

ORDINANCE NO. 2017 - 2

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE
SCOTIA COMMUNITY SERVICES DISTRICT
ADOPTING TITLE VI – STORM DRAINAGE**

The Board of Directors of the Scotia Community Services District does ordain as follows:

Section 1: Title VI (Storm Drainage) is hereby adopted as follows:

TITLE VI - STORM DRAINAGE

CHAPTER 1 – PURPOSE

SEC. 1.01. PURPOSE AND POLICY. The purpose of this ordinance is to provide for the ongoing operation, maintenance, expansion, enhancement, construction, renovation, and rehabilitation of the SCSD storm drainage improvements and facilities that provide special benefits to properties within the SCSD, including incidental expenses and debt services for any bond(s), loans, or other repayment plans incurred to finance capital improvements. This article is intended to implement the provisions of Article 4 of Chapter 6.4, of the Benefit Assessment Act of 1982, [Act]) of the California Government Code (State of California, 1982) herein referred to as the "Act." Pursuant to the Act, the SCSD is the legislative body for the Storm Drainage District and may levy annual assessments and act as the governing body for the operations and administration of the SCSD. This title sets forth the standards, processes and fees associated with storm drainage services, adequate regulation of use, construction, and maintenance; and to provide procedures for complying with the requirements placed upon the District by other regulatory agencies.

CHAPTER 2 – DISTRICT DESIGNATED STORM DRAINAGE

SEC 2.01. STORM DRAINAGE RESPONSIBILITY AND DEFINITION. The Scotia Community Services District will own and maintain all dedicated storm drainage as adopted by resolution of the District. Storm drainage facilities are defined as the system of ditches, pipes, catch basins, gutters, drain inlets, manholes, outfalls, and all other associated infrastructure owned and/or operated by the District, which carries stormwater and surface waters or groundwater and drainage, but excludes sewage and polluted industrial waste.

CHAPTER 3 - GENERAL PROVISIONS

SEC 3.01. RULES, REGULATIONS, AND RATES. The Board reserves the right and power to from time to time by resolution adopt rules and regulations for the operation and maintenance of the storm drainage facilities of the District, and may likewise by resolution establish and modify the rates, charges, and penalties, consistent with the Engineer's Report for Assessment of Storm Drainage Benefits.

SEC 3.02. SERVICE CHARGE FIXED BY RESOLUTION. The District Board shall, by resolution, adopt an annual schedule of service charges and fees which will enable the District to operate and maintain the storm drainage system. These charges shall be levied against the owner or tenant of any developed parcel of property that discharges stormwater runoff into the District's drainage system.

SEC 3.03. BILLING. The regular billing period will be for each calendar month, or bimonthly, as determined by the Board. Opening and closing bills for less than the normal billing period shall be prorated on a daily-use basis. Bills for service shall be rendered at the beginning of each billing period and are payable upon presentation and due within 30 days.

SEC 3.04. VANDALISM. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the District's storm drainage system. Any person violating this provision shall be subject to the penalties provided by law.

SEC 3.05. PERMIT REQUIRED. No unauthorized person shall uncover, make any connection with or opening into, use, alter, regrade, or disturb any portion of the District's storm drainage system or appurtenances or perform any work on any portion of the system without first obtaining a written permit from the District.

SEC 3.06. DISCHARGE OF POLLUTANTS.

- A. The discharge of non-stormwater into storm drains is prohibited. All discharges of material other than stormwater must comply with a National Pollutant Discharge Elimination System (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, rising ground waters, infiltration to storm drains, uncontaminated pumped ground water, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washing, fundraising car washing that does not exceed two consecutive days, flows from riparian habitats and wetlands, flows from firefighting, or permitted use of reclaimed water.

SEC 3.07. DISCHARGE IN VIOLATION OF PERMIT. In the future, the California Regional Water Quality Control Board, Northern California Region (herein called Regional Board)

may issue an NPDES permit for stormwater discharges to the District. Any discharge that would result in or contribute to a violation of that permit and any amendment, revision or re-issuance 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 District in any administrative or judicial enforcement action relating to such discharge.

SEC 3.08. UNAUTHORIZED DISCHARGE AND UNAUTHORIZED CONNECTIONS.

The establishment, use, maintenance, or continuance of unauthorized connections to the storm drains, and/or the commencement or continuance of unauthorized discharges to the storm drains 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.

SEC 3.09. REDUCTION OF POLLUTANTS. Any person engaged in activities which will or may result in pollutants entering the storm drains shall undertake all practicable measures to cease such activities, and/or eliminate or reduce such pollutants. Such activities shall include, but not be limited to, ownership and use of parking lots, gasoline stations, industrial facilities, commercial facilities, restaurants, and stores fronting District streets or backing onto streams.

- A. Littering. Except for pollutants lawfully disposed of by way of containers or at a licensed dumping ground, no person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, yard waste, automotive waste, 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 or other premises in the District, so that the same might be or become a pollutant discharged to water.
- B. Standard for Parking Lots and Similar Structures. Persons owning or operating a parking lot, gas station, area of pavement, or similar impervious structure shall remove pollutants and litter as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the storm drains.
- C. 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 CALTRANS handbook or similar technical manual 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 General Manager or authorized designee may establish controls on the volume and rate of stormwater runoff from new construction as may be appropriate to minimize peak flows or total runoff volume. These controls

may include limits on impervious or area provisions for detention and retention of runoff on site.

SEC 3.10. WATERCOURSE PROTECTION.

- A. Every person owning, occupying, leasing, renting, or in control of 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, contaminate, or significantly hinder the flow of water through the watercourse;
 - 2. Protect and prevent deterioration 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 without District Permit.
- 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 General Manager:
 - 1. Discharge into or connect any pipe or channel to a watercourse;
 - 2. Modify the natural flow of water in a watercourse;
 - 3. Deposit in, plant 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 adjacent to or within a watercourse to cause a diversion of the flow, or to cause a probability of such material being carried away by stormwater passing through such watercourse.

SEC 3.11. PROPORTIONAL REDUCTION OF STORM DRAINAGE FEE

- A. The Storm drainage fee may be reduced by the General Manager based on:
 - (1) The type of impervious surface area on a particular developed parcel; or,
 - (2) Whether approved runoff control measures have been taken.
- B. Fee reduction shall occur on a case-by-case basis and shall reflect the extent to which the type of impervious surface area or alternate control measures reduce or eliminate use of the District's Drainage Facilities. The burden of establishing the reduced extent of the contribution to the District's Drainage Facilities shall be on the property owner. The General Manager may require the property owner to present an engineered drainage plan or any other technical information, which may be needed to support the request for a fee reduction.

SEC. 3.12. ADMINISTRATIVE REVIEW.

- A. Any property owner who disputed the amount of a drainage fee imposed against his or her parcel pursuant to this chapter may file a written request with the General Manager to review the fee imposed. At the discretion of the General Manager, the requesting party may be required to present an engineered report and/or survey showing information relevant to the request such as the total property area, the impervious surface area, and any other features or conditions which influence the drainage or storm and surface water runoff from the property.
- B. The General Manager shall conduct a technical review to determine if an adjustment of the fee is in conformance with the provisions of this ordinance. At the conclusion of the review, the General Manager shall issue a written determination stating whether a fee reduction is appropriate and, if so, the amount of such reduction. All decisions of the General Manager shall be served on the property owner personally or by certified mail.
- C. The party who requested review of the drainage fee may appeal the decision of the General Manager to the District Board within (30) days after service of the General Managers' written decision. Notice of appeal shall include a description of the general grounds for the appeal. The District Board shall conduct a public hearing to consider the testimony of the appealing party. After the public hearing, the District Board may affirm or modify the decision of the General Manager, provided that any modification of the fee is in conformance with the provisions of the ordinance.

SEC. 3.13. ANNUAL INSPECTION OF PRIVATE FACILITIES. The General Manager or authorized designee has the duty and the responsibility to annually inspect all private facilities for any violation of the provisions of this ordinance.

The General Manager or authorized designee may, within the limitations of the law, enter such building or premises at reasonable times to inspect the same for violations of this ordinance or to perform any duty imposed upon the General Manager or authorized designee by this ordinance; provided, that the General Manager or authorized designee presents proper credentials to, and obtains consent from, the owner or occupant to enter.

In the event the owner and/or occupant refuse entry, the General Manager shall request assistance of the District legal counsel to obtain an administrative warrant for the premises, pursuant to the provisions of state law.

Private facilities shall be responsible for the cost of inspection and any associated inspection costs including but not limited to testing. Inspection costs shall be determined by the District by resolution of the Board.

CHAPTER 4 – ENFORCEMENT

SEC. 4.01. AUTHORITY. California Government Code Section 61064(a) states the “violation of any rule, regulation, or ordinance adopted by a board of directors is a misdemeanor punishable pursuant to Section 19 of the Penal Code.” California Government Code Section 61064(b) allows any citation issued by the SCSD for the violation of a rule, regulation, or ordinance adopted by the Board “may be processed as an infraction pursuant to subdivision (d) of Section 17 of the Penal Code.” Finally, Cal. Gov’t Code 61064(c) allows the Board to confer on “designated uniformed District employees the power to issue citations for misdemeanor and infraction violations of state law, city or county ordinances, or District rules, regulations, or ordinances when the violation is committed within a facility and in the presence of the employee issuing the citation. District employees shall issue citations pursuant to Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code.”

SEC. 4.02. DESIGNATED EMPLOYEES. Each act that violates this Storm Drainage Ordinance is a violation of the Scotia Community Services District’s rules and shall constitute a separate offense. A violation of this section is punishable as a misdemeanor or infraction, chargeable at the General Manager’s or District’s Counsel’s discretion.

SEC 4.03. VIOLATIONS, ABATEMENT, RESOLUTION. Any condition caused or allowed to exist in violation of any of the provisions of this ordinance constitutes a threat to the public health, safety and welfare, and is deemed and declared to be a public nuisance. This public nuisance 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 General Manager or authorized designee, or by actions taken by the District legal counsel.

A. Inspections and Sampling – Authority and Procedure.

1. The General Manager or authorized designee has the duty and the responsibility to inspect all locations for any violation of the provisions of this ordinance. The General Manager or authorized designee may, within the limitations of law, enter such building or premises at reasonable times to inspect the same for violations of this ordinance or to perform any duty imposed upon the General Manager or authorized designee by this ordinance; provided, that the General Manager or authorized designee presents proper credentials to, and obtains consent from, the owner or occupant to enter. In the event the owner and/or occupant refuse entry, the General Manager shall request assistance of the District legal counsel to obtain an administrative warrant for the premises, pursuant to the provisions of state law.
2. The General Manager or authorized designee has the right to, and shall conduct routine sampling and monitoring on or adjacent to the premises under review. The cost of such routine sampling and/or monitoring activities, including test reports and results, shall be paid for by the District. The General Manager or authorized designee may, within the limitations of law, enter such premises at reasonable times to conduct sampling and monitoring operations; provided, that the General

Manager or authorized designee presents proper credentials to, and obtains consent from, the owner or occupant to enter. In the event the owner and/or occupant refuse entry, the General Manager shall request assistance of the District legal counsel to obtain an administrative warrant for the premises, pursuant to the provisions of state law.

3. Whenever the General Manager or authorized designee has 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, unauthorized discharges, and/or the discharge of non-stormwater or other unlawful material to the storm drains, the General Manager or authorized designee 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 General Manager or authorized designee may determine. The burden and cost of undertaking such sampling and monitoring activities, including test results and reports, shall be paid for 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 General Manager or authorized designee.
4. Exigent Circumstances. Whenever a condition is found to exist in violation of this ordinance that 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 General Manager or authorized designee shall take whatever reasonable and appropriate action is necessary to neutralize the danger, including, but not limited to, entry upon private premises for inspection, sampling and monitoring, and abatement.

SEC. 4.04. PENALTY.

- A. It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this ordinance or the provisions of any ordinance adopted by reference by this ordinance. Any person violating any of such provisions or failing to comply with any of the mandatory requirements of this ordinance shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this ordinance shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this ordinance, or the provisions of any ordinance adopted by reference by this ordinance, is committed, continued, or permitted by such person and shall be punishable accordingly. Any violation of this ordinance which is declared to be a misdemeanor shall be considered and treated as an infraction subject to the procedures described in Cal. Penal Code §§ 19.6 and 19.7, when:

1. The District Manager or District Counsel files a complaint charging the offense as an infraction unless the defendant, at the time he/she is arraigned, after being informed of his/her rights, elects to have the case proceed as a misdemeanor; or
 2. The court, with the consent of the defendant, determines that the offense is an infraction in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.
- B. In addition to the penalties provided by this section, any condition caused or permitted to exist in violation of any of the provisions of this ordinance, or the provisions of any ordinance adopted by reference by this ordinance, shall be deemed a public nuisance and may be summarily abated by this District, and each day such condition continues shall be regarded as a new and separate offense.
- C. Each violation of this ordinance expressly declared to be an infraction is punishable by:
1. A fine not exceeding \$100 for the first violation;
 2. A fine not exceeding \$200 for the second violation of the same ordinance within one year;
 3. A fine not exceeding \$500 for each additional violation of the same ordinance within one year.

Section 2: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The Board of Directors hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 3: California Environmental Quality Act (CEQA) Determination. Under the EIR that was completed upon the formation of the Scotia Community Services District, a determination was made that the District would not result in a significant environmental impact. This ordinance is also exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Section 4: Limitation of Actions. Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 5: This ordinance will take effect thirty (30) days after the date of its adoption.

DATE: _____, 2017

ATTEST:

APPROVED:

Clerk, Scotia Community Services District

President, Scotia Community Services District

Clerk's Certificate

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 2017-2, passed and adopted at a regular meeting of the Board of Directors of the Scotia Community Services District, Humboldt County, California on the 16th day of February, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Clerk, Scotia Community Services District