

ORDINANCE NO. 05-283

EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AMENDING SECTIONS 10.16.020, 10.16.031, 10.16.040 AND 10.16.050 OF CHAPTER 10.16
STORMWATER POLLUTION PREVENTION MEASURES OF THE LOS ALTOS
MUNICIPAL CODE TO IMPLEMENT NEW REGIONAL WATER QUALITY CONTROL
BOARD PERMIT REQUIREMENTS

The City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. Legislative Findings. The City Council finds and declares as follows:

(a) The City of Los Altos is a member of the Santa Clara Valley Urban Runoff Pollution Prevention Program (Program), which consists of fifteen public agencies in Santa Clara County.

(b) The California Regional Water Quality Control Board, San Francisco Bay Region, (Board) administers the National Pollutant Discharge Elimination System (NPDES) permit program under the Federal Water Pollution Control Act.

(c) In 2001, the Board adopted order Nos. 01-024 and 01-119 under NPDES Permit No. CAS029718 (collectively, the Permit), which regulates stormwater discharges of the members of the Program by requiring the Program members to implement stormwater management plans that meet certain performance standards, including a performance standard for certain new development and significant redevelopment projects in each member jurisdiction. Los Altos Municipal Code Chapter 10.16 implements the requirements of the Permit applicable to new development and significant redevelopment.

(d) On July 20, 2005, the Board adopted Order No. R2-2005-0035 amending the Permit requirements to make the size criteria smaller for the new development and significant redevelopment projects required to implement stormwater pollution prevention measures and to require certain new development and significant redevelopment projects to implement measures to reduce or avoid hydromodification impacts. It is necessary to amend certain sections of Los Altos Municipal Code Chapter 10.16 to implement these new Permit requirements.

SECTION 2. Section 10.16.020 Definitions of Chapter 10.16 Stormwater Pollution Prevention Measures, Title 10 Public Services of the Los Altos Municipal Code is hereby amended to read in its entirety as follows:

10.16.020 Definitions.

The following words and phrases, whenever used in this chapter, shall be as set forth below:

(a) "Development project" shall mean any private or public project under the planning and building authority of the city that creates impervious surface and is in one of the categories described in subsections (a)(1), (a)(2), or (a)(3) below

(1) A project shall be considered a development project if it results in the creation of an amount of impervious surface collectively over the entire project site, including but not limited to parking lots, roof area, streets, and private walkways equal to or more than one of the following thresholds:

- i. One acre (43,560 square feet); or
- ii. 10,000 square feet if the project is in one of the following land use categories:
 - a. Auto service stations;
 - b. Auto wrecking or salvage yards.

(2) A project shall be considered a development project if it results in the creation of 10,000 square feet or more of impervious surface area used for one of the following functions:

- i. Loading dock; or
- ii. Surface parking lot.

(3) A project shall be considered a development project if it results in the creation of 10,000 square feet or more of impervious surface area used for one of the functions described below and the project developer fails to demonstrate to the city engineer that potential pollutant loading will be satisfactorily mitigated through post-construction source control and site design practices:

- i. Outdoor vehicle or equipment maintenance (including washing and repair);
- ii. Outdoor handling or storage of waste or hazardous materials;
- iii. Outdoor manufacturing;
- iv. Outdoor food handling or processing;
- v. Outdoor animal care;
- vi. Outdoor horticultural activities; or
- vii. Other outdoor activities of industrial or commercial uses.

(4) For projects that include one of the land use functions listed in subsections (a)(2) or (a)(3) above, the development project shall consist of only the portion of the site containing the specific land use function.

(5) A project in one of the following categories shall not be considered a development project regardless of the amount of impervious surface it creates:

- i. An individual single-family home, which is not part of a larger common plan of development, that is designed with appropriate source control and site design measures; or

ii. Sidewalks, bicycle lanes, trails, bridge accessories, guardrails and landscape features located in the public right-of-way.

(6) A development project shall include the issuance of a permit for building, construction, reconstruction, subdivisions, parcel maps or occupancy, but not a permit to operate.

(b) "Hydromodification management measures" shall mean any combination of on-site, off-site, and in-stream control measures incorporated into specified development projects and significant redevelopment projects in order to reduce stormwater runoff so as to not cause an increase in the erosion potential of the receiving stream over the pre-project condition, in accordance with and as required by Order No. 01-119 under NPDES Permit No. CAS029718 issued by the California Regional Water Quality Control Board, San Francisco Bay Region (Regional Board), as it may be amended from time to time.

(c) "Impervious surface" shall mean land that has been modified by the action of persons to reduce the land's natural ability to absorb and hold rainfall. This includes any hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions pre-existent to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions pre-existent to development. Impervious surfaces include, but are not limited to, rooftops, pavement, sidewalks, walkways, patios, driveways, and parking lots where such surfaces are not constructed with pervious materials and/or are not designed to have zero stormwater discharge.

(d) "Permanent stormwater pollution prevention measures" or "PSPPM" shall mean any combination of source control measures, site design measures, and/or stormwater treatment measures that reduce stormwater pollution to the maximum extent practicable as required by Order No. 01-119 under NPDES Permit No. CAS029718 issued by the Regional Board, as it may be amended from time to time. The design and implementation of the PSPPM must be in accordance with the guidelines and technical specifications provided by the city or other city-approved authority and the requirements of Order No. 01-119.

(e) "Significant redevelopment project" shall mean any private or public project under the planning and building jurisdiction of the city on a previously developed site that creates additional or replacement impervious surface and is in one of the categories described in subsections (e)(1), (e)(2), or (e)(3) below.

(1) A project shall be considered a significant redevelopment project if it results in the addition or replacement of an amount of impervious surface collectively over the entire project site, including but not limited to parking lots, roof area, streets, and private walkways equal to or more than one of the following thresholds:

- i. One acre (43,560 square feet); or
- ii. 10,000 square feet if the project is in one of the following land use categories:
 - a. Auto service stations;
 - b. Auto wrecking or salvage yards.

(2) A project shall be considered a significant redevelopment project if it results in the addition or replacement of 10,000 square feet or more of impervious surface area used for one of the following functions:

- i. Loading dock; or
- ii. Surface parking lot.

(3) A project shall be considered a significant redevelopment project if it results in the addition or replacement of 10,000 square feet or more of impervious surface area used for one of the functions described below and the project developer fails to demonstrate to the city engineer that potential pollutant loading will be satisfactorily mitigated through post-construction source control and site design practices:

- (i) Outdoor vehicle or equipment maintenance (including washing and repair);
- (ii) Outdoor handling or storage of waste or hazardous materials;
- (iii) Outdoor manufacturing;
- (iv) Outdoor food handling or processing;
- (v) Outdoor animal care;
- (vi) Outdoor horticultural activities; or
- (vii) Other outdoor activities of industrial or commercial uses.

(4) For projects that include one of the land use functions listed in subsections (e)(2) or (e)(3) above, the significant redevelopment project shall consist of only the portion of the site containing the specific land use function.

(5) A project in one of the following categories shall not be considered a significant redevelopment project regardless of the amount of impervious surface it creates:

- i. Interior remodels; or
- ii. Routine maintenance or repair including, but not limited to, 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 the street or right-of-way are developed.

(f) "Site design measures" shall mean any project design features that reduce stormwater pollution by decreasing or slowing stormwater runoff or intercepting the flow of runoff across a series of contiguous impervious surfaces.

(g) "Source control measures" shall mean any project design features that aim to prevent stormwater pollution by eliminating or reducing the potential for contamination at the source of pollution.

(h) "Stormwater treatment measures" shall mean any engineered system designed to remove pollutants from stormwater by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

SECTION 3. Section 10.16.031 Hydromodification Management Measures Required is hereby added to Chapter 10.16 Stormwater Pollution Prevention Measures, Title 10 Public Services of the Los Altos Municipal Code to read in its entirety as follows:

10.16.031 Hydromodification Management Measures Required

(a) All development projects that result in the creation of one acre (43,560 square feet) or more of impervious surface and all significant redevelopment projects that result in the addition or replacement of one acre (43,560 square feet) or more of impervious surface shall implement hydromodification management measures, except for the following projects:

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

2. Transit-oriented developments located within a one-half mile radius of existing or planned transit stations and/or intermodal transit facilities, including rail and bus stations, terminals or major transfer points.

3. Projects located within areas that drain to stream channels within the tidally-influenced area.

4. 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.

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

6. Projects that are located in subwatershed areas that are 90% or more built-out and have more than 65% impervious surface.

7. Projects that are less than 50 acres in total project size that are located in subwatershed areas that are 90% or more built-out and have less than 65% impervious surface.

8. Projects that demonstrate, upon completion of stream-specific modeling studies that are consistent with the Hydromodification Management Plan approved by the Regional Board, that there will be no increase in potential for erosion or other adverse impact to beneficial uses to any waters of the State.

The exceptions described above shall be applied in accordance with the provisions of the requirements of Order No. 01-119 under NPDES Permit No. CAS029718 issued by the Regional Board, as it may be amended from time to time, and the provisions of the Hydromodification Management Plan for the Santa Clara Valley Urban Runoff Pollution Prevention Program as approved by the Regional Board.

(b) Hydromodification management measures shall be designed and implemented in accordance with guidelines and technical specifications provided by the city or other city-approved authority, the requirements of Order No. 01-119 under NPDES Permit No. CAS029718 issued by the Regional Board, as it may be amended from time to time, and the provisions of the Hydromodification Management Plan for the Santa Clara Valley Urban Runoff Pollution Prevention Program as approved by the Regional Board.

(c) All hydromodification management measures are subject to inspection and approval by the city engineer.

SECTION 4. 10.16.040 Inspection and Maintenance of Chapter 10.16 Stormwater Pollution Prevention Measures, Title 10 Public Services of the Los Altos Municipal Code is hereby amended to read in its entirety as follows:

16.11.040 Inspection and Maintenance

(a) The property owner(s), its administrators, successors, or any other persons, including any homeowners association, shall take all necessary actions to ensure that the permanent stormwater pollution prevention measures and hydromodification management measures are properly maintained so that they continue to operate as originally designed and approved. The maintenance of the control measures shall be in accordance with the terms and conditions of a maintenance agreement and shall be in the form of a covenant running with the land, environmental mitigation measures, a use permit, enforceable conditions of approval, or other legal agreement. The agreement shall provide access to the extent allowable by law for representatives or agents of city for the purposes of verification of proper operation and maintenance of the specific PSPPM and hydromodification management measures. 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 property owner that has been required by this chapter to construct or install and maintain permanent stormwater pollution prevention measures and hydromodification management measures 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 PSPPM and hydromodification management measures.

(c) It shall be unlawful to alter, modify or change any components of the permanent stormwater pollution prevention measures or hydromodification management measures without first obtaining the written certification of the city engineer that the requirements of this chapter have been satisfied.

SECTION 5. Section 10.16.050 Monitoring and Reporting of Chapter 10.16 Stormwater Pollution Prevention Measures, Title 10 Public Services of the Los Altos Municipal Code is hereby amended to read as follows:

16.11.050 Monitoring and Reporting

(a) As a condition of approval, the city engineer may require the owner of a development project or significant redevelopment project, to establish a self-monitoring and reporting program to ensure all PSPPM and hydromodification management measures are in compliance with the provisions of this chapter. The self-monitoring report must be in accordance with the guidelines approved by the city engineer.

(b) The city engineer, or his or her authorized representatives, may conduct all inspection, surveillance, and monitoring procedures necessary to assure compliance with applicable sections of this chapter or with state regulations.

(c) Representatives of the city engineer shall be authorized to enter, without unreasonable delay, any premises of any project subject to the requirements of this chapter to carry

out inspections and monitoring to assure compliance with this chapter and applicable state of California regulations. Records shall be available to city personnel for inspection and copying.

(d) In addition to any other remedy available to the city, city inspectors may issue compliance directives at the time of the inspection to require the owner to implement actions that will correct violations of this chapter.

SECTION 6. The Council finds that adoption of this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) as an action taken by a regulatory agency to protect the environment (CEQA Guidelines Section 15308).

SECTION 7. This Ordinance, pursuant to Government Code section 36937, is hereby declared to be necessary as an emergency measure to protect water quality in the City, and as such shall take effect immediately and be in full force and effect after its adoption after publication at least once in an official newspaper of the City for the following reasons:

The City, as a member of the Santa Clara Valley Urban Runoff Pollution Prevention Program (Program), is mandated to adopt flow controls for stormwater runoff and implementation of Stormwater treatment control, with hydraulic sizing specification, for projects from 10,000 square feet to one acre of new or redevelopment impervious surface. These new requirements must be adopted by October 20, 2005.

The City desires to adopt the amendments to the Los Altos Municipal Code Chapter 10.16, to efficiently enforce the provisions of the City Code and to avoid conflicts with the flow control and treatment requirements on new and redevelopment projects, and to further protect the environment.

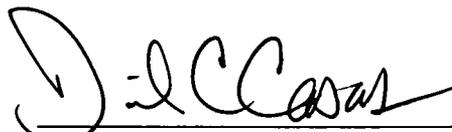
In order to accomplish these goals, Los Altos Municipal Code Chapter 10.16, as amended, must be adopted by means of this emergency ordinance.

PASSED FOR THE PURPOSE OF PUBLICATION this 13th day of September, 2005, by the following roll call vote:

AYES: COLE, MOSS, PACKARD, LEAR, CASAS

NOES: NONE

ABSENT: NONE


David Casas, MAYOR

ATTEST:


Susan Kitchens, CITY CLERK