

# City of Brisbane

## Agenda Report

TO: Honorable Mayor and City Council

FROM: Director of Public Works/City Engineer via City Manager

SUBJECT: Storm Water Management – Ordinance 571 – 1<sup>st</sup> Reading

DATE: March 5, 2012

### **City Council Goals:**

To develop plans and pursue opportunities to protect natural resources. (#8)

### **Purpose:**

To update the storm water chapter of the municipal code to reflect the current state regulations under which we are required to operate; this action is consistent with the community's value of ensuring the highest level of water quality.

### **Recommendation:**

Consider introduction of Ordinance No. 571, waiving first reading, amending Sections 13.06.040 and 13.06.150 of the Municipal Code Chapter concerning "Storm Water Management and Discharge Control."

### **Background:**

In 1987, the Environmental Protection Agency, under amendments to the 1972 Clean Water Act, imposed regulations that mandate control and reduction of pollutants in stormwater runoff through the National Pollutant Discharge Elimination System (NPDES) permitting program. In the Bay Area, under the authority of the Porter-Cologne Water Quality Control Act, the San Francisco Bay Regional Water Quality Control Board (Water Board) issues and enforces municipal stormwater NPDES permits.

A new Municipal Regional Stormwater Permit (MRP) was approved by the Water Board in late 2009 that applies to all municipalities throughout San Mateo, Santa Clara, Alameda, and Contra Costa counties, as well as the cities of Fairfield, Suisun City, and Vallejo. This new permit mandates specific actions, implementation levels, and reporting requirements that each municipality must meet. Failure by municipalities to comply with these new permit requirements may result in significant enforcement action by the Water Board.

One of the specific requirements of the MRP is for the city to have the ability to require effective storm water pollutant controls, as required in Provision C.6 of the permit.

**Discussion:**

The current language in the municipal code refers to a Water Board permit that was superseded by the new MRP. The following summarizes the changes proposed in the attached ordinance:

“Major” changes

The reference to the superseded permit in §13.06.150 is replaced by reference to the Municipal Regional Permit. A new definition for the MRP is included in §13.06.040, and that definition includes language that incorporates future revisions or amendments to permits issued by the Water Board.

“Minor” changes

The definitions in §13.06.040 have been rearranged in alphabetical order to assist in readability, and the definitions are now bolded rather than enclosed by quotation marks.

**Fiscal Impact:**

None as a result of changes proposed herein.

**Measure of Success**

The passage of an ordinance that clearly provides the city the necessary authority to enforce all requirements of the Municipal Regional Permit regarding controls for sedimentation, erosion, and other pollutants that could enter waterways if not restricted.

**Attachments:**

“Redline” version of Ordinance No. 571

“Clean” version of Ordinance No. 571



\_\_\_\_\_  
Director of Public Works/City Engineer



\_\_\_\_\_  
City Manager

ORDINANCE NO. 571

AN ORDINANCE OF THE CITY OF BRISBANE  
AMENDING CHAPTER 13.06 OF THE MUNICIPAL  
CODE PERTAINING TO STORM WATER  
MANAGEMENT AND DISCHARGE CONTROL

The City Council of the City of Brisbane hereby ordains as follows:

**SECTION 1:** Section 13.06.040 in Chapter 13.06 of the Municipal Code is amended to read as follows:

**§13.06.040 - 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 storm water 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 article shall have the same meaning as in that statute or regulations. Specifically, the definition of the following terms included in that statute or regulations are incorporated by reference, as now applicable or as may hereafter be amended: discharge, illicit discharge, pollutant, and storm water. These terms and the following words shall have the meanings ascribed to them in this Section:

A.

Authorized Enforcement Official. When used in this chapter, the following city officials are "authorized enforcement officials": director of public works/city engineer; city manager; building and planning director; fire chief and their authorized designees.

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, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

C.

City means the city of Brisbane.

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Deleted: presently are defined as follows

Deleted: A.¶

"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. ¶

B.¶

"Illicit discharge" means any discharge to the city storm sewer system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from firefighting activities. ¶

C.¶

"Pollutant" means dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharge into water. ¶

D.¶

"Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage. ¶

E.¶

"Authorized Enforcement Official." When used in this chapter, the following city officials are "authorized enforcement officials": director of public works/city engineer; city manager; building and planning director; fire chief and their authorized designees. ¶

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"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 plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. ¶

G.¶

... [1]



D.

City storm sewer system means and includes, but is not limited to, those facilities within the city 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, manmade channels or storm drains, which is not part of a publicly owned treatment works (POTW) as defined in 40 CFR § 122.2.

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.

Illicit discharge means any discharge to the city storm sewer system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from firefighting activities.

G.

Municipal Regional Permit means the Municipal Regional Stormwater NPDES (National Pollutant Discharge Elimination System) Permit, of which the city is a permittee, issued by the San Francisco Regional Water Quality Control Board, a copy of which is filed in the office of the city clerk, and any amendment, revision or reissuance thereof.

H.

Nonstorm water discharge means any discharge that is not entirely composed of storm water.

I.

Pollutant means dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharge into water.

J.

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

K.

Storm water means storm water runoff, snow melt runoff, and surface runoff and drainage.

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**SECTION 2**            Section 13.06.150 in Chapter 13.06 of the Municipal Code is amended to read as follows:

**§13.06.150 - Discharge in violation of permit.**

Any discharge that would result in or contribute to a violation of ~~the~~ Municipal Regional Permit, Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify and hold harmless the city in any administrative or judicial enforcement action relating to such discharge.

**Deleted:** NPDES Permit No. CA0029921

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**Deleted:** a copy of which is filed in the office of the city clerk, and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is prohibited.

**SECTION 3:**            If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

**SECTION 4:**            This Ordinance shall be in full force and effect thirty days after its passage and adoption.

\* \* \* \*

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Cliff Lentz, Mayor

ATTEST:

\_\_\_\_\_  
Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Harold S. Toppel, City Attorney

## ORDINANCE NO. 571

### AN ORDINANCE OF THE CITY OF BRISBANE AMENDING CHAPTER 13.06 OF THE MUNICIPAL CODE PERTAINING TO STORM WATER MANAGEMENT AND DISCHARGE CONTROL

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ABSTAIN:

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Cliff Lentz, Mayor

ATTEST:

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Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:

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Harold S. Toppel, City Attorney