City of San José, California

COUNCIL POLICY

TITLE	POST-CONSTRUCTION URBAN RUNOFF MANAGEMENT	**PAGE** 1 of 9	**POLICY NUMBER** 6-29
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PURPOSE

It is the purpose of this Policy to establish the City of San José's specific requirements to minimize and treat stormwater runoff from new development and redevelopment projects, consistent with the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (or "MRP"). The protection of local streams from pollution and high volumes of stormwater runoff contributes to the City's sustainability goals by ensuring good water quality, enhancing the beneficial use of local waterways, and enhancing the quality of wildlife habitat. This Policy is consistent with the City's Green Stormwater Infrastructure Plan, Climate Smart San José, and Green Building Policies/Ordinances as the use of stormwater treatment measures result in associated energy and water conservation benefits.

BACKGROUND

The Federal Clean Water Act requires the City of San José to operate under a Municipal Stormwater NPDES Permit for the discharge of stormwater via the City's stormwater collection system. On May 11, 2022, the Regional Water Control Board adopted the Municipal Regional Stormwater NPDES Permit for the San Francisco Bay Region. In an effort to standardize stormwater management requirements throughout the nine county region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 76 Bay Area municipalities, including the City of San José.

The Municipal Regional Permit mandates the City of San José to use its planning and development review authority to require that stormwater management measures such as Site Design, Pollutant Source Control and Treatment measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff. The MRP requires use of Low Impact Development (LID) techniques including infiltration, harvest and reuse, evapotranspiration, or biotreatment to manage stormwater. The

objective of LID is to maintain predevelopment rates of infiltration, evaporation, and runoff from the property being developed. Treating stormwater as a resource, rather than a waste product is a central tenet of the MRP's LID requirements.

City Council Policy 6-28: Management of Pollutants During Demolition of Applicable Projects (developed May 9, 2023) and City Council Policy 8-14: Post-Construction Hydromodification Management (last revised May 9, 2023), are related companion policies that address the management of Polychlorinated Biphenyls (PCBs)-polluted runoff generated during demolition activities and stormwater runoff to minimize erosion and sedimentation in local rivers and creeks.

POLICY

Development Project Categories

This Policy requires development projects on vacant and previously developed properties (hereafter referred to as redevelopment) and road projects to manage stormwater based on the proposed land use and amount of impervious surface area being created and/or replaced by the project. The Policy provisions vary in accordance with the MRP project types and also incorporates long standing San José requirements for certain uses ("Land Uses of Concern") that involve outdoor handling and/or storage of material which have greater potential than other projects to contaminate stormwater runoff. The Policy regulates projects in the following categories:

1. **All Development Projects:** Site Design and Source Control Measures are encouraged.

   All new and redevelopment projects regardless of size and land use are encouraged to incorporate site design and pollutant source control practices in a manner consistent with the strategies set forth in this Policy. Pollution prevention measures shall be incorporated into development plans and maintained in perpetuity once constructed.

2. **Projects Defined as Regulated in the Municipal Regional Permit (Regulated Projects)**: Low Impact Development (LID) Treatment Measures, Site Design Measures, and Source Control Measures are required for projects above the following threshold sizes during the development permit stage.

   Beginning on July 1, 2023, all projects that create and/or replace 5,000 square feet or more of impervious surface including sidewalks and any other portions of the public right of way that are developed or redeveloped as a part of the project shall use site design and source control measures and numerically-sized LID stormwater treatment measures in accordance with the strategies set forth in this Policy. This includes construction of new streets or roads, widening of existing streets or roads with additional traffic lanes, and construction of impervious trails

that are greater than or equal to 10 feet wide or creek-side (within 50 feet of the top of the bank), when they create and/or replace 5,000 square feet or more of newly constructed contiguous surface.

Beginning on July 1, 2023, detached single family home projects, which are not part of a larger plan of development and create and/or replace 10,000 square feet or more of impervious surface, shall use site design and source control measures and numerically-sized LID stormwater treatment measures in accordance with the strategies set forth in this Policy.

Beginning on July 1, 2023, road projects that involve the reconstruction of existing streets or roads that create and/or replace one acre or more of contiguous impervious surface including sidewalks and any other portions of the public right of way that are developed or redeveloped as a part of the project shall use site design and source control measures and numerically-sized LID stormwater treatment measures in accordance with the strategies set forth in this Policy. This includes utility trenching projects that create and/or replace greater than or equal to one contiguous acre of impervious surface and is on average greater than or equal to 8 feet wide over the entire length of the project.

Special Land Use Categories, which are defined as uncovered parking areas (stand-alone or part of another use), restaurants, auto service facilities and retail gasoline outlets that create or replace 5,000 square feet or more of impervious surface area shall use site design and source control measures and numerically-sized LID stormwater treatment measures in accordance with the strategies set forth in this Policy.

If the proposed project results in an alteration of 50% or more of the impervious surface of a previously existing development, and the existing development was not subject to stormwater treatment measures, then the entire project area must be brought into compliance with this Policy; otherwise only the amount of impervious surface area that is being created or replaced is subject to this Policy.

Projects Defined as Regulated in the Municipal Regional Permit (Utility Trenching): Low Impact Development Treatment Measures and Source Control Measures are required for projects above the following threshold sizes during the development permit stage:

Utility trenching projects that create and/or replace greater than or equal to one contiguous acre of impervious surface and are greater than or equal to 8 feet wide.

3. **Land Uses of Concern:** Specific Source Control Measures are required for the following projects regardless of project size:

a) Car Washing and Detailing Facilities
b) Construction/Corporation Yards

c) Automobile Dismantling and Parts Recovery
d) Material Recycling Facilities (processing, transfer and large collection facilities)
e) Gas Stations or Equipment Fueling
f) Uncovered Parking Lots
g) Loading Docks

4. **Small Projects and Smaller Detached Single-Family Home Projects**: Site Design Measures are required for projects above the following threshold sizes.

   Beginning on July 1, 2023, new development and redevelopment projects that create and/or replace at least 2,500 but less than 5,000 square feet of impervious surface area, and detached single-family home projects that create or replace at least 2,500 but less than 10,000 square feet of impervious surface area, are required to install one or more site design measures in accordance with provision C.3.i of the MRP. These measures include the use of permeable surfaces to construct sidewalks, walkways, parking areas and/or the direction of runoff into cisterns, rain barrels, or vegetated areas.

Stormwater Management Strategies

The Policy establishes three primary strategies to manage stormwater runoff:

1. Minimize Runoff through Site Design (Quantity Control)
2. Prevent Polluted Runoff with Source Control
3. Treat Stormwater with LID

These three strategies shall be implemented in the priority order set forth below with greatest emphasis placed on reducing the amount of runoff that must be treated by reducing the amount of impervious area that is directly connected to the storm drain system.

1. ***Minimize Runoff through Site Design (Quantity Control)*** – All "Regulated Projects" (per the MRP) shall use at least the following site design measures to reduce or minimize the creation of stormwater runoff through the preservation and creation of pervious areas that absorb rainfall and reduce runoff .

   a. Limit disturbance of natural water bodies and drainage systems; minimize compaction of highly permeable soils; protect slopes and channels; and minimize impacts from stormwater and urban runoff on the biological integrity of natural drainage systems and water bodies;

   b. Conserve natural areas, including existing trees, other vegetation, and soils;

   c. Minimize impervious surfaces;

   d. Minimize disturbances to natural drainages; and

e. Minimize stormwater runoff by implementing one or more of the following site design measures:

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

Beginning on July 1, 2023, Small Projects (create and/or replace at minimum 2,500 square feet up to 5,000 square feet) and Smaller Detached Single Family Home Projects (create and/or replace at minimum 2,500 square feet up to 10,000 square feet) shall install one or more of the following site design measures

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

2. ***Prevent Polluted Runoff with Source Control*** – In addition to minimizing runoff, all "Regulated Projects" (per the MRP) shall include both structural and operational source control measures that at a minimum include the following:

a. Plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards:

- Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurants;
- Dumpster drips from covered trash, food waste and compactor enclosures;
- Discharges from covered outdoor wash areas for vehicles, equipment, and accessories;
- Swimming pool water, if discharge to onsite vegetated areas is not a feasible option; and
- Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option.

b. Properly designed covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair/maintenance bays, and fueling areas;

c. Properly designed trash storage areas;

d. Landscaping that minimizes irrigation and runoff, promotes surface infiltration, minimizes the use of pesticides and fertilizers, and incorporates other appropriate sustainable landscaping practices and programs such as Bay-Friendly Landscaping;

e. Efficient irrigation systems; and

f. Storm drain system stenciling or signage.

Land Uses of Concern

Source Control measures are of particular importance for automobile-related uses and industrial uses that involve the outdoor-handling and/or storage of materials which can potentially create contaminated storm water runoff.

At a minimum, polluted stormwater runoff from Land uses of concern shall be prevented through the following source control measures that are applicable to a particular project:

- Industrial uses involving the storage and handling of materials that have the potential to generate polluted stormwater runoff shall be conducted indoors or under a permanent cover to prevent contact with rainfall.

- Vehicle repair uses shall be conducted indoors or under a permanent cover to prevent contact with rainfall or runoff.

- Trash and recycling storage areas shall be enclosed and graded in accordance with City Trash Enclosure Guidelines. When appropriate, trash enclosures will be plumbed to a permitted sanitary sewer connection.

- Vehicle or equipment fueling areas and loading docks must be covered and paved and the surrounding portions of the site graded to prevent stormwater runoff from contacting and conveying gasoline and other vehicle-related pollutants into the storm drain system.

- Restaurant activities including the handling and storage of grease, trash, and food waste need to be isolated from the storm drain system with measures that include the covering of waste handling areas and site grading to prevent stormwater runoff from and run on into these areas.

All new and redevelopment projects regardless of size and land use are encouraged to incorporate pollutant source control practices.

3. ***Treatment Stormwater with Low Impact Development (LID)*** – For “Regulated Projects” (per the MRP), a Stormwater Control Plan is required that describes

and illustrates the exclusive use of LID measures to remove pollutants from stormwater runoff (per MRP C.3.d) before it enters the City's storm drain system.

Stormwater TCM's must be sized to comply with one of the hydraulic design criteria listed in the MRP's Provision C.3.d. In accordance with provision C.3 of the MRP, LID Treatment fall within the following categories:

a. Harvesting and reuse
b. Infiltration
c. Evapotranspiration
d. Biotreatment (only if infeasible to implement harvesting and re-use, infiltration, or evapotranspiration)

The feasibility of particular LID practices shall be determined in accordance with the criteria and procedures set forth in the SCVURPPP C.3 Stormwater Handbook (dated June 2016) or within another City-approved guidance document. MRP section C.3.d.iii *Limitations on Use of Infiltration Devices in Stormwater Treatment Systems* includes requirements for a five inches/hour infiltration rate, 10-foot vertical separation from seasonal high groundwater and a prohibition of the use of infiltration measures for stormwater treatment for industrial uses.

LID Treatment Reduction Credits

Alternatives to the exclusive use of LID measures for the treatment of all or a portion of a project's runoff is allowed to the extent to which a project qualifies for LID treatment reduction credits in accordance with the approved Special Projects provisions of the Municipal Regional Stormwater Permit.

ALTERNATIVE COMPLIANCE

Off-Site LID Treatment or Payment of In-Lieu Fee

All or a portion of a project's C.3 runoff can be treated with LID treatment measures jointly with an adjacent project or at an offsite location within the same watershed, pursuant to the MRP. In-lieu fees may be paid for the purpose of providing treatment at a regional project in the same watershed when a City-approved regional treatment project and funding structure exist.

OPERATION AND MAINTENANCE

All post-construction treatment measures must be installed as specified on approved construction plans. All stormwater treatment measures installed on property shall have signage/marking that reads "Stormwater Treatment Measure – Do not alter or remove". Treatment measures shall not be altered or removed and shall be operated and maintained by qualified personnel consistent with approved development plans and/or

supplemental operation and maintenance plans. Property owners must ensure that treatment measures continue to operate effectively for the life of the project. Property owners and/or its administrators, property managers, lessees, successors, including any homeowner's associations designated by the owner must keep a maintenance schedule and record of all treatment measures maintenance activities. Copies of maintenance schedules and records will be retained and made available for inspection upon request by the City.

Any owner(s) of property on which a stormwater treatment measure has been installed pursuant to the requirements of this Policy shall, upon transferring ownership of such property, provide the new owner(s) with a copy of the property's development permit or similar document indicating the location, size, and design of the stormwater treatment measures, and shall inform the new owner(s) in writing of their obligation to properly operate and maintain such stormwater treatment measures. The terms and conditions of maintenance and operation of the stormwater treatment measures shall be in the form of a covenant running with the land, deed restriction, environmental mitigation measure, a use permit, enforceable conditions of approval, or other legal means.

To the fullest extent as permitted by law, the City, the local vector control district, and the Regional Water Quality Control Board, shall have the right to access upon all properties for the purpose of inspecting, monitoring, and/or testing any stormwater treatment measure(s) installed on a property.

When used, all proprietary treatment measures must be operated and maintained per the manufacturers' specifications. The City may require additional maintenance beyond the manufacturers' specifications, if needed.

DEFINITIONS

Low Impact Development (LID): A land planning and engineering design approach with a goal of reducing stormwater runoff and mimicking a site's predevelopment rate of infiltration, evaporation; minimizing disturbed areas and impervious surface cover and then infiltrating, storing, detaining, evapotranspiring, and/or biotreating stormwater runoff close to its source, which treats stormwater as a resource, rather than a waste product.

Impervious Surface: A surface on a developed parcel that prevents the land's natural ability to absorb and infiltrate rainfall/stormwater. Impervious surfaces include, but are not limited to: roof tops, walkways, patios, driveways, parking lots, storage areas, impervious concrete and asphalt, and any other continuous watertight pavement or covering.

Source Control Measures:

Structural Source Control Measures: Permanent development features that are designed and constructed as part of a project's pollution prevention measures such

as covered trash enclosures, and sanitary sewer connections from trash enclosures, structured parking lots and loading docks.

Operational Source Control Measures: "Good housekeeping" activities that must be conducted routinely during the post-construction operations of the project, such as dry sweeping or vacuuming of uncovered parked lots and the regular cleaning/removal of trash and debris from storm drain inlets, for effective stormwater pollution prevention.

Permeability: A property of soil that enables water or air to move through it. Usually expressed in inches/hour or inches/day.

Pervious Surface: Permeable hardscape or paved surface that allows surface runoff to infiltrate into surface soil (e.g., turf block, brick, natural stone, cobbles).

Site Design Measures: Site planning techniques to conserve natural spaces and surfaces and/or limit the amount of impervious surface in development projects to minimize stormwater runoff from the site and the transport of pollutants in stormwater runoff.

Self-Treating Area: A portion of a development site in which infiltration and natural processes remove pollutants from stormwater. Examples of self-treating areas include conserved natural spaces, areas of landscaping, and areas paved with turf block. Self-treating areas are designed to treat only the rainfall and stormwater on those areas. They are not hydraulically-sized to treat stormwater runoff from other or adjacent impervious areas.

Self-Retaining Area: An area designed to retain runoff from adjacent impervious surfaces. Self- retaining areas may include graded depressions with landscaping or pervious pavements.

Vegetated/Green Roof: Vegetated roof systems retain and filter stormwater runoff prior to drainage off building rooftops. For the purposes of calculating total impervious surface area, vegetated/green roofs are considered self-treating pervious areas.