

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** The Honorable City Council

**FROM:** Yugal K. Lall, City Engineer/Public Works Director  
Prepared By: Shaun Kroes, Senior Management Analyst

**DATE:** June 4, 2010 (CC Meeting of 06/16/10)

**SUBJECT:** Consider Resolution Revising Stormwater Inspection Fees and Establishing New Fees Consistent with Sections 8.52.150, 8.52.160 and 8.52.170 of the Moorpark Municipal Code (Business Inspection) Relating to Stormwater Quality Management



**SUMMARY**

On April 16, 2008, City Council adopted Resolution 2008-2704, which established Business Inspection Fees and Re-inspection Fees (Fees) for stormwater inspections provided at automotive and food service facilities. Since the adoption of the Resolution, the Los Angeles Regional Water Quality Control Board (RWQCB) approved a new Municipal Storm Water National Pollutant Discharge Elimination System (NPDES) Permit 09-0057 (Permit 09-0057) on May 7, 2009. In addition to continuing inspections at automotive and food service facilities, Permit 09-0057 established new inspection requirements for nursery, laundry, and industrial facilities. Staff has revised the existing Fees for automotive and food service facilities and proposed new Fees at nursery, laundry, and industrial facilities with a proposed effective date of July 1, 2010 (Attachment 1, draft resolution).

**BACKGROUND**

As mentioned in the Summary, Resolution 2008-2704 established Fees for stormwater inspections provided at automotive and food service facilities. The Fees established were:

<b>Facility Inspected</b>	<b>Cost/ Inspection</b>	<b>Annual Inspection Fee</b>	<b>Cost/ Re-Inspection</b>	<b>Re-Inspection Fee</b>
Food	\$89.00	\$45.00	\$45.00	\$45.00
Automotive	\$79.17	\$40.00	\$40.00	\$40.00

The Fees are administered and collected by the City's Community Development Department. Business Inspection Fees are collected at the same time as the Business Registration or Business Registration renewal. Re-inspection Fees are collected after a violation has occurred and the City must re-inspect the business. The Business Inspection Fee was divided over a two-year period in order to lower the annual dollar amount expended by businesses. The annual collection was also intended to establish an easier tracking and administering process for City staff. Per City Council direction, the Business Inspection Fees were phased in over a two-year period, starting July 1, 2008. The table below details the Fees collected between FY 2008/09 and FY 2009/10.

**Effective July 1, 2008**

<b>Facility Inspected</b>	<b>Inspection Fee</b>	<b>Re-Inspection Fee</b>
Food	\$22.50	\$45.00
Automotive	\$20.00	\$40.00

**Effective July 1, 2009**

<b>Facility Inspected</b>	<b>Inspection Fee</b>	<b>Re-Inspection Fee</b>
Food	\$45.00	\$45.00
Automotive	\$40.00	\$40.00

If a violation is discovered during an inspection, the business must be re-inspected within six months of the violation, although, typically, the re-inspection occurs within four weeks of the violation. The Re-Inspection Fee was established at half the cost as the regular Business Inspection Fee since re-inspections usually take about half the time as regular inspections.

The Fees established in 2008 were based upon the following criteria:

1. A third-party contractor (Charles Abbott Associates) was to provide the inspection service for food facilities.

2. A third-party contractor (Ventura County Environmental Health) was to provide the inspection service for automotive facilities.
3. The Fees included travel time to and from the inspected sites, management and field staff hourly rates, including benefits, plus a 15 percent administrative fee.

## **DISCUSSION**

Permit 09-0057 continues the inspection requirements for automotive and food facilities, and adds inspection requirements at nurseries, laundries and industrial facilities. As mentioned previously, Resolution 2008-2704 was based upon providing inspection services through a third party contractor (either Charles Abbott Associates or Ventura County Environmental Health). In May 2010, Ventura County Environmental Health announced that it could no longer perform inspection services at automotive facilities due to the increased inspection requirements of Permit 09-0057. In order to provide a clear explanation for each inspection fee, the following paragraphs are separated based upon the respective facility.

### Automotive Service Facilities:

Permit 09-0057 continues the requirement that automotive service facilities, which include general automotive service facilities, retail gasoline outlets, and automotive dealerships, be inspected. The inspection requires that best management practices (BMPs) as detailed in Permit 09-0057 be effectively implemented at each facility. The previous NPDES permit required that automotive service facilities be inspected once every two years. Permit 09-0057 requires that automotive service facilities be inspected twice during the five-year permit cycle. However, it is expected that any future permits would continue the inspection requirements. Consequently, it is staff's recommendation that the City continue inspecting automotive service facilities once every two years.

The current Business Inspection Fee for automotive service facilities is \$80.00/inspection, or \$40 per year. The current Re-inspection Fee is \$40 per re-inspection. With the loss of Ventura County Environmental Health as an inspector, City staff proposes that inspection services continue to be performed by a consultant. However, due to the County's withdrawal from providing inspection services, there will be a slight increase in costs due to a new third-party contractor providing the service. The proposed Fees for automotive service facilities are detailed as follows:

<b>Automotive Service Facility</b>	<b>Cost/ Inspection</b>	<b>Annual Inspection Fee</b>	<b>Cost/ Re-Inspection</b>	<b>Re-Inspection Fee</b>
Current Fees	\$80.00	\$40.00	\$40.00	\$40.00
Proposed Fees	\$90.00	\$45.00	\$45.00	\$45.00
Percent Increase	12.50%	12.50%	12.50%	12.50%

The proposed Fees would cover consultant and City staff time (approximately one hour per facility) including travel time to and from the inspected sites, inspection time at the facility, data management, and a 15% administrative fee.

**Food Service Facilities:**

Permit 09-0057 continues the requirement that food service facilities (generally referred to as restaurants in Permit 09-0057) be inspected. Food service facilities include facilities that sell prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption. The inspection requires that best management practices (BMPs) as detailed in Permit 09-0057 be effectively implemented at each facility. The previous NPDES permit required that food service facilities be inspected once every two years. Permit 09-0057 requires that food service facilities be inspected twice during the five-year permit cycle. However, it is expected that any future permits would continue the inspection requirements. Consequently, it is staff's recommendation that the City continue inspecting food service facilities once every two years.

The current Business Inspection Fee for food service facilities is \$90.00/inspection, or \$45 every year. The current Re-inspection Fee is \$45/re-inspection. Inspection fees would remain the same as they currently exist. The proposed Fees for food service facilities are detailed as follows:

<b>Food Service Facility</b>	<b>Cost/ Inspection</b>	<b>Annual Inspection Fee</b>	<b>Cost/ Re-Inspection</b>	<b>Re-Inspection Fee</b>
Current Fees	\$90.00	\$45.00	\$45.00	\$45.00
Proposed Fees	\$90.00	\$90.00	\$90.00	\$90.00
Percent Increase	0.00%	0.00%	0.00%	0.00%

The proposed Fees would cover consultant and City staff time (approximately one hour per facility) including travel time to and from the inspected sites, inspection time at the facility, data management and a 15% administrative fee. Staff hourly rates are based on City Resolution 2010-2896 (staff billing rates, deposits, and fees for development processing).

**Nursery Facilities:**

Permit 09-0057 requires that commercial nurseries and nursery centers (merchant wholesalers, nondurable goods, and retail trade) be inspected. Nursery facilities also include farm supply stores. Although not specifically required by Permit 09-0057, staff recommends that the City consider commercial businesses with an outdoor garden center (such as Target and Do It Center) subject to inspection services as well. These outdoor garden centers are a potential critical source of pollutants, including sediment, pesticides, and fertilizers. The inspection requires that best management practices (BMPs) as detailed in Permit 09-0057 be effectively implemented at each facility. Permit 09-0057 requires that nursery facilities be inspected twice during the five-year permit cycle. However, it is expected that any future permits would continue the inspection requirements. Consequently, it is staff's recommendation that the City continue inspecting nursery facilities once every two years.

Due to the potential variation in time required to inspect a nursery, a two-tiered rate is proposed. Tier 1 is for nursery facilities less than or equal to an acre. Tier 2 is an additional per-acre fee for facilities larger than one acre. The proposed Fees for nursery facilities are detailed on the next page:

<b>Nursery Facility</b>	<b>Cost/ Inspection</b>	<b>Annual Inspection Fee</b>	<b>Cost/ Re-Inspection</b>	<b>Re-Inspection Fee</b>
Tier 1 (< 1 acre)	\$90.00	\$45.00	\$45.00	\$45.00
Tier 2 (> 1 acre) additional per- acre charge rate	\$90.00 plus \$10.00 per- acre above 1-acre	\$45.00 plus \$5.00 per-acre above 1-acre	\$45.00 plus \$5.00 per-acre above 1-acre	\$45.00 plus \$5.00 per-acre above 1-acre

The proposed Fees would cover consultant and City staff time (about one hour for Tier 1 nursery facilities and approximately ten minutes for each additional acre inspected) including travel time to and from the inspected sites, inspection time at the facility, data management, and a 15% administrative fee.

**Laundry Facilities:**

Permit 09-0057 requires that laundry facilities be inspected. Laundry facilities include large commercial cleaning facilities that provide laundry services for businesses as well as small coin-operated facilities and dry cleaners. The inspection requires that best management practices (BMPs) as detailed in Permit 09-0057 be effectively implemented at each facility. Permit 09-0057 requires that laundry facilities be inspected twice during the five-year permit cycle. However, it is expected that any future permits would continue the inspection requirements. Consequently, it is staff's recommendation that the City continue inspecting laundry facilities once every two years.

Due to the potential variation in time required to inspect a laundry facility, a two-tiered rate is proposed. Tier 1 is for laundry facilities open to the general public, such as coin-operated facilities and dry cleaners. Tier 2 is for laundry facilities that serve commercial establishments. The proposed Fees for laundry facilities are detailed below:

<b>Laundry Facility</b>	<b>Cost/ Inspection</b>	<b>Annual Inspection Fee</b>	<b>Cost/ Re-Inspection</b>	<b>Re-Inspection Fee</b>
Tier 1 (general public)	\$67.00	\$33.60	\$33.60	\$33.60
Tier 2 (commercial)	\$90.00	\$45.00	\$45.00	\$45.00

The proposed Fees would cover consultant and City staff time (about thirty minutes for Tier 1 laundry facilities and an hour for Tier 2 laundry facilities) including travel time to and from the inspected sites, inspection time at the facility, data management, and a 15%

administration fee.

**Industrial Facilities:**

Permit 09-0057 requires that industrial facilities be inspected. Industrial facility inspections are slightly different than previous inspected facilities mentioned before. The City must inspect all industrial facilities that are subject to the General Stormwater Permit for Industrial Activities. The inspection requires inspection of best management practices (BMPs) as required by the General Stormwater Permit; confirmation that the industrial facility has a stormwater pollution prevention plan (SWPPP) on site; and confirmation that the industrial facility is complying with the SWPPP. Industrial facilities subject to the General Stormwater Permit are required to be inspected twice during the five-year permit cycle. However, it is expected that any future permits would continue the inspection requirements. Consequently, it is staff's recommendation that the City continue inspecting industrial facilities once every two years.

Some industrial facilities have the ability to file a Notice of Non-Applicability for Category 10 exemption status (Non-exposure status) with the RWQCB. The City must first inspect each facility, however, to determine whether or not the industrial facility qualifies for Non-exposure status. For those industrial facilities that qualify, Permit 09-0057 requires that the City inspect 20% of each facility every year to confirm that the industrial facility continues to have Non-exposure status (essentially, the City could perform a parking lot inspection to confirm that the facility continues to not have any materials exposed to run-off).

Due to the potential variation in time required to inspect an industrial facility, a two-tiered rate is proposed. Tier 1 is for industrial facilities that have the ability to file for Non-exposure status. Tier 2 is for industrial facilities that are required to comply with the General Stormwater Permit for Industrial Activities. The proposed Fees for industrial facilities are detailed below:

<b>Industrial Facility</b>	<b>Cost/ Inspection</b>	<b>Annual Inspection Fee</b>	<b>Cost/ Re-Inspection</b>	<b>Re-Inspection Fee</b>
Tier 1 (Non-exposure)	\$90.00	\$45.00	\$45.00	\$45.00
Tier 2 (General Permit)	\$160.00	\$80.00	\$80.00	\$80.00

The proposed Fees would cover consultant and City staff time (about an hour for Tier 1 industrial facilities and a little less than two hours for Tier 2 industrial facilities) including travel time to and from the inspected sites, inspection time at the facility, data management, and a 15% administrative fee.

As mentioned earlier, after the Non-exposure Industrial facilities have been inspected once, only 20% of the inspected facilities must be re-inspected every year. Staff estimates that only fifteen minutes would be required to re-inspect the Non-exposure Industrial facility by performing a parking lot inspection. Due to the short amount of time expected for these re-inspections (not associated with violations), staff proposes to not charge the Non-exposure Industrial facilities after they have received their first inspection and filed for Non-exposure status. Any Industrial facility that fails to file for Non-exposure status would continue to be inspected once every two years and continue to be charged the Tier 1 rate.

Other Facilities:

Permit 09-0057 includes inspection requirements for additional facilities, including U.S. EPA Phase I and II facilities; municipal landfills, hazardous waste treatment, disposal, and recovery facilities; and facilities subject to the Emergency and Community Right-to-Know Act (EPCRA). To staff's knowledge, there are only four EPCRA facilities in the City of Moorpark. Three of them are already covered by the industrial facility inspections detailed above. In anticipation of the potential facility establishments in the City, staff has proposed Fees for their inspection below.

<b>Other Facility</b>	<b>Cost/ Inspection</b>	<b>Annual Inspection Fee</b>	<b>Cost/ Re-Inspection</b>	<b>Re-Inspection Fee</b>
US EPA Phase I and II Facilities	\$160.00	\$80.00	\$80.00	\$80.00
Municipal Landfills	\$160.00	\$80.00	\$80.00	\$80.00
Hazardous Waste Treatment, Disposal, and Recovery Facilities	\$160.00	\$80.00	\$80.00	\$80.00
EPCRA Facilities	\$160.00	\$80.00	\$80.00	\$80.00

The proposed Fees would cover consultant and City staff time (a little less than two hours for each facility) including travel time to and from the inspected sites, inspection time at the facility, data management, and a 15% administrative fee.

The majority of the various facilities described in the above paragraphs are subject to inspection based on their respective Standard Industrial Classification (SIC) code. The

City of Moorpark does not track SIC codes for Business Registrations, consequently, many facilities are assumed to have a particular SIC code unless otherwise determined during inspections. In an effort to reduce the number of facilities erroneously assessed an incorrect fee, City staff is notifying all facilities that could potentially be assessed a fee. The letter will provide the facility with an opportunity to contact the City if it wishes to prove that it is not subject to inspection. In addition to the letter, staff proposes that the Resolution grant the City Manager the authority to approve a refund to a business that is assessed incorrect Fees.

### **ENVIRONMENTAL DETERMINATION**

The Community Development Director has determined that the proposed revising and adding new business inspection fees for stormwater quality management, consistent with Sections 8.52.150, 8.52.160, and 8.52.170 of the Moorpark Municipal Code, is exempt from the provisions of the California Environmental Quality Act, in that the action of the City Council does not involve the consideration of the approval of a project.

### **FISCAL IMPACT**

Staff has estimated the number of each facility subject to the Fees and the respective funds generated if City Council approves the Fees. It should be noted that funds collected would offset City staff time and consultant's costs associated with inspections performed.

<b>Facility Type</b>	<b>Estimated Number of Facilities</b>	<b>Estimated Annual Fees Collected</b>
Automotive Facility	30	\$1,350.00
Food Facility	100	\$4,500.00
Nursery Facility – Tier 1	2	\$90.00
Nursery Facility – Tier 2	3	\$310.00
Laundry Facility – Tier 1	10	\$336.00
Laundry Facility – Tier 2	4	\$180.00
Industrial Facility – Tier 1	70	\$3,150.00
Industrial Facility – Tier 2	10	\$800.00
Other Facilities	1	\$160.00
<b>Total Facilities</b>	<b>232</b>	<b>\$10,966.00</b>

### **STAFF RECOMMENDATION (ROLL CALL VOTE)**

Adopt Resolution No. 2010-\_\_\_\_\_.

Honorable City Council  
June 16, 2010  
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Attachment 1: Draft Resolution

RESOLUTION NO. 2010-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, REVISING THE BUSINESS INSPECTION FEE SCHEDULE, CONSISTENT WITH SECTIONS 8.52.150, 8.52.160, AND 8.52.170 OF THE MOORPARK MUNICIPAL CODE RELATING TO STORMWATER QUALITY MANAGEMENT, AND RESCINDING RESOLUTION NO. 2008-2704

WHEREAS, on July 1, 2008 Ordinance No. 368, establishing Sections 8.52.150 (Business inspections), 8.52.160 (Business inspection fee) and 8.52.170 (Business re-inspection) of the Moorpark Municipal Code, took effect; and

WHEREAS, the City Council determined that the cost of the implementation of the Ordinance shall be offset by fees for businesses requiring inspection to ensure National Pollutant Discharge Elimination System (NPDES) compliance; and

WHEREAS, the proposed fees for inspections for NPDES compliance are based on estimated City of Moorpark actual costs; and

WHEREAS, the City Council concurs with the Planning Director determination that the proposed revision and addition of new business inspection fees for stormwater quality management, is consistent with Sections 8.52.150, 8.52.160, and 8.52.170 of the Moorpark Municipal Code is exempt from the provisions of the California Environmental Quality Act, in that the action of the City Council does not involve the consideration of the approval of a project.

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

SECTION 1. Fees for the Business Inspection shall be per the schedule in Exhibit "A".

SECTION 2. This Resolution shall become effective July 1, 2010, and Resolution No. 2008-2704 shall be rescinded upon that date.

SECTION 3. The City Manager shall be authorized to refund payment to a business that has been assessed an incorrect fee.

SECTION 4. The annual fee for business inspection shall be reviewed annually by the City Engineer/Public Works Director and Finance Director to determine if a revised

fee resolution should be considered by City Council to reflect changes in the costs to implement the business inspection.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 16<sup>th</sup> day of June, 2010.

\_\_\_\_\_  
Janice S. Parvin, Mayor

ATTEST:

\_\_\_\_\_  
Maureen Benson, Assistant City Clerk

Exhibit A – Business Inspection Fees

**EXHIBIT A  
MOORPARK BUSINESS INSPECTION FEE SCHEDULE**

**EFFECTIVE JULY 1, 2010**

<b>Facility Inspected</b>	<b>Annual Inspection Fee</b>	<b>Re-Inspection Fee</b>
Food	\$45.00	\$45.00
Automotive	\$45.00	\$45.00
Nursery – Tier 1 ( < 1 acre)	\$45.00	\$45.00
Tier 2 (> 1 acre) additional per-acre charge rate	\$45.00 plus \$5.00 per-acre above 1-acre	\$45.00 plus \$5.00 per-acre above 1-acre
Laundry – Tier 1 (General Public)	\$33.60	\$33.60
Laundry – Tier 2 (Commercial)	\$90.00	\$90.00
Industrial Facility – Tier 1 (Non-exposure)*	\$45.00	\$45.00
Industrial Facility – Tier 2 (General Permit)	\$80.00	\$80.00
Other**	\$80.00	\$80.00

\* Non-exposure Industrial facilities, after they have received their first inspection and filed for Non-exposure status, shall not be charged additional inspection fees. Any industrial facility that fails to file for Non-exposure status shall continue to be inspected once every two years and continue to be charged the Tier 1 rate.

\*\* Other Facilities include US EPA Phase I and II Facilities; Municipal Landfills; Hazardous Waste Treatment, Disposal, and Recovery Facilities; and Emergency and Community Right-to-Know Act (EPCRA)