



STAFF REPORT ON PROPOSED LEGISLATION

To: Mayor Gavin Buckley
From: Jacqueline Guild
Date: September 8, 2020
Subject: O-36-20, Site Development – Prohibited Discharges

Ordinance 36-20 amends Title 17, Chapter 17.08 - Grading, Erosion, and Sediment Control, for the purpose of improving the protections of City waterways and public thoroughfares from harmful discharges from development sites when sites are closed for business. O-36-20 aims to clarify the erosion and sediment control purposes of measures disturbed or destroyed during operations, capture additional construction site materials, i.e., “trash,” and set a higher standard of care for securing construction site materials. These amendments are intended to remedy the frequent occurrence of after-hours discharges resulting from failed and improperly maintained sediment and erosion control measures and failure to contain loose materials at construction sites.

Section 17.08.160 – Erosion and sediment control—General requirements. A.9. requires the prompt repair of “graded surfaces, erosion-control measures, vegetative covers, and other protective measures disturbed or destroyed during the course of operations...”. O-36-20 adds language after “other protective measures” to clarify that the measures set forth in this section are those measures intended to prevent discharge of sediment and other materials from the development site. The additional language makes the point that these measures are important to protect the quality of waters and lands as opposed landscaping or other features that may serve some other purpose, e.g., purely ornamental. However, the word “designed” should be inserted before the new language “to prevent” to achieve the purpose of the new language and the word “are” needs to be substituted for “is” for subject- verb agreement.

Section 17.08.180 – Prohibited discharges and prohibited discharges of coal tar pavement products, A., is amended in two respects:

1. The ordinance adds “trash” to the list of materials prohibited from discharge from a construction site. This term captures plastic sheeting and paper enclosing construction materials, tarps, containers, and general refuse from a site. Note that “refuse” is a term already included in this section and is a synonym for “trash”; therefore, the term “trash”

is unnecessary. However, the addition of the term “trash” does not deter from the section and removes any doubt regarding whether general litter is prohibited.

2. This section requires that listed materials be “properly stored to *minimize* any threat of discharge” (emphasis added). The ordinance strengthens this section by requiring that the materials either be removed from the development site or securely stored on-site at the daily close of business to *prevent* any threat of discharge ...” (emphasis added). The amended language requires the site manager to exercise a higher standard of care to ensure that there will be *no threat* of discharges of the listed materials from the site.

It is not anticipated that the ordinance will add any greater burden on environmental compliance inspection staff since the inspector will not be required to perform any additional tasks. He/she will be still be inspecting sites for the same types of practices that are required currently. He/she will just be inspecting for an enhanced standard of care.

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Office of Environmental Policy