

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE APPROVING A NEW COUNCIL POLICY 6-36
ENTITLED “PRIVATE LAND DIRECTLY PLUMBED TO
THE STORM SEWER SYSTEM: BEST MANAGEMENT
PRACTICES” RELATED TO THE MUNICIPAL REGIONAL
STORMWATER PERMIT**

WHEREAS, the Federal Clean Water Act requires the City of San José (“City”) to operate its municipal storm sewer system under a National Pollutant Discharge Elimination System (“NPDES”) Permit for the discharge of stormwater to waterways; and

WHEREAS, the State Water Resources Control Board (“Water Board”) and its regional boards administer the Clean Water Act, and the City is one of 79 public entities located in the Bay Area that are permittees under a Municipal Regional Stormwater NPDES Permit (“Stormwater Permit”) which specifies actions necessary to reduce the discharge of pollutants in stormwater to the maximum extent practicable and essentially prohibits non-stormwater discharges into the storm sewer system to protect local waterways and the Bay; and

WHEREAS, on May 11, 2022, the Water Board adopted a revised Stormwater Permit, effective July 1, 2022, and on October 11, 2023, the Water Board approved an amendment to the Stormwater Permit’s C.3 New and Redevelopment Provision, effective November 1, 2023; and

WHEREAS, the establishment of a new City Council Policy 6-36, entitled “Private Land Directly Plumbed to the Storm Sewer System: Best Management Practices”, which will allow the City to investigate, to educate, and to enforce the new Stormwater Permit requirements related to trash from private properties, is necessary to meet the requirements of the amended Stormwater Permit; and

WHEREAS, the City’s adoption of this resolution is categorically exempt from California Environmental Quality Action Section 15308 as Actions by Regulatory Agencies for Protection of the Environment;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

A new City Council Policy 6-36, entitled “Private Land Directly Plumbed to the Storm Sewer System: Best Management Practices”, which policy is attached hereto as Exhibit A and incorporated herein by this reference as though fully set forth herein, is hereby approved.

ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

City of San José, California

COUNCIL POLICY

TITLE	PRIVATE LAND DIRECTLY PLUMBED TO THE STORM SEWER SYSTEM: BEST MANAGEMENT PRACTICES	PAGE	1 of 6	POLICY NUMBER	6-36
EFFECTIVE DATE		REVISED DATE			
APPROVED BY COUNCIL ACTION					

PURPOSE

This Policy establishes the City of San José’s (City) requirements to prevent trash from Private Land Drainage Areas from entering the municipal separate storm sewer system (MS4), consistent with the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (or “Stormwater Permit”). The protection of local streams from pollution in urban runoff advances the City’s sustainability goals by ensuring good water quality, enhancing the beneficial use of local waterways, and enhancing the quality of wildlife habitat.

BACKGROUND

The Federal Clean Water Act requires the City of San José to operate under a Municipal Stormwater NPDES Permit for the discharge of stormwater via the City’s stormwater collection system. On May 11, 2022, the Regional Water Quality Control Board adopted a revised Stormwater Permit for the San Francisco Bay Region. This Stormwater Permit governs 76 Bay Area municipalities, including the City of San José.

The Stormwater Permit mandates that the City establish protocols to ensure that private lands that are moderate, high, or very high trash generating, and that drain to storm drain inlets that the City does not own or operate (private), but that are plumbed to City’s MS4 are equipped with full trash capture (FTC) systems or are managed with trash discharge control actions equivalent to or better than FTC systems.

City Council Policy 6-35: *Source Properties of Mercury, PCBs, or Other Pollutants: Best Management Practices*, City Council Policy 6-29: *Post-Construction Urban Runoff Management*, and City Council Policy 8-14: *Post-Construction Hydromodification Management* are related, companion policies that address the management of stormwater runoff to maintain predevelopment rates of infiltration, evaporation and runoff from property being developed, and to minimize pollution, erosion, and sedimentation in local rivers and creeks.

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POLICY

This Policy applies to all Private parcels that drain to storm drain inlets that the City does not own or operate (private), but that are plumbed to City's MS4 and are not already addressed by a public FTC system/device.

A. Definitions

For the purposes of this Policy, the following terms shall have the following meaning.

1. **"Applicable Property"** means a property defined as Private Land Drainage Areas under this Policy.
2. **"Municipal Separate Storm Sewer System (MS4)"** means a conveyance system designed to collect and convey stormwater that is owned by a city, town, or other public entity.
3. **"Best Management Practices"** means schedules of activities, prohibitions of practices, maintenance procedures and other management practices, such as, standard operating procedures, general good housekeeping, or pollution prevention practices to prevent or reduce the introduction of pollutants to the sanitary or storm sewer system which have been determined by the Director to be cost effective for particular industry groups, business types, or specific industrial processes. Best Management Practices may also include approved alternative means (e.g., management plans) of complying with federal, state or local regulations.
4. **"On-land Visual Trash Assessment (OVTA)"** means regional protocols used to qualitatively score land areas (i.e., streets, sidewalks, parking lots and other impervious areas) based on the levels of trash visually observed.
5. **"Private Land Drainage Area (PLDA)"** means Private parcels that drain to storm drain inlets that the City does not own or operate (private), but that are plumbed to the MS4 and are not already addressed by public FTC system/device.
6. **"Full Trash Capture Systems or Devices (FTC)"** means a stormwater treatment control, or series of treatment controls, including, but not limited to, a multi-benefit project (as defined in the Trash Amendments) or a low-impact development control that traps all particles that are 5 mm or greater, and has a design treatment capacity that is either: a) of not less than the peak flow rate, Q, resulting from a one-year, one-hour storm in the subdrainage area, or b) appropriately sized to, and designed to carry at least the same flows as, the corresponding storm drain. Types of systems certified by the State Water Resources Control Board are deemed full capture systems.

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7. **“Deed In-Lieu of Foreclosure/Sale”** means a recorded document that transfers ownership of real property from the Trustor to the holder of a Deed of Trust upon consent of the Beneficiary of the Deed of Trust.
8. **“Deed of Trust”** means an instrument by which title to real property is transferred to a third-party Trustee as security for a real estate loan. This definition applies to all subsequent Deeds of Trusts.
9. **“Property”** means any improved real property, or portion thereof, situated in the City and includes any residence, building, structure or any other improvement located on the real property.
10. **“Owner”** means any person, partnership, association, company, corporation, entity, financial institutions, or fiduciary having a legal, possessory, or equitable title or any interest in a property.
11. **“Director”** means the Director of Environmental Services Department, or designee, or such other director designated by the City Manager to administer this Policy.

B. Best Management Practices (BMPs)

All Applicable Properties must conform with the Best Management Practices (BMPs) for Private Land Drainage Areas as described below:

1. Source Control

- a. Keep waste bin lids closed - keep surrounding areas clean.
- b. Ensure adequately sized trash bins and adequate pickup frequency.
- c. Cover outdoor materials handling & storage areas.
- d. Use “No Dumping, Flows to Bay” labels on storm drain inlets.
- e. Have trash bins and cigarette receptacles in areas for the public or where employees congregate.
- f. If required, install and maintain waterboard certified Full Trash Capture (FTC) device (The Water Board maintains and updates a Certified FTC list at: www.waterboards.ca.gov.) Property owner should refer to this list when considering trash control devices.

2. Good Housekeeping

- a. Keep parking areas, material storage, and staging areas clean.

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- b. Do not allow bins to overflow.
- c. Do not stack waste outside of bins.
- d. Post “No Littering” signs and enforce anti-littering laws with the San José 311 App.
- e. Train staff to regularly inspect parking lots and paved surfaces on your property for litter; collect any litter and dispose in trash bins.

3. Surface Cleaning & Sweeping

- a. Sweep outdoor and dumpster areas regularly.
- b. Schedule mechanical sweeping of outside equipment staging areas, materials storage areas, and parking areas at a frequency that keeps the area consistently free of trash.
- c. Manually sweep areas where mechanical sweeping cannot be effectively implemented.

- 4. Other BMPs as required by the Director.** Upon notice, any other BMP as may be approved from time to time pursuant to the provisions of this Policy.

C. Operation and Maintenance

- 1. All applicable BMPs shall be permanently operated and maintained by the property owner(s), its administrators, property managers, lessees, successors, including any homeowner’s associations (“Owner”) pursuant to best practices, guidelines, or regulations identified by the City Manager.
- 2. The Owner(s) shall keep a maintenance schedule and record of all maintenance activities. Owner(s) of property on which BMP(s) have been installed shall retain, and make available for inspection and copying, all records of inspection and maintenance activities performed on the BMP(s) within the five years immediately preceding the demand for such records by any representative of the City.
- 3. It shall be unlawful for any person to alter, remove, fail to maintain a BMP(s), or to cause, allow or permit alteration, removal, or failure to maintain a BMP without approval from the City.
- 4. Any Owner(s) of property on which BMP(s) have been installed shall, upon transferring ownership of such property, provide the new Owner(s) information indicating the location and design of the BMP, and shall inform the new Owner(s)

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in writing of their obligation to properly register, operate and maintain such BMPs.

5. PLDAs that are rated as *low* trash generating must continue to demonstrate through On-land Visual Trash Assessments (OVTAs) that the land area is *low* trash generating or implement applicable BMPs.

D. Obligation to Register

All Applicable Properties must be registered in the City of San Jose's publicly accessible "Registry of Private Land Drainage Areas". The registry is used to manage all necessary communication with property owners to verify compliance with the City's Municipal Code.

1. The Owner of a property which is required to register a PLDA shall, within thirty (30) days upon receipt of "notice to register" register the Applicable Property in accordance with the requirements of the Municipal Code and this policy.
2. The registration information shall include:
 - a. The address of the Applicable Property.
 - b. The assessor parcel number of the real property where PLDA is located.
 - c. The name, address, and telephone number of the Owner. If a notice of default has been issued or Deed In-Lieu of Foreclosure/Sale, the name, address, and phone number of the beneficiary or trustee on the deed of trust shall be included. In the case of a corporation or out of area beneficiary or trustee, the local property management company or agent responsible for monitoring of the property shall be included.
 - d. The date of the application for registration.
 - e. Best Management Practices Certification Form
 - f. Full Trash Capture Installation Certification Form (if applicable).

E. Term of Registration

Registration is valid indefinitely until/unless there is a change of ownership, or there is an authorized approval for registry removal by the Director. In the case of a change of ownership, the new Owner shall have sixty (60) days upon the day of such change of ownership to reregister the property.

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F. Removal from Registry

The Owner of an Applicable Property may apply to be exempted from the obligation to register the property in the Registry of Private Land Drainage Areas if the Owner demonstrates to the Director that the property is no longer a PLDA as defined in this Policy.

G. Compliance with All Obligations

Nothing in this or any other City Policy relieves the Applicable Property owner of complying with any, and all other local, state and federal requirements pertaining to property registration, and/or storm sewer use regulations.