



Council Meeting: November 16, 2010

SUBJECT: Introduction of Ordinance Amending Chapter 12.60 “Storm Water Management” of the Sunnyvale Municipal Code (SMC)

REPORT IN BRIEF

The city was issued a new, five-year Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) permit in October 2009 to replace the previous permit issued in 2001 and amended in 2003. The new permit expands previous requirements and adds new requirements related to stormwater management. The permit also included compliance dates for each of the requirements.

The proposed changes to Chapter 12.60 of the SMC (see Attachment A) will provide the city with the legal authority to implement the requirements and meet the compliance dates in the new stormwater permit. Staff recommends approval of the ordinance in order to comply with the city’s new stormwater NPDES permit.

BACKGROUND

The Clean Water Act requires that all operators of municipal separate storm sewer systems obtain NPDES permits for discharge of stormwater, and develop stormwater management plans. The city was issued its first stormwater NPDES permit in 1990, and has been issued a new permit roughly every five years since then.

The city is a member of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), an association of 13 south bay cities, the Santa Clara Valley Water District, and Santa Clara County. All members of SCVURPPP have shared a common NPDES permit for their discharge into local creeks and South San Francisco Bay since 1990.

In August 2003, Council adopted Chapter 12.60 “Storm Water Management” (RTC 03-261) in response to new requirements promulgated by the Regional Water Quality Control Board (RWQCB) and specified in the Municipal Stormwater NPDES Permit issued in 2001, and amended in 2003. In October 2009, a new, revised 5-year Municipal Stormwater NPDES permit (the Municipal Regional Permit (MRP)) was issued jointly to all Bay-area counties. Thus, all bay area cities will be facing the same requirements for stormwater

management. The entire text of the permit can be found at http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2009/R2-2009-0074.pdf.

This new bay area-wide permit includes changes and expansion of requirements for the treatment and management of stormwater. The proposed changes to Chapter 12.60 of SMC will provide the city with the legal authority to implement the new requirements in the new permit, and the city is specifically required to have that authority by the permit.

Attachment B is a table listing the various proposed changes by section number, and with a reason for the change. Attachment C is a listing of acronyms used in the table, for quick reference.

EXISTING POLICY

From the Council Policy Manual, Policy 3.4.1: Surface Runoff specifically states: "Protect Beneficial Uses of Creeks and South San Francisco Bay" and includes the following goal and policies:

- Goal 3.4A. Assure the reasonable protection of beneficial uses of creeks and South San Francisco Bay, established in the Regional Board's Basin Plan, and protect environmentally sensitive areas.
- Policy 3.4A.1. Continue to support the identification and development of BMPs suitable for use in the City through participation in the SCV NPS Control Program, American Public Works Association's Stormwater Quality Task Force, the Bay Area Stormwater Management Agencies Association, and similar organizations.
- Policy 3.4A.2 Comply with regulatory requirements and participate in processes which may result in modifications to regulatory requirements.

DISCUSSION

The changes proposed to SMC 12.60 are detailed in Attachment A. The changes address new or expanded requirements for developers or those redeveloping properties to manage stormwater runoff from their site, by providing treatment, implementing best management practices, and in some cases reducing or eliminating the runoff from their site by infiltrating it into the ground. The premise is that undisturbed, and thus permeable land, absorbs and infiltrates stormwater, providing treatment and preventing high-flow damage to natural creeks or engineered channels. Developed land, on the other hand, has significant amounts of impervious surface, causing much larger quantities of stormwater to run off, carrying pollutants to waterways without any treatment and potentially causing flooding and damage to creeks or channels.

Another major new component of the MRP is the requirement to achieve reductions in trash loadings to creeks and the bay coming from stormwater collection systems, with a timeline to achieve specific percentage reductions. Trash in waterways negatively impacts wildlife and their habitat. One of the ordinance changes proposed is to require new development to install trash full-capture devices at their site before their storm drain collection system connects to the city's system. The permit does not specifically require new development to install such devices; however it does require that the city achieve the specific trash reduction targets (e.g., 40% reduction by 2012 from current levels). Accordingly, the ordinance change to require such installations by developers is recommended as one component in the city's program to achieve those targets. Other measures will also be needed to meet the target reductions by the city, such as installing full-capture trash devices to treat 164 acres of city owned storm drain catchments served by the storm drain collection system.

Several sections are also proposed to be removed because the RWQCB has repealed certain provisions of the previous permit. Sections 12.60.270 - .290 dealt with a waiver for impracticability of implementing certain treatment/retention requirements, criteria for determining impracticability, and regional projects that could be utilized in lieu of onsite requirements where impractical. The new permit now includes an alternative compliance section instead, which is added to the code in Section 12.60.300.

The primary impact of the proposed code changes will be to developers, expanding requirements for treatment/retention of stormwater onsite, and placing requirements for smaller projects (5,000 sq ft of impervious surface added or replaced for certain land uses and project types) than was previously required (10,000 sq ft of impervious surface added or replaced). Developers have been dealing with some of these requirements for the past seven years, since certain requirements for stormwater treatment went into effect in 2003. Since the current permit has been issued to all bay area counties, it now provides a level playing field between cities for new and redevelopment projects, compared to previous permits that were different from county to county.

FISCAL IMPACT

The cost to developers of implementing the new and expanded requirements is expected to be 2% or less of overall project costs, based on earlier estimates and work by the RWQCB to determine costs for these measures. City capital projects are also regulated by the same criteria and costs are similarly expected to be 2% or less of overall project costs.

As with all development review, review fees will be established so as to recover the full cost of city time to complete the review.

PUBLIC CONTACT

Training is provided locally each year in June for consultants to inform them of new requirements for development related to stormwater control measures. Also, since the latest stormwater permit is now bay area-wide, and was negotiated in a public process in which the development community could participate, there is general awareness of the increasing requirements.

Public contact for this Report to Council was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

ALTERNATIVES

1. Adopt an ordinance amending Chapter 12.60 to the SMC to provide the legal authority as required in the city's Stormwater NPDES permit (also known as the "MRP")
2. Request additional information and/or modified language for the proposed ordinance.
3. Do not approve any changes to the SMC. Not adopting changes to the Code will result in the city not being in compliance with the requirements of its NPDES stormwater permit.

RECOMMENDATION

Staff recommends Alternative No. 1: Adopt an ordinance amending Chapter 12.60 to the SMC to provide the legal authority as required in the city's Stormwater NPDES permit (also known as the "MRP").

The MRP provides compliance dates for each of the various requirements and adopting the ordinance now will ensure that the compliance dates for these requirements are met.

Reviewed by:

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Approved by:

Gary M. Luebbers

City Manager

Attachments

- A) Changes (Redline/Strikeout) to SMC 12.60
- B) Table of Changes to SMC 12.60
- C) List of Acronyms

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND CERTAIN SECTIONS OF, AND ADD CERTAIN SECTIONS TO, CHAPTER 12.60 (STORMWATER MANAGEMENT) OF TITLE 12 (WATER AND SEWERS) OF THE SUNNYVALE MUNICIPAL CODE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 12.60 AMENDED. Section 12.60 (Stormwater Management) of Title 12 (Water and Sewers) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Title 12. WATER AND SEWERS

Chapter 12.60. ~~STORM WATER~~STORMWATER MANAGEMENT

- 12.60.010. Purpose and intent.
- 12.60.020. Scope and limits of chapter.
- 12.60.030. Administration.
- 12.60.040. Definitions.
- 12.60.050. Ultimate responsibility of discharger.
- 12.60.060. Fees.
- 12.60.070. Discharge prohibitions.
- 12.60.075. ~~Wastewater discharges containing copper or copper-based chemicals.~~
- 12.60.080. Prohibition of illegal connection.
- 12.60.090. ~~Unlawful acts~~False statements.
- 12.60.100. Compliance with NPDES stormwater permit.
- 12.60.110. ~~Storm water runoff treatment measures and flow control~~Stormwater pollution reduction.
- 12.60.120. ~~Storm water~~Stormwater treatment requirements; applicability.
- 12.60.121. ~~Redevelopment and redevelopment projects—regulated Projects.~~
- 12.60.122. ~~Special land use categories—regulated projects.~~
- 12.60.123. ~~Road projects—regulated project.~~
- 12.60.124. ~~Required site design measures for small projects and single-family homes.~~
- 12.60.125. ~~Site design measures for non-regulated project.~~
- 12.60.130. ~~Stormwater pollution reduction~~Trash load reductions to storm drain collection system.
- 12.60.140. ~~Storm water~~Stormwater management plan required.
- 12.60.150. Numeric sizing criteria for treatment systems.
- 12.60.155. ~~Low impact development (LID) requirements.~~

- 12.60.160. Hydromodification management ~~plan (HMP)~~ (HM) requirements; applicability.
- 12.60.170. Design standards concerning flooding.
- 12.60.180. ~~Certification of adherence to design criteria~~ Alternative certification of adherence to numeric sizing criteria for stormwater treatment systems.
- 12.60.190. Infiltration treatment measures.
- 12.60.200. Agreement to maintain best management practices.
- 12.60.210. Submission of revised ~~storm water management plan~~ Stormwater Management Plan.
- 12.60.220. Best management practices incorporated.
- 12.60.230. Minimum best management practices and source control measures for all dischargers.
- 12.60.240. Authority to inspect.
- 12.60.250. Requirement to remediate.
- 12.60.260. Failure to properly operate and maintain ~~storm water~~ stormwater treatment and hydromodification management facilities.
- 12.60.270. ~~Waiver for impracticability and compensatory mitigation.~~ [Repealed]
- 12.60.280. ~~Impracticability criteria.~~ [Repealed]
- 12.60.290. ~~Regional project.~~ [Repealed]
- 12.60.300. Alternative compliance.
- 12.60.305. Public nuisance.
- 12.60.310. ~~Issuance of cease and desist orders~~ Manner of notification of a violation.
- 12.60.315. Administrative process and civil penalties.
- 12.60.320. ~~Emergency corrections~~ Administrative hearing and appeals process.
- 12.60.330. ~~Appeals~~ Emergency corrections.
- 12.60.340. ~~Administrative proceedings.~~ [Repealed]
- 12.60.350. Judicial civil penalties.
- 12.60.360. Remedies cumulative.

12.60.010. Purpose and intent.

The purpose of this chapter is to provide regulations and give legal effect to certain requirements of the National Pollutant Discharge Elimination System (NPDES) permit (the “Permit”) issued to the city of Sunnyvale on December 1, 2009, regarding municipal ~~storm water~~ stormwater and urban runoff requirements. This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands lying within the city. This chapter shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Act and any applicable implementing regulations, as they exist at the time of enactment or as later amended.

12.60.020. Scope and limits of chapter.

This chapter shall apply to:

- (a) ~~ministerial~~ Ministerial as well as discretionary approvals of development located on applicable sites and regulated projects for new development or significant redevelopment projects, as those terms are defined in this chapter;

(b) Dischargers at applicable sites which have been found to, or may be reasonably considered to, cause or contribute to pollution of stormwater runoff associated with commercial or industrial activity or illegal connections and other illicit discharges.

Nothing in this chapter shall be interpreted to:

(a1) Infringe any right or power guaranteed by the California Constitution, including any vested property right; or

(b2) Require any action inconsistent with any applicable and lawfully adopted general plan, specific plan, vesting tentative map or building code that conforms to the laws of California and the requirements of this chapter.

12.60.030. Administration.

This chapter shall be administered jointly by the director of community development and the director of public works. Any powers granted to or duties imposed upon these individuals to administer, implement and enforce the provisions of this chapter may be delegated to other city personnel.

12.60.040. Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings given to them in this section. Words and phrases not defined in this chapter shall have the definitions set forth in the permit or by the regulations implementing the National Pollutant Discharge Elimination System, Clean Water Act Section 402, and Division 7 of the California Water Code, as they currently exist or may be amended.

(a) "Applicable site" means any site that could reasonably be considered to cause or contribute to pollution of stormwater runoff. This definition includes but it not limited to pollutant sources associated with outdoor process and manufacturing areas, outdoor material storage areas, outdoor waste storage and disposal areas, outdoor vehicle and equipment storage and maintenance areas, outdoor parking areas and access roads, outdoor wash areas, outdoor drainage from indoor areas, rooftop equipment, contaminated and erodible surface areas, and other sources determined to have a reasonable potential to contribute to pollution of stormwater runoff.

(b) "Authorized enforcement official" means the director of public works or the director of community development and their designees.

(bc) "Best management practices" (BMP) means a structural device, measure, facility, or activity that helps to achieve ~~storm water~~ stormwater management control objectives at a ~~designated regulated project or applicable~~ site.

(1) "Maintenance of a best management practice or stormwater treatment system" means periodic action taken to maintain the as-designed performance of best management practice or stormwater treatment system, and includes, but is not limited to, repairs as necessary and replacement of the best management practice or stormwater treatment system by an equally effective or more effective best management practice or stormwater treatment system.

(2) "Source control best management practice" means any schedule of activities, prohibitions of practices, maintenance procedures, managerial practices or operational practices that aim to prevent ~~storm water~~ stormwater pollution by reducing the potential for contamination at the source of pollution.

(3) "Treatment best management practice" means any engineered system designed to remove pollutants by simple gravity settling of particulate

pollutants, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

(ed) "Bio-retention area" means landscaping features adapted to treat stormwater runoff on a development site. Surface runoff is directed into shallow, landscaped depressions. These depressions are designed with soil mixtures and vegetation that incorporate many of the pollutant removal systems that operate in a natural ecosystem. If the subsurface soils will not allow for natural infiltration (e.g., heavy clay soil), the filtered runoff may be collected in a perforated underdrain in the area and returned to the storm drain collection system.

(e) "BMP Guidance Manual" as revised means the manual approved by the city of Sunnyvale directors of the public works and community development departments, as amended from time to time, that sets forth guidance, design standards and best management practices for ~~storm water~~ stormwater treatment measures, which shall be utilized by developers and property owners to comply with this chapter. A copy of the BMP Guidance Manual may be obtained from the city's planning division.

(f) "CASQA" means California Stormwater Quality Association.

(g) "CASQA Stormwater Best Management Practice Handbook" means the four-volume set of handbooks for New and Redevelopment, Construction, Industrial and Commercial, and Municipal operations produced by CASQA and available at www.casqa.org.

(dh) "Construction" means constructing, clearing, grading, or excavation that results in soil disturbance. Construction also includes structure demolition. Construction does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of a facility, nor does it include emergency construction activities required to immediately protect public health and safety, interior remodeling with no outside exposure of construction material or construction waste to ~~storm water~~ stormwater or mechanical permit work.

(i) "Detached single-family home project" means the building of one single new house or addition and/or replacement of impervious surface to one single existing house, which is not part of a larger plan of development.

(ej) "Detention" means the temporary storage of storm runoff in a manner that controls peak discharge rates and provides some gravity settling of pollutants.

(fk) "Development" means any construction, rehabilitation, redevelopment or reconstruction of any public or private project, or mass grading for anticipated construction. Development does not include routine maintenance to maintain original line and grade, hydraulic capacity or original purpose of a facility, nor does it include emergency construction activities required to protect immediately public health and safety.

(l) "Diligently pursuing" or "diligent pursuance" means that a project applicant's submittal of supplemental information to the original project application, plans, or other documents required for any necessary approvals of the project by the city are provided in the time period between December 1, 2009 and December 1, 2011.

(m) "Director" means either the director of public works or community development departments.

(4n) "Discharge" when used as a verb, means to allow pollutants to directly or indirectly enter ~~storm water~~ stormwater, or to allow ~~storm water or non-storm water~~ stormwater or non-stormwater to directly or indirectly enter the

storm drain system from an activity or operation. When used as a noun, “discharge” means the pollutants, ~~storm water or non-storm water~~ stormwater or non-stormwater that is discharged.

(g) “Discharger” means any person or entity engaged in activities or operations or owning facilities, which will or may result in pollutants entering ~~storm water~~ stormwater or the storm drain system. Discharger also means the owners of real property on which such activities, operations or facilities are located; provided, however, that a local government or public authority is not a discharger as to activities conducted by others in public rights-of-way.

(p) “Enforcement Response Plan” established by the director contains criteria and various guidelines for implementing consistent enforcement. These enforcement guidelines shall be maintained by the director and shall be available to the public. Additions to or deletions from the guidelines may be made by the director.

(q) “Full trash capture” or a “full capture system or device” means any single device or series of devices that traps all particles retained by a 5 mm mesh screen and has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour storm in the sub-drainage area and as approved by the San Francisco Bay Regional Water Quality Control Board, Region 2.

(hr) “General permit” means an NPDES permit issued under Code of Federal Regulations Section 122.28 (40 CFR 122.28) authorizing a category of discharges under the Clean Water Act within a geographical area.

~~(is) “Hydromodification management plan” (“HMPHM”) means the plan submitted in the final report to the Regional Water Quality Control Board by the Santa Clara Valley Urban Runoff Pollution Prevention Program on April 21, 2005, on behalf of the city as a co-permittee for the NPDES storm water discharge permit. The HMP, approved by the city and the RWQCB, and as amended from time to time, requirements for regulated projects that create or replace one acre or more of impervious surface and are not specifically excluded in the requirements of Provision C.3.g.ii and Attachment F for the Santa Clara County permittees, as adopted in the NPDES Stormwater Permit. A project that does not increase impervious surface area over the pre-project condition does not qualify as an HM project. The HM is designed to manage increases in the magnitude, volume and duration of runoff from new development and significant redevelopment projects in order to protect streams from increased potential for erosion or other adverse impacts. The HMPHM contains management standards and performance criteria for subject development which are incorporated into this chapter. A copy of the HMPHM requirements in the city's permit listed above may be obtained from the city’s planning division.~~

(jt) “Illegal connection” means any device or artifice, excluding roof drains and other similar connections, connecting into the storm drain system without a permit, through or by which an illicit discharge may be discharged.

(ku) “Illicit discharge” means any discharge to a storm drain system that is not composed entirely of ~~storm water~~ stormwater except discharges pursuant to an NPDES permit, including categorically allowed discharges and conditionally exempted discharges permitted under Sections 12.60.070 ~~(e) and (f)~~ and (g).

(lv) “Impervious surface” means constructed or modified surface that cannot effectively infiltrate rainfall. Impervious surface includes but is not limited to building rooftops, pavement, sidewalks, and driveways where such surfaces are

not constructed with pervious materials. "Impervious surface area" means the ground area covered or sheltered by an impervious surface, measured as if from directly above.

~~(mw)~~ "Infiltration" means the process of percolating ~~storm water or non-storm water~~ stormwater or non-stormwater into the subsoil.

(x) "Infiltration device" means any structure that is deeper than wide, with no underdrain and is designed primarily to infiltrate (percolate) water into the subsurface and bypass the natural groundwater protection afforded by surface soil. The definition of stormwater infiltration device does not include any septic system or other waste water disposal system, any infiltration of water other than stormwater, Santa Clara Valley Water District percolation ponds, lined sumps and basins, or any naturally occurring body of surface water.

(1) Examples of best management practices that are stormwater infiltration devices include, but are not limited to:

A. Infiltration basins and trenches (including French drains);

B. Infiltration and exfiltration trenches;

C. Unlined retention basins (i.e., basins with no outlets);

D. Unlined or open-bottomed vaults or boxes installed below grade that store stormwater allowing infiltration into subsurface soils;

E. Dry wells; and

F. Injection wells.

(2) The definition of infiltration device does not apply to the following best management practices that treat stormwater and then release it into a storm drain system:

A. Media filtration devices.

B. Underground detention system;

C. Hydrodynamic device;

D. Water quality inlet filters;

E. Contained and flow-through planter boxes;

F. Roof gardens;

G. Extended detention basin;

H. Any device with an impermeable liner and underdrain/outfall to the storm drain.

(y) "In-lieu fees" means the monetary amount necessary to provide both hydraulically-sized treatment in accordance with numeric sizing (SMC 12.60.150) and LID treatment measures (SMC 12.60.155) of an equivalent quantity of stormwater runoff and pollutant loading and a proportional share of the operation and maintenance costs of the regulated project.

~~(nz)~~ "Land disturbance activity" means any activity that moves soils or substantially alters the pre-existing vegetated or man-made cover of any land including, but not limited to, grading, digging, cutting scraping, stockpiling or excavating of soil; placement of fill materials; paving, pavement removal, exterior construction; substantial removal of vegetation where soils are disturbed including, but not limited to, removal by clearing or grubbing or any activity which bares soil or rock or involves streambed alterations or diversion or piping of any watercourse. Land disturbance activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of the facility, nor does it include emergency construction activities required to protect public health and safety.

~~(oaa)~~ "Land owner" means the holder of legal title to the land, and other persons or entities who exercise control over a land development project pursuant

to rights granted in a purchase agreement, joint venture agreement, development agreement, or long-term lease.

(bb) "Low impact development" ("LID") is an approach to new and redevelopment designs to reduce stormwater runoff and mimic a site's predevelopment hydrology by minimizing the amount of disturbed areas and impervious cover and then infiltrating, storing, detaining, evapotranspiring, and/or biotreating stormwater runoff close to its source. LID principles treat stormwater as a resource, rather than a waste product that must be removed from the site.

(pcc) "Maximum extent practicable" means a standard for implementation of ~~storm water~~ stormwater management programs to reduce pollutants in ~~storm water~~ stormwater to the maximum extent possible, taking into account equitable considerations and competing facts including, but not limited to the seriousness of the problem, public health risks, environmental benefits, pollutant removal effectiveness, regulatory compliance, cost and technical feasibility.

(dd) "Micro-detention" means a series of multiple small stormwater detention areas that absorb or detain some or all of the stormwater runoff in a development site. It works by temporarily storing stormwater near where it falls as precipitation. Micro-detention can include common landscaping features such as small garden areas, tree grates, perimeter hedges, and bio-retention areas such as rain gardens. It may also include non-vegetated areas such as sub-surface storage areas with regulated out-flow. Micro-detention is one of several Best Management Practices that can be used to treat or infiltrate stormwater or collect it for reuse at a development site.

(ee) "Non-stormwater" means any discharge that is not composed entirely of stormwater.

(ff) "Notice of Violation" ("NV") means an official written notice of noncompliance, issued to a discharger from the director, which provides notification that a significant violation of this chapter has occurred, consistent with an Enforcement Response Plan.

(gg) "NPDES Stormwater Permit" means the California Regional Water Quality Control Board San Francisco Bay Regional Stormwater NPDES Permit Order R2-2009-0074, NPDES Permit No. CAS612008, October 14, 2009, Effective December 1, 2009.

(hh) "Permeable surfaces" means the pervious concrete, porous asphalt, unit pavers, and/or granular materials that allow water to infiltrate into subsurface soil.

(ii) "Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of impervious surface area on an already developed site. Redevelopment includes, but is not limited to the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces.

(jj) "Regional project" means a regional or municipal project with sufficient capacity or credit to protect or enhance water quality and/or beneficial uses in a manner equivalent to or greater than the stormwater benefits that would have been provided from the installation of the required treatment measures at the subject project site. A regional project must discharge to or address the same receiving waters as the subject project site.

(kk) "Regulated projects" are new development projects, redevelopment projects and/or road projects that create and/or replace 10,000 square feet or more

of impervious surface, and included special land use categories defined below.

(ll) "Riparian areas" means an ecosystem that is the interface between dry land and a water body such as a creek, stream, river, lake, or marsh. Vegetation in riparian areas is characterized by a predominance of hydrophilic plants.

(mm) "Special land use categories" are regulated projects in the categories of (i) auto service facilities described in Standard Industrial Codes (SIC) 5013, 5014, 5541, 7532, 5734 and 7536 through 7539; (ii) retail gasoline outlets; (iii) restaurants (5812); or (iv) uncovered parking lots that stand alone or are part of any development project, including the top uncovered portion of parking structures, unless drainage from the uncovered portion is connected to the sanitary sewer.

(nn) "Storm drain system" means the conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains owned or operated by the city and used for the purpose of collecting, storing, transporting, or disposing of runoff.

~~(o) "Storm waterinfiltration device" means any structure that is designed primarily to infiltrate (percolate) water into the subsurface and bypass the natural groundwater protection afforded by surface soil. The definition of storm water stormwater infiltration device does not include any septic system or other waste water disposal system, any infiltration of water other than storm water stormwater, Santa Clara Valley Water District percolation ponds, lined sumps and basins, or any naturally occurring body of surface water.~~

(1) Examples of best management practices that are ~~storm water~~ stormwater infiltration devices include, but are not limited to:

- (A) Infiltration basins;
- (B) Infiltration and exfiltration trenches;
- (C) Unlined retention basins (i.e., basins with no outlets);
- (D) Unlined or open-bottomed vaults or boxes installed below grade that store ~~storm water~~ stormwater allowing infiltration into subsurface soils;
- (E) Dry wells.

(2) The definition of ~~storm water~~ stormwater infiltration device does not apply to the following best management practices that treat ~~storm water~~ stormwater and then release it into a storm drain system:

- (A) Media filtration devices;
- (B) Underground detention system;
- (C) Hydrodynamic device;
- (D) Water quality inlet filters;
- (E) Contained and flow-through planter boxes;
- (F) Roof gardens;
- (G) Extended detention basin;
- (H) Any device with an impermeable liner and underdrain/outfall to the storm drain.

~~(s) "Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of impervious surface area on an already developed site. Redevelopment includes, but is not limited to the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces.~~

~~(t) “Regional project” means regional or municipal storm water detention or treatment facilities; regional or municipal land acquisition or conservation programs which protect or enhance water quality or beneficial uses; and other specific projects and/or programs (or designated functions or components of projects or programs) that protect or enhance water quality or beneficial uses in a manner equivalent to that which would be provided by the installation of on-site measures.~~

~~(uoo) “Storm water~~Stormwater” means surface runoff and drainage associated with storm events.

~~(vpp) “Storm water management plan~~Stormwater Management Plan” means a plan identifying the measures that will be used for ~~storm water and non-storm water~~ stormwater and non-stormwater management during the permitted activity and/or during and after construction of any development or significant redevelopment project subject to the provisions of this chapter.

~~(w) “Total project cost” means the construction labor and materials cost of the physical improvements proposed. Total project cost does not include land, transaction, financing, permitting, or demolition costs or costs of any mitigation measures except those consisting of on-site modifications to the project itself.~~

~~(x) “Transit village project” means a project located within one-fourth mile of an existing or planned rail or bus station (not including bus stops that are not stations), terminal or major transfer point, or a project supplying less than one-half parking space per residential dwelling unit where the city makes findings that a limited parking supply is justified by existing or planned transit opportunities.~~

~~(yqq) “Treatment” means the use of designed and/or engineered systems, which use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation and ultraviolet (UV) radiation.~~

~~(rr) “Warning Notice” (“WN”) means an official notice of noncompliance, either written or verbal, issued to a discharger from the director, which provides notification that a violation of this chapter has occurred. Warning Notices are typically given in instances of minor violations and/or if the corrective actions taken are immediate, consistent with an Enforcement Response Plan.~~

12.60.050. Ultimate responsibility of discharger.

The standards established by this chapter are minimum standards, and do not imply that compliance by any discharger will ensure that there will not be contamination, pollution, nor unauthorized discharge of pollutants. This chapter shall not create liability on the part of the city or any city employee for any damages that result from any discharger’s reliance on this chapter or any lawful administrative decision.

12.60.060. Fees.

The amount of the fees for services and certifications provided under this chapter shall be established periodically by resolution of the city council.

12.60.070. Discharge prohibitions.

(a) General Prohibition. Any discharge to the storm drain system not composed entirely of ~~storm water~~ stormwater is prohibited, except as set forth in

this chapter.

(b) It is unlawful to throw, deposit, leave, abandon, maintain or keep materials or wastes on public or private lands in a manner and place where they may result in an illicit discharge.

(c) Separately Permitted Discharges. Discharges regulated under a valid facility-specific NPDES permit or facility-specific Regional Water Quality Control Board waste discharge requirements permit not including a state general permit, shall be regulated exclusively by the Regional Water Quality Control Board and are exempt from discharge prohibitions established by this chapter, provided compliance with all relevant permit conditions is maintained to the satisfaction of the ~~board~~Board. ~~Storm-water~~Stormwater discharges at a facility with a facility specific permit which only addresses process discharges or ~~non-storm-water~~ non-stormwater discharges are not exempted.

(ed) State General Permit Discharges. ~~Storm-water~~Stormwater discharges regulated under the state general industrial storm water permit or state general construction-~~storm-water~~ stormwater permit are exempt from discharge prohibitions established by this chapter, provided compliance with all relevant general permit conditions is maintained to the satisfaction of the Regional Water Quality Control Board.

~~(d) Certain Agricultural Discharges. Non-storm-water agricultural discharges that the State Water Quality Control Board or Regional Water Quality Control Board have explicitly determined to allow pursuant to a written waiver or formal policy, including any such discharges from commercial nurseries and greenhouses that are covered by such waivers or policies, are exempt from the discharge prohibitions established by this chapter, provided compliance with all relevant permit, waiver or policy conditions established by the state board or regional board are maintained to the satisfaction of the respective board.~~

(e) Categorically Allowed Discharges. The following categories of ~~non-storm-water~~ non-stormwater discharges are exempt from discharge prohibitions established by this chapter.

- (1) Flows from riparian habitats or wetlands;
- (2) Diverted stream flows;
- (3) SpringsFlows from natural springs;
- (4) Rising ground waters; ~~and~~
- (5) Uncontaminated groundwater infiltration;;

(6) Pumped groundwater from drinking water aquifers; and

(7) NPDES permitted discharges (individual or general permits).

(f) Conditionally Exempted Discharges. The following categories of ~~non-storm-water~~ non-stormwater discharges are conditionally exempt from discharge prohibitions established by this chapter. Dischargers must install, implement and maintain any specifically applicable minimum best management practices, as set out in the ~~BMP Guidance Manual referenced in Section 16.60.220 NPDES Stormwater Permit (Provision C.15.b, Conditionally Exempted Non-Stormwater Discharges)~~, so as to prevent or eliminate adverse impacts of such discharges.

- (1) Uncontaminated pumped groundwater;
- (2) Pumped groundwater from non-drinking water aquifers;
- ~~(3)~~ Foundation drains;
- ~~(34)~~ Water from crawl space pumps;
- ~~(45)~~ Footing drains;
- (6) Air condition condensate;

- (57) Irrigation water;
- (68) Landscape irrigation;
- (79) Lawn or garden watering;
- (810) Planned and unplanned discharges from potable water sources;
- (911) Water line and hydrant flushing;
- (1012) Individual residential car washing; ~~and~~
- (13) Swimming pool, not tub, spa and fountain water; and
- (1114) ~~Discharges or flows from emergency fire fighting activities~~
Emergency discharges that are the result of firefighting, unauthorized hydrant openings, natural or man-made disasters (e.g., earthquakes, floods, wildfires, accidents, terrorist actions).

(g) On-site Wastewater Systems. Discharges to the subsurface from permitted properly functioning on-site wastewater systems are not prohibited by this chapter.

(h) Exemptions Not Absolute. Any discharge category described above that is a significant source of pollutant to waters of the United States shall be prohibited from entering the storm drain system, or shall be subjected to a requirement to implement additional best management practices to reduce pollutants in the discharge to the maximum extent practicable. Such prohibitions shall be effective on a schedule specified by an authorized enforcement official in a written notice to the discharger. The schedule may take into account the nature and severity of any effects caused by the discharge; and the time required to design, engineer, fund, procure, construct and make appropriate best management practices operational.

(i) ~~Non-storm Water~~Non-Stormwater Discharge. The prohibition shall not apply to any ~~non-storm water~~ Non-Stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the state of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations. The authorized enforcement official may exempt in writing other ~~non-storm water~~ Non-Stormwater discharges which are not a source of pollutants to the storm drain system upon approval by the Executive Officer of the San Francisco Bay Regional Water Quality Control Board.

12.60.075. Wastewater discharges containing copper or copper-based chemicals.

Discharges to the storm drain collection system from the following activities are prohibited. Discharges to landscaping or to the sanitary sewer system (with approvals from the Sunnyvale Water Pollution Control Plant) are allowed.

(a) Discharges of wastewater generated during the installation, cleaning, treating, and washing of copper architectural features, including copper roofs.

(b) Discharges of water from pools (including connection for filter backwash), spas, fountains and water features that contain copper based chemicals.

12.60.080. Prohibition of illegal connection.

(a) The construction, use, maintenance or continued existence of illegal connections to the storm drain system is prohibited.

(b) The authorized enforcement official may, by written notice, require a person responsible for an illegal connection to the storm drain system to eliminate or to secure approval for the connection within a specified time.

12.60.090. ~~Unlawful acts~~False statements.

~~(a) — It is unlawful knowingly to make or present to the city any false statement, representation, record, report, plan or other document, with regard to any requirements of this chapter.~~

~~(b) — It is unlawful to throw, deposit, leave, abandon, maintain or keep materials or wastes on public or private lands in a manner and place where they may result in an illegal discharge.~~

12.60.100. Compliance with NPDES stormwater permit.

Any person subject to an industrial or construction activity ~~NPDES storm water discharge permit~~ General NPDES Stormwater Discharge Permit shall comply with all provisions of such permit. Proof of compliance may be required in a form acceptable to the authorized enforcement official prior to or as a condition of the approval of a subdivision map, site plan, building permit, development or improvement plan: upon inspection of the facility and/or during any enforcement action.

12.60.110. ~~Storm water runoff treatment measures and flow control~~Stormwater pollution reduction.

~~Urban development may result in the creation of greater areas of impervious surfaces. Pursuant to the requirements of its storm water discharge NPDES permit, the city regulates two components of storm water runoff from such urbanization: pollution and watershed modification.~~

~~Urban development may create new pollution sources as human population density increases and brings higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, trash, etc., which can be washed in to storm sewer systems. Storm water treatment measures are required of certain developments in order to reduce possible pollution from storm water runoff associated with those developments.~~

~~In addition, urban development modifies natural watershed processes by altering the terrain, modifying the vegetation and soil characteristics, introducing pavement and buildings, and installing drainage and flood control infrastructure. These changes affect hydrologic characteristics in the watershed (rainfall interception, infiltration, runoff and stream flows), and affect the supply and transport of sediment in the stream system. The change in runoff characteristics from a watershed caused by changes in land use conditions is defined as “hydromodification.” To address these concerns, certain developments are required to comply with the key elements of city’s hydromodification management plan (“HMP”), as enumerated in the storm water discharge NPDES permit and restated in the BMP Guidance Manual.~~

All applicants for permits pertaining to the planning, design, and construction of all projects subject to this chapter shall design and implement stormwater best management practices so as to reduce stormwater pollution to the maximum extent practicable. Such projects shall utilize standards and guidelines set forth in the BMP Guidance Manual, as revised, and shall incorporate the numeric sizing criteria for best management practices set forth in this chapter.

12.60.120. ~~Storm water~~Stormwater treatment requirements; applicability.

Specific ~~storm water~~ stormwater treatment requirements or source control measures, as set forth in this chapter, are mandated for certain categories of new and redevelopment projects based upon the amount of impervious area created, added or replaced by a project. ~~Treatment~~Stormwater treatment requirements shall apply to the following types of projects: development and redevelopment projects (SMC 12.60.121); special land use categories (SMC 12.60.122); road projects (SMC 12.60.123); and required site design measures for small projects and single-family homes (SMC 12.60.124).

~~(a) — Buildings. New commercial, industrial or residential developments that create ten thousand square feet or more of impervious surface, including roof area, streets and sidewalks. This category includes any development of any type on public or private land, which falls under the planning and building authority of the city, where ten thousand square feet or more of new impervious surface, collectively over the entire project site, will be created. Construction of one single family home, which is not part of a larger common plan of development, with the incorporation of appropriate pollutant source control and design measures, and using landscaping to treat runoff from roof and house associated impervious surfaces, is exempt from the requirements of this chapter.~~

~~(b) — Streets. Any street, road, highway or freeway that is under the city's jurisdiction and that creates ten thousand square feet or more of new impervious surface. This category includes any newly constructed paved surface used primarily for transportation of automobiles, trucks, motorcycles, and other motorized vehicles. Excluded from this category are sidewalks, bicycle lanes, trail, bridge accessories, guardrails and landscape features.~~

~~(c) — Significant Redevelopment. "Significant redevelopment" is defined as a project on a previously developed site that results in addition or replacement of ten thousand square feet or more (combined total) of impervious surface on the site. Where a significant redevelopment project results in an increase of, or replacement of, more than fifty percent of the impervious surface of a previously existing development, and the existing development was not subject to storm water treatment measures, the entire project must be included in the treatment measure design. Where a significant redevelopment project results in an increase of, or replacement of, less than fifty percent of the impervious surface of a previously existing development, and the existing development was not subject to storm water treatment measures, only that affected portion must be included in treatment design. Excluded from this category are interior remodels and routine maintenance or repair, including roof or exterior surface replacement, pavement resurfacing, repaving, and road pavement structural section rehabilitation within the existing footprint, and any other reconstruction work within a public street or road right-of-way where both sides of that right-of-way are developed.~~

12.60.121. Redevelopment and redevelopment projects—regulated projects.

(a) Development projects. All new development projects that create 10,000 square feet or more of impervious surface collectively over the entire project site, including commercial, industrial, residential housing subdivisions (e.g., detached single-family home subdivisions, multi-family attached subdivisions such as townhomes, condominiums and apartments), mixed-use, and public projects. This category includes development projects on public or private land that fall under the planning and building authority of the city. Construction

of a detached single-family home project that is not part of a larger plan of development, with the incorporation of appropriate pollutant source control and design measures and using landscaping to treat runoff from roof and house associated impervious surfaces is specifically excluded from the requirements of this section.

(b) Redevelopment projects:

(1) Redevelopment projects that create and/or replace 10,000 square feet or more of impervious surface collectively over the entire project site, including commercial, industrial, residential housing subdivisions (e.g., detached single-family home subdivisions, multi-family attached subdivisions such as townhomes, condominiums and apartments), mixed-use, and public projects. Redevelopment is any land-disturbing activity that results in the creation, addition, or replacement of exterior impervious surface areas on a site on which some past development has occurred. This category includes redevelopment projects on public or private land that falls under the planning and building authority of the city. Redevelopment of a detached single-family home project that is not part of a larger plan of development, with the incorporation of appropriate pollutant source control and design measures and using landscaping to treat runoff from roof and house associated impervious surfaces is specifically excluded from the requirements of this section. Other exclusions: interior remodels and routine maintenance or repair (such as roof or exterior wall surface replacement or pavement resurfacing within the existing footprint).

(2) Alterations exceeding 50%. Where a development project results in an alteration of more than 50% of the impervious surface of a previously existing development that was not previously subject to the requirements of SMC 12.60 (prior NPDES Stormwater Permit effective from 2002-2009), the entire project consisting of all existing, new and/or replace impervious surfaces must be included in the treatment system design so that the stormwater treatment systems are designed and sized to treat stormwater from the entire redevelopment project.

(3) Alterations less than 50%. Where a development project results in an alteration of less than 50% of the impervious surface of a previously existing development that was not subject to the requirements of SMC 12.60 (prior NPDES Stormwater Permit effective from 2002-2009), only the new and/or replace impervious surface of the project must be included in the treatment design system so that the stormwater treatment systems are designed and sized to treat stormwater runoff from the new and/or replaced impervious surface of the project.

12.60.122. Special land use categories—regulated projects.

Effective December 1, 2011, all references to 10,000 square feet hereafter in SMC 12.60.122(a) change to 5,000 square feet for the following projects:

(a) Projects that fall into one of the categories below and that create and/or replace 10,000 square feet of impervious surface collectively over the entire project site. This applies to new and redevelopment projects on public and private land that fall under the jurisdiction of the planning and building authority of the city of Sunnyvale.

(1) Auto service facilities described by the following Standard Industrial Classification (SIC) Codes: 5013, 5014, 5541, 7532, 7534, and 7536-7529.

(2) Retail gasoline outlets;

(3) Restaurants (SIC Code 5812); or

(4) Uncovered parking lots that are stand alone or part of any other

development project. This category includes the top, uncovered portion of parking structures, unless drainage from the uncovered portion is connected to the sanitary sewer with the covered portions of the parking structure.

(b) Exclusions:

(1) Interior remodels; or

(2) Routine maintenance or repair such as roof or exterior wall replacement or pavement resurfacing within the existing footprint of the structures.

(c) Alteration over 50%: where regulated project result in an alteration of more than 50% of the impervious surface of a previously existing development that was not previously subject to new and redevelopment that was not previously subject to the requirements of SMC 12.60 (prior NPDES Stormwater Permit effective from 2002-2009), the entire project, consisting of all existing, new and/or replace impervious surfaces, must be included in the treatment system to be designed and sized to treat stormwater runoff from the entire redevelopment project.

(d) Alteration under 50%: where a redevelopment project that is a special land use category results in an alteration of less than 50% of the impervious surface of a previously existing development that was not previously subject to the requirements of SMC 12.60 (prior NPDES Stormwater Permit effective from 2002-2009), only the new and/or replaced impervious surface of the project must be included in the treatment system design so that stormwater treatment systems are designed and sized to treat stormwater runoff from the new and/or replaced impervious surface of the project.

(e) Private project deemed complete before December 1, 2009. For any private development project in the categories described in SMC 12.60.122(a) for which a planning application has been deemed complete before December 1, 2009, the lower 5,000 square feet impervious surface threshold for classification as a regulated project shall not apply, so long as the applicant is diligently pursuing the project. Diligent pursuance may be demonstrated by the project applicant's submittal of information to the original application, plans, or other document required for any approvals of the project by the city. If, during the time period between December 1, 2009 and December 1, 2011 for the 5,000 square feet threshold implementation date, the project applicant has not taken the actions needed to obtain the necessary approvals from the city, then the project will be subject to the lower 5,000 square feet threshold.

(f) Private project application deemed complete after December 1, 2009, but before December 1, 2011. For any private project in the categories specified in 12.60.122(a) with an application deemed complete as of December 1, 2009, the lower 5,000 square feet impervious surface threshold for definition as a regulated project shall not apply if the project applicant has received final discretionary approval for the project before December 1, 2011.

(g) Public projects. For public projects for which funding has been committed and construction is scheduled to begin by December 1, 2012, the lower 5,000 square feet of impervious surface threshold for classification as a regulated project shall not apply.

12.60.123. Road projects—regulated project.

Any of the following types of road projects that create 10,000 square feet or more of newly constructed contiguous impervious surface and that fall under the building and planning authority for the city:

- (a) Construction of new streets or roads, including sidewalks and bicycle lanes built as part of the new streets or roads.
- (b) Widening of existing streets or roads with additional traffic lanes.
- (1) Where the addition of traffic lanes results in an alteration of more than 50% of the existing street or road that was not subject to SMC 12.60, only the new and/or replaced impervious surface of the project must be included in the treatment system design so that the stormwater treatment systems are designed and sized to treat stormwater from only the new traffic lanes. However, if the stormwater runoff from the existing traffic lanes and the added traffic lanes cannot be separated, any onsite treatment system must be designed and sized to treat stormwater runoff from the entire street.
- (c) Construction of impervious trails that are greater than 10 feet wide or are creekside (within 50 feet of the top of bank).
- (d) Specific exclusions to SMC 12.60.123(a)-(c) are:
- (1) Sidewalks built as part of new streets or roads and built to direct stormwater to adjacent vegetated areas.
- (2) Bicycle lanes that are built as part of new streets or roads, but are not hydraulically connected to new streets or roads and that direct stormwater to adjacent vegetated areas.
- (3) Impervious trails built to direct stormwater runoff to adjacent vegetated areas, or non-erodible permeable areas, preferably away from creeks or toward the outboard sides of levees.
- (4) Sidewalks, bicycle lanes, or trails constructed with permeable surfaces such as pervious concrete, porous asphalt, unit pavers, and granular materials.
- (5) Caltrans highway projects and associated facilities.
- (e) For any private road or trail project described in SMC 12.60.123(b) or (c) for which a planning application has been deemed complete before December 1, 2009, the requirements of this section shall not apply so long as the project applicant is diligently pursuing the project. Diligent pursuance may be demonstrated by the project applicant's submittal of supplemental information to the original application, plans, or other documents required for any necessary approvals of the project by the city. If the project applicant has not taken any action to obtain the necessary approvals from the city in the time period between December 1, 2009 and December 1, 2011, the project will then be classified as a regulated project under this chapter.
- (f) For any private road or trail project with an application deemed complete after December 1, 2009, the requirements of this section to classify the project as a regulated project under this chapter shall not apply if the project applicant has received final discretionary approval for the project before December 1, 2011.
- (g) For any public road or trail project for which funding has been committed and construction is scheduled to begin by December 1, 2012, the requirements of this section to classify the project as a regulated project shall not apply.

12.60.124. Required site design measures for small projects and single-family homes.

As of December 1, 2012, all development projects subject to approvals and/or permits issued by the planning or building divisions which create or replace 2,500 square feet or more and less than 10,000 square feet of impervious

surface and detached single-family home projects that creates and/or replaces 2,500 square feet or more of impervious surface will install one or more of the following site design measures:

- (a) Direct roof runoff into cisterns or rain barrels for reuse.
- (b) Direct roof runoff onto vegetated areas.
- (c) Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas.
- (d) Direct runoff from driveways or uncovered parking areas/lots onto vegetated areas.
- (e) Construct sidewalks, driveways, and/or patios with permeable surfaces.
- (f) Construct bike lanes, driveways, and/or uncovered parking lots or areas with permeable surfaces.

12.60.125. Site design measures for non-regulated project.

All new development and redevelopment projects subject to planning, building, development, or other comparable reviews by the city, but not meeting the definition of regulated project are encouraged to include adequate site design measures that include minimizing land disturbance and impervious surfaces. These may include clustering of structures and pavement; directing roof runoff to vegetated areas, use of micro-detention, including distributed landscape-based detention of stormwater, preservation of open space and/or restoration of riparian areas or wetland as project amenities.

12.60.130. ~~Storm water pollution reduction~~Trash load reductions to storm drain collection system.

All applicants for permits pertaining to the planning, design, and construction of all projects to this chapter shall design and implement storm water best management practices so as to reduce storm water pollution to the maximum extent practicable. Such projects shall utilize standards and guidelines set forth in the BMP Guidance Manual, and shall incorporate the numeric sizing criteria for best management practices set forth in this chapter, unless a waiver and alternative performance is applicable.

All regulated projects will install full trash capture devices to collect litter and debris from their project site, prior to connecting to the city's storm drain collection system.

(a) Full trash capture devices that have been approved as meeting the standards set by the San Francisco Bay Regional Water Quality Control Board will be deemed as satisfactory for meeting this requirement. A list of approved devices and their manufacturers is available from the community development department or the city's BMP Guidance Manual.

(b) Installed full capture trash devices will be maintained by the property owner for the life of the project, following the manufacturer's recommendations for maintenance.

12.60.140. ~~Storm water management plan~~Stormwater Management Plan required.

(a) All applications for any city permit or approval required for land disturbance activities, construction, development or significant redevelopment for any ~~project~~ regulated project subject to this chapter, including, but not limited to, use permits, specials development permits, grading permits, variances, landscape

plans, design review, parcel maps or tentative maps, applicable building permits, or applicable encroachment permits, must include a ~~storm water management plan~~ Stormwater Management Plan.

(b) ~~The storm water management plan~~ Stormwater Management Plan shall be accompanied by plans and related documentation demonstrating how the requirements of this chapter will be met, and the permit or approval shall not be granted unless the authorized enforcement official determines that the plan complies with the requirements of this chapter.

(c) At the discretion of the authorized enforcement official, the ~~storm water management plan may include but not be limited to any of~~ Stormwater Management Plan shall include, but is not limited to the following:

(1) ~~A description of activities and pollutant sources~~ Name and address of regulated project;

(2) ~~Descriptions of best management practices, drawings, maps, and relevant copies or references of parts of other plans~~ Responsible operator(s) of each treatment system and hydromodification (HM) control (if any);

(3) ~~An employee training program~~ A description of activities and pollutant sources;

(4) ~~Spill response procedures~~ Specific descriptions of the locations (or a map showing locations) of the installed stormwater treatment system(s) and HM controls (if any);

(5) ~~Preventive maintenance of structural best management practices as well as other facility equipment and systems~~ Description of the type and size of the installed stormwater treatment systems and HM controls, if applicable;

(6) ~~Material handling and storage, including waste materials and recyclable materials~~ Description of applicable operation and maintenance procedures, including recommended inspections, for all structural best management practices/installed stormwater treatment systems, as recommended by the manufacturer or as referenced in the CASQA Stormwater Best Management Practice Handbook;

(7) ~~An inspection program to investigate non-storm water discharges, best management practice effectiveness, soil erosion, and~~ Description of record keeping and internal procedures to ensure documentation and verification of applicable operational maintenance procedures. These records shall remain available for a period of at least three years;

(8) ~~Record keeping and internal reporting procedures.~~ A completed Stormwater Management Plan Data Form;

(9) A copy of the required third party certification for the regulated projects adherence to the numeric sizing criteria for stormwater treatment systems; and

(10) Property owners shall ensure that onsite, joint, or offsite stormwater treatment system(s) and HM controls installed to meet the requirements for regulated projects are properly operated and maintained for the life of the project pursuant to section 12.60.200 agreement to maintain best management practices.

(A) In cases where the property owner for a stormwater treatment system or HM control has worked diligently and in good faith with the appropriate State and federal agencies to obtain approvals necessary to complete maintenance activities for the treatment system or HM control, but the approvals are not granted, the property owner will be considered to be in compliance with (10) above.

(B) Constructed wetlands installed by regulated projects for urban runoff treatment shall abide by the San Francisco Bay Regional Water Quality Control Board's Resolution No. 94-102: Policy on the Use of Constructed Wetlands for Urban Runoff Pollution Control and the operations and maintenance requirements contained therein.

12.60.150. Numeric sizing criteria for treatment systems.

(a) Treatment best management practices for ~~Group 1 projects~~ regulated projects shall incorporate the following hydraulic sizing design criteria to treat ~~storm water~~ stormwater runoff.

(1) Volume Hydraulic Design Basis. Treatment best management practices whose primary mode of action depends on volume capacity, ~~such as detention/retention units or infiltration structures,~~ shall be designed to treat ~~storm water~~ stormwater runoff equal to:

(A) The maximized ~~storm water~~ stormwater quality capture volume for the area, based on historical rainfall records, determined using the formula and volume capture coefficients set forth in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87 (1998), pages 175-178 (e.g. approximately the ~~eighty-fifth~~ 85th percentile ~~twenty-four~~ 24-hour hour storm runoff event); or

(B) The volume of annual runoff required to achieve ~~eighty percent~~ 80% or more capture, determined in accordance with the methodology set forth ~~in Appendix D of the California Storm Water~~ Section 5 of the CASQA Stormwater Best Management Practices Handbook, New and Redevelopment (2003), or most recent edition, using local rainfall data.

(2) Flow Hydraulic Design Basis. Treatment best management practices whose primary mode of action depends on flow capacity, ~~such as swales, sand filters, or wetlands,~~ shall be sized to treat:

(A) Ten percent ~~of the fifty-year~~ (10%) of the 50-year peak flow rate; or

(B) The flow of runoff produced by rain equal to at least two times the ~~eighty-fifth~~ 85th percentile hourly rainfall intensity for the applicable area, based on historical records of hourly rainfall depths (for Sunnyvale this is equivalent to ~~seventeen one hundredths~~ 0.17 inches per hour); or

(C) The flow of runoff resulting from rain equal to at least two-tenths of an inch per hour intensity.

(3) Combination Flow and Volume Design Basis. Treatment systems that use a combination of flow and volume capacity shall be sized to treat at least 80% of the total runoff over the life of the project, using local rainfall data.

12.60.155. Low impact development (LID) requirements.

The goal of LID is to reduce runoff and mimic a site's predevelopment hydrology by implementing specific practices to control sources of potential pollution and site design strategies to treat stormwater. All regulated projects shall implement the following LID requirements:

(a) All regulated projects shall implement source control measures onsite that at a minimum, shall include the following:

(1) Implement source control measures on site to address the following potential discharges and minimize stormwater pollutants of concern. These control measures may include plumbing the following discharges to sanitary sewer lines, pending approval by the city;

- (A) Discharges from floor mat, equipment, hood filter wash racks or covered outdoor wash racks for restaurants;
- (B) Drips from covered trash dumpsters, food waste containers, and compactor enclosures;
- (C) Discharges from covered outdoor wash areas for vehicles, equipment, and accessories;
- (D) Swimming pool, spa, hot tub, or water feature discharges if discharge on site to vegetated areas is not a feasible option;
- (E) Fire sprinkler test water, if on site discharge to vegetated areas is not a feasible option;
- (2) Include properly designed covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair or maintenance bays and fueling areas;
- (3) Include properly designed trash storage areas that are covered with any drains in the area connected to the sanitary sewer lines, pending approval by the city;
- (4) Include landscaping that minimizes irrigation and runoff, promotes surface infiltration, minimizes the use of pesticides and fertilizers and incorporates sustainable landscaping practices;
- (5) Include efficient irrigation systems; and
- (6) Include storm drain stenciling or signage that includes the message “No Dumping, Flows to Bay” or equivalent.
- (b) Each regulated project shall, at a minimum, implement the following design strategies onsite:
 - (1) Limit disturbance of natural water bodies and drainage systems; minimize compaction of highly permeable soils, protect slopes and channels, minimize impacts from stormwater and urban runoff on the biological integrity of natural drainage systems and water bodies;
 - (2) Conserve natural areas, including existing trees, other vegetation, and soils;
 - (3) Minimize impervious surfaces;
 - (4) Minimize disturbances to natural drainages; and
 - (5) Minimize stormwater runoff by implementing one or more of the following site design measures:
 - (A) Direct roof runoff into cisterns or rain barrels for reuse.
 - (B) Direct roof runoff into vegetated areas.
 - (C) Direct roof runoff from sidewalks, walkways and/or patios onto vegetated areas.
 - (D) Direct runoff from driveways and/or uncovered parking lots onto vegetated areas.
 - (E) Construct sidewalks, walkways and/or patios with permeable surfaces.
 - (F) Construct driveways, bike lanes, and/or uncovered parking lots with permeable surfaces.
- (c) Effective December 1, 2011, all regulated projects are required to treat 100% of the amount of runoff using the criteria identified in SMC 12.60.150 for the regulated project’s drainage area with LID treatment measures onsite or with LID treatment measures at a joint stormwater treatment facility.
 - (1) LID treatment measures are defined as stormwater harvesting and re-use, infiltration, evapotranspiration, or biotreatment.

- (2) A properly engineered and maintained biotreatment system may be considered only if it is infeasible to implement stormwater harvesting and re-use, infiltration, or evapotranspiration at a project site.
- (3) Infeasibility to implement stormwater harvesting and re-use, infiltration, or evapotranspiration at a project site may result from conditions including the following:
- (A) Locations where seasonal high groundwater would be within 10 feet of the base of the LID treatment measure.
- (B) Locations within 100 feet of a groundwater well used for drinking water.
- (C) Development sites where pollutant mobilization in the soil or groundwater is a documented concern.
- (D) Locations with potential geotechnical hazards.
- (E) Smart growth and infill or redevelopment sites where the density and/or nature of the project would create significant difficulty for compliance with the onsite volume retention requirement.
- (F) Locations with tight clay soils that significantly limit the infiltration of stormwater.
- (4) Criteria and procedures to determine when stormwater harvesting and re-use, infiltration, or evapotranspiration are feasible or infeasible at regulated project sites will be identified by May 1, 2011 and incorporated into the city's Stormwater BMP Guidance Manual, as revised.
- (5) Biotreatment systems shall be designed to have a surface area no smaller than what is required to accommodate a 5 inches per hour stormwater runoff surface loading rate. The planting and soil media for biotreatment systems shall be designed to sustain plant growth and maximize stormwater runoff retention and pollutant removal. A set of model biotreatment and soil media specifications and soil infiltration testing methods to verify a long-term infiltration rate of 5 to 10 inches per hour will be identified by December 1, 2010, and submitted to the Regional Water Quality Control Board for approval. Once approved, these specifications will be incorporated into the city's Stormwater BMP Guidance Manual, as revised. Biotreatment systems approved after Regional Water Quality Control Board approval of the model specifications will need to comply with these minimum specifications and soil infiltration testing methods.
- (6) Green roofs may be considered biotreatment systems if they meet certain minimum specifications. The minimum specifications will be submitted to the Regional Water Quality Control Board for approval on May 1, 2011. Once approved, these minimum specifications will be incorporated into the city's Stormwater BMP Guidance Manual, as revised. Green roof systems approved after Regional Water Quality Control Board approval of the minimum specifications will need to comply with these requirements.
- (7) Due date for full implementation of the LID requirements in this chapter is December 1, 2011. For private development projects approved on or before December 1, 2009, the requirements of SMC 12.60.155 shall not apply so long as the project applicant is diligently pursuing the project.
- (8) Private development projects with an application deemed complete after December 1, 2009 and which have received final discretionary approval (e.g., building permits) for the project before December 1, 2011, the requirements of SMC 12.60.155 shall not apply.

(9) Public projects for which funding has been committed and construction scheduled to begin before December 1, 2012, the requirements of SMC 12.60.155 shall not apply.

12.60.160. Hydromodification management ~~plan (HMP)~~ (HM) requirements; applicability.

(a) Requirement. ~~Storm water~~Stormwater discharges from any ~~non-exempt~~ HM project shall be designed and maintained so they shall not cause an increase (over the pre-project existing condition) in the erosion potential of the stream into which they flow. ~~Standards for measuring erosion potential, along with specific design requirements to control hydromodification impacts are set forth in the HMP.~~ Increases in runoff flow and volume shall be managed so that post-project runoff shall not exceed estimated pre-project rates and durations, where such increased flow and/or volume is likely to cause increased potential for erosion of creek beds and banks, silt pollutant generation, or other adverse impacts on beneficial uses due to increased erosive force. All applicants are required to comply with the standards and performance criteria and requirements set forth in the key elements ~~of the HMP~~ (e.g., Range of Flows to Control, Goodness of Fit Criteria, Precipitation Data, and Calculations for Post-Project Runoff) of the HM requirements for Santa Clara County as described in Provision C.3.g Hydromodification Management and Attachment F as adopted in the NPDES Stormwater Permit. A copy of the ~~HMP~~ HM requirements may be obtained from the city's planning division and is available in the city's Stormwater BMP Guidance Manual.

(b) Applicability. All new and redevelopment project that create or replace ~~one~~1 acre or more of impervious surface shall implement the hydromodification controls and standards ~~set forth in the HMP as described in (a) above.~~ The following projects are exempt from ~~HMP~~ HM compliance:

(1) Projects that do not create an increase in impervious surface over pre-project conditions.

(2) Projects located within areas that drain to stream channels within the tidally influenced area. Such areas are shown in the ~~HMP~~ HM zone map included in the city's BMP Guidance Manual.

(3) Projects located within areas that drain to non-earthen stream channels that are hardened on three sides and extend continuously upstream from the tidally influenced area. Such areas are depicted in the city's BMP Guidance Manual HM maps.

(4) Projects draining to Sunnyvale East or West Channels. Such areas are depicted in the city's BMP Guidance Manual HM maps.

(5) Projects draining to an underground storm drain that discharges directly to San Francisco Bay.

(6) Projects that demonstrate, upon completion of stream-specific and modeling studies that are consistent with the method ~~used in the HMP Report identified in the HM requirements in provision C.3.g and Attachment F of the NPDES Stormwater Permit~~ and its supporting technical documents, that there will be no increase in potential for erosion or other adverse impact to beneficial uses to any state waters.

~~(7) Projects that are less than fifty acres in total project size that are located in areas with less than sixty five to seventy percent impervious surface and ninety percent or more built out, as depicted in the city's BMP Guidance Manual. Such projects are encouraged but not required to implement the HMP.~~

~~(87) Projects less than 1 acre and that are located in the HM applicable areas as depicted in the City's HM maps in the BMP Guidance Manual are encouraged, but not required, to implement HM Requirements above. with greater than or equal to sixty five to seventy percent impervious surface and ninety percent or more built out, as depicted in the city's BMP Guidance Manual. Such projects are encouraged but not required to implement the HMP.~~

~~(9) — Any subject project for which a development application has been determined to be complete by the director of community development before October 20, 2005; and~~

~~(10) — Any publicly funded project for which funding has been committed and for which construction has been scheduled before October 20, 2005.~~

12.60.170. Design standards concerning flooding.

Except as this chapter may specifically exempt, every best management practice required to be implemented in new development or redevelopment shall not, by its construction, operation, maintenance, or lack thereof, lead to or cause flooding.

12.60.180. Certification of adherence to design criteriaAlternative certification of adherence to numeric sizing criteria for stormwater treatment systems.

The authorized enforcement official ~~may require a developer to provide~~ shall require a signed certification from a civil engineer or a licensed architect or landscape architect registered in the state of California ~~that any plan for proposed storm water treatment that the numeric sizing for stormwater treatment systems and/or hydromodification management (HM) facilities and best management practices meet the hydraulic sizing design requirements of this chapter and the established criteria of the NPDES Stormwater Permit.~~ Each certifying person shall establish to city's satisfaction that such person has been trained on best management practice design for water quality not more than three years prior to the signature date, and that each certifying person understands the groundwater protection principles applicable to the project site. Any consultant hired to design and/or construct a stormwater treatment system for a regulated project shall not be the certifying person for the project. Training conducted by an organization with ~~storm water~~ stormwater treatment best management design expertise such as a university, the American Society of Civil Engineers, American Society of Landscape Architects, American Public Works Association, ~~or the~~ California Water Environment Association, Bay Area Stormwater Management Agencies, National Association of Flood and Stormwater Management Agencies, California Stormwater Quality Association, or the equivalent, may be considered qualifying.

12.60.190. Infiltration treatment measures.

In order to protect groundwater from pollutants that may be present in urban runoff, treatment best management practices that function primarily as ~~storm water~~ stormwater infiltration devices, with no underdrain, must meet, at a minimum, the following conditions:

(a) Pollution prevention and source control best management practices shall be implemented at a level appropriate to protect groundwater quality at sites where infiltration devices are to be used. This includes a minimum of 2 feet of suitable soil to achieve a maximum of 5 inches per hour infiltration rate for the

infiltration system.

(b) Infiltration devices shall not be ~~used in areas that may adversely affect known groundwater pollutant plumes~~ placed in the vicinity of known contamination sites unless it has been demonstrated that increased infiltration will not increase leaching of contaminants from soil, alter groundwater flow conditions affecting contaminant migration in groundwater or adversely affect remedial activities.

(c) Use of infiltration devices shall not cause or contribute to degradation of groundwater quality at applicable sites or of groundwater quality objectives.

(d) Infiltration devices shall be adequately maintained to maximize pollutant removal capabilities.

(e) The vertical distance from the base of any infiltration device to the seasonal high groundwater mark shall be at least ~~ten~~ 10 feet, except that as to infiltration devices ~~described in Section 12.60.040(q)(1)(a-e)~~ a concerning land disturbance activities. A greater separation from the high groundwater mark may be required in accordance with the "Best Management Practices Guidelines". In locations which are characterized by highly porous soils and/or a high groundwater table, for such areas best management practices approvals will be subject to a higher level of analysis (e.g., considering the potential for pollutants such as on-site chemical use, the level of pretreatment to be achieved, and similar factors in the overall analysis of groundwater safety).

(f) Unless ~~storm water~~ stormwater is first treated by a means other than infiltration, infiltration devices shall not be employed for areas of industrial or light industrial activity; are as subject to high vehicular traffic (~~twenty-five thousand~~ 25,000 or greater average daily traffic on main roadway or ~~fourteen thousand~~ 15,000 or more average daily traffic on any intersecting roadway); automotive repair shops, car washes; fleet storage areas (e.g., bus, truck); nurseries; and other high threat to water quality land uses and activities as designated by city.

(g) Infiltration ~~devices of the type listed in Section 12.60.040(q)(1)(a-e)~~ Devices shall be located a minimum of ~~two hundred fifty feet~~ 250 horizontally from any water supply wells and 100 feet from any septic systems or underground storage tanks with hazardous materials. A greater separation may be required in accordance with the "Best Management Practice Guidelines." In locations which are characterized by highly porous soils and/or a high groundwater table, best management practice approvals will be subject to a higher level of analysis that considers the potential for pollutants such as on-site chemical use, the level of pretreatment to be achieved, and similar factors in the overall analysis of groundwater safety.

12.60.200. Agreement to maintain best management practices.

(a) Every person applying for a city planning, or building permit to construct any new development or ~~significant~~ redevelopment project subject to this chapter, shall agree in writing to properly maintain any ~~structural or treatment control~~ HM control, stormwater structural control, treatment system, and/or best management practices to be implemented ~~in~~ at the project. Such agreement shall be through means such as a covenant running with the land, enforceable conditions of approval, or other legal agreement. The agreement shall provide access to the extent allowable by law for representatives of city, the local vector control district, and the Regional Water Quality Control Board, strictly for the

purposes of ~~verification of proper performing~~ operation and maintenance ~~for the specific storm water treatment inspections of the installed stormwater treatment systems,~~ best management practices, ~~and/or HM controls (if any).~~ The agreement shall be recorded in the office of the county recorder, shall remain in force ~~until ownership of the developed property has been transferred,~~ and upon transfer, shall be binding on the new owner(s).

(b) Any land owner of a property which has been required by this chapter to construct or install and maintain such best management practices shall, upon transferring ownership of such property, provide the new owners with a current copy of this chapter, and shall inform the new owners in writing of their obligation to properly operate and maintain such ~~storm water~~ stormwater treatment and/or source control best management practice.

12.60.210. Submission of revised ~~storm water management plan~~ Stormwater Management Plan.

(a) An authorized enforcement official may require a discharger who has previously received approval of a ~~storm water management plan~~ Stormwater Management Plan, to prepare and submit a revised ~~storm water management plan~~ Stormwater Management Plan for approval if ~~the discharger does not come into compliance with this chapter after one or more warnings or other enforcement action, because best management practices are inadequate or are not being adequately maintained; or if the facility or activity at issue is a significant source of contaminants to the storm drain system despite compliance with this chapter. Any discharger required to submit and to obtain approval of a revised plan shall install, implement and maintain the best management practices specified in the approved revised plan~~ any of the following occurs:

- (1) the project was not constructed according to the approved plans; or
- (2) the plan as constructed is not adequate for the site; or
- (3) the site is not adequately maintained; or
- (4) is a significant source of contaminants to the storm drain system.

(b) The revised ~~storm water management plan~~ Stormwater Management Plan shall identify the stormwater treatment controls, best management practices, and/or HM controls that will be used by the discharger to prevent or control pollution of ~~storm water~~ stormwater to the maximum extent practicable.

(c) If the activity at issue is a construction or land disturbance activity, the revised plan submitted to the city shall at a minimum meet the requirements of the ~~NPDES general construction storm water permit. If a facility required to submit a revised plan to the city discharges non-storm water to ground water, the facility shall obtain a Regional Water Quality Control Board permit as required by the California Water Code, and shall describe the requirements of that permit in the revised plan~~ Statewide NPDES Construction General Permit Order 2009-0009 DWQ.

(ed) Whenever submission of a ~~storm water~~ stormwater management plan or a revised ~~storm water~~ stormwater management plan is required pursuant to this chapter, any authorized enforcement staff may use the ~~existing “Best Management Practices Guidelines”~~ city of Sunnyvale Stormwater Quality BMP Guidance Manual and/or the CASQA Stormwater BMP Handbooks to assess the adequacy of the proposed plan.

12.60.220. Best management practices and CASQA Stormwater Best

Management Practice Handbook incorporated.

The BMP Guidance Manual and CASQA Stormwater Best Management Practice Handbook ~~is-are~~ incorporated by reference into this chapter. The authorized enforcement official may from time to time revise or add to such manual to comply with NPDES requirements and stay current with technology and best management practices.

12.60.230. Minimum best management practices and source control measures for all dischargers.

The director may require submission of information to evaluate the implementation and/or require the implementation of best management practices (BMPs), including but not limited to the following:

(a) Minimum Best Management Practices. All dischargers must implement and maintain at least the following minimum best management practices:

~~(1) Eroded Soils. Prior to the rainy season, dischargers must remove or secure any significant accumulations of eroded soils from slopes previously disturbed by clearing or grading, if those eroded soils could otherwise enter the storm drain system.~~

~~(2) Storage of Materials and Wastes. All materials and wastes with the potential to pollute urban runoff shall be stored in a manner that either prevents contact with rainfall and storm water, or contains contaminated runoff for treatment and disposal.~~

~~(3) Use of Materials. All materials with the potential to pollute urban runoff (including but not limited to cleaning and maintenance products used outdoors, fertilizers, pesticides and herbicides, etc.) shall be used in accordance with label directions. No such product may be disposed of or rinsed into the storm drain system.~~

Appropriate BMPs will be implemented to prevent pollutant sources from entering the city's storm drain collection system that are associated with outdoor process and manufacturing areas, outdoor material storage areas, outdoor waste storage and disposal areas, outdoor vehicle and equipment storage and maintenance areas, outdoor parking and access roads, outdoor wash areas, outdoor drainage from indoor areas, rooftop equipment, contaminated and erodible surfaces, or other sources determined by the director to have a reasonable potential to contribute to pollution of stormwater runoff.

(b) Inspection, Maintenance, Repair and Upgrading of Best Management Practices. Best management practices at ~~manned~~ staffed and unstaffed facilities must be inspected and maintained by the discharger ~~before and following predicted rain events. Best management practices at unmanned facilities must be inspected by the discharger at least once during the rainy season and at least once between each rainy season according to manufacturer specifications and/or the CASQA Stormwater BMP Handbooks.~~ These best management practices must be maintained so that they continue to function as designed. Best management practices which fail must be repaired as soon as it is safe to do so. If the failure of a best management practice indicates that the best management practices in use are inappropriate or inadequate to the circumstances, the practices must be modified or upgraded to prevent any further failure in the same or similar circumstances.

(c) Construction site stormwater pollution controls. All construction sites will implement effective erosion control, run-on and runoff control, sediment control, active treatment systems (as appropriate), good site management, and non-stormwater management through all phases of construction (including but not limited to site grading, building and finishing of lots) until the site is fully stabilized by landscaping or the installation of permanent erosion control measures.

(d) All applicable sites are encouraged to include adequate source control measures to limit pollutant generation, discharge and runoff. These source control measures are identified in 12.60.155.

12.60.240. Authority to inspect.

(a) Whenever necessary to make an inspection to enforce any provision of this chapter, or whenever the authorized enforcement official has cause to believe that there exists, or potentially exists, in or upon any ~~premises~~ applicable site any condition which constitutes a violation of this chapter, the official may enter such premises at all reasonable times to inspect the premises, to inspect and copy records related to ~~storm-water~~ stormwater compliance, and to collect samples and take measurements. 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.

(b) Whenever necessary to perform Operations and Maintenance verification inspections of installed stormwater treatment system(s) and HM control(s) (if any), all regulated projects shall grant site access to all representatives of the authorized enforcement official, local mosquito and vector control agency staff, and Water Board staff.

12.60.250. Requirement to remediate.

Whenever the authorized enforcement official finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollutants discharged to ~~storm-water~~ stormwater or the storm drain system, the official may require by written notice to the owner or responsible person that the pollution be remediated and the affected property restored within a specified time.

12.60.260. Failure to properly operate and maintain ~~storm-water~~ stormwater treatment and hydromodification management facilities.

(a) It is a violation of this code for any land owner to fail to properly operate and maintain any approved ~~storm-water~~ stormwater treatment facilities, hydromodification management facilities and/or source control best management practices on the owner's property.

(b) It is a further violation for any land owner to fail to follow any ~~storm-water~~ stormwater management plan submitted and approved by city unless a modification to the plan is later approved in writing by the authorized enforcement official and such modification is thereafter recorded in the same manner as the original agreement.

12.60.270. ~~Waiver for impracticability and compensatory mitigation.~~ [Repealed]

~~Any applicant may request a waiver from the requirement to install treatment best management practices for a given project, upon an appropriate~~

~~showing of impracticability, as determined by the authorized enforcement official, and with provision to treat an equivalent pollutant loading or quantity of storm water runoff, or to provide other equivalent water quality benefit. Such a waiver shall be known as “alternative compliance.” The location of equivalent storm water treatment, or water quality benefit, should be where no other requirement for treatment exists, and within the same storm water runoff drainage basin, and treating runoff discharging to the same receiving water, where feasible.~~

12.60.280. Impracticability criteria. [Repealed]

~~City may grant eligibility for alternative compliance if the implementation of required on-site measures is impracticable, under any of the criteria defined below. The applicant may need to provide at city’s request an appropriate technical consultant’s certification, supporting such eligibility.~~

~~(a) — There are space limitations on detention and/or conveyance of runoff;~~

~~(b) — There are limitations on ability of treatment measures to address pollutants of concern;~~

~~(c) — Site is within a designated “groundwater protection area” zone as depicted on maps found in the BMP Guidance Manual;~~

~~(d) — If projected costs of required on-site measures would exceed two percent of total project costs:~~

~~(e) — For the following types of projects if projected costs of the required on-site measures would exceed one percent of total project costs:~~

~~(1) — Projects within redevelopment areas that create housing units affordable to persons of low or moderate income as defined by Health and Safety Code Section 50093.~~

~~(2) — Projects within redevelopment areas which redevelop an existing brownfield site, as defined by Health and Safety Code Section 50093.~~

~~(3) — Transit village projects within one fourth mile of transit stations and/or intermodal facilities.~~

~~(f) — Installation of measures would result in an inability to comply with other regulatory requirements at the federal, state and local levels (for example, seismic building code requirements).~~

12.60.290. Regional project. [Repealed]

~~City may grant eligibility for alternative compliance to on-site detention and/or treatment requirements, without a showing of impracticability, where city has identified a regional project with sufficient capacity or credit to protect or enhance water quality and/or beneficial uses in a manner equivalent to or greater than the storm water benefits that would have been provided from the installation of the required treatment measures at the subject project site. Where feasible, the regional project must discharge to or address the same receiving waters.~~

12.60.300. Alternative compliance.

A regulated project may be allowed to provide alternative or in-lieu compliance in accordance with one of the following two options:

~~(a) Upon approval by the authorized enforcement official of an application for a waiver based upon impracticability, the applicant may provide alternative compliance by providing storm water detentions/treatment measures at another site approved by the authorized enforcement official, or by providing other equivalent water quality benefit. Any proposed alternative compliance,~~

~~including a schedule for such alternative compliance, must be approved by the authorized enforcement official. Applicant must provide certified documentation that its contribution to the off-site detention and/or treatment, or provision of other water quality benefit, will protect or enhance water quality or beneficial uses in an amount equivalent to the benefits that would have been provided from the installation of the required treatment measures at the subject project site; and the project sponsor's contribution is going towards detention and/or treatment that is not otherwise required at the off-site location.~~ A portion of the amount of runoff from a regulated project's drainage area required to be treated per SMC 12.60.150 may be treated with LID measures on site or with LID treatment measures at a joint stormwater treatment facility, and any remaining portion of the stormwater runoff treated with LID treatment measures at an offsite project in the same watershed. The offsite LID treatment measures must provide hydraulically sized treatment in accordance with SMC 12.60.150 of an equivalent quantity of both stormwater runoff and pollutant loading and achieve a net environmental benefit.

~~(b) Failure to provide any alternative compliance according to the approved schedule shall be a violation of this chapter.~~ A portion of the amount of runoff from a regulated project's drainage area required to be treated per SMC 12.60.150 may be treated with LID treatment measures onsite or with LID treatment measures at a joint stormwater treatment facility, and an equivalent amount of in-lieu fees paid to treat the remaining portion of the runoff with LID treatment measures at a offsite project. The offsite project must achieve a net environmental benefit.

~~(c) The applicant for a waiver based on alternative compliance shall provide the authorized enforcement official with verification of the provision of such alternative compliance upon request in writing by the authorized enforcement official.~~ For alternative compliance options described in (a) and (b) above, offsite projects must be constructed by the end of the construction of the regulated project. If more time is needed to construct an offsite project, the offsite project must provide an additional 10% of the calculated equivalent quantity of both stormwater runoff and pollutant loading for each additional year, up to 3 years.

~~(d) Regional projects must be completed within 3 years after the end of construction of the regulated project. The timeline for completion of a regulated project may be extended for up to 5 years after completion of the regulated project with prior approval of the Executive Officer of the San Francisco Bay Regional Water Quality Control Board.~~

12.60.305. Public nuisance.

Illicit discharge, threatened illicit discharge, or any condition or act in violation of any provision of this chapter or of any order or directive of the director authorized by the provisions of said chapter is hereby declared to be a public nuisance. Such nuisance may be abated, removed or enjoined, and damages assessed therefor, in any manner provided by law.

12.60.310. Issuance of cease and desist ordersManner of notification of a violation.

(a) Warning Notice or Notice of Violation. When the director finds that a user has violated, or continues to violate, any provision of this chapter, or order issued hereunder, or any other stormwater standard or requirement, the director may serve upon that user a verbal or written Warning Notice or Notice of

Violation. The director will require corrections to occur within a reasonably short and expedient time frame commensurate with the threat to water quality. Violations that are observed by the director shall be corrected prior to the next rain event or within 10 business days after the violation is first noted. If more than 10 business days are required for a correction, a rationale must be provided. A rapid, temporary repair shall be required and a longer time for implementation of more permanent solutions may be allowed if significant capital expenditures or construction is required to resolve the discharge problem.

(b) Explanation of violation and plan for correction/prevention. The director may require the submission of an explanation of the violation and a plan for the satisfactory correction and prevention thereof, within the time specified in the notice, to include specific required actions. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(c) Notice to Comply.

(1) When the director finds that a discharge or threatened discharge of non-stormwater is taking place, has been taking place, or threatens to take place, in violation of prohibitions or limitations prescribed in this chapter, the director may, at the director's discretion, also require the user to submit for approval, with such modifications as the director deems necessary, a detailed compliance time schedule of specific actions which the user shall take in order to prevent or correct a violation of code provisions or of any permit, and to take such action in accordance with such schedule.

(2) Nothing provided in this section shall limit or prohibit the city from pursuing any other remedy, legal or equitable, otherwise available to city, or from seeking sanctions in any criminal or civil action related to such discharge or potential discharge.

(d) Issuance of cease and desist orders. When the authorized enforcement official finds that a discharge of ~~storm water~~ stormwater has taken place or is likely to take place in violation of this chapter, the authorized enforcement official may ~~issue an order~~ include in the notice, an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct those persons not complying with such prohibitions, limits, requirements, or provisions to comply forthwith; comply in accordance with a time schedule set forth by the city; or take appropriate remedial or preventive action.

12.60.315. Administrative process and civil penalties.

(a) Complaint. The director may serve an administrative complaint on any person who has violated any applicable code provision. The complaint shall state:

(1) The act or failure that constitutes the violation;

(2) The provisions of law authorizing the civil liability to be imposed;

and

(3) The proposed civil penalty. The complaint shall be served by personal delivery or certified mail on the person subject to requirements that the director alleges were violated, and shall inform the person served that a hearing on the complaint shall be conducted within thirty days after service, unless the person charged with the violation waives his or her right to a hearing.

(b) Civil penalties. Civil penalties that may be imposed pursuant to Government Code Section 54740.5 are as follows:

(1) An amount not to exceed \$2,000.00 for each day for failing or refusing to furnish technical or monitoring reports;

(2) An amount not to exceed \$3,000.00 for each day for failing or refusing to timely comply with any compliance schedule established by the city;

(3) An amount not to exceed \$5,000.00 per violation for each day of violation for illicit discharges in violation of any waste discharge limitation, permit condition or requirement issued, reissued or adopted by the city; and

(4) An amount not to exceed \$10,000.00 per gallon for discharges in violation of any suspension, cease and desist order, or other orders, or prohibition issued, reissued or adopted by the city.

(c) Lien. The amount of any civil penalties imposed under this section which have remained delinquent for a period of sixty days shall constitute a lien against the real property of the discharger from which the violation occurred resulting in imposition of the penalty. The director shall cause the amount of uncollected penalty to be recorded with the county recorder, in accordance with Section 54740.5 of the California Government Code.

12.60.320. Emergency—correctionsAdministrative hearing and appeals process.

~~In the event cleanup, repairs, construction, or other work is performed on any premises pursuant to any provision of law relating to an emergency or pursuant to any other provision of law authorizing public work on private property in order to correct, eliminate or abate a condition upon such premises which threatens to cause, or has caused a violation of any provision of this chapter, the person responsible for the occurrence or condition giving rise to such work, the occupant and the owner of the premises shall be liable, jointly and severally to the city for public expenditures.~~

(a) Hearing. Unless the person charged with the violation(s) waives his or her right to a hearing, the director or designee (“hearing officer”) shall conduct a hearing within 30 days. If the hearing officer finds that the person has violated any reporting or discharge requirement of Chapters 12.04 through 12.18 herein, he or she may assess administrative penalties against the person. In determining the amount of the civil penalty, the hearing officer may take into consideration all relevant circumstances, including but not limited to the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs, and corrective action, if any, attempted or taken by the discharger.

(b) Appeal. Any person against whom penalties are assessed by the hearing officer may appeal the decision of the hearing officer within 15 days of notice of the decision to the city manager. The city manager may hear the appeal or deny review of the case. If the city manager decides to hear the appeal, it shall conduct the appeal in accordance with procedures established by the council. The decision of the city manager shall be in writing and shall be final. All civil penalties imposed in accordance with this section shall be payable within thirty days of the decision of the hearing officer; provided, that if the decision is appealed, all penalties shall be payable within 30 days after the city manager's decision on the appeal.

12.60.330. Appeals~~**Emergency corrections.**~~

~~(a) Any person aggrieved by any decision, action, finding, determination, order or directive of the authorized enforcement official, made or authorized pursuant to the provisions of this chapter or interpreting or implementing the same, may file a written request with the authorized enforcement official for reconsideration thereof within fifteen days of such decision, action, finding, determination or order. The appeal must set forth in detail the facts supporting the request for reconsideration. The authorized enforcement official shall render a final decision within ten days of the receipt of such request for reconsideration.~~

~~(b) Any person aggrieved by the final determination of the authorized enforcement official may appeal such determination to the board of building code appeals within fifteen days of notification by the authorized enforcement official of his or her final determination. Written notification of an appeal shall be filed with the city clerk within fifteen days after notification of the final determination of the authorized enforcement official, and shall set forth in detail the facts and reasons supporting the appeal. The appeal shall be heard by the board within thirty days from the date of filing the notice of appeal. The appellant, the authorized enforcement official and such other persons as the board may deem appropriate, shall be heard at the hearing on such appeal. Upon conclusion of the hearing, the board may affirm, reverse or modify the final determination of the authorized enforcement official as the board deems just and equitable, and in furtherance of the provisions, purposes and intent of this chapter. During the pendency of any such appeal, the final determination of the authorized enforcement official shall remain in full force and effect. The board's determination on the appeal shall be final.~~

In the event cleanup, repairs, construction, or other work is performed on any applicable site pursuant to any provision of law relating to an emergency or pursuant to any other provision of law authorizing public work on private property in order to correct, eliminate or abate a condition upon such premises which threatens to cause, or has caused, a violation of any provision of this chapter, the person responsible for the occurrence or condition giving rise to such work, the occupant and the owner of the premises shall be liable, jointly and severally, to the city for public expenditures.

12.60.340. Administrative proceedings.~~**[Repealed]**~~

~~Administrative proceedings may be held and administrative fines and penalties imposed in accord with Chapter 1.08 of this code, except that civil penalties shall not be limited as set forth in that chapter but are to be determined by taking into consideration all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, attempted or taken by the person in charge.~~

12.60.350. Judicial civil penalties.

Any person who intentionally or negligently violates any provision of this chapter shall be civilly liable to the city ~~in a sum of not to exceed five thousand dollars per day for each day in which such violation occurs.~~ The city may petition the superior court to impose, assess, and recover such sums.

12.60.360. Remedies cumulative.

The remedies provided for in this chapter shall be cumulative and not exclusive, and shall be in addition to any and all other remedies available to the city.

SECTION 2. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Sections 15061(b)(3) and 15307, that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment and is a regulatory action as authorized by state law.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in *The Sun*, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2010, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2010, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney

ATTACHMENT B

Changes to SMC 12.60

Ordinance Section	What Has Changed	Reason for Change
Minor editorial and formatting changes were made throughout the document (e.g., storm water to stormwater; using numbers rather than spelling them out, etc.).		
12.60.010	Purpose and intent section had only minor editorial changes.	
12.60.020	Added applicability language to Scope and limits of chapter section for industrial or commercial activity, illegal connections and illicit discharges	Required to have adequate enforcement authority in MRP for Provisions C.4 and C.5. This clarifies legal authority for other discharges or threatened discharges to the City’s storm drain collection system.
12.60.030	No changes to Administration section.	
12.60.040	<p><u>Added Definitions for:</u></p> <ul style="list-style-type: none"> • Applicable Site • CASQA BMP handbook • Detached single- family home • Diligently pursuing or diligent pursuance • Director • Enforcement Response Plan • Full-trash capture system or device • Hydromodification Management • Infiltration Device • In-Lieu Fees • Low Impact Development • Micro-detention • Non-stormwater discharge • Notice of Violation • NPDES Stormwater Permit • Permeable Surfaces • Regional Project • Regulated Project • Riparian Areas • Special Land Use 	<p>These definitions were added to clarify applicability of new requirements of the MRP. Specifically several definitions are called out below: <u>Applicable Site</u> was added to make it clear the discharge prohibitions of non-stormwater apply to facilities or activities identified in provision C.4 and C.5 of the MRP.</p> <p>The requirement for an <u>Enforcement Response Plan</u> is a new MRP requirement in provisions C.4, C.5, and C.6</p> <p>The use of <u>Full-Capture trash control devices</u> in new and redevelopment projects storm drain connections to the City’s MS4 will help the city to meet the trash reduction requirements of MRP provision C.10</p> <p>Hydromodification Management Plan (HMP) was defined in the previous permit and it has been replaced by Hydromodification Management (HM) in the MRP effective Dec. 1, 2009 in provision C.3</p>

	<p>Categories</p> <ul style="list-style-type: none"> • Warning Notice <p><u>Removed Definitions for:</u></p> <ul style="list-style-type: none"> • Stormwater Infiltration Device • Redevelopment • Regional Project • Total Project Cost • Transit Village project 	<p>The definition for <u>Stormwater Infiltration Device</u> was renamed to <u>Infiltration Device</u> and minor edits were made to reflect requirements of Provision C.3.d.iv of the MRP.</p> <p>Items regarding <u>Regional Project</u>, <u>Total Project Cost</u> and <u>Transit Village</u> were removed due to the MRP's change for impracticability and any exemptions for compliance with C.3.e provision requirements.</p>
12.60.050 & 12..60.060	<p>There were no changes to the sections on <u>Ultimate responsibility of discharger</u></p> <p>Section modified to include recovery for certification costs and <u>Fees</u>.</p>	
12.60.070 (a) 12.60.070 (e) 12.60.070 (f) 12.60.070 (d)	<p>Discharge Prohibitions were added in these sections.</p> <p>Section exempting certain Agricultural discharges was removed.</p>	<p>Language was added or removed to clarify prohibitions and ensure adequate legal authority was in place for provisions C.15, C.4 and C.5 of the MRP. Certain conditionally exempt discharges were revised per the MRP requirements of C.15.</p>
12.60.075	<p>Added prohibitions for wastewater discharges containing copper or copper-based chemicals</p>	<p>MRP provision C.13 (a) requires local ordinance authority to control these discharges. This section was added to address this requirement.</p>
12.60.080	<p>Prohibition of illegal connection section is unchanged.</p>	
12.60.090	<p>Title of the section was changed to <u>False statements</u> and the removed section was incorporated into 12.60.305 Public nuisance.</p>	<p>Changes were made to clarify public nuisance language that was previously incorporated into this section and the section then renamed to reflect what remained.</p>
12.60.100	<p>Only minor editorial changes were made to this section.</p>	
12.60.110	<p>Revised to include the requirements for stormwater pollution prevention to meet the Maximum Extent Practicable (MEP) criteria.</p>	<p>This language was simplified to make it clear that permit applicants for planning, design, and construction need to follow the numeric sizing requirements of this chapter and site</p>

		design guidance in the City's BMP guidance manual (which will be revised pending adoption of this ordinance.)
12.60.120	This applicability section was revised and broken into sections 121-125 below.	This section was revised to address project applicability changes in provision C.3.b of the MRP and to clarify the projects to which the new requirements apply.
12.60.121	The regulated projects definition needed to be changed and clarified	This was revised to use terminology identified in Provision C.3.b of the MRP and to include effective dates identified in this section of the permit.
12.60.122	Special Land Use categories were added	This was added to reflect requirements of Provision C.3.b.ii.(1)(a) of the MRP. For specific land uses, effective Dec. 1, 2011, a 5,000 foot threshold for C.3 provision requirements becomes effective. Facilities affected by this include specific SIC codes for automotive services, retail gasoline outlets, restaurants, and uncovered parking lots and structures.
12.60.123	Definitions/descriptions of road projects that are now regulated by the permit were added.	This was added to reflect requirements of Provision C.3.b.ii (4) of the MRP. Stormwater treatment requirements are outlined for projects that add or replace 10,000 square feet, including sidewalks and bicycle lanes that are contiguous with a road project.
12.60.124	Site design measures for small projects were added.	This was added to reflect requirements of Provision C.3.i. Effective Dec. 1, 2012, all development projects (including single family homes) that create or replace between 2,500 and 10,000 square feet of impervious area must install one or more of the site design measures listed in this section..
12.60.125	Site design requirements for non-regulated projects (any project for which a permit is issued or reviewed by the city) were added.	This was added to reflect requirements of provision C.3.a.i (6) of the MRP. All new and redevelopment projects that the City reviews and are not regulated projects are encouraged to include site design measures that minimize land disturbance and impervious surfaces.
12.60.130	Though there is not a	Provision C.10.a.iii requires that the

	<p>specific provision in the MRP that requires the installation of full capture devices on private project, this section was added to the ordinance to assist the City in meeting areas required to be treated using full-capture devices and the trash load reductions to the storm drain collection system that are required in the MRP.</p>	<p>City achieve a mandatory minimum number of full-capture trash control devices to treat runoff from an area equivalent to 30% of the Retail/Wholesale land that drain to our MS4. Sunnyvale is required to treat an area equivalent to 164 acres by 2014 through the installation of these devices. Requiring new and redevelopment projects to install full-capture devices and maintain them on their property as part of their stormwater management will assist the City in meeting this treatment area requirement. It will also help the City meet trash load reduction requirements identified in Provision C.10.a (i) and C.10.c as described below:</p> <ul style="list-style-type: none"> • Provision C.10.a (i) requires the city implement a short-term trash loading reduction plan to attain a 40% trash load reduction by 2014. • Provision C.10.c includes a long-term trash load reduction requirement for the MS4 that the City provide a plan and report on the implementation of measures to reduce trash loads to the collection system by 70% in 2017 and 100% in 2022.
<p>12.60.140</p>	<p>Information needed for Stormwater Management Plans was simplified and clarified to address small changes in the MRP and to eliminate some information that turned out to be unnecessary, based on current practices and MRP requirements.</p>	<p>Though the submission of a Stormwater Management Plan is not specifically required in the MRP, the elements of the plan for each approved project must be reported annually to the Water Board. Also, since the City is required to inspect facilities under provision C.3.b, and the information identified in the Stormwater Management Plan is essential for the City to show compliance with this provision.</p>
<p>12.60.150</p>	<p>Numeric sizing criteria for stormwater treatment systems was revised to add an option for combination flow and design based</p>	<p>The MRP Provision C.3.d added this combined option for hydraulic sizing design criteria, so it was added to the existing volume and flow design options.</p>

	treatment systems.	
12.60.155	Low Impact Development (LID) requirements for regulated projects will become effective in December 2011.	This new requirement of the MRP, Provision C.3.c.i.(2), calls for regulated projects to treat 100% of the amount of stormwater runoff for the project's drainage area using LID treatment measures onsite or at an offsite, joint stormwater treatment facility by Dec. 1, 2011. LID measures include (but are not limited to) collection of rainwater for reuse on site, directing runoff from impermeable areas to vegetated areas, use of permeable paving materials for sidewalks, walkways, driveways, and uncovered parking lots.
12.60.150	Hydromodification Management Requirements were revised to meet changes from the MRP language.	MRP provision C.3.g included some revisions to the previous requirements of the Hydromodification Management Plan. Language was added to clarify that the HM requirements apply to projects that create or replace 1 acre or more of impervious surface and are located in the HM applicability zones shown on maps in the City's BMP Guidance manual then projects must comply with the requirement that post-project runoff shall not exceed pre-project runoff rates and durations where such flows would be likely to increase erosion or impacts to creeks, creek beds, and banks. Language was added to encourage projects that are less than 1 acre in size in identified areas to implement HM approaches for controlling flows from sites.
12.60.170	This section for design standards concerning flooding was not changed.	
12.60.180	The requirements for alternative certification of adherence to numeric sizing criteria for stormwater treatment systems have changed to require that there be no conflict between the	Provision C.3.f of the MRP identifies the criteria for any third-party certification of design criteria required in Provision C.3.d. This provision adds the requirement that any consultant or contractor hired to design or construct stormwater treatment systems for a

	certification provider and the system designer, that third party certification is required (by city staff or a third party without a conflict with the project applicant) and that the city verify certification training.	regulated project shall not be the firm that provides third-party certification. The ordinance language was changed to include a requirement that third-party certifications be performed by a contractor meeting the permit requirements, that would be either provided by city staff or hired by the City and then be paid for by the project applicant pursuant to 12.60.060, to remove the potential for a conflict of interest as required by the permit.
12.60.190	Infiltration treatment measures section had some minor modifications to include criteria for infiltration into soil and sites with known contamination.	This section was revised to include new language from the MRP Provision C.3.d (iv) regarding limitations and requirements for infiltration devices used as part of stormwater treatment systems.
12.60.200	Only minor edits to the requirements to maintain stormwater treatment and hydromodification best management practices were made.	Minor edits to clarify language were made and the requirement to manage HM controls, if any, was added.
12.60.210	This section was added to clarify what the specific problems that would require a revised Stormwater Management Plan be submitted to the City by the facility owner.	This section was revised to address enforcement requirements identified in the MRP for the O & M verification program actions in provision C.3.h, and enforcement response plan implementation requirements of C.4.c, and C.5.b.
12.60.220	Added CASQA BMP handbooks as references.	Revisions to the CASQA handbooks as well as updates to the City's current BMP guidance manual are referenced here.
12.60.230	Minimum source control measures for all dischargers are added to address stormwater discharges from outdoor activities at a business or facility that can impact stormwater discharges from a site.	This section was revised to emphasize the requirements for pollutant sources from all dischargers as identified in provision C.4, C.5, and C.6 of the MRP.
12.60.240	Authority to inspect is clarified for various agency inspectors.	Added access requirements for O&M verification requirements of MRP Provision C.3.h for inspections of post-

		construction BMPs.
12.60.250 & 12.60.260	Sections are basically the same with only minor edits	
12.60.270 12.60.280 12.60.290	Waiver for impracticability, Impracticability criteria, & Regional Project Sections were repealed.	These three sections were repealed due to changes in the requirements of the MRP. Provision C.3.e outlines the new options for Alternative or In Lieu Compliance for provision C.3.c (LID requirements). MRP Provision C.3.e.iv (3) specifically supersedes any Alternative Compliance policies that co-permittees had in place under the previous permit that were approved by the Water Board's Executive Officer.
12.60.300	Alternative Compliance section was added to replace 12.60.270 – 290 above.	This new section was added to meet the requirements of MRP Provision C.3.e for Alternative or In Lieu compliance.
12.60..305	Public Nuisance section was added.	This section was added to clarify what a public nuisance was and to provide the legal authority to enforce.
12.60.310 12.60.315 12.60.320	Manner of Notification of Violation, Administrative process and civil penalties, and Administrative hearing and appeals process sections were added.	These three sections were added or revised to provide the necessary enforcement tools for PWD and CDD inspectors to apply their Enforcement Response Plans, as required in Provisions C.4, C.5, and C.6 of the MRP. These sections help clarify the process for enforcement and any penalties that may be issued to responsible parties.
12.60.330	Emergency Corrections section was revised and renamed from “Repeals” which were moved to 12.60.320.	This section was added to ensure that public expenditures to correct emergency problems at a site were recoverable from the property owner and occupant.
12.60.340	Administrative proceedings section was repealed.	This section was repealed and replaced with sections 12.60.310, 12.60.315, and 12.60.320 to clarify the enforcement process and penalties.
12.60.350	Judicial civil penalties had a small revision.	The limit for the penalty was removed.
12.60.360	Remedies cumulative – no changes.	

ATTACHMENT C

Acronyms and definitions used in Attachment B, SMC 12.60 Report to Council

Acronym	Definition
BMP	<u>Best Management Practices</u> – guidance that may include a listing of techniques, design criteria, standards, and practices for the prevention of stormwater pollution, its treatment, or control of flow.
CASQA	<u>California Stormwater Quality Association</u> – a statewide non-profit association of municipal agencies and consultants that assists the State Water Resources Control Board and municipalities in implementing NPDES stormwater mandates.
Full-Trash Capture Device(s)	Is any single device or series of devices that traps all particles of litter retained by a 5 mm mesh screen, has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour storm in the sub-drainage area, and has been approved by the San Francisco Bay Regional Water Quality Control Board Region 2 as meeting these criteria.
HM (formerly HMP)	<u>Hydromodification Management</u> – an approach to manage increases in the magnitude, volume, and duration of stormwater runoff from new and significant redevelopment projects to protect streams from increased potential erosion or other adverse habitat and water quality impacts resulting from these increases.
LID	<u>Low Impact Development</u> - is an approach to new and redevelopment designs to reduce stormwater runoff and mimic a site's predevelopment hydrology by minimizing the amount of disturbed areas and impervious cover and then infiltrating, storing, detaining, evapotranspiring, and/or biotreating stormwater runoff close to its source. LID principles treat stormwater as a resource, rather than a waste product that must be removed from the site.
MEP	<u>Maximum Extent Practicable</u> – a standard for implementation of management programs to the maximum extent possible, taking into account elements such as: the severity of a problem, public health risks, environmental benefits, pollutant removal effectiveness, regulatory compliance, cost, and technical feasibility.
MRP	<u>Municipal Regional Permit for Stormwater</u> – the San Francisco Bay Regional Water Quality Control Board Stormwater NPDES permit (Order R2-2009-0074) issued to 76 cities, counties and water agencies surrounding San Francisco Bay on October 14, 2009.
MS4	<u>Municipal Separate Storm Sewer System</u> – is the city’s infrastructure for collecting and transporting stormwater, which includes storm drain inlets/catch basins, connecting pipes, and outfalls or stormwater pump stations.
NPDES	<u>National Pollutant Discharge Elimination System</u> – is the permit system authorized under the Federal Clean Water Act that regulates discharges of pollutants into waters of the United States.
SCVURPPP	<u>Santa Clara Valley Urban Runoff Pollution Prevention Program</u> – the 13 south bay cities, county, and Santa Clara Valley Water District that work together to implement stormwater permit requirements region-wide.
SIC	<u>Standard Industrial Classification</u> -is a code number used by Federal agencies for classifying business establishments for the purpose of collecting, analyzing, and publishing data.