any construction contractor performing work in the town shall implement appropriate BMPs to prevent the discharge of construction wastes or contaminants from construction materials, tools and equipment from entering a town storm drain.

All construction plans and applications for building permits shall consider the potential for erosion and sedimentation at the construction site, and shall include appropriate erosion and sedimentation controls. Appropriate controls shall be determined in accordance with the guidance provided in the Standards for Erosion and Sedimentation Control and the Erosion and Sedimentation Control Handbook published by the Association of Bay Area Governments, and may include site planning considerations, construction staging and timing, and installation of temporary detention ponds or other treatment facilities.

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.

The director of public works may require, as a condition of project approval, permanent structural 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 state and federal agencies.

(4) Notification of Intent and Compliance with General Permits. Each industrial discharger, discharger associated with construction activity, or other discharger, described in any general stormwater permit addressing such discharges, as may be adopted by the United States Environmental Protection Agency, the State Water Resources Control Board, or the Regional Board, shall provide notice of intent, comply with, and undertake all other activities required by any general stormwater permit applicable to such discharges.

Each discharger identified in an individual NPDES permit relating to stormwater discharges shall comply with and undertake all activities required by such permit.

(5) Compliance with Best Management Practices. Where best management practices guidelines or requirements have been adopted by any federal, state of California, regional, and/or local agency, for any activity, operation, or facility which may cause or contribute to stormwater pollution, contamination and/or illicit discharges, to a storm drain, every person undertaking such activity or operation, or owning or operating such facility shall comply with such guidelines or requirements as may be required by the authorized enforcement official. (Ord. 529 Div. I(part), 1995).

12.28.100 Watercourse protection. (a) Every person owning occupying, leasing, renting, or in control of the premises through which a watercourse passes shall: (1) keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles which would and/or could pollute or contaminate the flow of water through the watercourse; (2) 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; and (3) not remove healthy bank vegetation beyond that actually necessary for said maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.

(b) No person shall commit or cause to be committed any of the following acts, unless a written permit has first been obtained from the director of public works:

- (1) Discharge into a watercourse;
- (2) Modify the natural flow of water in a watercourse;
- (3) Deposit in or remove any material from a watercourse including its banks, except as required for necessary maintenance;
- (4) Construct, alter, enlarge, connect to, change, or remove any structure in a watercourse; or
- (5) Place any loose or unconsolidated material within a watercourse or so close to the side so as to cause a probability of such material being carried away by storm-waters. (Ord. 529 Div. I(part), 1995).

ARTICLE III. INSPECTION AND ENFORCEMENT

12.28.110 Violations constitute a public nuisance-Abatement--Restoration. Any condition caused or allowed to exist in violation of any of the provisions of this chapter constitutes a threat to the public health, safety and welfare, and is deemed and declared to be a public nuisance and may be summarily abated and/or the property restored to its original condition, and/or enjoined or otherwise be compelled to cease and desist, by the authorized enforcement official, or by actions taken by the town council.

(1) Abatement Procedure--Costs--Lien. The abatement of any public nuisance under this chapter shall follow the formal notice procedures as set forth in Chapter 9.04 of this code. The cost of such abatement and/or restoration of the property to its original condition, shall be the responsibility of the owner of the property. Said costs shall be a lien upon and against the property and shall continue in existence until it is paid. Said lien shall be imposed and collected in accordance with the applicable provisions of state law and this code.

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(2) Inspections and Sampling--Authority and Procedure.

(A) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever there is reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, as determined by the authorized enforcement official, the official may, within the limitations of law, enter such building or premises at all reasonable times to inspect the same for violations of this chapter or to perform any duty imposed upon the official by this chapter; provided that the official presents proper credentials to, and obtains consent from the owner or occupant to enter. If such building or premises be unoccupied, the official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. In the event the owner and/or occupant refuses entry or cannot be contacted, the official shall request assistance of the town council to obtain an administrative warrant for the premises, pursuant to the provisions of state law.

(B) The authorized enforcement official has the right to conduct routine sampling and monitoring. The costs of such routine sampling and/or monitoring activities, including test reports and results, shall be borne by the town. Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including but not limited to random sampling and/or sampling in areas with evidence of stormwater contamination or illicit discharges to a storm drain, or similar factors.

(C) Whenever the authorized enforcement official determines there exists reasonable cause to believe that the owner and/or occupant of a premises is engaged in an activity and/or operating a facility that is causing or contributing to stormwater pollution or contamination, illicit discharges, and/or the discharge of other unlawful material, to a storm drain, the official may require the owner and/or occupant to conduct sampling and/or monitoring activities on the premises, and to furnish such test results and reports as the official may determine. The burden and cost of undertaking such sampling and monitoring activities, including test results and reports, shall be borne by the owner of the premises under review. The type and method of sampling and monitoring shall bear a reasonable relationship to the need for testing and monitoring and to the benefits to be obtained, as determined by the enforcement official.

(D) Whenever a condition is found to exist in violation of this chapter that, in the opinion of the authorized enforcement official, presents an immediate and present danger to the public health, safety and welfare requiring immediate remedial action to prevent injury to persons or property, the official shall take whatever reasonable and appropriate action he or she may deem necessary to neutralize the danger, including but not limited to, entry upon private premises for inspection, sampling and monitoring, and abatement. (Ord. 529 Div. 1(part), 1995).

12.28.120 Violations--Misdemeanors or infractions--Penalties. The violation of any provision of this chapter, or failure to comply with any of the mandatory requirements of this chapter shall constitute a misdemeanor; except that notwithstanding any other provisions of this chapter, any such violation of this chapter may, at the discretion of the authorized enforcement official, constitute an infraction. If convicted of a misdemeanor, a person shall be subject to payment of a fine, imprisonment, or both, not to exceed the limits set forth in Government Code Section 36901. If convicted of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in Government Code Section 36900. A person, firm, corporation or

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organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly. (Ord. 529 Div. 1(part), 1995).

12.28.130 Violations--Civil action for enforcement. The violation of any provision of this chapter, or the failure to comply with any of the requirements of this chapter, may be enforced by civil action brought by the town council in any court having appropriate jurisdiction. In any such action, the town may seek any or all of the following remedies:

- (1) A temporary or permanent injunction;
 - (2) Costs of investigation, inspection, sampling or monitoring activities concerning the violation, and costs of preparing and bringing legal action;
 - (3) Costs of restoration of the premises from its condition resulting from the violations back to its original condition or incurred in removing, correcting, or terminating the adverse effects resulting from the violation;
- Compensatory damages including but not limited to loss and/or damage to water quality, wildlife, fish, aquatic life and other adverse environmental effects. Damages recovered under this subsection shall be paid to the town and shall be used for costs of sampling and monitoring, of establishing stormwater discharge pollution control systems and implementing and/or enforcing the provisions of this chapter and/or restoration of aquatic or riparian habitat. (Ord. 529 Div. 1(part), 1995).

12.28.140 Violations--Administrative enforcement action. In addition to any other enforcement powers and/or remedies provided in this chapter, the authorized enforcement official may issue an order to cease and desist from the discharge, practice, operation or other activity causing or likely to cause a violation of this chapter. Such order shall be directed to those persons in violation of the chapter stating clearly and concisely the nature of the violation, the requirements for compliance, a timetable for compliance, and such other remedial and/or preventative action as may be deemed necessary by the official. Upon the violator's failure to comply with such order, the town shall take further enforcement action as specified in this chapter, or in accordance with any other appropriate provision of local, state or federal law. (Ord. 529 Div. 1(part), 1995).

12.28.150 Remedies not exclusive. The remedies provided in this chapter are in addition to and do not supersede or limit any and all other remedies, both civil and criminal. The remedies provided for herein shall be cumulative to, and not exclusive of, each other. (Ord. 529 Div. 1(part), 1995).

12.28.160 Authority to arrest and issue citations. Any person who violates any provision of this chapter shall be subject to arrest or citation in the manner provided by the California Penal Code for the arrest or release on citation of misdemeanors or for citation of infractions and notice to appear, as prescribed by Chapter 5, 5c, and 5d of Title 3, Part 2 of the California Penal Code including Section 853.6 or as the same may be hereinafter amended. It is the intent of the town council that the immunities prescribed in Section 836.5 of the Penal Code be applicable to public officers or employees acting in the course and scope of employment pursuant to this chapter. (Ord. 529 Div. 1(part), 1995).

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ARTICLE IV. COORDINATION WITH OTHER PROGRAMS

12.28.170 Coordination with hazardous materials inventory and response program. The first revision of the business plan for any facility subject to County Code Chapter 7.90 (Hazardous Materials Release Response Plans and Inventories) shall include a program for compliance with this chapter, including the prohibitions on illicit discharges, and the requirement to reduce stormwater pollutants to the maximum extent practicable. (Ord. 529 Div. 1(part), 1995).

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