

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: The Honorable City Council
FROM: Yugal K. Lall, City Engineer/Public Works Director
Prepared By: Shaun Kroes, Management Analyst
DATE: January 24, 2008 (CC Meeting of 02/06/08)



SUBJECT: Consider Ordinance to Renumber Section 8.52.140 to Section 8.52.180 and to Add Section 8.52.150 Business Inspections, Section 8.52.160 Business Inspection Fee and Section 8.52.170 Business Re-Inspection Fee to Chapter 8.52 Stormwater Quality Management of Title 8 of the Moorpark Municipal Code

BACKGROUND

The City Council approved Goal to Strengthen the City's fiscal stability and long-range financial growth includes the following Objective: "develop a fee program for businesses requiring inspection to insure NPDES¹ compliance." The City of Moorpark, in compliance with the California Regional Water Quality Control Board (RWQCB) Municipal Storm Water NPDES Permit, performs NPDES inspections (business inspections) once every two years at approximately 140 designated businesses. The state does not provide funding for this requirement, and presently, the program costs have been funded using the City's General Fund and existing City staff and contract services.

DISCUSSION

The proposed ordinance (Section 8.52.150) establishes a business inspection program, in compliance with the NPDES Permit. The current Permit as written identifies automotive and food service facilities as subject to inspection. The Permit requires that each facility be inspected once every two years. Inspection is required for a variety of stormwater compliance practices, including discharging washwater into the sanitary sewer (instead of the storm drain system), proper storage of trash and recycling containers and employee education of proper stormwater practices. The proposed Section 8.52.160 provides the funding mechanism for the City's inspection program, including administrative costs, with an annual Business Inspection Fee. Proposed Section 8.52.170 establishes a Re-

¹ NPDES stands for National Pollutant Discharge Elimination System

inspection Fee, for any business or commercial facility that has been found to have a violation during the initial inspection and must be re-inspected within six months of the first violation.

The City inspects food facilities using City staff, while automotive service facilities are inspected by the County of Ventura – Environmental Health Division. The City pays the County of Ventura for its services. As mentioned earlier, monies from the General Fund are used to pay for business inspections. Obtaining funding from those inspected businesses would enable resources from the General Fund to be spent on broader programs meant to benefit the entire community.

City staff has examined three inspection methods to determine an appropriate fee.

1. Maintain current practice – City staff performs food facility inspections, County performs automotive facility inspections.
2. Contract with Consultant, to provide inspectors and create reports.
3. Contract with the County of Ventura – Environmental Health, to provide all NPDES inspections.

The cost scenario is detailed below:

Option	Cost/Inspection	Proposed Annual Fee
Current Practice	\$82.94 (restaurants) \$79.17 (automotive)	\$40.00 (restaurants) \$40.00 (automotive)
Private Consultant	\$122.12 (all facilities)	\$60.00 (all facilities)
County of Ventura	\$79.17 (all facilities)	\$40.00 (all facilities)

At this time, the County has not confirmed its ability to provide inspection services for all food facilities and automotive facilities in Moorpark. City staff is continuing to explore the pros and cons to each scenario, and will provide a recommendation at the next Council meeting when presenting the fee resolution. The Permit requires one inspection every two years. Staff proposes breaking the inspection fee into an annual fee requirement for the proposed ordinance. This provides two main benefits, an annual fee will be easier to track and administer, and the smaller dollar amount will be easier for many of the smaller food facilities that are inspected. The fee includes management and field staff hourly rates including benefits, plus, a 15 percent administration fee. The fee would be administered and collected by the City's Community Development Department. If the City Council introduces this ordinance, staff will prepare a fee resolution for consideration at a future Council meeting. The fee resolution will also include the re-inspection fee. This is not a development fee. The City Attorney has confirmed that the public hearing requirement

pursuant to Government Code 66016 does not apply and has reviewed the proposed Ordinance.

ENVIRONMENTAL DETERMINATION

In accordance with the City's environmental review procedures adopted by resolution, the Planning Director determines the level of review necessary for a project to comply with the California Environmental Quality Act (CEQA). Some projects may be exempt from review based upon a specific category listed in CEQA. Other projects may be exempt under a general rule that environmental review is not necessary where it can be determined that there would be no possibility of significant effect upon the environment. A project which does not qualify for an exemption requires the preparation of an Initial Study to assess the level of potential environmental impacts.

The Planning Director has reviewed this project and found it to qualify for a Categorical Exemption in accordance with Section 15309 (Inspections) of California Code of Regulations (CEQA Guidelines). No further environmental documentation is required.

FISCAL IMPACT

This fee is expected to generate \$5,600 to \$8,400 a year. This revenue will be used to fund business inspections performed for stormwater Permit requirements. This Ordinance will affect approximately 140 Moorpark businesses.

STAFF RECOMMENDATION

1. Introduce Ordinance No. _____ for first reading, waive full reading, and schedule second reading and adoption for February 20, 2008.
2. Direct staff to prepare a fee resolution to implement the new Sections and schedule for the February 20, 2008 meeting.

ATTACHMENT

1. Draft Ordinance

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, RENUMBERING SECTION 8.52.140 TO SECTION 8.52.180 AND ADDING SECTION 8.52.150 BUSINESS INSPECTIONS, SECTION 8.52.160 BUSINESS INSPECTION FEE, AND SECTION 8.52.170 BUSINESS RE-INSPECTION FEE, TO CHAPTER 8.52 STORMWATER QUALITY MANAGEMENT, OF TITLE 8 OF THE MOORPARK MUNICIPAL CODE

WHEREAS, on August 3, 2000, the California Regional Water Quality Control Board, Los Angeles Region, adopted Order Number 00.108 (NPDES Permit No. CAS004002) (Permit) for storm water and urban runoff discharges in the Ventura County area; and

WHEREAS, the Permit identifies the City of Moorpark (City) as a co-permittee of the Ventura County Permit and authorizes the City to regulate its storm drain system; and

WHEREAS, the Permit requires all co-permittees to develop an inventory of designated industrial and commercial businesses and conduct business inspections; and

WHEREAS, the State of California or the Federal government does not provide any funds to conduct the aforementioned inspections, thus making this an unfunded mandate; and

WHEREAS, the City desires to create a fee to charge affected businesses in order to provide sufficient revenue for funding inspection services.

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

SECTION 1. Chapter 8.52 of Title 8 of the Moorpark Municipal Code is hereby amended by renumbering Section 8.52.140 to Section 8.52.180 and adding new Sections –8.52.150, 8.52.160, and 8.52.170, to read as follows:

“8.52.150 Business inspections.

The Director shall cause each of the business facilities designated in the Permit to be inspected at least as often as required by the Permit. This inspection authority is in addition to all other inspection authority authorized by this Code. To the extent permitted by law, the Director may enter upon and inspect any private premises to verify compliance with this code. If the Director is engaged in duly authorized investigatorial duties

during reasonable hours, no person shall, refuse, restrict, resist or attempt to refuse, restrict or resist entrance of any investigator into any portion of any property subject to this Chapter. Notwithstanding section 8.52.180, any person violating this section shall be guilty of a misdemeanor and subject to business registration revocation. Any written decision by the Director to revoke the business registration may be appealed in writing to the City Manager within 10 days of issuance of written notice. The decision of the City Manager shall be final.

8.52.160 Business inspection fee.

A. Every person required to register a business pursuant to Chapter 5.04 of this code and also engaged in a business designated in the Permit as a designated source of pollution business inspection site shall pay an annual Business Inspection Fee.

B. The Business Inspection Fee shall:

1. Be established by resolution of the City Council.
2. Be reasonable, fair and equitable in nature and proportionately representative of the costs incurred by the City.
3. Not exceed the City's estimated reasonable cost of performing the inspections required by the Permit, including administrative costs.
4. Bear a reasonable relationship to the costs borne by each affected business.
5. Not be levied for general governmental services.

C. The Community Development Department shall administer and collect the Business Inspection Fee.

D. No business registration issued pursuant to Chapter 5.04 of this code shall be issued or renewed until payment of the Business Inspection Fee is received by the Community Development Department.

8.52.170 Business re-inspection fee.

Any business or commercial facility inspected and found to be in violation of the Permit, shall be re-inspected within six (6) months of the date of the initial inspection and shall be subject to a Re-inspection Fee.

A. The amount of the Re-inspection Fee shall be established by resolution of the City Council.

B. Any provision herein that pertains to registration or administration and collection of the Business Inspection Fee shall also pertain to the Re-inspection Fee.”

SECTION 2. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any 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, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 3. This Ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 4. The City Clerk shall certify to the passage and adoption of this Ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and the adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published once in the Moorpark Star a newspaper of general circulation, as defined in Section 6008 of the Government Code, for the City of Moorpark, and which is hereby designated for that purpose.

PASSED AND ADOPTED this ____ day of ____, 2008

Patrick Hunter, Mayor

ATTEST:

Deborah S. Traffenstedt, City Clerk