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**AN ORDINANCE AMENDING COUNTY CODE SECTION 67.802 (Y),
RELATING TO WATERSHED PROTECTION**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that current County Code related to watershed protection should be amended to change the date designated as the beginning of rainy season from November 11 to October 1 in accordance with the current National Pollutant Discharge Elimination System Order No. R9-2007-0001 issued by the San Diego Regional Water Quality Control Board in January 2007.

Section 2. Section 67.802 is amended to read as follows:

SEC. 67.802. DEFINITIONS.

For purposes of this Chapter, the following definitions shall apply:

(a) "Advanced treatment" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(b) "Authorized enforcement official" means the Director of Public Works, the Director of the Department of Planning and Land Use, the Director of Environmental Health, the Agricultural Commissioner, Department of Agriculture, Weights and Measures, or their designees.

(c) "Authorized non-stormwater discharge" means a discharge allowed to enter the stormwater conveyance system or receiving waters in accordance with a permit under the National Pollutant Discharge and Elimination System program.

(d) "Best management practices" (BMPs) shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C. Best management practices may include any type of pollution prevention and pollution control measure that achieves compliance with this chapter.

(e) "Business activity" has the same meaning as those activities or facilities listed in section D.3.b.1 of the California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758; and also means airplane mechanical repair, maintenance, fueling, or cleaning; motor vehicle (or other vehicle) parking lots and storage facilities; motor vehicle and other vehicle body repair or painting; motor vehicle mechanical repair, maintenance, fueling, or cleaning; boat

mechanical repair, maintenance, fueling, or cleaning; botanical or zoological gardens and exhibits; cement mixing or cutting; cemeteries; food facilities, including, but not limited to, restaurants, taverns, markets, booths, mobile vendors, and commissaries; equipment repair, maintenance, fueling, or cleaning; golf courses, parks and other recreational facilities; landscaping; marinas; masonry storage or installation; mobile motor vehicle or other vehicle washing; mobile carpet, drape or furniture cleaning; nurseries and greenhouses; painting and coating; pest control services; pool, spa, and fountain cleaning; portable sanitary toilet servicing; retail or wholesale fueling; animal facilities; building material retail, wholesale, and storage; power washing services; and also means a facility that is involved in manufacturing; oil and gas mining; hazardous waste treatment, storage, or disposal; solid waste disposal (landfills, land application sites, and open dumps); recycling facilities; steam electric- generation; transportation; sewage or wastewater treatment; or is subject to stormwater effluent limitations guidelines, new source performance standards, or toxic Pollutant effluent standards (40 Code of Federal Regulations Subchapter N), as described in the statewide General Industrial Permit (Water Quality Order No. 97-03-DWQ); and also means any commercial, industrial, or institutional use, as described in the County of San Diego Zoning Ordinance, notwithstanding the zone in which the activity or facility is located.

(f) "Detention" means the temporary storage of storm run-off in a manner that controls peak discharge rates and provides some gravity settling of pollutants.

(g) "Detention facility" means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface run-off and gradual release of stored water at controlled rates.

(h) "Development project" means any land disturbance activity, construction or installation of a structure, the creation of impervious surfaces, or land subdivision.

(i) "Discharge", when used as a verb, means to allow pollutants to directly or indirectly enter stormwater, or to allow stormwater or non-stormwater to directly or indirectly enter the stormwater conveyance system or receiving waters, from an activity or operations which one owns or operates. When used as a noun, "discharge" means the pollutants, stormwater or non- stormwater that are discharged.

(j) "Discharger" means any person or entity engaged in activities or operations or owning facilities, which will or may result in pollutants entering stormwater, the stormwater conveyance system, or receiving waters or the owners of real property on which such activities, operations or facilities are located, except that a local government or public authority is not a discharger as to activities conducted by others in public rights of way.

(k) "Environmentally sensitive area" means impaired water bodies, as defined by the federal Clean Water Act, section 303(d) areas designated as Areas of Special Biological Significance or with the RARE beneficial use by the SWRCB in the Water Quality Control Plan for the San Diego Basin (1994 and amendments), areas designated

as preserves for species- protection purposes by the State of California or a local government, and pre-approved mitigation areas identified in agreements between the County and state or federal natural resources agencies.

(l) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, and technological factors as determined in the sole discretion of the County.

(m) "Illicit connection" means a pipe, facility, or other device connected to the stormwater conveyance system or receiving waters, which has not been authorized by the County; or a permitted/authorized pipe, facility, or other device, which conveys unauthorized discharges.

(n) "Impervious surface area" means the ground area covered or sheltered by an impervious surface, measured in plan view. For example, the "impervious surface area" for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

(o) "Infiltration BMPs" means any treatment BMP designed primarily to percolate water into the subsurface. These include infiltration trench, infiltration basin, dry wells, permeable pavements without an under-drain, and sub-surface reservoir beds without an under-drain. BMPs that have some incidental infiltration but which are designed primarily to retain water or to treat water, such as bioretention, filter strips, permeable pavements with an under-drain, or vegetated/rock swales are not infiltration BMPs.

(p) "Land disturbance activity" means any activity, whether or not a stormwater management plan or County permit or approval is required, that moves soils or substantially alters the land such as grading, digging, cutting, scraping, stockpiling or excavating of soil; placement of fill materials; paving, pavement removal, exterior construction; substantial removal of vegetation where soils are disturbed including but not limited to removal by clearing or grubbing; clearing or road- cutting associated with geotechnical exploration and assessment, percolation testing, or any other activity that is a condition of a permit application; or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse. Land disturbance activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of the facility, emergency construction activities required to protect public health and safety; or tilling or cultivating land exclusively for the purpose of growing plants or animals, provided that all disturbed material remains on the same site, the tilling or cultivating will not block or divert any natural drainage way, and the land to be tilled or cultivated has been in agricultural production for at least one of the preceding five years.

(q) "Maximum extent practicable" (MEP) shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(r) "Natural drainage" means a drainage consisting of native soils such as a natural swale or topographic depression which gathers or conveys run-off to a permanent or intermittent watercourse or waterbody.

(s) "Non-stormwater" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(t) "Performance standard" means a requirement under this chapter that specifies a result that must be achieved (e.g., "minimize impervious surface area" or "do not impair receiving water quality") without specifying the means that must be used to achieve that result.

(u) Pollutant: means any agent introduced to stormwater or non-stormwater through human activity that may cause, potentially cause, or contribute to the degradation of water quality such that public health, the environment, or beneficial uses of waters may be affected. The term includes dredged spoil, rock, sand, or silt (excluding sediment, silt, or substances in quantities which would enter stormwater from a natural undeveloped watershed); solid waste, sewage, garbage, or medical waste; wrecked or discarded equipment; radioactive materials; industrial waste; fecal coliform, fecal streptococcus, and enterococcus bacteria and other pathogens that pose a threat to human health; volatile organic carbon, surfactants, oil and grease, petroleum hydrocarbons, total organic carbon, lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides; and any contaminant which can significantly degrade the quality of receiving waters by altering pH, total suspended or settleable solids, biochemical oxygen demand, chemical oxygen demand, nutrients, or temperature.

(v) "Pollution prevention" means the practices and processes that reduce or eliminate the generation of pollutants such as the use of smaller quantities of toxic materials or substitution of less toxic materials; changes to production processes to reduce waste; decreases in waste water flows; recycling of wastes as part of the production process; segregation of wastes, and treatment of wastes on site to decrease volume or toxicity.

(w) Priority development project means:

(1) a new development project that falls within any of the following categories:

(A) Residential subdivisions of 10 or more dwelling units. This category includes single-family homes, multi-family homes, condominiums, and apartments.

(B) Commercial developments greater than one acre. This category is any development on private land that is not for heavy industrial or residential uses where the land area for development is greater than one acre. The category includes: hospitals; laboratories and other medical facilities; educational institutions; recreational facilities; commercial nurseries; multi-apartment buildings; car wash facilities; mini-malls and

other business complexes; shopping malls; hotels; office buildings; public warehouses; automotive dealerships; airfields; and other light industrial facilities.

(C) Heavy industry developments greater than one acre. This category includes: manufacturing plants, food processing plants, metal working facilities, printing plants, and fleet, such as buses or trucks storage areas.

(D) Automotive repair shops. This category is a facility that is described in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.

(E) Restaurants. This category is any food establishment that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812), where the land area for development is greater than 5,000 square feet. Restaurants where land development is less than 5,000 square feet shall meet all SUSMP requirements except for structural treatment BMP, numeric sizing criteria requirement, and hydromodification requirement.

(F) All hillside development greater than 5,000 square feet. This category is defined as any development which creates 5,000 square feet of impervious surface which is located in an area with known erosive soil conditions and where the development will grade on any natural slope that is 25% or greater.

(G) Environmentally sensitive areas. This category is any development located within or directly adjacent to or discharging directly to an environmentally sensitive area (where discharges from the development or redevelopment will enter receiving waters within the environmentally sensitive area), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition. For purposes of this definition, "directly adjacent" means situated within 200 feet of the environmentally sensitive area and "discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.

(H) Parking lots 5,000 square feet or more or with 15 or more parking spaces and potentially exposed to urban run-off. Parking lot is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.

(I) Street, roads, highways, and freeways. This category is the construction of any paved surface which is 5,000 square feet or greater used for the transportation of automobiles, trucks, motorcycles, and other vehicles.

(J) Retail gasoline outlets (RGOs). This category is a retail establishment that sells gasoline and is 5,000 square feet or greater in size or encounters 100 average daily trips or more per day.

(2) A redevelopment project that creates, adds or replaces at least 5,000 square feet of impervious surfaces to a developed site described in section 67.802(w)(1) (A) - (E), (H) and (I).

(x) "Public improvement projects" shall have the same meaning as defined in the Labor Code or Public Contract Code.

(y) "Rainy season" means from October 1 through April 30.

(z) "Receiving waters" shall mean Waters of the State as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(aa) "Redevelopment" means creation, addition, or replacement of impervious surface on an already developed site. Examples include the expansion of building footprints, road widening, the addition or replacement of a structure, and creation or addition of impervious surfaces. Replacement of existing impervious surfaces includes any activity that is not part of a routine maintenance activity where impervious material(s) are removed exposing underlying soil during construction. Redevelopment does not include trenching and resurfacing associated with utility work, resurfacing and reconfiguring surface parking lots and existing roadways, new sidewalk construction, pedestrian ramps, or bike lane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

(bb) "Residential discharger" means the occupant, real property owner(s), manager, caretaker, or association board officer of a single-family dwelling, a multiple-family dwelling, mobile home park, condominium complex, or board-and-care house, or other housing structure.

(cc) "Source control BMP" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(dd) "Stormwater conveyance system" means private and public drainage facilities other than sanitary sewers within the unincorporated area of San Diego County by which urban run-off may be conveyed to receiving waters, and includes but is not limited to roads, streets, constructed channels, aqueducts, storm drains, pipes, street gutters, inlets to storm drains or pipes, or catch basins.

(ee) "Stormwater management" means the use of structural (treatment control) or non-structural (source control) BMPs that are designed to reduce urban run-off pollutant loads, discharge volumes, and/or peak discharge flow rates or velocities. When applied

to the County or another municipality, stormwater management also includes planning and programmatic measures.

(ff) "Stormwater management plan" means a plan, submitted on a County form or in a County approved format with an application for a County permit or other County approval, identifying the measures that will be used for stormwater and non-stormwater management during the permitted activity.

(gg) "Stormwater BMP implementation plan" means a document which meets the requirements for a total maximum daily load (TMDL) study, and is submitted and approved by the San Diego Regional Water Quality Control Board.

(hh) "Stormwater pollution prevention plan" (SWPPP) means an approved site-specific plan that (1) identifies and evaluates sources of pollutants associated with activities that may affect the quality of stormwater discharges and authorized non-stormwater discharges from a facility or site, and (2) identifies and implements site-specific BMPs to reduce to the MEP or to prevent pollutants in stormwater or authorized non-stormwater discharges.

(ii) "SUSMP standard urban stormwater mitigation plan for land development projects and public improvement projects" means the SUSMP standard urban stormwater mitigation plan for land development projects and public improvement projects adopted by the County Board of Supervisors on November 13, 2002, as it may thereafter be revised by the Director, Department of Public Works.

(jj) "Treatment control BMP" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(kk) Tributary to an impaired water body means a facility or activity is tributary to an impaired water body if urban run-off from that facility or activity enters (1) the stormwater conveyance system at a place and in a manner that will carry pollutants for which that water body is impaired in that discharge to the impaired water body; (2) a flowing stream that will carry pollutants for which that water body is impaired in that discharge to the impaired water body; or (3) an ephemeral stream that reaches the impaired water body during storm events and that will carry pollutants for which that water body is impaired from the facility or activity to the impaired water body during such storm events.

(ll) "Water quality standards" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

Section 3. This Ordinance shall take effect and be in force thirty days after its passage.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 5th day of August, 2009.