

1 [Public Works Code - Control of Construction Site Runoff]

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3 **Ordinance amending the Public Works Code to protect water quality by controlling the**
4 **discharge of sediment or other construction pollutants from construction sites and**
5 **preventing erosion and sedimentation due to construction activities; and making**
6 **environmental findings.**

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

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

15 Section 1. Environmental Findings.

16 The Planning Department has determined that the actions contemplated in this
17 ordinance comply with the California Environmental Quality Act (California Public Resources
18 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
19 Supervisors in File No. 130814 and is incorporated herein by reference.

20 Section 2. Article 4.2 of the Public Works Code is hereby amended by adding Sections
21 146 through 146.11, to read as follows:

22 **SEC. 146. CONSTRUCTION SITE RUNOFF CONTROL.**

23 (a) The purpose of this sSections 146 through 146.11 of Article 4.2 and the City's
24 construction site runoff control program is to protect water quality by controlling the discharge of
25 sediment or other pollutants from construction sites and preventing erosion and sedimentation due to
construction activities.

1 **(b)** Construction sites can be significant sources of pollution. Materials from construction
2 sites such as concrete, mortars, disturbed soil, sawdust, paint chips, and other debris can be easily
3 transported off construction sites by runoff and wind, and eventually may be washed into storm drains
4 during street cleaning and rainy weather. These sediments can damage infrastructure as well as cause
5 many water quality concerns.

6 **(c)** Construction sediment and debris can create local flood hazards by clogging the storm
7 drains and sewer system and reduce the flow capacity, allowing wastewater to spill onto the streets.
8 These sediments are abrasive, and can degrade the pump stations in the sewer system, causing
9 increased maintenance costs, as well as carry toxic pollutants to the bay, local lakes, and the ocean.
10 Also, construction runoff and debris can reduce the capacity and treatment efficiency of the City's
11 collection and wastewater treatment facilities operating during wet weather.

12 **(d)** Sections 146 – 146.11 of Article 4.2 set forth uniform requirements and prohibitions for
13 dischargers and places of discharge to the City's Sewerage System necessary to provide for the
14 protection of water quality and the City's Sewerage System. By implementing these controls, the City is
15 protecting and promoting the public health, safety, and general welfare of its residents, businesses, and
16 visitors.

17 **SEC. 146.1. DEFINITIONS.**

18 The definitions provided in Section 119 of Article 4.1 of this Code apply to Sections 146 –
19 146.11 of Article 4.2, in addition to the following defined terms:

20 **Applicant.** The Owner and any of the Owner's authorized representatives who submit an
21 application to the General Manager for a Construction Site Runoff Control Permit pursuant to this
22 Article.

23 **Construction Project.** Any construction or demolition activity disturbing 5,000 square feet or
24 more of the ground surface, measured cumulatively, ~~any such activities~~ undertaken after January 1,
25 2014, including any Land-disturbing Activities.

1 **Construction Site Best Management Practice or “BMP.”** Any program, technology,
2 technique, process, operating method, measure or device which controls prevents, removes or reduces
3 pollution, erosion and sediment transport in runoff from construction sites.

4 **Construction Site Runoff Control Permit.** Authorization issued by the General Manager
5 for the commencement of a Construction Project in accordance with all applicable laws and
6 regulations.

7 **Construction Site Runoff Control Regulations.** A compilation of technical standards
8 and design specifications adopted by the General Manager for controlling construction related
9 surface runoff, erosion and sedimentation.Erosion. The washing or wearing away of ground
10 surface as a result of the movement of wind, water, or Land-disturbing Activities.

11 **Erosion and Sediment Control Plan.** A plan or set of plans indicating the specific BMPs or
12 equivalent measures and sequencing to be used to control Erosion and sediment on a Construction
13 Project.

14 **Erosion Control.** A BMP that prevents Erosion.

15 **General Manager.** The General Manager of the San Francisco Public Utilities
16 Commission, or his or her designee.

17 **Land-disturbing Activities.** Any movement of earth or a change in the existing soil cover or
18 existing topography that may result in soil erosion from wind, or water, and the movement of sediments
19 into or upon waters, lands, or public rights-of-way within the City and County of San Francisco,
20 including, but not limited to building demolition, clearing, grading, grubbing, filling, stockpiling,
21 excavating and transporting of land.

22 **Owner.** Any Person with legal or equitable interest in the land for which a Construction Site
23 Runoff Control Permit has been issued.

1 ~~Construction Site Runoff Control Permit. Authorization issued by the General Manager~~
2 ~~for the commencement of a Construction Project in accordance with all applicable laws and~~
3 ~~regulations.~~

4 ~~Construction Site Runoff Control Regulations. A compilation of technical standards~~
5 ~~and design specifications adopted by the General Manager for controlling construction-related~~
6 ~~surface runoff, erosion and sedimentation.~~

7 *Permittee. The Applicant in whose name a valid permit is issued pursuant to section 146.5, and*
8 *his or her agents, employees, and others acting under his or her direction.*

9 *Runoff. Any water flowing over the ground surface that leaves the Site.*

10 *Sediment Control. A BMP that prevents eroded sediment from leaving the Site.*

11 *Site. The entire area of land covered by the Construction Site Runoff Control Permit on which*
12 *the land-disturbing activities are conducted.*

13 ~~Sediment Control. A BMP that prevents eroded sediment from leaving the Site.~~

14 *Start of Construction. The first Land-disturbing Activities associated with a Construction*
15 *Project.*

16 **SEC. 146.2. EMERGENCY ACTION.**

17 *Any emergency action immediately necessary for the protection of life, health, or property is*
18 *exempt from obtaining a Construction Site Runoff Control Permit. An emergency that warrants*
19 *emergency action is a sudden, unforeseeable and unexpected occurrence involving a clear and*
20 *imminent danger, demanding immediate action to prevent or mitigate loss of or damage to, life, health,*
21 *or property. Any Land-disturbing Activities performed after the clear and imminent danger has been*
22 *alleviated shall not constitute an emergency, and must be performed in compliance with Sections 146*
23 *– 146.11 of this Article.*

1 **SEC. 146.3. LAND-DISTURBING ACTIVITIES.**

2 (a) Any person performing Land-disturbing Activities shall implement and maintain BMPs
3 to minimize surface Runoff, Erosion, and sedimentation.

4 (b) Whenever the General Manager determines that any Land-disturbing Activity has
5 become a hazard to life and limb, or endangers the property of another, or adversely affects the safety,
6 use, slope, or soil stability of a public right-of-way, publicly controlled wetland, or Sewerage System,
7 the Owner of the property upon which the Land-disturbing Activity is located, or other person or agent
8 in control of said property, upon receipt of notice from the General Manager, shall within the period
9 specified therein repair or eliminate such conditions.

10 **SEC. 146.4. EROSION AND SEDIMENT CONTROL PERFORMANCE STANDARDS.**

11 (a) A Land-disturbing Activity shall be considered in violation of Sections 146 – 146.11
12 of Article 4.2 if eroded sediment has been deposited onto adjacent properties, a public right-of-way, a
13 publicly controlled wetland, or the Sewerage System.

14 (b) The design, testing, installation, and maintenance of erosion and sediment control
15 operations and facilities shall adhere to the standards and specifications contained in the Construction
16 Site Runoff Regulations.

17 **SEC. 146.5. CONSTRUCTION SITE RUNOFF CONTROL PERMIT.**

18 (a) Any person proposing to undertake Land-disturbing Activities shall apply for a
19 Construction Site Runoff Control Permit prior to commencing a Construction Project. Commencing
20 Land-disturbing Activities or a Construction Project prior to issuance of the Construction Site Runoff
21 Control Permit, or performing such activities in excess of or inconsistent with Construction Site Runoff
22 Control Permit requirements is a violation of Sections 146 – 146.11 of Article 4.2.

23 (b) Unless and until a Construction Site Runoff Control Permit has been issued by the
24 General Manager, no City department shall approve or issue:

25 (1) a site or building permit;

1 (2) a demolition permit;

2 (3) a permit to grade, quarry, fill, or excavate;

3 (4) a public right of way encroachment permit.

4 (c) Permittees shall comply with all permit conditions authorized by the General Manager,
5 including, but ~~are~~ not limited to:

6 (1) The granting (or securing from others) and the recording in City land records of
7 easements for drainage facilities, including the acceptance of their discharge on the property of others,
8 and for the maintenance of slopes or erosion controls,

9 (2) Adequate control of dust by watering, or other control methods acceptable to the
10 General Manager, and in conformance with applicable air pollution laws and regulations,

11 (3) Improvements of any existing grading, ground surface, or drainage condition on
12 the site (not to exceed the area as proposed for work or development in the application) to meet the
13 standards required under this Article for new grading, drainage and erosion control,

14 (4) Payment of charges to defray increased costs to the City created by the Land-
15 disturbing Activity, and

16 (5) Any other conditions and terms deemed necessary by the General Manager to
17 achieve the objectives of Sections 146 – 146.11 of Article 4.2.

18 (d) **Reimbursement.** Each Permittee shall reimburse the City, in addition to any applicable
19 sewer service fees, for the inspection and monitoring, administration, incidental expenses, and payment
20 of penalties imposed on the City by enforcement agencies caused by any violation of the Construction
21 Site Runoff Control Permit of Article 4.2.

22 **SEC 146.6. PERMIT PROCESS.**

23 (a) ~~Persons who have commenced Construction Projects prior to January 1, 2014,~~
24 ~~shall submit an application for a Construction Site Runoff Control Permit when notified by the~~

1 General Manager. Persons commencing Construction Projects after January 1, 2014, must obtain a
2 Construction Site Runoff Control Permit prior to the commencement of Land-disturbing Activities.

3 (b) A written application, in a format provided by the General Manager, from the Applicant
4 shall be submitted to the General Manager for each Construction Site Runoff Control Permit.

5 (c) An application for a Construction Site Runoff Control Permit shall include an Erosion
6 and Sediment Control Plan for each Construction Project that conforms to the format and criteria
7 provided by the General Manager.

8 (d) The General Manager may grant or deny the Construction Site Runoff Control Permit,
9 or to require further information or analysis pertinent to compliance with this Article.

10 (e) The Permittee shall maintain a copy of the Construction Site Runoff Control Permit and
11 approved plans and reports required under the permit on the work site and available for public
12 inspection during all working hours.

13 **SEC. 146.7. EROSION AND SEDIMENT CONTROL PLAN.**

14 (a) The Erosion and Sediment Control Plan shall include a vicinity map showing the
15 location of the site in relationship to the surrounding area's water courses, water bodies, and other
16 significant geographic features; a site survey; suitable contours for the existing and proposed
17 topography, area drainage, proposed construction and sequencing, proposed drainage channels;
18 proposed erosion and sediment controls; dewatering controls where applicable; soil stabilization
19 measures where applicable; maintenance controls; sampling, monitoring, and reporting schedules; and
20 any other information deemed necessary by the General Manager.

21 (b) Any Person performing Land-disturbing Activities at sites greater than or equal to one
22 acre within a separate sewer system area may submit to the General Manager the Storm Water
23 Pollution Prevention Plan (SWPPP) used to comply with the State of California's General Permit for
24 Discharges of Storm Water Associated with Construction Activity in lieu of an Erosion and Sediment
25 Control Plan.

1 **SEC. 146.8. MAINTENANCE AND INSPECTION REQUIREMENTS.**

2 **(a) Daily Maintenance.** *The Permittee shall daily inspect, maintain, and repair all graded*
3 *surfaces and erosion and sediment controls, drainage structures, and other protective devices,*
4 *plantings, and ground cover installed while construction is active.*

5 **(b) Reporting.** *Every person who operates any erosion and sediment control or controls*
6 *must provide inspection and maintenance information as set forth in the Construction Site Runoff*
7 *Control Permit, and certify under penalty of perjury that such information is accurate and true*
8 *under the penalty of perjury.*

9 **(c) Inspections.** *Permittees shall permit the General Manager to perform inspections as*
10 *may be deemed necessary in the General Manager's sole discretion to carry out the intent of this*
11 *Article.*

12 **(d) Milestone Notification.** *The Permittee shall notify the General Manager at least two*
13 *working days before the following milestones occur:*

14 **(1) Start of construction.**

15 **(2) Erosion and sediment control measures are completely installed and stabilized.**

16 **(3) Final grading has been completed.**

17 **(4) Project completion.**

18 **(e) Authority to Sample and Establish Sampling Devices.** *Permittees shall provide devices*
19 *or locations necessary to conduct sampling or metering operations, if requested by the General*
20 *Manager.*

21 **(f) Requirement to Test or Monitor.** *Permittees shall undertake such monitoring activities*
22 *or analysis and furnish such reports as the General Manager may specify, if requested by the General*
23 *Manager.*

24 **(g) Notification of Spills.** *All Persons responsible for implementing BMPs shall provide*
25 *immediate notification to the General Manager of any suspected, confirmed or unconfirmed release of*

1 Pollutants that creates a risk of non-stormwater discharge into any of the City's sewer systems. Such
2 persons shall take all necessary steps to ensure the detection and containment and cleanup of such
3 release.

4 (h) **Public Right-of-Ways.** The Permittee shall be responsible for the prompt removal of,
5 and the correction of damage resulting from any soil, miscellaneous debris or other materials washed,
6 spilled, tracked, dumped or otherwise deposited on public streets, highways, sidewalks or other public
7 thoroughfare, incident to the construction activity, or during transit to and from the construction site.

8 **SEC. 146.10. ENFORCEMENT.**

9 Persons violating any provision of the Construction Site Runoff Control Permit or Sections
10 146 – 146.11 of this Article or applicable laws or regulations are subject to enforcement by the
11 General Manager pursuant to Section 132 of Article 4.1 of ~~the Public Works~~ this Code. Persons
12 violating Sections 146 – 146.11 of any provision of Article 4.2 or applicable laws or regulations
13 are subject to penalties and abatement in accordance with Sections 133 and 134 of Article 4.1 of ~~the~~
14 Public Works ~~this~~ Code, and any other remedies allowed by law.

15 **SEC. 146.11. SEVERABILITY.**

16 If any section, subsection, subdivision, paragraph, sentence, clause, or phrase is for any reason
17 held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision
18 shall not affect the validity or effectiveness of the remaining portions of this Article. The Board of
19 Supervisors declares that it would have passed each section, subsection, subdivision, paragraph,
20 sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections,
21 subdivisions, paragraphs, sentences, clauses, or phrases could be declared unconstitutional, invalid or
22 ineffective.

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

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

6 By: _____
7 JOHN RODDY
8 Deputy City Attorney

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