TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: PUBLIC WORKS

DATE: JUNE 26, 2006 CMR:279:06

SUBJECT: ADOPTION OF AN ORDINANCE REVISING STORM WATER POLLUTION PREVENTION MEASURES FOR LAND DEVELOPMENT PROJECTS

RECOMMENDATION
Staff recommends that Council approve the attached ordinance (Attachment A) revising storm water pollution prevention requirements for land development projects.

BACKGROUND
The San Francisco Bay Regional Water Quality Control Board (Regional Board) issues National Pollutant Discharge Elimination System (NPDES) permits that stipulate water quality requirements for discharges to waters of the State. In 1990, the Regional Board issued a joint NPDES permit to the Santa Clara Valley Urban Runoff Pollution Control Program (Program), consisting of 13 Santa Clara Valley cities, the County of Santa Clara, and the Santa Clara Valley Water District, for discharge of storm water to local creeks and the San Francisco Bay. The permit required the development and implementation of an Urban Runoff Management Plan (Plan) containing control measures to be implemented by municipalities, residents, and businesses to reduce storm water pollution. The Plan identified best management practices (BMPs) for storm water pollution control, public outreach and education programs, and local inspection and enforcement activities designed to improve storm water quality.

The Regional Board has deemed land development activity as a significant potential pollutant source in the region, threatening the water quality in local creeks and San Francisco Bay. Accordingly, the Program’s third-generation NPDES permit issued in 2001 included a set of requirements imposed upon land development and redevelopment projects. In fall 2003, to implement the initial requirements stipulated in the permit, Council adopted a storm water pollution prevention ordinance that required projects that create or replace one acre or more of impervious surface to incorporate treatment measures and other appropriate source control and site design measures into projects to reduce pollutant discharges to the maximum extent practicable (CMR:255:03). In accordance with subsequent revisions to the permit (Attachment B), Council adopted ordinance revisions in 2005 that extended the applicability of the storm water regulations to smaller-sized projects and created new requirements that address the potential impacts of development on the health of local creeks (CMR:353:05).
DISCUSSION
The attached ordinance modifies the City’s existing storm water pollution prevention regulations (Palo Alto Municipal Code [PAMC] Chapter 16.11) once again in order to comply with a provision of the 2005 NPDES permit amendment. The regulations require specified projects to incorporate treatment measures and other appropriate source control and site design measures into projects to reduce pollutant discharges to the maximum extent practicable. The NPDES permit stipulates that, beginning no later than August 15, 2006, the City must require these storm water measures for development projects that create or replace 10,000 square feet or more of impervious surface. The attached ordinance lowers the compliance threshold to 10,000 square feet and clarifies that development applications “deemed complete” after the effective date of the ordinance will be subject to its provisions.

Due to the timing of the NPDES permit issuance and renewal cycle, new requirements have historically been imposed upon the Santa Clara Valley Program before they impact the other Bay Area storm water programs. This situation has created an unfair financial burden on Santa Clara Valley communities due to the increased cost of permit compliance and the loss of economic development opportunities caused by the higher level of regulation. Program staff has been diligent in its efforts to remedy the inequity resulting from the differing requirements amongst storm water programs. The requirement to reduce the threshold for implementation of development controls to 10,000 square feet by August 15, 2006 will apply universally throughout the Bay Area. Furthermore, in order to permanently resolve all the differences between the storm water permits throughout the Bay Area, Regional Board staff has been working cooperatively with storm water program managers towards the issuance of a single regional permit for all Bay Area storm water programs in early 2007.

Staff has performed outreach to those impacted by these revised storm water regulations at both the local and regional level. Regionally, the Program has prepared guidance documents and conducted regional training workshops for agency staff as well as members of the development community. At the local level, staff prepared an informational fact sheet on the new regulations (Attachment C) that has been placed at the Development Center and posted on the web. Staff also sent out a direct mailing to local developers and designers earlier this month.

RESOURCE IMPACT
Enforcement of the proposed ordinance will require additional effort by Public Works and Planning staff both during permit review and periodic follow-up inspections to verify proper maintenance of storm water control measures. Because of the moderate number of development projects expected to trigger the ordinance’s lowered threshold levels, the need for additional staff is not anticipated at this time. Additional costs incurred by the City for plan review and site inspections are recovered through existing permit fees.

POLICY IMPLICATIONS
The storm water pollution prevention measures contained in the proposed ordinance are consistent with a number of policies and programs contained in the Comprehensive Plan:
Program N-29: Actively participate in programs such as the Santa Clara Valley Urban Runoff Pollution Prevention Program to improve the quality of stormwater runoff.

Policy N-21: Reduce non-point source pollution in urban runoff from residential, commercial, industrial, municipal, and transportation land uses.

Program N-27: Work with regulatory agencies, environmental groups, affected businesses, and other stakeholders to identify economically viable Best Management Practices (BMP) for reducing pollution.

Policy N-22: Limit the amount of impervious surface in new development or public improvement projects to reduce urban runoff into storm drains, creeks, and San Francisco Bay.

Program N-75: Establish a standardized process for evaluating the impacts of development on the storm drainage system.

**TIMELINE**
The attached ordinance will take effect on August 10 (the 31st day following the scheduled second reading of the ordinance). The provisions of the ordinance will be applicable to permit applications deemed complete by the City on or after the effective date of the ordinance for projects that equal or exceed the threshold size criteria. This implementation schedule is consistent with the current NPDES permit, which requires the City to lower the compliance threshold for development-related storm water pollution prevention requirements no later than August 15, 2006.

**ENVIRONMENTAL REVIEW**
Adoption of the attached ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) as a measure taken to implement an action to assure the maintenance, restoration, enhancement, or protection of the environment.

**ATTACHMENTS**
Attachment A: Ordinance Revising Storm Water Pollution Prevention Measures for Land Development Projects
Attachment B: July 20, 2005 Revisions to NPDES Storm Water Discharge Permit
Attachment C: Fact Sheet on Revised Storm Water Regulations

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