

ORDINANCE NO. 15-0004

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH
AMENDING CHAPTER 5.84 REGARDING STORM WATER
AND URBAN RUNOFF PROTECTION CONTROL

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council hereby amends Manhattan Beach Municipal Code Chapter 5.84 (Storm Water and Urban Runoff Protection Control) to read as follows:

**“Chapter 5.84
STORM WATER AND URBAN RUNOFF POLLUTION CONTROL**

- 5.84.010 Purpose and intent.
- 5.84.020 Definitions.
- 5.84.030 Construction and application.
- 5.84.040 Prohibited activities.
- 5.84.050 Exempted discharges or conditionally exempted discharges.
- 5.84.060 Good housekeeping provisions.
- 5.84.070 Requirements for industrial/commercial and construction activities.
- 5.84.080 Inspection authority.
- 5.84.090 Enforcement.
- 5.84.100 Planning and Land Development Program requirements for New Development and Redevelopment projects.
- 5.84.010 Purpose and intent.**
 - A. The purpose of this Chapter is to comply with the Federal Clean Water Act, the California Porter-Cologne Water Quality Control Act, and the Municipal National Pollutant Discharge Elimination System (NPDES) Permit by:
 - 1. Reducing pollutants in storm water discharges to the maximum extent practicable;

2. Regulating illicit connections and illicit discharges, thereby reducing the level of contamination of storm water and urban runoff into the Municipal Separate Storm Sewer System (MS4) of the City of Manhattan Beach (City) and
 3. Regulating non-storm water discharges to the MS4.
- B. The intent of this Chapter is to ensure the future health, safety and general welfare of the citizens of the City and of the receiving waters of the County of Los Angeles and surrounding coastal areas to provide the City with the legal authority necessary to implement and enforce the requirements contained in 40 CFR § 122.26(d)(2)(i)(A-F) and in the Municipal NPDES Permit to the extent that they are applicable in the City, to control discharges to and from those portions of the municipal storm water system (MS4) over which the City has jurisdiction as required by the Municipal NPDES Permit, and to hold dischargers to the MS4 accountable for their contributions of pollutants and flows.
- C. This Chapter authorizes the Authorized Enforcement Officer to define and adopt applicable Best Management Practices (BMPs) and other storm water pollution control measures, to cite infractions, to impose fines pursuant to this Chapter, and to grant emergency self-waivers from Municipal NPDES Permit requirements in order to conduct repairs of essential public service systems and infrastructure in emergency situations.

Except as otherwise provided herein, the Authorized Enforcement Officer shall administer, implement, and enforce the provisions of this Chapter.

- D. This Chapter authorizes the Authorized Enforcement Officer to carry out inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with the provisions of this Chapter and the Municipal NPDES Permit, including the prohibition of non-storm water discharges into the MS4. This includes the authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from entities discharging into the City's MS4.

5.84.020 Definitions

Except as specifically provided herein, any term used in this Chapter shall have the same meaning as that term is defined in the Municipal NPDES Permit; or, if it is not specifically defined in the Municipal NPDES Permit, then as such term is defined in the Federal Clean Water Act, as amended, and/or the regulations promulgated thereunder. The following words and phrases shall have the following meanings when used in this Chapter:

“Area susceptible to runoff” means any surface directly exposed to precipitation or in the path of runoff caused by precipitation.

“Authorized Enforcement Officer” means the City Manager or his or her designee and any City official authorized to issue citations under the municipal Code.

“Best Management Practices (BMPs)” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

“City” means the City of Manhattan Beach.

“Construction” means any construction or demolition activity, clearing, grading, grubbing, excavation, or any other activities that result in soil disturbance. Construction includes structure teardown and demolition. It does not include routine maintenance activities required to maintain the integrity of structures by performing minor repair and restoration work, original line and grade, hydraulic capacity, or original purpose of facility; emergency construction activities required to immediately protect public health and safety; interior remodeling with no outside exposure of construction material or construction waste to storm water; mechanical permit work; or sign permit work. See “Routine Maintenance” definition below.

“Construction General Permit” means the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009- 0009-DWQ (NPDES No. CAS000002), adopted September 2, 2009, and any successor permit to that permit.

“Development” means any construction, rehabilitation, redevelopment, or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

“Directly Adjacent” means situated within two hundred feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area.

“Discharging directly” means outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands.

“Disturbed Area” means an area that is altered as a result of clearing, grading, and/or excavation.

“Environmentally Sensitive Area (“ESA”) means an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments (California Public Resources Code § 30107.5). Areas subject to storm water mitigation requirements are areas designated as Significant Ecological Areas by the County of Los Angeles (Los Angeles County Significant Areas Study, Los Angeles County Department of Regional Planning (1976) and amendments); an area designated as a Significant Natural Area by the California Department of Fish and Game’s Significant Natural Areas Program, provided that area has been field verified by the Department of Fish and Game; an area listed in the Basin Plan as supporting the Rare, Threatened, or Endangered Species (RARE) beneficial use; and an area identified by the City as environmentally sensitive.

“Good housekeeping practices” means common practices related to the storage, use, or cleanup of pollutionable materials, performed in a manner that minimizes the discharge of pollutants. Examples include, but are not limited to, use of alternative and less environmentally harmful products, spill prevention, promptly cleaning up spills and leaks, and storing pollutionable materials in a manner that will contain any leaks or spills.

“Hillside” means property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is twenty-five percent or greater and where grading contemplates cut or fill slopes.

“Illicit connection” means any human-made conveyance that is connected to the storm drain system without a permit, excluding roof-drains and other similar type connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drain system.

“Illicit discharge” means any discharge to the storm drain system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. This includes all non-storm water discharges except discharges pursuant to a separate NPDES permit; discharges that are exempted or conditionally exempted in accordance with the Municipal NPDES Permit; and non-storm water discharges resulting from natural flows specifically identified in the Municipal NPDES Permit.

“Infiltration” means the downward entry of water into the surface of the soil.

“Inspection” means the entry and conduct of an on-site review of structures and devices on a property, at reasonable times, to determine compliance with specific municipal or other legal requirements. The steps involved in performing an inspection, include, but are not limited to:

1. Pre-inspection documentation research;
2. Request for entry;
3. Interview of property owner, resident and/or occupant(s);
4. Property walk-through;
5. Visual observation of the condition of property;
6. Examination and copying of records as required;
7. Sample collection (if necessary or required);
8. Exit discussion (to discuss preliminary evaluation) as appropriate; and
9. Report preparation, and if appropriate, recommendations for coming into compliance.

“Low Impact Development (LID)” means building or landscape features designed to retain or filter storm water runoff.

“Municipal NPDES Permit” means the “Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges within the Coastal Watersheds of Los Angeles County, Except Those Discharges Originating from the City of Long Beach MS4” (Order No. R4-2012-0175), NPDES Permit No. CAS004001, effective December 28, 2012, issued by the California Regional Water Quality Control Board—Los Angeles Region, and any successor permit to that permit.

“Municipal separate storm sewer system (MS4)” means a conveyance or system of conveyances (consisting of roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

1. Owned or operated by a state, city, town borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the United States;
2. Designed or used for collecting or conveying storm water;
3. Which is not a combined sewer; and

4. Which not part of a Publicly Owned Treatment Works (POTW) is as defined in 40 CFR 122.2.

“New development” means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

“Non-storm water discharge” means any discharge to an MS4 that is not composed entirely of storm water.

“NPDES” means National Pollutant Discharge Elimination System.

“NPDES permit” means an authorization, license, or equivalent control document issued by U.S. Environmental Protection Agency (USEPA) or the State Water Resources Control Board or Regional Board to implement the requirements of Parts 122, 123 and 124 of the Code of Federal Regulations pursuant to Sections 318, 402, and 405 of the Clean Water Act, and includes any NPDES general permit. “Permit” does not include any permit which has not yet been the subject of final agency action, such as a “draft permit” or a “proposed permit”.

“Pollutant” means those pollutants defined in Section 502(6) of the Federal Clean Water Act (33 U.S.C. Section 1362(6)), or incorporated into California Water Code Section 13373. Examples of pollutants include but are not limited to the following:

1. Commercial and industrial waste (such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge);
2. Metals such as cadmium, lead, zinc, copper, silver, nickel, chromium; and non- metals such as phosphorus and arsenic;
3. Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);
4. Excessive eroded soils, sediment and particulate materials in amounts which may adversely affect the beneficial use of the receiving waters, flora or fauna of the State;
5. Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities); and
6. Substances having characteristics such as pH less than six (6) or greater than nine (9), or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus.

“Redevelopment” means land-disturbing activity those results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an

already developed site for all project categories except single family projects. For existing single family dwelling and accessory structures, redevelopment is the creation, addition, or replacement of 10,000 square feet or more of impervious surface. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

“Regional Board” means the California Regional Water Quality Control Board - Los Angeles Region.

“Routine Maintenance” includes, but is not limited to, projects conducted to:

1. Maintain the original line and grade, hydraulic capacity, or original purpose of the facility;
2. Perform as needed restoration work to preserve the original design grade, integrity, and hydraulic capacity of flood control facilities;
3. Carry out road shoulder work, regrading dirt or gravel roadways and shoulders, and performing ditch cleanouts;
4. Update existing lines and facilities, including the replacement of existing lines with new materials or pipes, to comply with applicable codes, standards, and regulations regardless if such projects result in increased capacity;
5. Repair leaks; and
6. Conduct landscaping activities without changing existing or natural grades.

Routine maintenance does not include construction of new lines or facilities resulting from compliance with applicable codes, standards, and regulations. New lines are those that are not associated with existing facilities and are not part of a project to update or replace existing lines.

“Significant Ecological Area” (“SEA”) means an area that is determined to possess an example of biotic resources that cumulatively represent biological diversity, for the purposes of protecting biotic diversity, as part of the Los Angeles County General Plan.

Areas are designated as SEAs, if they possess one or more of the following criteria:

1. The habitat of rare, endangered, and threatened plant and animal species;
2. Biotic communities, vegetative associations, and habitat of plant and animal species that are either one of a kind, or are restricted in distribution on a regional basis;
3. Biotic communities, vegetative associations, and habitat of plant and animal species that are either one of a kind or are restricted in distribution in Los Angeles County;
4. Habitat that at some point in the life cycle of a species or group of species, serves as a concentrated breeding, feeding, resting, migrating grounds and is limited in availability either regionally or within Los Angeles County;
5. Biotic resources that are of scientific interest because they are either an extreme in physical/geographical limitations, or represent an unusual variation in a population or community;
6. Areas important as game species habitat or as fisheries;
7. Areas that would provide for the preservation of relatively undisturbed examples of natural biotic communities in Los Angeles County; and
8. Special areas.

“Simple LID BMP” means a BMP constructed above ground on a single-family residential home that can be readily inspected by a homeowner or inspector. Simple LID BMPs do not require an operation and maintenance plan per the Municipal NPDES Permit. Examples of such BMPs include, but are not limited to, vegetated swales, rain barrels and above ground cisterns, rain gardens, and pervious pavement.

“Site” means the land or water area where any “structure or activity” is physically located or conducted, including adjacent land used in connection with the structure or activity.

“Storm water runoff” means that part of precipitation (rainfall or snowmelt) which travels via flow across a surface to the MS4 or receiving waters from impervious, semi-pervious, or pervious surfaces. When all other factors are equal, runoff increases as the perviousness of a surface decreases.

“Structural BMP” means any structural facility designed and constructed to mitigate the adverse impacts of storm water and dry weather runoff pollution (e.g., canopy, structural enclosure). Structural BMPs may include both treatment control BMPs and source control BMPs.

“Treatment” means the application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but

are not limited to, filtration, gravity settling, media adsorption, biodegradation, biological uptake, chemical oxidation, and UV radiation.

“Treatment control BMP” means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process.

5.84.030 Construction and application.

This Chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto; applicable implementing regulations; and the Municipal NPDES Permit and any amendment, revision, or reissuance thereof.

5.84.040 Prohibited activities.

- A. **Illicit Discharges and Connections.** It is a violation of this Chapter to commence, establish, use, maintain, or continue any illicit connections to the MS4 or any illicit discharges to the MS4. This prohibition against illicit connections applies to the use, maintenance, or continuation of any illicit connection, whether that connection was established prior to or after the effective date of this Chapter.
- B. **Littering.** No person shall throw, deposit, place, leave, maintain, keep, or permit to be thrown, deposited, placed, left, maintained, or kept, any refuse, rubbish, garbage, or any other discarded or abandoned objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin conduit or drainage structure, business place, or upon any public or private plot of land in the City, so that the same might be or become a pollutant. No person shall throw or deposit litter in any fountain, pond, lake, stream, or other body of water within the City. This subsection shall not apply to refuse, rubbish, or garbage deposited in containers, bags, or other appropriate receptacles that are placed in designated locations for regular solid waste pick up and disposal.
- C. **Disposal of Landscape Debris.** No person shall intentionally dispose of leaves, dirt, or other landscape debris into the MS4.
- D. **Non-Storm Water Discharges.** All non-storm water discharges into the MS4 are prohibited unless those flows are: in compliance with a separate NPDES Permit; pursuant to a discharge exemption by the Regional Board, the Regional Board’s executive officer, or the State Water Resources Control Board; associated with emergency firefighting activities (i.e., flows necessary for the protection of life or property); natural flows as defined in the Municipal NPDES Permit; conditionally exempt non-storm water discharges as defined in accordance with the Municipal NPDES Permit; or

authorized as a temporary non-storm water discharge by the USEPA pursuant to Sections 104(a) or 104(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Prohibited discharges include but are not limited to, but are not limited to:

1. The discharge of wash waters to the MS4 from commercial auto washing or when gas stations, auto repair garages, or other type of automotive service facilities are cleaned;
2. The discharge of wastewater to the MS4 from mobile auto washing, steam cleaning, mobile carpet cleaning, and other such mobile commercial and industrial operations;
3. Discharges to the MS4 from areas where repair of machinery and equipment, including motor vehicles, which are visibly leaking oil, fluid, or antifreeze, is undertaken;
4. Discharges of runoff to the MS4 from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials;
5. Discharges of commercial/residential swimming pool filter backwash to the MS4;
6. Discharges of runoff from the washing of toxic materials from paved or unpaved areas to the MS4;
7. Discharges to the MS4 from washing impervious surfaces in industrial/commercial areas, unless specifically required by the State's, or the City's, or Los Angeles County's health and safety codes, or permitted under a separate NPDES permit;
8. Discharges to the MS4 from the washing out of concrete or cement laden wash water from concrete trucks, pumps, tools, and equipment;
9. Discharges to the MS4 of any pesticide, fungicide, or herbicide banned by the USEPA or the California Department of Pesticide Regulation or a product registered under the Federal Insecticide, Fungicide and Rodenticide Act to any waste stream that may ultimately be released to waters of the United States unless specifically authorized under an NPDES permit. This requirement is not applicable to products used for lawn and agricultural purposes; and

10. The disposal of hazardous wastes into trash containers used for municipal trash disposal where such disposal causes or threatens to cause a direct or indirect discharge to the MS4.

- E. **Discharges in Violation of the Municipal NPDES Permit.** Any discharge that would cause or contribute to a violation of the Municipal NPDES Permit, either separately or in combination with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such person(s) shall defend, indemnify, and hold harmless the City from all losses, liabilities, claims, or causes of actions in any administrative or judicial action relating to such discharge.

5.84.050 Exempted discharges or conditionally exempted discharges.

Discharges from those activities specifically identified in or pursuant to the Municipal NPDES Permit as being exempted discharges, or conditionally exempted shall not be considered a violation of this Chapter, provided that all required conditions, including applicable BMPs pursuant to the Municipal NPDES Permit, are implemented prior to discharge to minimize any adverse impacts from such identified sources and that any required municipal permits are obtained prior to discharge.

5.84.060 Good housekeeping provisions.

Owners and occupants of property within the City shall comply with the following requirements:

- A. **Septic Waste.** No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste to precipitation.
- B. **Use of Water.** Runoff of water used for irrigation purposes shall be minimized in accordance with the City's Water Conservation Ordinance as codified in Chapter 7.44 of the City's Municipal Code. Runoff of water from the conditionally exempt washing down of paved areas shall be minimized to the maximum extent practicable. Conditionally exempt non-storm water discharges of roadway/driveway wash water only include those discharges resulting from use of high pressure, low volume spray washing using only potable water with no cleaning agents. Sweeping and collection of debris for trash disposal instead of or prior to use of water should be utilized whenever possible.
- C. **Storage of Materials, Machinery, and Equipment.** Machinery or equipment that is to be repaired or maintained in areas susceptible to or exposed to storm water, shall be placed in a manner so that leaks, spills, and other maintenance-related pollutants are not discharged to the MS4.

- D. **Storage of Oil or Oily Material, Chemicals, Refuse, or Other Pollutionable Materials.** Oil or oily material, chemicals, refuse, or other pollutionable materials shall not be stored or deposited by any person in areas where they may be picked up by rainfall and carried off of the property and/or discharged to the MS4. Any such spill of such materials shall be contained and removed immediately.
- E. **Removal and Disposal of Debris from Industrial/Commercial Motor Vehicle Parking Lots.** Industrial or commercial motor vehicle parking lots with more than twenty-five (25) parking spaces that are located in areas potentially exposed to storm water shall be swept regularly or other equally effective measures shall be utilized to remove oil, chemicals, debris, or other pollutionable materials from such parking lots, so as to prevent or minimize pollutants or debris from running off the parking lot into the MS4.
- F. **Food Wastes.** Food wastes generated by non-residential food service and food distribution sources shall be properly disposed of and in a manner so such wastes are not discharged to the MS4. For example: restaurant kitchen mats may not be washed or rinsed into the street or alley.
- G. **Best Management Practices.** BMPs shall be used in areas exposed to storm water for the removal and lawful disposal of all fuels, chemicals, fuel and chemical wastes, animal wastes, garbage, batteries, or other materials which have potential adverse impacts on water quality.

5.84.070 Requirements for industrial/commercial and construction activities.

- A. Each industrial discharger, discharger associated with construction activity, or other discharger described in any general storm water permit addressing such discharges, as may be issued by the USEPA, the State Water Resources Control Board, or the Regional Board, shall comply with all requirements of such permit. Each discharger identified in an individual NPDES permit shall comply with and undertake all activities required by such permit. Proof of compliance with any such permit may be required in a form acceptable to the Authorized Enforcement Officer prior to the issuance of any grading, building, or occupancy permits, or any other type of permit or license issued by the City.
- B. Non-storm water discharges to the MS4 from industrial, commercial, or construction activities are prohibited.
- C. Industrial and commercial dischargers and dischargers associated with construction activities must implement effective BMPs, including source control BMPs, in accordance with the Municipal NPDES Permit to reduce

pollutants in storm water from such sites to the maximum extent practicable.

5.84.080 Inspection authority.

- A. **Authority to Inspect.** The Authorized Enforcement Officer, City's Director of Public Works, building officials, community services officers, and any other representatives thereof, are authorized and directed to enforce all provisions of this Chapter.
- B. **Right of Entry.** Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever an Authorized Enforcement Officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this Chapter, the officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this Chapter; provided, that: (i) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (ii) if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of an inspection warrant. In the event the owner and/or occupant refuses entry after such request has been made, the officer is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.
- C. **Authority to Conduct Samplings and Establishing Sampling Devices.** With the consent of the owner or occupant or pursuant to an inspection warrant, any Authorized Enforcement Officer may establish on any property such devices as necessary to conduct sampling and monitoring activities necessary to determine the concentrations of pollutants in storm water and/or non-storm water runoff. During the inspections as provided herein, the Authorized Enforcement Officer may take any samples deemed necessary.
- D. **Requirement of Sample or Monitor.** Any Authorized Enforcement Officer may order that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, undertake such monitoring activities and/or analyses and furnish such reports as the officer may specify. All costs incurred for such activity shall be borne by the party ordered to do the sampling. In the event the owner or operator of a facility subject to a

monitoring and/or analyses order fails to conduct required monitoring and/or analyses and furnish the required reports in the form required, the Authorized Enforcement Officer may cause such monitoring and/or analyses to be conducted and the cost, therefore, including the reasonable additional administrative costs incurred by the City, shall be borne by the owner of the property and the cost thereof shall be, after notice and an opportunity for hearing, invoiced to the owner of the property. If the invoice is not paid within sixty (60) days of the issuance thereof, the costs shall be a lien upon and against the property and continue in existence until the same shall be paid. If the lien is not satisfied by the owner of the property within three (3) months after the completion by an Authorized Enforcement Officer of the required monitoring and/or analyses and reports, the property may be sold in satisfaction thereof in a like manner as other real property is sold under execution.

- E. **Industrial and Commercial Inspections.** The Public Works Director, Authorized Enforcement Officer, or authorized staff or contractor, shall conduct industrial and commercial facility compliance inspections to confirm that storm water and non-storm water BMPs are effectively implemented in compliance with this Chapter and the Municipal NPDES Permit. These inspections shall be at a frequency sufficient to be in compliance with the Municipal NPDES Permit. Inspections shall be conducted no less than twice during the term of the Municipal NPDES Permit and as often as the Director of Public Works deems appropriate to verify compliance with this Chapter.

5.84.090 Enforcement.

A. **Enforcement Procedure.**

1. For the first failure to comply with any provision contained in this Chapter, the Director of Public Works or any Authorized Enforcement Officer shall issue to the violator a written notice which includes the following information: (i) a description of the violation being committed; (ii) a specified time within which the violation must be corrected or within which the violator may file a written response to the Director disputing the existence of a violation; and (iii) a description of the penalties which may be imposed for continued noncompliance.
2. If the violator demonstrates that the violation does not exist, or has been corrected, no further action need be taken. If, however, the violation exists and is not corrected within the prescribed time, the Director of Public Works may thereafter pursue any of the enforcement remedies described below in this Section.

B. Violation a Misdemeanor. Violation of this Chapter or the Municipal NPDES Permit shall be punishable as a misdemeanor, punishable as set forth in Section 1.04.010(A) of this Code; provided, however, that any or all of the first three violations of this Chapter or the Municipal NPDES Permit committed within any consecutive twelve (12) month period may be charged as an infraction at the discretion of the City Prosecutor. Each day that a violation continues shall constitute a separate offense.

C. Violations Deemed a Public Nuisance.

1. Any condition caused or permitted to exist in violation of any of the provisions of this Chapter or the Municipal NPDES Permit is hereby determined to be a threat to the public health, safety, and welfare; is declared and deemed a public nuisance and may be abated or restored by any Authorized Enforcement Officer; and a civil or criminal action to abate, enjoin, or otherwise compel the cessation of such nuisance may be brought by the City Attorney.
2. The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property, as provided by law or ordinance for the recovery of nuisance abatement costs.
3. If any violation of this Chapter constitutes a seasonal and recurrent nuisance, the City Manager shall so declare. The failure of any person to take appropriate annual precautions to prevent storm water pollution after written notice of a determination under this paragraph shall constitute a public nuisance and a violation of this Chapter.

D. Concealment. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall constitute a separate violation of such provision.

E. Civil Actions. In addition to any other remedies provided in this Section, any violation of this Chapter may be enforced by civil action brought by the City. In any such action, the City may seek, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;
2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;

3. Costs incurred in removing, correcting, or terminating the adverse effects resulting from violation;
4. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life; and Attorney fees.

F. **Administrative Enforcement Powers.** In addition to the other enforcement powers and remedies established by this Chapter, the Authorized Enforcement Officer has the authority to utilize the following administrative remedies:

1. **Cease and Desist Orders.** When an Authorized Enforcement Officer finds that a discharge has taken place or is likely to take place in violation of this Chapter, the officer may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall: (i) comply with the requirement, (ii) comply with a time schedule for compliance, and (iii) take appropriate remedial or preventive action to prevent the violation from recurring. Failure to comply with such an order shall constitute a separate violation of this Chapter.
2. **Notice to Clean.** Whenever an Authorized Enforcement Officer finds any oil, earth, debris, grass, weeds, dead trees, tin cans, rubbish, refuse, waste, or any other pollutionable material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in pollutants entering the MS4 or a non-storm water discharge to the MS4, he or she may give notice to the owner or occupant of the adjacent property to remove such oil, earth, debris, grass, weeds, dead trees, tin cans, rubbish, refuse, waste, or other pollutionable material, in any manner that he or she may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice. Failure to comply with such a notice shall constitute a separate violation of this Chapter.

G. **Permit Revocation.** To the extent the City makes a provision of this Chapter or any identified BMP a condition of approval to the issuance of a permit or license, any person in violation of such condition is subject to the permit revocation procedures set forth in this Code.

H. **Remedies.** Remedies specified in this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal, including remedies under the Federal Clean Water Act and/or Porter-Cologne Act. The remedies provided for in this Section shall be cumulative and not exclusive.

- I. **Citizen Reporting.** Members of the public are encouraged to report possible violations of this Chapter to the City's Public Works Department.

5.84.100 Planning and Land Development Program requirements for New Development and Redevelopment projects.

- A. **Compliance with Municipal NPDES Permit.** The following New Development and Redevelopment projects are required to comply with the Municipal NPDES Permit:

1. All development projects equal to 1 acre or greater of disturbed area and adding more than 10,000 square feet of impervious area;
2. Industrial parks with 10,000 square feet or more of surface area;
3. Commercial malls with 10,000 square feet or more surface area;
4. Retail gasoline outlets with 5,000 square feet or more of surface area;
5. Restaurants (SIC 5812) with 5,000 square feet or more of surface area;
6. Parking lots with 5,000 square feet or more of impervious area or with twenty-five or more parking spaces;
7. Single family hillside residential developments or redevelopments;
8. Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects;
9. Automotive service facilities (SIC 5013, 5014, 5511, 5541, 7532-7534 and 7536- 7539) with 5,000 square feet or more of surface area;
10. Projects located in or directly adjacent to, or discharging directly to a Significant Ecological Area (SEA), where the development will:
 - a) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat; and

- b) Create 2,500 square feet or more of impervious surface area;
11. Projects in subject categories that meet Redevelopment thresholds (pursuant to the Municipal NPDES Permit), which include:
- a) Land-disturbing activities which create, add, or replace 5,000 square feet or more of impervious surface area on an already developed site excluding single family dwellings and accessory structures.
 - b) Land-disturbing activities which create, add, or replace 10,000 square feet or more of impervious surface area on existing single family dwellings and accessory structures.
 - c) Where Redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-development storm water quality control requirements, the entire Project must be mitigated.
 - d) Where Redevelopment results in an alteration to less than 50% of impervious surfaces of a previously existing development, and the existing development was not subject to post-development storm water quality control requirements, only the alteration must be mitigated, and not the entire development.

EXCEPTIONS: The following do not constitute New Development or Redevelopment:

1. Routine maintenance activities conducted to maintain original line and grade, hydraulic capacity, original purpose of facility, or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade and alignment, is considered a routine maintenance activity.
2. Discretionary permit projects or phased project applications which have been deemed complete by June 28, 2015 and which have not received an extension of time.
3. Discretionary permit projects with a valid vesting tentative map.

B. Incorporation of Planning and Land Development Program requirements Into Project Plans.

1. New Development and Redevelopment projects are required to control pollutants and runoff volume from the project site by minimizing the impervious surface area and controlling runoff through infiltration, bioretention, and/or rainfall harvest and use, in accordance with the standards set forth in the Municipal NPDES Permit.
2. An applicant for a New Development or a Redevelopment Project identified in this Chapter shall incorporate into the applicant's project plans a Post Construction Storm Water Mitigation Plan which includes those Best Management Practices necessary to control storm water pollution from the completed project. Structural or treatment control BMPs (including, as applicable, post-construction treatment control BMPs) set forth in project plans shall meet the design standards set forth in the Municipal NPDES Permit.
3. To the extent that the City may lawfully impose conditions, mitigation measures, or other requirements on the development or construction of a single-family home in a hillside area, a single-family hillside home Development or Redevelopment project shall implement mitigation measures to:
 - a) Conserve natural areas;
 - b) Protect slopes and channels;
 - c) Provide storm drain system stenciling and signage;
 - d) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability; and
 - e) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability.
4. **New Development/Redevelopment Project Performance Criteria.** Post-construction BMPs to mitigate storm water pollution are required for all New Development and Redevelopment projects identified in this Chapter unless alternative measures are allowed as provided in the Municipal NPDES Permit. BMPs must be implemented to retain on-site the Storm Water Quality Design Volume (SWQDv), defined as runoff from either:

- a) The 0.75 inch, 24-hour rain event; or
- b) The 85th percentile, 24-hour event, as determined from the Los Angeles County 85th percentile precipitation isohyetal map, whichever is greater.

BMPs shall meet the design specifications and on-site retention potential outlined in the Municipal NPDES Permit. Projects unable to retain 100% of the SWQDv on-site due to technical infeasibility as defined in the Municipal NPDES Permit must implement alternative compliance measures in accordance with the Municipal NPDES Permit.

Single family hillside home development projects are exempt from the New Development/Redevelopment Project Performance Criteria of the Municipal NPDES Permit unless they create, add, or replace 10,000 square feet or more of impervious surface area.

Street and road construction projects of 10,000 square feet or more of impervious surface area are exempt from the New Development/Redevelopment Project Performance Criteria of the Municipal NPDES Permit but shall adhere to the City's Green Streets Policy and be consistent with USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable.

- C. **Issuance of Final Approval.** As a condition for issuing final approval for New Development or Redevelopment projects identified in this Chapter, the Authorized Enforcement Officer shall require property owners or their representative(s) to build all the storm water pollution control Best Management Practices and structural or treatment control BMPs that are shown on the approved project plans and to submit a signed certification statement stating that the site and all structural or treatment control BMPs will be maintained in compliance with the Municipal NPDES Permit and other applicable regulatory requirements.

With the exception of Simple LID BMPs (as defined in this Chapter) implemented on single family residences, project owners shall provide an operation and maintenance plan, monitoring plan where required, and verification of ongoing maintenance provisions for LID practices and treatment control BMPs including, but not limited to: final map conditions, legal agreements, covenants, conditions or restrictions, California Environmental Quality Act (CEQA), CEQA mitigation requirements, conditional use permits, and/or other legally binding maintenance

agreements. These maintenance records must be kept on site for treatment BMPs implemented on single family residences.

D. Transfer of Properties Subject to Requirement for Maintenance of Structural and Treatment Control BMPs.

1. The transfer or lease of a property subject to a requirement for maintenance of structural and treatment control BMP's shall include conditions requiring the transferee and its successors and assigns to either (a) assume responsibility for maintenance of any existing structural or treatment control BMP, or (b) to replace an existing structural or treatment control BMP with new control measures or BMPs meeting the current standards of the City and the Municipal NPDES Permit. Such requirement shall be included in any sale or lease agreement or deed for such property. The condition of transfer shall include a provision that the successor property owner or lessee conduct maintenance inspections of all structural or treatment control BMPs at least once a year and retain proof of inspection.
2. For residential properties where the structural or treatment control BMPs are located within a common area which will be maintained by the community association, appropriate arrangements shall be made with the association regarding the responsibility for maintenance.
3. If structural or treatment control BMPs are located within an area proposed for dedication to a public agency, they will be the responsibility of the developer until the dedication is accepted.

E. California Environmental Quality Act. CEQA. Provisions of this Section shall be complementary to, and shall not replace, any applicable requirements for storm water mitigation required under the CEQA."

SECTION 2. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

SECTION 3. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

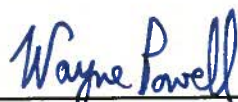
PASSED, APPROVED AND ADOPTED this 21st day of April, 2015.

AYES: Howorth, Lesser, D'Errico, Burton and Mayor Powell

NOES: None

ABSENT: None

ABSTAIN: None



WAYNE POWELL

Mayor

ATTEST:



LIZA TAMURA

City Clerk