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CITY OF EUREKA
PUBLIC WORKS

BILL NO. 783 – C.S.
ORD. NO. 724 – C.S.

**AN ORDINANCE OF THE CITY OF EUREKA AMENDING EUREKA
MUNICIPAL CODE TITLE 15, CHAPTER 150, ADDING NEW SECTIONS
150.200 through 150.217 PERTAINING TO CONSTRUCTION SITE EROSION
CONTROL**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

Section 1.

The following section is hereby added to Title XV, Chapter 150:
Sections 150.200 through 150.217, Title “Construction Site Erosion Control Ordinance”
to read as follows:

Construction Site Erosion Control Ordinance

§ 150.200 Purpose and Intent.

The purpose and intent of this Chapter is to protect and enhance the water quality of watercourses, water bodies and wetlands pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. §1251 et seq.) and the Porter Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) by minimizing, to the maximum extent practicable, the discharge of sediment into the storm drainage system as a result of construction related activities.

§ 150.201 Definitions.

The terms used in this chapter shall have the following meanings:

- A. City:** The City of Eureka.
- B. Clear:** Any activity which removes the vegetative ground cover and/or trees including, but not limited to, root mat removal and/or top soil removal.
- C. Construction Site:** All areas where soil is disturbed related to a project, including but not limited to, soil disturbed for construction, staging area, ingress, egress and any temporary dumping areas.
- D. Entity:** Any property owner, lessee, contractor, utility company, person, firm, corporation, or any legal entity, and their employees and agents. The term “entity” shall include all entities with authority or control over the property in issue.
- E. Erosion:** The wearing away of the ground surface, and the detachment of soil particles resulting from the movement of water, wind or mechanical causes.

- F. Excavate:** Any digging, scraping or other methods of removing earth materials.
- G. Fill:** Any depositing or stockpiling of earth materials.
- H. Grade:** Any excavating or filling of earth materials or any combination thereof, including land in its excavated or filled condition.
- I. Illicit Discharge:** Any direct or indirect sediment discharge to the storm drainage system and either in violation of an approved erosion control permit or in the absence of an approved erosion control permit.
- J. Pollutants:** Any agent, material or substance that may cause or contribute to the degradation of water quality.
- K. Sediment:** Eroded earth material, such as rock, sand, silt, soil, or combination thereof, which threatens to be transported by runoff and/or deposited in a stream, drainage course, tidal slough or other area.
- L. Soil:** Unconsolidated mineral and organic material.
- M. Storm Drainage System:** Any inlet, pipe, conduit, swale, channel or waterway designed or used for the disposal of stormwater and non-stormwater, excluding any sanitary sewer system.
- N. Stormwater:** Runoff discharges originating from precipitation events.
- O. Waterway:** Natural or artificial body of water, or system of interconnected bodies of water.

§ 150.202 Applicability.

The regulations set forth in this chapter shall apply to all property within the jurisdiction of the City of Eureka.

§ 150.203 Exemptions.

Any construction site greater than 50 feet away from the edge of a delineated wetland, stream, or stream channel and disturbing less than 2,500 square feet, is exempt from the provisions of this chapter.

§ 150.204 Responsibility for Administration.

The Building Official or designee of the City shall administer, implement and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the Building Official may be delegated in writing by the Building Official to the designee.

§ 150.205 Severability:

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

§ 150.206 Regulatory Consistency:

This Chapter shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Act and any acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.

§ 150.207 Ultimate Responsibility of Discharger:

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards. Greater erosion and pollution control measures may be necessary to comply with other applicable local, state and federal laws. This Chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the State and/or U.S. caused by said person. This Chapter shall not create liability on the part of the City of Eureka, or any agent or employee thereof for any damages that result from any discharger's reliance on this Chapter or any administrative decision lawfully made there under.

§ 150.208 Clearing, Grading, Excavating, Filling:

It shall be unlawful for any entity to clear, grade, excavate or fill (hereinafter "work") any property within the city limits without having first obtained an erosion control permit ("ECP") from the City. The ECP applications shall contain the following information:

- A.** The name, address and telephone number of the applicant for the ECP.
- B.** The name, address, and telephone number of the contractor who will perform the work.
- C.** The building site location.
- D.** Total area to be cleared, graded, excavated or filled.
- E.** General description of work to be performed.
- F.** The specific erosion/sediment control devices or practices proposed, as specified herein below.

G. All plans drawn to scale.

The State Water Resources Control Board General Permit for Discharges of Stormwater Associated with Construction Activity requires a Stormwater Pollution Prevention Plan (SWPPP) for construction sites that are larger than an acre. If an application for an ECP involves a construction site larger than an acre, a copy of the SWPPP shall also be submitted as part of the application for the ECP.

§ 150.209 Submission of Erosion Control Permit:

ECP applications shall be submitted to the Building Department. No building permits shall be issued for projects/lots until the ECP application has been reviewed and approved by the Building Official. ECP plan review and application fees shall be set by resolution of the City Council. However, the implementation of the ECP will not be required during the dry season (April 15th through October 15th) unless there is a 72 hour forecast of rain (40% chance or greater). No building permit will be issued for any property on which indebtedness to the city exists by reason of an order of abatement costs or liens associated with this chapter.

§ 150.210 Erosion/Sediment Control Devices:

A. The ECP shall require, and the entity shall install specific erosion/sediment control devices, which shall be maintained in proper working condition for so long as work is being conducted on the property or for so long as an active permit of any nature is issued for the project. Erosion/sediment control devices required by the ECP may include, but are not limited to, silt fences, straw bales, retention ponds, mulch, sod, rip-rap, vegetation barriers, hydro-seeding, erosion blankets and any other measures which will adequately prevent soil from being eroded and transported onto adjoining property.

B. The ECP shall always require a stabilized construction site access for any sites where sediment can be tracked onto public roads by construction vehicles.

C. The responsibility of the property owner and its agents shall be joint and severable with the entity performing the work for the maintenance of all erosion control devices, which shall be maintained in a condition so as to prevent soil erosion on the property and transport of sediment off the property.

§ 150.211 Violations:

A. Municipal Property

- i. It shall be unlawful for any entity to cause, permit or allow any sediment to be deposited upon any municipal property within the city unless otherwise approved in an erosion control permit. In the event any entity shall allow such sediment to be deposited upon municipal property, such entity shall immediately remove such sediment from said municipal property.

B. Private Property

- i. It shall be unlawful for any entity to cause, permit or allow any sediment to be deposited upon any private property within the city unless otherwise approved in an erosion control permit. In the event any entity shall allow such sediment to be deposited upon private property, such entity shall immediately remove such sediment from said property, upon notice by and with consent of the property owner.

§ 150.212 Authority to Inspect:

Whenever necessary to make an inspection to enforce any provision of this Chapter or whenever the Building Official has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Chapter, the Building Official may enter such premises at all reasonable times to inspect the same and to inspect and record stormwater compliance issues. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

§ 150.213 Notice of Violation:

Whenever the Building Official finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, the Building Official may order compliance by written notice of violation to the responsible person. Such notice may require without limitation and in addition to penalties or any other remedies available under law:

- A. The elimination of illicit discharges or practices and operations contributing to illicit discharges;
- B. The immediate placement of erosion/sediment control devices or practices;
- C. The abatement or remediation of the illicit discharge
- D. The restoration of any affected property ; and
- E. Payment of any administrative and remediation costs incurred by the City for abatement

§ 150.214 Appeal:

Notwithstanding the provisions of Section 150.215 below, any person receiving a Notice of Violation under Section 150.213 above may appeal the determination of the Building Official to the City Manager. The notice of appeal must be received by the City Manager within 5 days from the date of the Notice of Violation. Hearing on the appeal before the City Manager or his/her designee shall take place within 15 days from the date of City's receipt of the notice of appeal. The decision of the City Manager or designee shall be final.

§ 150.215 Abatement by City:

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal under Section 150.214, within 10 days of the decision of the City Manager upholding the decision of the Building Official, then the City or a contractor designated by the Building Official may enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.

§ 150.216 Charging Costs of Abatements/Liens:

Within 30 days after abatement of the illicit discharge by the City, the Building Official shall notify the property owner of the abatement cost, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with the City Clerk within 15 days. The City Clerk shall set the matter for public hearing by the City Council. The decision of the City Council shall be set forth by resolution and shall be final.

If the amount due is not paid within 10 days of the decision of the City Council or the expiration of the time in which to file an appeal under this Section, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Auditor so that the auditor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

§ 150.217 Acts Potentially Resulting in a Violation of the Clean Water Act and/or California Porter-Cologne Act

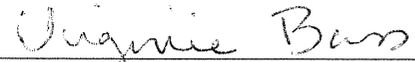
Any person who violates any provision of this Chapter or any provision of any requirement issued pursuant to this Chapter may also be in violation of the Clean Water Act and/or the Porter-Cologne Water Quality Control Act and may be subject to the sanctions of those acts including civil and criminal penalties.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 20th day of May, 2008, by the following vote:

AYES:	COUNCILMEMBERS	GLASS, ENDERT, LEONARD, KERRIGAN
NOES:	COUNCILMEMBERS	NONE
ABSENT:	COUNCILMEMBERS	JONES
ABSTAIN:	COUNCILMEMBERS	NONE

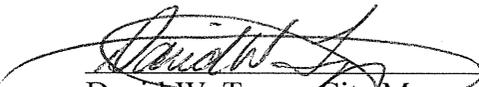

Mike Jones, Mayor Pro Tem

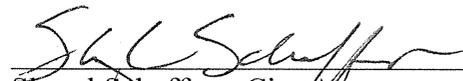
The above ordinance was submitted to me on the 30 day of May, 2008, and I hereby approve the same.


Virginia Bass, Mayor

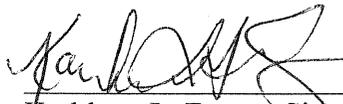
Approved as to Administration:

Approved as to form:


David W. Tyson, City Manager


Sheryl Schaffner, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the 10th day of June, 2008.


Kathleen L. Franco Simmons, City Clerk