



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: June 3, 2025

Subject

Approve the renewal of the 1992 Storm Drain Fee (with no increase) and renewal of the 2019 Clean Water and Storm Protection Fee with a 2.38% increase.

Recommended Action

Adopt:

1. Resolution No. 25-XXX (Attachment B) approving the renewal and collection of the 2019 Clean Water and Storm Protection Fee with a 2.38 % increase in rates for FY 2025-26.
2. Resolution No. 25-XXX (Attachment A) approving the renewal and collection of the 1992 Storm Drain Fee with no increase in rates for Fiscal Year (FY) 2025-26.

Executive Summary

The City is subject to regulations implemented locally by the California Regional Water Quality Control Board - San Francisco Bay Region (Water Board) through the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit, commonly referred to as the Municipal Regional Permit (MRP.) In order to provide the services and resources necessary to meet MRP requirements, the City has established two property-based fees to help cover the costs of compliance. These two fees are the 1992 Storm Drainage Service Charge Fee (1992 Fee) that is \$12 per year for a single-family home, and the 2019 Clean Water and Storm Protection Fee (2019 Fee) that is approximately \$47 per year for an average single-family home. The fees must be renewed every year by the City Council and appear on property tax bills. The 2019 Fee can be increased by CPI up to a maximum of 3% in any single year, however the 1992 Fee has no mechanism to enable an increase. Given the need for ongoing compliance and infrastructure repair, staff recommends an increase at CPI of 2.38% which will generate approximately \$27,513 more revenue and cost the average homeowner an additional \$1.12 per year. The fees are billed via property tax bills or billed directly as necessary.

Background

In 1992, the City established the 1992 Storm Drain Fee to help cover the cost of complying with stormwater pollution prevention permit requirements that were then in effect. Permit requirements continued to increase, and revenue from the 1992 fees were no longer covering costs. The 2019 Fee, a property-related fee subject to Proposition 218, was approved by Cupertino property owners in 2019 and was authorized by Council on July 17, 2019, for inclusion on the 2019-2020 Property Tax bills. The fees must be renewed every year following review by the City Council. The last renewal was brought to the City Council on June 4, 2024, with approval of the 1992 Fee at no increase and approval of the 2019 Fee at a 2.62% increase. Given the ongoing cost of MRP compliance and the need for infrastructure repairs, staff recommends increasing the 2019 Fee for 2025-2026 at the calculated CPI of 2.38%.

Reasons for Recommendation and Available Options

City of Cupertino's Stormwater Pollution Prevention Program

The City's Stormwater Pollution Prevention Program (also known as the Nonpoint Source Program) is mandated by the State of California (State) and United States Environmental Protection Agency (EPA) regulations implementing the Federal Clean Water Act. Regulations by the EPA and the State require cities to take specific actions to eliminate or control pollutants in water that belongs to the State. These regulations are implemented locally by the California Regional Water Quality Control Board - San Francisco Bay Region (Water Board) through the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit, commonly referred to as the Municipal Regional Permit (MRP.) Additional details of the City's compliance activities are provided in the Engineer's Report (Exhibit A to each of the resolutions located in Attachments A and B).

Information about the City's stormwater pollution prevention program is also available at www.cupertino.org/cleanwater, which includes links to a variety of resources and guidance including an interactive creek map, a link to the City's most recent annual report submitted as required to the Water Board, information for developers and contractors, and education on less toxic pest control.

Two property-based fees have been established to help cover the costs of compliance:

1992 Storm Drainage Service Charge Fee (1992 Fee)

In 1992, the City established the 1992 Fee to help cover the cost of complying with stormwater pollution prevention requirements that were then in effect. The 1992 Fee is applied to each property in the City, with exceptions for those owned by certain entities, such as properties owned by the government, utility agencies, and schools, which were exempt under the laws at the time the fee was approved. The fee is collected by the Santa Clara County Tax Collector on behalf of the City and is subject to annual review by the City Council. The Fee consisted of three rates, which were based on type of land

use of each parcel as follows: 1) \$12 for residential parcels; 2) \$144/acre for apartments, commercial and industrial parcels; and 3) \$36/acre for unimproved and recreational parcels.

The Fee has no mechanism to enable an annual increase. As such, the revenue collected from the 1992 Fee has not increased since it was established and has remained at approximately \$375,000 per year. However, regulatory requirements, stormwater system maintenance expenses, wages, and permit fees have not remained static since 1992, and the cost of compliance has risen over the years. When the first MRP was approved and implemented in 2009, and again when the second permit was adopted in 2015, permit requirements increased significantly. The third reissuance of the Municipal Regional Permit (MRP 3.0) was adopted on May 11, 2022, with an effective date of July 1, 2022, and further increased requirements. In 2019, The cost of compliance significantly exceeded the revenues from the 1992 fee and was creating a draw upon the City's General Fund by over \$600,000 per year. Renewal of the 1992 Fee is recommended in FY 2025-26.

2019 Clean Water and Storm Protection Fee (2019 Fee)

The 2019 Fee, a property-related fee subject to Proposition 218, was approved by Cupertino property owners in 2019 and was authorized by Council on July 17, 2019, for inclusion on the 2019-2020 Property Tax bills. The 2019 Fee was calculated starting from the average acreage of a median single-family residential parcel and a benchmark amount of impervious surface. Details of the rate structure analysis can be found in the Fee Report attached to the 2019 Fee Ordinance (Attachment C).

The 2019 Fee may be increased annually by Council to meet expenses of the Nonpoint Source Program. The potential increase is tied to the annual change in Consumer Price Index (CPI) as of December each year, up to a maximum of 3% in any single year. The CPI change and fee impact is shown in the table below.

CPI change for the period December 2023 to December 2024	Additional revenue the CPI increase will generate	Fee increase for medium residential parcel per year
2.38%	\$27,513	\$1.12

Current rates and the proposed increased rates for a medium sized parcel (the most common single-family parcel size) are shown in the tables below.

Current Annual Rates:

Land Use Category		Fee	
Single-Family Residential *			
Small	(Under 0.13 acre)	\$ 38.67	per parcel
Medium	(0.13 to 0.22 acre)	\$ 46.95	per parcel
Large	0.23 to 0.40 acre)	\$ 58.75	per parcel
Extra Large	(over 0.40 acre)	\$ 112.49	per parcel
Condominium 1	(1 story)	\$ 38.67	per parcel
Condominium 2+	(2+ stories)	\$ 12.67	per parcel
Non-Single-Family Residential **			
Multi-Family Residential		\$ 32.64	per 0.1 acre
Commercial / Retail / Industrial		\$ 42.68	per 0.1 acre
Office		\$ 32.64	per 0.1 acre
Church / Institutional		\$ 27.62	per 0.1 acre
School (w/playfield)		\$ 20.08	per 0.1 acre
Park		\$ 7.54	per 0.1 acre
Vacant (developed)		\$ 2.52	per 0.1 acre
Open Space / Agricultural		no charge	
Low Impact Development Adjustment ***		25% Fee Reduction	
* Single-Family Residential category also includes du- tri- and four-plex units			
** Non-SFR parcels are charge per the tenth of an acre or portion thereof			
*** Low Impact Development Adjustment only applies to condominium and non-single-family properties.			

Annual Rates With 2.38% Increase:

Land Use Category		Fee	
Single-Family Residential *			
Small	(Under 0.13 acre)	\$ 39.58	per parcel
Medium	(0.13 to 0.22 acre)	\$ 48.07	per parcel
Large	0.23 to 0.40 acre)	\$ 60.15	per parcel
Extra Large	(over 0.40 acre)	\$ 115.15	per parcel
Condominium 1	(1 story)	\$ 39.58	per parcel
Condominium 2+	(2+ stories)	\$ 12.97	per parcel
Non-Single-Family Residential **			
Multi-Family Residential		\$ 33.42	per 0.1 acre
Commercial / Retail / Industrial		\$ 43.70	per 0.1 acre
Office		\$ 33.42	per 0.1 acre
Church / Institutional		\$ 28.28	per 0.1 acre
School (w/playfield)		\$ 20.56	per 0.1 acre
Park		\$ 7.72	per 0.1 acre
Vacant (developed)		\$ 2.58	per 0.1 acre
Open Space / Agricultural		no charge	
Low Impact Development Adjustment ***		25% Fee Reduction	

* Single-Family Residential category also includes du- tri- and four-plex units

** Non-SFR parcels are charge per the tenth of an acre or portion thereof

*** Low Impact Development Adjustment only applies to condominium and non-single-family properties.

2019 Clean Water and Storm Protection Fee Incentive Programs

The City continues to offer the cost-share program for low-income residents. Eligible residents will receive a 20% reduction in their annual fee. The cost-share program is funded by the General Fund because revenues from the 2019 Fee are restricted from being used for a cost-share (e.g., funding a reduced rate for others property owners). An online application form is available¹ and applicants are also welcome to call 408-777-3236 or email staff for assistance at environmental@cupertino.gov.

Fee Reduction for Commercial and Multi-family Low Impact Design Features

As allowed by the 2019 Fee Ordinance, 267 commercial and multi-family properties that had already installed low-impact design (LID) elements such as bioswales, capture basins, and bioretention facilities, were assigned a 25% fee reduction, consistent with the fee schedule, after the fee was adopted. Installation of new LID features under the requirements of C.3 in the MRP (stormwater treatment measures in new development

¹ Cupertino.org/watercostshare

and redevelopment projects) qualifies additional properties for the same reduction. There is no change to this fee reduction for qualifying properties.

Audit and Review of Programs

Pursuant to the 2019 Fee Ordinance, expenses and revenues are audited annually by an independent auditor. The final AUP reports for calendar years 2022, 2023, and 2024 are attached as Attachment D, E, and F and no exceptions were noted.

Sustainability Impact

The 1992 Fee and 2019 Fee support water pollution prevention and water conservation (NPDES) activities. Significant sustainability benefits include the reduction or elimination of pollutant discharges, which could degrade local creeks and threaten the supply of clean water, as well as the capture of rainwater, which can be used as a resource. Green Stormwater Infrastructure uses engineered features to mimic natural processes that allow stormwater to infiltrate the groundwater system instead of entering the storm drain system, enhancing climate change resilience.

Fiscal Impact

The combined revenues from the 1992 Fee and 2019 Fee generate approximately \$375,000 and \$1.15M per year respectively, received into Fund 230 Environmental Management/Clean Creek/Storm Drain. Projected expenses by the end of the fiscal year are expected to come in under the approved budget, but will exceed the revenues generated by the 1992 Fee and the 2019 Fee as shown in the table below. The proposed budget for FY 2025-26 as shown in the table reflects full staffing, adjusted staffing allocations, maintenance projects on aging infrastructure for storm protection, installation of drain inlet treatments, and the other activities that ensure compliance with the MRP.

Nonpoint Source Program Revenue and Expenses

	FY 2024-25	FY 2025-26 (proposed)
Fund Balance (previous FY)	\$729,027	\$373,587
Revenue 1992 Fee	\$375, 263	\$375,263
Revenue 2019 Fee (on tax roll)	\$1,059,353	\$1,059,353
Revenue 2019 Fee (manually billed)	\$96,650	\$96,650
CPI increase to 2019 Fee	Included above	\$27,513
Total Program Funding	\$2,260,292	\$1,932,365
Program Expenses (<i>p</i> /budgeted)	\$2,616,243	\$2,120,868
Outfall project \$ to carry over		\$465,788
Program Expenses (<i>projected actual</i>)	\$1,886,705	
Total Program Expenses		\$2,586,656
Remaining Fund Balance at end of FY (<i>projected</i>)	\$373,587	(\$654,291)

In recent years, the shortfall between the APN fee revenues and the program expenses has been covered by the balance in Fund 230 330-301. The 2.38% increase is still recommended because even with a projected positive fund balance at the end of FY24-25, the budgeted expenses for FY 25-26 will exceed revenue and will likely use up the remaining fund balance. (See table above).

City Work Program (CWP) Item/Description

None.

Council Goal

Fiscal Strategy, Environmental Sustainability, Quality of Life

California Environmental Quality Act

Not applicable.

Prepared by: Ursula Syrova, Environmental Programs and Sustainability Manager

Nicole Lee, Environmental Programs Assistant

Reviewed by: Chad Mosley, Director of Public Works

Floy Andrews, City Attorney

Approved for Submission by: Tina Kapoor, Acting City Manager

Attachments:

A – Draft Resolution 1992 Fee

B – Draft Resolution 2019 Fee

C – Clean Water and Storm Protection Fee Ordinance with Fee Report

D – Calendar Year 2022 AUP

E – Calendar Year 2023 AUP

F – Calendar Year 2024 AUP