

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Mohammed Nuru, Director, Public Works  
Harlan Kelly, Jr., General Manager, Public Utilities Commission  
Elaine Forbes, Interim Executive Director, Port of San Francisco

FROM:  Alisa Somera, Assistant Clerk, Board of Supervisors

DATE: March 1, 2016

SUBJECT: LEGISLATION INTRODUCED

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On February 23, 2016, Supervisor Wiener introduced the following proposed legislation:

**File No. 160155**

Ordinance amending the Public Works Code to incorporate changes to ensure consistency and compliance with California's municipal stormwater permit requirements; to revise application of the requirements from projects disturbing 5,000 square feet of ground surface area to projects that include construction or remodeling of 5,000 square feet of impervious surface area; and affirming the Planning Department's determination under the California Environmental Quality Act.

This matter is being referred to you since it may affect your department.

If you have any comments or reports to be considered with the proposed legislation, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email: [alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org).

c: Frank Lee, Public Works  
Juliet Ellis, Public Utilities Commission

1 [Public Works Code - Stormwater Management Requirements]

2  
3 **Ordinance amending the Public Works Code to incorporate changes to ensure**  
4 **consistency and compliance with California’s municipal stormwater permit**  
5 **requirements; to revise application of the requirements from projects disturbing 5,000**  
6 **square feet of ground surface area to projects that include construction or remodeling**  
7 **of 5,000 square feet of impervious surface area; and affirming the Planning**  
8 **Department’s determination under the California Environmental Quality Act.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
12 **Board amendment additions** are in double-underlined Arial font.  
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
14 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Environmental Findings.

18 The Planning Department has determined that the actions contemplated in this  
19 ordinance comply with the California Environmental Quality Act (California Public Resources  
20 Code Sections 21000, et seq.). Said determination is on file with the Clerk of the Board of  
21 Supervisors in File No. \_\_\_ and is incorporated herein by reference. The Board affirms this  
22 determination.

23 Section 2. The Public Works Code is hereby amended by revising Sections 147,  
24 147.1, 147.2, 147.3, 147.4, and 147.5, to read as follows:  
25

1           **SEC. 147. STORMWATER MANAGEMENT.**

2           (a) The intent of Sections 147-147.6 of this Code is to reduce the volume of stormwater  
3 entering the City's Combined and Separate Sewer Systems and to protect and enhance the water  
4 quality of in the City and County of San Francisco's sewer system, stormwater collection system and  
5 receiving waters, pursuant to, and consistent with Federal and State laws, lawful standards  
6 and orders applicable to stormwater and urban runoff control, and the City's authority to  
7 manage and operate its drainage systems.

8           (b) Urban runoff is a significant cause of pollution throughout California. Pollutants of  
9 concern found in urban runoff include sediments, non-sediment solids, nutrients, pathogens,  
10 bacteria, oxygen-demanding substances, petroleum hydrocarbons, heavy metals, floatables,  
11 polycyclic aromatic hydrocarbons (PAHs), trash, and pesticides and herbicides.

12           (c) During urban development, two important changes occur. First, where no urban  
13 development has previously occurred, natural vegetated pervious ground cover is converted  
14 to impervious surfaces such as paved highways, streets, rooftops, and parking lots. Natural  
15 vegetated soil can both absorb rainwater and remove pollutants, providing a very effective  
16 purification process. Because pavement and concrete can neither absorb water nor remove  
17 pollutants, the natural retention and purification characteristics of the land are lost, increasing  
18 the volume of stormwater entering the collection system and the concentration of pollutants within that  
19 water. Second, urban development creates new pollutant sources, including vehicle  
20 emissions, vehicle maintenance wastes, pesticides, household hazardous wastes, pet wastes,  
21 trash, and other contaminants that can be washed into the City's stormwater collection systems  
22 Separate or Combined Sewer Systems.

23           (d) A high percentage of impervious area correlates to a higher rate of stormwater  
24 runoff, which generates greater pollutant loadings to the stormwater collection system City's  
25

1 Separate and Combined Sewer Systems, resulting in turbid water, nutrient enrichment, bacterial  
2 contamination, toxic compounds, temperature increases, and increases of trash or debris.

3 (e) When ~~water quality~~stormwater impacts are considered during the planning stages of  
4 a project, new development and redevelopment projects can more efficiently incorporate  
5 ~~measures to protect water quality~~Post-Construction Stormwater Controls that will enhance the function  
6 and capacity of the City's Separate and Combined Sewer Systems by providing pretreatment of  
7 stormwater and protecting water quality.

8 (f) Sections 147-147.6 of this Code protect the health, safety, and general welfare of  
9 the City's residents by:

10 (1) ~~minimizing increases in pollution caused by stormwater runoff from development~~  
11 ~~that would otherwise degrade local water quality~~reducing stormwater runoff rates and volume  
12 whenever possible through Post-Construction Stormwater Controls, and ensuring that these  
13 stormwater controls are safe and properly maintained;

14 (2) minimizing increases in pollution caused by stormwater runoff from development  
15 that would otherwise degrade local water quality; and

16 (3) controlling the discharge of contaminants to the City's sewer and drainage systems  
17 through spills, dumping, or disposal.

18 ~~(3) controlling the discharge to the City's sewer and drainage systems from spills,~~  
19 ~~dumping or disposal of pollutants; and~~

20 ~~(4) reducing stormwater run-off rates, volume, and nonpoint source pollution whenever~~  
21 ~~possible, through stormwater management controls, and ensuring that these management controls are~~  
22 ~~safe and properly maintained.~~

1           **SEC. 147.1. DEFINITIONS.**

2           In addition to the definitions provided in ~~s~~Section 119 of Article 4.1 of this Code, the  
3 following definitions shall apply:

4           ~~(a) Best management practices or "BMPs." Structural devices, measures, or programs used to~~  
5 ~~reduce pollution in stormwater runoff. BMPs manage the quantity and improve the quality of~~  
6 ~~development runoff in accordance with the Guidelines and applicable state and federal regulatory~~  
7 ~~requirements.~~

8           ~~(b) Combined Sewer System. All facilities under the jurisdiction of the Department designed and~~  
9 ~~operated to collect, transport, treat, and dispose of stormwater runoff, domestic sewage, and industrial~~  
10 ~~wastewater combined in the same collection, storage, transport, treatment, and disposal facilities.~~

11           Department. The ~~San Francisco~~ Public Utilities Commission. With regard to stormwater  
12 management in areas of the City under the jurisdiction of the Port Commission, "Department"  
13 also means the ~~San Francisco~~ Port Commission until the Port Commission adopts its own  
14 standards and procedures.

15           ~~(c) Development Project. Any activity disturbing 5,000 square feet or more of the ground~~  
16 ~~surface, measured cumulatively from the effective date of this Article. Activities that disturb the ground~~  
17 ~~surface include, but are not limited to, the construction, modification, conversion, or alteration of any~~  
18 ~~building or structure and associated grading, filling, excavation, change in the existing topography,~~  
19 ~~and the addition or replacement of impervious surface. All sidewalks, parking, driveways, and~~  
20 ~~landscaped and irrigated areas constructed in conjunction with the Development Project are included~~  
21 ~~in the project area. Development Projects do not include interior remodeling projects, maintenance~~  
22 ~~activities such as top-layer grinding, repaving, and re-roofing, or modifications, conversions or~~  
23 ~~alterations of buildings or structures that does not increase the ground surface footprint of the building~~  
24 ~~or structure.~~

1           ~~(d) Development runoff requirements. The performance standards set forth in the Guidelines to~~  
2 ~~address both the construction and post-construction phase impacts of new Development Projects on~~  
3 ~~stormwater quality.~~

4           (e) General Manager. The General Manager of the Public Utilities Commission of the  
5 City, or a designated representative of the General Manager. With regard to post-construction  
6 stormwater management in areas of the City under the jurisdiction of the Port Commission,  
7 the Executive Director of the ~~San Francisco~~ Port Commission or a designated representative of  
8 the Executive Director shall have the same authority under this Article 4.2 as the General  
9 Manager until the Port Commission adopts ~~its~~ its own standards and procedures regarding post-  
10 construction stormwater management in all areas under Port Commission jurisdiction.

11           ~~(f) Guidelines. The Stormwater Design Guidelines adopted by the San Francisco Public~~  
12 ~~Utilities Commission or the San Francisco Port Commission. The Guidelines contain requirements~~  
13 ~~pertaining to the type, design, sizing, and maintenance of post-construction stormwater BMPs.~~

14           (g) Low Impact Design (LID). Green Infrastructure. ~~A stormwater management approach that~~  
15 ~~promotes the use of ecological and landscape-based systems~~ Post-Construction Stormwater Controls  
16 that mimic pre-development drainage patterns and hydrologic processes by increasing  
17 retention, detention, infiltration, and treatment of stormwater at its source.

18           Large Development Project. Any construction activity that will result in the creation and/or  
19 replacement of 5,000 square feet or more of impervious surface, measured cumulatively, that is located  
20 on a property that discharges or will discharge Stormwater to the City's Separate or Combined Sewer  
21 System. Activities that create or replace impervious surface include, but are not limited to, the  
22 construction, modification, conversion, or alteration of any building or structure and the creation or  
23 replacement of outdoor impervious surfaces such as parking areas, driveways, private street areas, or  
24 new public rights-of-way to be dedicated to and accepted by the City within Large Development  
25 Projects that are subject to the Subdivision Code. Activities that create or replace impervious surface

1 do not include interior remodeling projects, replacement of existing sidewalks and streets dedicated to  
2 and accepted by the City, routine maintenance or repair activities such as pavement resurfacing within  
3 the existing footprint, exterior wall surface replacement, and re-roofing. In areas that connect to the  
4 Separate Sewer System, Large Development Projects also include discrete linear utility and road  
5 projects that result in 5,000 square feet or more of newly constructed contiguous impervious surface  
6 including, but not limited to, the construction of new streets or the widening of existing streets with  
7 additional traffic lanes.

8 (h) ~~Non-Stormwater Discharge.~~ Any discharge to the City's ~~Stormwater Collection~~  
9 ~~System~~ Separate or Combined Systems that is not composed entirely of Stormwater.

10 (i) Pollutant. Any substance listed in ~~see Section 119(aa)~~ of Article 4.1 of the Public  
11 Works Code ~~or~~ and any substance described as a pollutant in the Stormwater Management  
12 Requirements and Guidelines.

13 Post-Construction Stormwater Control. A technology designed to reduce pollution in  
14 stormwater runoff, or reduce runoff rate or volume, through infiltration, retention, non-potable reuse,  
15 detention, direct plant uptake, or filtration. Post-Construction Stormwater Controls may include Green  
16 Infrastructure technologies, but do not include Construction Site Best Management Practices outlined  
17 in Section 146.1 of this Code.

18 Separate Sewer System. Facilities under the jurisdiction of the Department that collect, convey  
19 and discharge Stormwater, without combining Stormwater and sewage in the same facilities.

20 (j) ~~Separate Stormwater/Sewer System. Stormwater and sanitary sewage collection facilities~~  
21 ~~that convey, treat and discharge stormwater and sewage in separated catchbasins, pipelines, treatment~~  
22 ~~facilities, outfalls, and other facilities, and do not combine stormwater and sewage in the same~~  
23 ~~facilities.~~

24 Small Development Project. Any development activity that will result in the creation or  
25 replacement of between 2,500 and 5,000 square feet of impervious surface, measured cumulatively.

1 which is located on a property that is connected or proposing to connect to the Separate Sewer System.  
2 Activities that create or replace impervious surface include, but are not limited to, the construction,  
3 modification, conversion, or alteration of any building or structure and the creation or replacement of  
4 outdoor impervious surfaces such as parking areas, driveways, private street areas, or new public  
5 rights-of-way to be dedicated to and accepted by the City within Small Development Projects that are  
6 subject to the Subdivision Code. Activities that create or replace impervious surface do not include:  
7 interior remodeling projects; replacement of existing sidewalks and streets dedicated to and accepted  
8 by the City; routine maintenance or repair activities, such as pavement resurfacing within the existing  
9 footprint, exterior wall surface replacement, and re-roofing.

10 ~~(k) Stormwater. Runoff that is generated when precipitation from rain events flows over land~~  
11 ~~or impervious surfaces and does not percolate into the ground. Water that originates from atmospheric~~  
12 ~~moisture (rainfall or snowfall) and that falls onto land, water or other surfaces.~~

13 ~~(l) Stormwater Collection System. All City facilities operated by the San Francisco Public~~  
14 ~~Utilities Commission or the Port of San Francisco for collecting, transporting, treating and disposing~~  
15 ~~of stormwater. For purposes of this Article, the Stormwater Collection System includes facilities owned~~  
16 ~~and operated by public entities other than the City, where such facilities direct stormwater into the~~  
17 ~~Stormwater Collection System and are subject to the jurisdiction of the San Francisco Public Utilities~~  
18 ~~Commission or the Port of San Francisco as defined by law, contract, or interjurisdictional agreement.~~

19 ~~(m) Stormwater Control. A device designed to remove pollution in stormwater runoff through~~  
20 ~~detention, retention, filtration, direct plant uptake, or infiltration.~~

21 ~~(n) Stormwater Control Plan. A plan submitted by a Large Development Project proponent~~  
22 ~~to the Department for review and approval that meets all applicable criteria, performance~~  
23 ~~standards and other stormwater management requirements contained in this Article 4.2 and the~~  
24 ~~Stormwater Management Requirements and Guidelines.~~



1            Stormwater Management Requirements and Design Guidelines. The Stormwater Management  
2 Requirements and Design Guidelines adopted by the Department. The Stormwater Management  
3 Requirements and Design Guidelines contain requirements pertaining to the type, design, performance,  
4 sizing, and maintenance of Post-Construction Stormwater Controls.

5            **SEC. 147.2. STORMWATER CONTROL PLAN.**

6            (a) Small Development Project Requirements. Every Small Development Project shall  
7 implement Post Construction Stormwater Controls and submit documentation of these measures as  
8 described in the Stormwater Management Requirements and Design Guidelines and in accordance with  
9 this Article 4.2.

10           ~~(a)(b) Large Development Projects-Requirements. Every Large Development Project shall~~  
11 ~~implement Post-Construction Stormwater Controls in accordance with this Article 4.2 and the~~  
12 ~~Stormwater Management Requirements and Design Guidelines. Every Large Development Project~~  
13 ~~shall submit a Stormwater Control Plan for review and approval in accordance with this Article and~~  
14 ~~the Stormwater Management Requirements and Design Guidelines. No City department shall approve~~  
15 ~~or issue a permit to construct a project, including a building or site permit, unless and until a~~  
16 ~~Stormwater Control Plan is developed and has been approved by the General Manager. Large~~  
17 ~~Development Projects not subject to City building or planning approvals, including, but not limited to,~~  
18 ~~State and Federal projects, must submit a Stormwater Control Plan and receive approval from the~~  
19 ~~General Manager before undertaking any construction activity. Every application for a Development~~  
20 ~~Project, including, but not limited to, a building or encroachment permit conditional use permit,~~  
21 ~~variance, site permit, or design review, shall be accompanied by a Stormwater Control Plan that meets~~  
22 ~~the stormwater control criteria provided by the Guidelines. No City department shall approve or issue~~  
23 ~~a conditional use permit, variance, site permit, design review approval, building or encroachment~~  
24 ~~permit unless and until a Stormwater Control Plan developed in accordance with this Article and the~~  
25 ~~Guidelines has been approved by the General Manager. All projects subject to the stormwater~~

1 ~~management requirements of Chapter 13C of the San Francisco Building Code shall comply with the~~  
2 ~~requirements of the Guidelines.~~

3 ~~(b)~~ (c) Subdivision Approvals.

4 (1) Parcel Map or Tentative Subdivision Map Conditions. The Director of Public  
5 Works shall not approve a tentative subdivision map or a parcel map for any Small or Large  
6 Development Project subject to the provisions of this Article 4.2 unless a condition is imposed  
7 requiring compliance with this Article and the Stormwater Management Requirements and Design  
8 Guidelines. ~~The Director of Public Works shall not approve a tentative subdivision map or a parcel map~~  
9 ~~for any property unless a condition is imposed requiring compliance with all applicable Stormwater~~  
10 ~~Control Plans to serve the potential uses of the property covered by the parcel map or tentative~~  
11 ~~subdivision map, as may be further specified in the provisions of this Article or the Guidelines.~~

12 (2) Subdivision Regulations. The Director of Public Works shall adopt regulations  
13 as necessary, consistent with and in furtherance of this Article 4.2, to ensure that all  
14 subdividers of ~~property~~ Small or Large Development Projects ~~subject to the provisions of this~~  
15 ~~ordinance provide a Stormwater Control Plan in compliance~~ comply with this Article and the  
16 Stormwater Management Requirements and Guidelines, including submission of a Stormwater  
17 Control Plan if applicable.

18 (3) Final Maps. The Director of Public Works shall not endorse and file a final map  
19 ~~for property within the boundaries of the City and County of San Francisco~~ without first determining  
20 whether:

21 (A) The subdivider has complied with the conditions imposed on the tentative  
22 subdivision map or parcel map, pursuant to this Article 4.2 and the Stormwater Management  
23 Requirements and Guidelines; and or

1 (B) For any such conditions not fully satisfied prior to the recordation of the final  
2 map, the subdivider has signed a certificate of agreement and/or improvement agreement, to  
3 ensure compliance with such conditions.

4 (4) This Subsection (~~cb~~) shall not apply to tentative subdivision maps or parcel  
5 maps submitted solely for the purposes of condominium conversion, as defined in ~~San~~  
6 ~~Francisco~~ Subdivision Code Section 1308(d).

7 **SEC. 147.3. LIMITATIONS AND PROHIBITED DISCHARGES.**

8 (a) The establishment, use, maintenance, or continuation of any unauthorized  
9 drainage connections to the Stormwater Collection System is prohibited.

10 (b) The discharge of Pollutants and Non-~~s~~Stormwater Discharges into the stormwater  
11 collection facilities located in the Separate ~~Stormwater/s~~Sewer System portions of the  
12 Stormwater Collection System is prohibited, except as provided in this section 147.3.

13 (c) The following discharges are exempt from the prohibitions set forth in subsection  
14 (b) above if the Regional Water Quality Control Board approves the exempted category in a  
15 discharge permit issued to the City under section C.11. of the City's NPDES permit: uncontaminated  
16 pumped groundwater, foundation drains, water from crawl space pumps, footing drains, air  
17 conditioning condensate, irrigation water, landscape irrigation, lawn or garden watering,  
18 planned and unplanned discharges from potable water sources, water line and hydrant  
19 flushing, individual residential car washing, discharges or flows from emergency fire-fighting  
20 activities, and dechlorinated swimming pool discharges.

21 **SEC. 147.4. COMPLIANCE WITH MAINTENANCE AND INSPECTION**  
22 **REQUIREMENTS.**

23 (a) All Post-Construction Stormwater Controls shall be maintained according to the  
24 Stormwater Management Requirements and Guidelines and the ~~operation and~~ maintenance plan  
25 included in the approved Stormwater Control Plan. The person(s) or organization(s)

1 responsible for maintenance shall be designated in the plan. Those persons responsible for  
2 maintenance shall inspect the Post-Construction Stormwater Controls at least annually and  
3 shall maintain the Post-Construction Stormwater Controls as required by the Stormwater  
4 Management Requirements and Guidelines and ~~described in the approved~~ Stormwater Control  
5 Plan.

6 (b) ~~Operation and Maintenance Inspection and Certificates and Self-Certification~~  
7 Inspections. Every person who owns, leases or operates any Post-Construction Stormwater  
8 Control or Controls must provide annual self-certification for inspection and maintenance, as  
9 set forth in the Stormwater Management Requirements and Guidelines.

10 (c) The General Manager may perform routine or scheduled inspections and sampling,  
11 as may be deemed necessary in the General Manager's sole discretion to carry out the intent  
12 of this Article 4.2 and the Stormwater Management Requirements and Guidelines, ~~including, but not~~  
13 ~~limited to, random sampling or sampling in areas with evidence of Stormwater contamination, evidence~~  
14 ~~of the discharge of Non-stormwater to the Stormwater Collection System, or similar activities.~~

15 (d) Authority to Sample and Establish Sampling Devices. The General Manager may  
16 require any person discharging Stormwater to the ~~Stormwater Collection~~ Separate or Combined  
17 Sewer System to provide devices or locations necessary for the Department to conduct  
18 sampling or metering operations.

19 (e) Requirement to Monitor. If requested by the General Manager, any person responsible for  
20 Post-Construction Stormwater Controls shall undertake monitoring and furnish monitoring reports to  
21 the General Manager, as he or she may specify.

22 (e)(f) Notification of Spills. All persons in charge of the Post-Construction Stormwater  
23 Controls shall provide immediate notification to the General Manager of any suspected,  
24 confirmed, or unconfirmed release of pollutants creating a risk of non-stormwater discharge  
25 into the ~~Stormwater Collection~~ Separate or Combined Sewer System. Such persons shall take all

1 necessary steps to ensure the detection, containment and clean-up of such release. This  
2 notification requirement is in addition to and not in lieu of other required notifications.

3 ~~(f) Requirement to Test or Monitor. The General Manager may require that any person  
4 responsible for Stormwater Controls undertake such monitoring activities or analysis and furnish such  
5 reports as the General Manager may specify.~~

6 **SEC. 147.5. ENFORCEMENT AND COST REIMBURSEMENT.**

7 Any violation of this Article 4.2 may be enforced by the General Manager pursuant to  
8 Section 132 of Article 4.1 of the Public Works Code. Persons violating any provision of this  
9 Article, the *Stormwater Management Requirements and Guidelines*, or ~~a~~Department regulations  
10 may be subject to penalties and abatement in accordance with the *Stormwater Management*  
11 *Requirements and Guidelines* and Sections 133 and 134 of Article 4.1 of the Public Works  
12 *Code. For Small and Large Development Projects in areas of the City under the jurisdiction of the*  
13 *Port Commission, the Port's Executive Director or his or her designee shall have enforcement*  
14 *authority identical to the enforcement authority referenced in the two preceding sentences.*

15 Section 3. Effective Date. This ordinance shall become effective 30 days after  
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
18 of Supervisors overrides the Mayor's veto of the ordinance.

19 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
20 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
21 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
22 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

23 ///

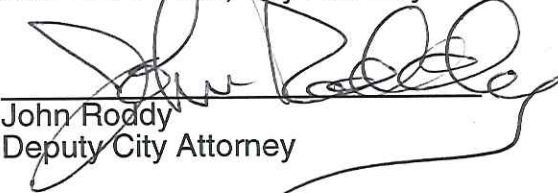
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1 additions, and Board amendment deletions in accordance with the "Note" that appears under  
2 the official title of the ordinance.

3

4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By:   
7 John Roddy  
8 Deputy City Attorney

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