

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A NEW COUNCIL POLICY 6-37 ENTITLED “PROJECTS DISTURBING LESS THAN ONE ACRE: 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 6-37, entitled “Projects Disturbing Less than One Acre: Best Management Practices”, which communicates appropriate best management practices for preventing stormwater pollution from construction projects disturbing less than one acre and gives the City the ability to enforce upon construction project managers if and when sites are not complying with

Stormwater Permit requirements, 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 6-37, entitled “Projects Disturbing Less than One Acre: 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 PROJECTS DISTURBING LESS THAN ONE ACRE: CONSTRUCTION BEST MANAGEMENT PRACTICES	PAGE 1 of 7	POLICY NUMBER 6-37
EFFECTIVE DATE	REVISED DATE	
APPROVED BY COUNCIL ACTION		

PURPOSE

This Policy establishes the City of San José’s (City) requirements to implement year-round effective stormwater pollutant controls at construction sites disturbing less than one acre of land by use of Best Management Practices (BMP), 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 caused construction site 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 79 Bay Area municipalities and agencies, including the City of San José. The City must comply with the Stormwater Permit, which is updated approximately every five years.

The Stormwater Permit mandates that the City of San José require all construction sites to implement year-round effective stormwater pollutant controls to prevent discharges of pollutants into the stormwater collection system.

Construction sites that disturb one acre or more are regulated by the NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (CGP). The CGP requires construction sites disturbing one or more acre of land to implement BMPs to control the pollution from construction site runoff. In addition, construction sites disturbing one or more acre of land must implement a Stormwater Pollution Prevention Plan (SWPPP). The CGP requires the SWPPP to be created by a Qualified SWPPP Developer (QSD) and monitored by a Qualified SWPPP Practitioner

(QSP). Both QSD and QSP are trained and certified in use of the best available technology and BMPs to prevent unauthorized discharges from construction sites and land disturbance activities.

Construction sites that disturb less than one acre of land are not subject to the requirements of the CGP and are regulated by the City's Stormwater Permit. The Stormwater Permit does not detail the specific BMPs that should be implemented at construction sites. To ensure compliance with the Stormwater Permit, consistency with the City's regional partners, and to provide guidance on the implementation of BMPs the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) has developed a BMP Plan Sheet. The BMP Plan Sheet details the appropriate BMPs a construction site should use during all phases of construction to prevent unauthorized discharges to the stormwater collection system.

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 erosion and sedimentation in local rivers and creeks.

POLICY

This Policy requires construction sites disturbing less than one acre of land to implement year-round effective stormwater pollutant controls to prevent discharges of pollutants into the stormwater collection system, through use of BMPs consistent with the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) Best Management Practice Plan Sheet, California Stormwater Quality Association (CASQA) Stormwater Best Management Practice (BMP) Handbook, or equivalent BMPs.

Best Management Practices

The BMPs listed below are referenced from the SCVURPPP BMP Plan Sheet. All BMPs implemented should be appropriate for site specific conditions. Listed are BMPs that are commonly implemented during different phases of construction. Site specific conditions may require additional BMPs. Any physically installed BMP should be installed according to manufacturer's specification. All BMPs are required to be monitored and maintained to ensure effectiveness.

1. Construction Entrances and Perimeter
 - Establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion, sediment discharges and tracking of sediment offsite.
 - Sweep or vacuum immediately any tracking of sediment offsite and secure sediment source to prevent further tracking. Never hose down streets or sidewalks.

2. Non-Hazardous Materials and Dust Control

- Berm and cover stockpiles of sand, dirt or other construction material with tarps when rain is forecast or when they are not in use. Weigh down and secure tarps for wind protection.
- Keep materials off the ground (e.g., store bagged materials on wood pallets, store loose materials on tarps not pavement, etc.).
- Use captured water from other activities (e.g., testing fire lines) for dust control.
- Ensure dust control water doesn't leave site or discharge to storm drains. Only use enough to control dust. Contain and dispose of excess water properly.

3. Hazardous Materials

- Label all hazardous materials and hazardous wastes (such as pesticides, paints, thinners, solvents, fuel, oil, and antifreeze) in accordance with City, County, State and Federal regulations.
- Store hazardous materials and wastes in watertight containers, store in appropriate secondary containment, and cover them at the end of every workday, during wet weather or when rain is forecast.
- Follow manufacturer's application instructions for hazardous materials and do not use more than necessary. Do not apply chemicals outdoors when rain is forecast within 24 hours.
- Arrange for appropriate disposal of all hazardous wastes. Have all pertinent Safety Data Sheets (i.e., SDS/MSDS/PSDS) onsite.

4. Waste Management

- Inform trash-hauling contractors that you will accept only watertight dumpsters for onsite use. Repair/replace any dumpster that is not watertight or leaking.
- Cover and maintain dumpsters. Check frequently for leaks. Place dumpsters under roofs or cover with tarps or plastic sheeting secured around the outside of the dumpster. If the dumpster leaks, place a plastic liner underneath the dumpster to collect leaks. Never clean out a dumpster by hosing it down on the construction site – clean with dry methods, clean offsite or replace dumpster.
- Place portable toilets and hand wash stations away from storm drains. Make sure they are equipped with containment pans (secondary containment) and are in good working order. Check frequently for leaks.
- Dispose of all wastes and demolition debris properly per Safety Data Sheets and applicable regulations. Recycle or compost materials and wastes as feasible and appropriate, including solvents, water-based paints, vehicle fluids, broken asphalt and concrete, wood, and cleared vegetation.
- Dispose of liquid residues from paints, thinners, solvents, glues, and cleaning fluids as hazardous waste per Safety Data Sheets.

- Keep site free of litter (e.g., lunch items, water bottles, cigarette butts and plastic packaging).
- Prevent litter from uncovered loads by covering loads that are being transported to and from site.

5. Vehicle and Equipment Maintenance

- Designate an area of the construction site equipped with appropriate BMPs, well away from creeks or storm drain inlets, for auto and equipment parking and storage.
- Perform major maintenance, repair jobs, and vehicle/equipment washing offsite.
- If refueling or vehicle maintenance must be done onsite, work in a bermed area away from storm drains and over a drip pan or drop cloths big enough to collect fluids. Recycle or dispose of fluids as hazardous waste.
- If vehicle or equipment cleaning must be done onsite, clean with water only in a bermed area that will not allow rinse water to run into gutters, streets, storm drains, or creeks.
- Do not clean vehicles or equipment onsite using soaps, solvents, degreasers, or steam cleaning equipment, and do not use diesel oil to lubricate equipment or parts onsite.

6. Spill Prevention and Control

- Always keep spill cleanup materials (e.g., rags, absorbents, and cat litter) available at the construction site.
- Maintain all vehicles and heavy equipment. Inspect frequently for leaks. Use drip pans to catch leaks until repairs are made.
- Clean up leaks, drips and other spills immediately using dry cleanup methods whenever possible (absorbent materials, cat litter and/or rags) and dispose of cleanup materials properly.
- Sweep up spilled dry materials immediately. Never attempt to “wash them away” with water or bury them.
- Clean up spills on dirt areas by digging up and properly disposing of contaminated soil.
- Report significant spills to the appropriate local spill response agencies immediately. If the spill poses a significant hazard to human health and safety, property, or the environment, report it to the State Office of Emergency Services at (800) 852-7550 (24 hours).
- To report a spill, leak, release, or discharge to the storm drain or street gutter, call the City of San José Watershed Protection Division at (408) 945-3000. To report running water in the street, sanitary sewer overflows, localized flooding, or if you are unsure what the substance is, call (408) 794-1900 (24 hours). For life-threatening emergencies requiring a police officer, an ambulance, or fire truck for any reason, call 911.

7. Grading and Earthwork

- Schedule grading and excavation work during dry weather.

- Prevent sediment from migrating offsite and protect storm drain inlets, drainage courses and creeks by installing and maintaining appropriate BMPs tailored to the site's specific characteristics and conditions. Examples of such BMPs may include silt fences, gravel bags, fiber rolls, temporary swales, compost socks, etc. Ensure that BMPs are installed in accordance with manufacturer's specifications and properly maintained throughout the duration of construction activities.
- Stabilize all denuded areas and install and maintain temporary erosion controls (such as erosion control fabric or bonded fiber matrix) until vegetation is established.
- Remove existing vegetation only when necessary. Plant temporary vegetation to prevent erosion on slopes or in areas where construction is not immediately planned.
- Keep excavated soil and/or transfer it to dump trucks, onsite, not in the streets.
- Ensure all subcontractors working onsite are implementing appropriate BMPs.

8. Contaminated Soils

- If any of the following conditions are observed, test for contamination and contact the Regional Water Quality Control Board and the City of San José Watershed Protection Division at (408) 945-3000: 1) Unusual soil conditions, discoloration, or odor. 2) Abandoned underground tanks. 3) Abandoned wells. 4) Buried barrels, debris, or trash.
- If the above conditions are observed, document any signs of potential contamination, clearly mark areas and fence/tape them off so they are not disturbed by construction activities.

9. Landscaping

- Protect stockpiled landscaping materials from wind and rain by storing them under tarps year-round.
- Stack bagged material on pallets and under cover.
- Discontinue application of any erodible landscape material within 2 days before a forecast rain event or during wet weather.
- Store materials onsite, not in the street.

10. Concrete Management

- Store both dry and wet concrete-related materials under cover, protected from rainfall and runoff and away from storm drains or creeks. Store materials off the ground on pallets. Protect dry materials from wind.
- Avoid pouring concrete in wet weather or when rainfall is imminent to prevent concrete that has not cured from contacting stormwater runoff.
- Wash out concrete equipment/mixers/trucks offsite, or onsite only in designated washout containers/areas where the water will flow into a temporary lined waste pit and in a manner that will prevent leaching into

the underlying soils. (See CASQA Construction Stormwater BMP Handbook for temporary concrete washout facility details).

- Do not wash sweepings from exposed aggregate concrete into the street or storm drain. Collect and return sweepings to aggregate base stockpile or dispose properly.
- Make sure that construction waste (e.g., concrete, stucco, cement wastewater, or residual materials) is collected, removed, and disposed of only at authorized disposal areas. Do not dispose of construction waste in storm drains, ditches, streets, creeks, dirt areas, or the sanitary sewer.

11. Dewatering

- Discharges of groundwater or captured runoff from dewatering operations must be properly managed and disposed. When possible, send dewatering discharge to landscaped area or sanitary sewer. If discharging to the sanitary sewer, call (408) 945-3000 to determine if a Short Term Industrial Wastewater Discharge Permit is required.
- Divert water originating from offsite away from all onsite disturbed areas.
- When dewatering, notify and obtain approval from the City of San José Watershed Protection Division at (408) 945-3000 before discharging water to a street gutter or storm drain. Filtration or diversion through a basin, tank, or sediment trap may be required.
- In areas of known or suspected contamination, call the City of San José Watershed Protection Division at (408) 945-3000 to determine whether the groundwater must be tested. Pumped groundwater may need to be collected and hauled offsite for treatment and proper disposal.
- For additional information, refer to the CASQA's Construction Stormwater BMP Handbook, Fact Sheet NS-2 "Dewatering Operations."

12. Paving

- Avoid paving and seal coating in wet weather or when rain is forecast to prevent materials that have not cured from contacting with stormwater runoff.
- Cover storm drain inlets and manholes when applying seal coat, slurry seal, fog seal, or similar materials.
- When construction is complete, remove all covers from storm drain inlets and manholes.
- Collect and recycle or properly dispose of excess abrasive gravel or sand. Do NOT sweep or wash it into gutters, storm drains, streets, dirt areas, or the sanitary sewer.

13. Sawcutting & Asphalt/Concrete Removal

- Protect storm drain inlets during saw cutting.
- When making saw cuts, use as little water as possible.
- Residue from saw cutting, coring, and grinding operations shall be picked up by means of a vacuum device.

- Shovel, absorb, or vacuum saw cut slurry deposits and dispose of all waste properly and as soon as reasonably possible. Sawcutting residue should not be left on pavement surface.
- If saw cut slurry enters a storm drain inlet, clean it up immediately and notify the local municipality.

14. Painting Cleanup and Removal

- Never clean brushes or rinse paint containers to landscaping, dirt areas or into a street, gutter, storm drain, or creek.
- For water-based paints, paint out brushes to the extent possible, and then rinse into a drain connected to the sanitary sewer. Never pour paint down a storm drain inlet.
- For oil-based paints, paint out brushes to the extent possible, and then clean with thinner or solvent in a proper container. Filter and reuse thinners and solvents. Dispose of excess liquids as hazardous waste.
- Sweep up or collect paint chips and dust generated from non-hazardous dry stripping and sand blasting into plastic drop cloths and dispose of as trash.
- Chemical paint stripping residue and chips and dust from marine paints or paints containing lead, mercury, or tributyltin must be disposed of as hazardous waste. Lead-based paint removal requires a state-certified contractor.