

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 5.09.500 OF CHAPTER 5.09 OF TITLE 5; AMENDING CHAPTER 15.14 OF TITLE 15 TO ADD SECTIONS 15.14.337, 15.14.377, 15.14.426, 15.14.443, 15.14.771, 15.14.772, AND 15.14.773; AMENDING SECTION 20.95.020 OF CHAPTER 20.95 AND SECTION 20.100.470 OF CHAPTER 20.100 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE RELATED TO COMPLIANCE WITH THE MUNICIPAL REGIONAL STORMWATER PERMIT**

**WHEREAS**, the State Water Resources Control Board administers permitting under the Federal Clean Water Act; and

**WHEREAS**, the City of San José ("City") operates under the Municipal Regional Stormwater Permit ("MRP"), issued by the Water Board; and

**WHEREAS**, under the anticipated MRP, the City is required to take certain actions related to new and redevelopment projects to include measures to treat and prevent increases in stormwater runoff; and

**WHEREAS**, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance are exempt as actions taken by a regulatory agency for the purposes of the protection of the environment; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for this Ordinance; and

**WHEREAS**, this Council has reviewed, considered, and validates the exemption determination under CEQA prior to taking any approval actions on this Ordinance;

**NOW, THEREFORE**, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 5.09.500 of Chapter 5.09 of Title 5 of the San José Municipal Code is hereby amended to read as follows:

**5.09.500 Standards for Site Development**

- A. City Standard Conditions. Site Development for Emergency Bridge Housing Communities shall comply with the City standard conditions for Bridge Housing Communities developed in consultation with the City's Department of Planning, Building and Code Enforcement entitled "Conditions/Provisions for Bridge Housing Communities required for CEQA Compliance" and approved by the Director of the Department of Planning, Building and Code Enforcement.
- B. Environmental Review. Development of Emergency Bridge Housing Communities shall be subject to review under the California Environmental Quality Act of 1970 ("CEQA"), together with related State CEQA Guidelines and Title 21 of the San José Municipal Code.
- C. Air Quality. Emergency Bridge Housing Communities shall comply with the CEQA guidelines of the Bay Area Air Quality Management District dated May 2017.

- D. Biological. Emergency Bridge Housing Communities shall comply with the federal Migratory Bird Treaty Act and with City of San José habitat conservation plan, to the extent applicable.
- E. Cultural. Development of Emergency Bridge Housing Community sites shall obtain a Historic Resources Assessment report; and in the event that report identifies historic resources, impact and analysis study will be required.
- F. Geology and Soils. Development of Emergency Bridge Housing Community sites shall comply with the requirements of the City's National Pollutant Discharge Elimination System permits, to the extent applicable.
- G. Greenhouse Gas Emission. Emergency Bridge Housing Communities shall comply with the State Greenhouse Gas Emission reporting rules, to the extent applicable.
- H. Emergency Response Plan. Emergency Bridge Housing Communities shall prepare prior to occupancy an Emergency Response Plan developed in consultation with the Fire Department.
- I. Hydrology. Development of Emergency Bridge Housing Community sites shall comply with the requirements of the City's National Pollutant Discharge Elimination System permits and any California Department of Transportation permits, to the extent applicable. ~~Emergency Bridge Housing Communities shall not include more than 5,000 square feet of impervious surfaces.~~
- J. Land Use. Development of Emergency Bridge Housing Communities shall comply with the Santa Clara Valley Habitat Plan, to the extent applicable.

- K. Noise and Vibration. Development of Emergency Bridge Housing Communities should be on sites with exterior noise levels not in excess of 70dbA (24 hour *leq*) in the Emergency Sleeping Cabin areas or as determined by the Authority Having Jurisdiction. Interior noise levels shall be further limited as determined by the Authority Having Jurisdiction.
  
- L. Emergency Access. Emergency Bridge Housing Communities shall prepare prior to construction an Emergency Vehicle Access Plan developed in consultation with the Fire Department.
  
- M. Utilities and Service Systems. Development of Emergency Bridge Housing Community sites shall comply with the requirements of the City's National Pollutant Discharge Elimination System permits and any California Department of Transportation permits, to the extent applicable.

SECTION 2. Chapter 15.14 of Title 15 of the San José Municipal Code is hereby amended to add a Section to be numbered, entitled and to read as follows:

**15.14.337 Old Industrial Areas**

For purposes of this Chapter, "Old Industrial Areas" means the properties defined in the Stormwater Permit, as may be amended, but includes land areas where industrial activities occurred prior to 1980 and has not been redeveloped.

SECTION 3. Chapter 15.14 of Title 15 of the San José Municipal Code is hereby amended to add a Section to be numbered, entitled and to read as follows:

**15.14.377 Private Land Drainage Area (PLDA)**

“Private Land Drainage Area” means property as defined in the Stormwater Permit, as may be amended, but includes property which is plumbed to the City’s storm sewer system.

SECTION 4. Chapter 15.14 of Title 15 of the San José Municipal Code is hereby amended to add a Section to be numbered, entitled and to read as follows:

**15.14.426 Source Property**

For the purposes of Section 15.14.773, a “Source Property” means a property that the Stormwater Permit, as may be amended, requires to be investigated for potential abatement because it potentially contributes mercury, PCBs, or other pollutant, to the public right of way or storm sewer system.

SECTION 5. Chapter 15.14 of Title 15 of the San José Municipal Code is hereby amended to add a Section to be numbered, entitled and to read as follows:

**15.14.443 Stormwater Permit**

“Stormwater Permit” means the City of San José’s Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit issued by the California Regional Water Quality Control Board, San Francisco Region.

SECTION 6. Chapter 15.14 of Title 15 of the San José Municipal Code is hereby amended to add a Section to be numbered, entitled and to read as follows:

**15.14.771 Private Land Drainage Area Registration**

- A. Mandatory Compliance. All PLDA Properties shall comply with the requirements of the Stormwater Permit, state, federal law, and this Chapter.
- B. Applicability. This Chapter shall apply to all properties with a Private Land Drainage Area (PLDA) located within the City.
- C. Registration. The Owner of a PLDA shall register with the City's PLDA Compliance Program. The registration shall include:
1. The Property address;
  2. The Property's assessor parcel number;
  3. The Owner's name, address, and phone number;
  4. Certification of the Property's stormwater treatment measures, including any full trash capture devices; and
  5. Any other information as required by the Director or Council Policy 6-36, *Private Land Directly Plumbed to the Storm Sewer System: Best Management Practices.*
- D. Notice. The Director may determine that a Property is a PLDA and must comply with this Section. The Director shall send a notice advising the Owner that the Property is a PLDA (Notice of PLDA). The Owner shall comply with this Chapter within thirty (30) calendar days after the Notice of the PLDA.

E. Appeal. Within twenty (20) calendar days of the Notice of PLDA, the Owner may, in writing, request a review of the Director's determination that a property is a PLDA. The review will be conducted under the procedure in Section 15.14.785(D) – (L).

SECTION 7. Chapter 15.14 of Title 15 of the San José Municipal Code is hereby amended to add a Section to be numbered, entitled and to read as follows:

**15.14.772 Private Land Drainage Area Requirements**

A. Required Trash Management. All PLDAs shall comply with the requirements of Council Policy 6-36, Private Land Directly Plumbed to the Storm Sewer System: Best Management Practices, including the installation, maintenance, and documentation regarding trash discharge control actions.

B. Compliance Inspections. The City shall have the power to enter and to inspect any PLDA to determine compliance with the provisions of this Chapter.

C. Fees and Charges. The Owner shall pay fees and charges as established by Council resolution for the registration, inspections, reinspections, enforcement and other actions necessary to determine compliance with this Chapter.

SECTION 8. Chapter 15.14 of Title 15 of the San José Municipal Code is hereby amended to add a Section to be numbered, entitled and to read as follows:

**15.14.773 Source Property and Control of Mercury, Polychlorinated Biphenyls, or Other Pollutants**

- A. Applicability. This Chapter shall apply to all Source Property that is within an Old Industrial Area or the City determines to be a potential source of mercury, PCBs, or other pollutants that may impact, drain, or discharge to the public right of way or storm sewer system.
- B. Mandatory Compliance. All Owners of a Source Property shall comply with Council Policy 6-35, Source Properties of Mercury, PCBs, or other Pollutants: Best Management Practices, and all the requirements of the Stormwater Permit, state, federal law, and this Chapter.
- C. Compliance Inspections. The City shall have the power to enter and inspect any potential Source Property to determine compliance with the provisions of this Chapter.
- D. Fees and Charges. The Owner shall pay fees and charges as established by Council Resolution for inspections, reinspections, enforcement and other actions necessary to determine compliance with this Chapter.

SECTION 9. Section 20.95.020 of Chapter 20.95 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

**20.95.020 Applicability**

The provisions of this eChapter shall apply:

- A. Whenever the creation, on or above ground through installation, construction, or replacement, of five thousand (5,000) square feet or more of impervious surface will occur through a proposed development or redevelopment of real property for uncovered parking (stand-alone or part of another use), restaurant, auto service facility or retail gasoline outlet use including sidewalks and any other portions of the public right of way that are developed or redeveloped as a part of the project; or
- B. Whenever the creation, on or above ground through installation, construction, or replacement, of five thousand (5,000) square feet or more of impervious surface will occur through a proposed development or redevelopment of real property, for any use except for development of detached single-family home projects, which are not part of a larger plan of development; or
- C. Whenever the creation, on or above ground through installation, construction, or replacement, of two thousand five hundred (2,500) or more, but less than five thousand (5,000) square feet, of impervious surface will occur for any use through a proposed development of real property (a small project); or
- D. Whenever the creation, on or above ground through installation, construction, or replacement of ten thousand (10,000) square feet or more of impervious surface (collectively over the entire project site) will occur for the development or redevelopment of a detached, single-family home project which is not part of a larger plan of development, or
- E. Whenever a proposed development of real property requires the demolition of a structure-; or

F. Whenever a proposed project involves the reconstruction of existing streets and roads and creates or replaces greater than, or equal to, one (1) contiguous acre of impervious surface, including utility trenching projects that are, on average, over the entire length of the project, greater than or equal to eight (8) feet wide.

SECTION 10. Section 20.100.470 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

**20.100.470 Storm Water Management - Projects Disturbing Less Than 1 Acre**

- A. All development projects with an approved Development Permit shall conform with the City of San José National Pollutant Discharge Elimination System (NPDES) Storm Water Permit and shall include Best Management Practices (BMPs) as specified in Council Policy 6-37, Projects Disturbing Less than One Acre: Construction Best Management Practices, ~~the Blueprint for a Clean Bay~~ to control the discharge of storm water pollutants, including sediments associated with construction activities.
- B. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works.
- C. The Erosion Control Plan ~~shall comply with~~ may include BMPs as specified in Council Policy 6-37, Projects Disturbing Less than One Acre: Construction Best Management Practices, ~~The Association of Bay Area Government's Manual of Standards Erosion & Sediment Control Measures for reducing to reduce~~ impacts on the City's storm drainage system from construction activities.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk