

REPORT TO CITY COUNCIL

DATE: MAY 13, 2015

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: RAMIRO ADEVA, DIRECTOR OF PUBLIC WORKS/CITY ENGINEER 

SUBJECT: INTRODUCTION AND FIRST READING OF ORDINANCE NO. 15-416, AMENDING CHAPTER 5 OF ARTICLE V (STORM WATER MANAGEMENT AND DISCHARGE CONTROL) OF THE AGOURA HILLS MUNICIPAL CODE

On November 8, 2012, the Los Angeles Regional Water Quality Control Board (Regional Board) approved National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Permit (MS4 Permit) Order No. R4-2012-0175, which established the waste discharge requirements for stormwater and non-stormwater discharges within the watersheds of Los Angeles County.

The MS4 Permit, which became effective on December 28, 2012, is a highly complex document, and requires that discharges from the storm drain system not cause or contribute to any exceedance of water quality standards. These standards are measured through the adoption of Total Daily Maximum Loads (TMDLs). TMDLs are the maximum amount of pollutants the identified water body can handle in relation to its dependent eco-system and the designated beneficial uses (e.g. recreational, commercial fishing, wildlife habitat). Violation of these water quality standards opens the City to enforcement and third-party lawsuits.

The MS4 Permit required agencies to select one of the three implementation methods available to comply with the new permit, and submit a notice of intent to the Regional Board. On June 12, 2013, the City Council directed staff to use the Enhanced Watershed Management Program (EWMP) as the implementation method in order to satisfy the requirements of the MS4 Permit. The permit further states agencies participating in a Watershed Management Program (WMP) and/or EWMP must establish a Low Impact Development (LID) Ordinance by June 28, 2015. LID is an approach to new land development (or re-development) that mimics the pre-development site hydrology by using site design techniques such as bio-retention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements to treat stormwater runoff and ensure adequate groundwater recharge. As a result of implementing those requirements, the receiving waters may experience fewer negative impacts in the volume, frequency, and quality of runoff.

In order to have an ordinance in place by the June 28, 2015, deadline, staff has outlined the following approval schedule:

- May 13, 2015- Introduction and First Reading of the Ordinance
- May 27, 2015- Ordinance adoption
- June 27, 2015- Ordinance takes effect pending City Council approval

The proposed ordinance was presented to the Public Works Subcommittee on April 20, 2015, and has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff respectfully recommends the City Council introduce, read by title only, and waive further reading of Ordinance No. 15-416; amending Chapter 5 of Article V (Storm Water Management and Discharge Control) of the Agoura Hills Municipal Code.

Attachment: Ordinance No. 15-416

ORDINANCE NO. 15-416

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING CHAPTER 5 OF ARTICLE V OF THE AGOURA HILLS MUNICIPAL CODE (STORM WATER MANAGEMENT AND DISCHARGE CONTROL), TO INCLUDE LOW IMPACT DEVELOPMENT REQUIREMENTS AND ADDITIONAL REVISIONS PURSUANT TO THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT REQUIREMENTS FOR THE MUNICIPAL SEPARATE STORM SEWER SYSTEM

WHEREAS, the City is authorized by Article XI, Section 5 and Section 7 of the State Constitution to exercise the police power of the State by adopting regulations to promote public health, public safety and general prosperity; and

WHEREAS, the federal Clean Water Act establishes Regional Water Quality Control Boards in order to prohibit the discharge of pollutants in storm water runoff to waters of the United States; and

WHEREAS, the City is a co-permittee under the California Regional Water Quality Control Board, Los Angeles Region Order No. R4-2012-0175, issued on November 08, 2012 which establishes Waste Discharge Requirements for Municipal Separate Storm Sewer Systems (MS4) Discharges within the Coastal Watersheds of Los Angeles County, Except those Discharges Originating from the City of Long Beach MS4; and

WHEREAS, Order No. R4-2012-0175 contains requirements for municipalities to establish an LID Ordinance in order to participate in a Watershed Management Program and/or Enhanced Watershed Management Program; and

WHEREAS, the City has the authority under the California Water Code to adopt and enforce ordinances imposing conditions, restrictions and limitations with respect to any activity that might degrade waters of the State; and

WHEREAS, the City is committed to a storm water management program that protects water quality and water supply by employing watershed-based approaches that balance environmental and economic considerations; and

WHEREAS, urbanization has led to increased impervious surface areas resulting in increased water runoff and less percolation to groundwater aquifers causing the transport of pollutants to downstream receiving waters; and

WHEREAS, it is the intent of the City to expand the applicability of the existing LID requirements by providing storm water and rainwater LID strategies for all projects for Development and Redevelopment projects where technically feasible, as defined herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby finds, in the exercise of its independent judgment and analysis, that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") because the Low Impact Development requirements for new development and redevelopment projects of this Ordinance will not have a significant effect on the environment, and the adoption of this Ordinance and the timing thereof is mandated by the action of the Los Angeles Regional Water Quality Control Board ("LARWQCB"). In this case, the City is acting at the direction of the LARWQCB and federal law to protect, maintain, restore and enhance natural resources and the environment. To comply with the requirements of the LARWQCB, the City Council finds that the adoption of this Ordinance is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15307 and 15308. Furthermore, this Ordinance will have no possible significant effect on the environment, given that the provisions of this Ordinance provides similar regulations as currently exist and will not in and of themselves cause any change in the environment. Staff is hereby directed to prepare and post a notice of exemption pursuant to Guidelines Section 15062.

SECTION 2. Chapter 5 of Article V of the Agoura Hills Municipal Code is hereby amended in its entirety to read as follows:

"Chapter 5. STORM WATER MANAGEMENT AND DISCHARGE CONTROL

- 5500. FINDINGS**
- 5501. PURPOSE**
- 5502. DEFINITIONS**
- 5503. PROHIBITED ACTIVITIES**
- 5504. EXEMPTED DISCHARGES, CONDITIONALLY EXEMPTED DISCHARGES, OR DESIGNATED DISCHARGES**
- 5505. REQUIREMENTS FOR EXISTING PROPERTIES**
- 5506. REQUIREMENTS FOR INDUSTRIAL/COMMERCIAL AND CONSTRUCTION ACTIVITIES.**
- 5507. LOW IMPACT DEVELOPMENT REQUIREMENTS FOR NEW DEVELOPMENT AND REDEVELOPMENT**
- 5508. FEES**
- 5509. NO TAKING**
- 5510. ENFORCEMENT**

5501. FINDINGS:

A. The Congress of the United States (hereinafter "Congress") has determined that pollutants contained in storm water and urban runoff are responsible for the environmental degradation of oceans, lakes, rivers, and other waters of the United States.

B. Congress, in 1987, amended the Clean Water Act of 1972 to reduce pollutants discharged into the waters of the United States by extending National Pollutant Discharge Elimination System (hereinafter "NPDES") requirements to regulate storm water and urban runoff discharge into municipal storm drain systems.

C. Storm water and urban runoff flows from individual properties onto streets, then through storm drains to coastal waters along the City of Agoura Hills.

D. The City of Agoura Hills is a co-permittee under the Municipal NPDES Permit issued by the California Regional Water Quality Control Board, Los Angeles Region, which also serves as a NPDES Permit under the Federal Clean Water Act and as a co-permittee, the City is required to implement procedures with respect to the entry of non-storm water discharges into the municipal storm water system.

E. In order to control, in a cost-effective manner, the quantity and quality of storm water and urban runoff to the maximum extent practicable, the adoption of reasonable regulations, as set forth herein, is essential.

5502. PURPOSE:

A. The purpose of this Chapter is to ensure the future health, safety and general welfare of the citizens of the City and the water quality of the Malibu Creek watershed and surrounding coastal areas by:

1. Reducing pollutants in storm water discharges to the maximum extent practicable;
2. Regulating illicit connections and illicit discharges and thereby reducing the level of contamination of storm water and urban runoff into the municipal storm water system; and
3. Regulating non-storm water discharges to the municipal storm water system.

B. This Chapter also sets forth requirements for the construction and operation of certain commercial development, new development and redevelopment and other projects (as further defined herein) which are intended to ensure compliance with the storm water mitigation measures prescribed in the current version of the Municipal NPDES Permit approved by the Regional Water Quality Control Board, Los Angeles Region, and on file in the office of the City clerk.

C. This Chapter authorizes the Authorized Enforcement Officer to define and adopt applicable Best Management Practices and other storm water pollution control measures and to cite infractions and to impose fines pursuant to this Chapter. Except as otherwise provided herein, the Authorized Enforcement Officer shall administer, implement and enforce the provisions of this Section.

D. The intent of this Chapter is to protect and enhance the quality of watercourses, water bodies, and wetlands within the City in a manner consistent with the federal Clean Water Act and the NPDES Permit.

E. This Chapter is also intended to provide the City with the legal authority necessary to control discharges to and from those portions of the municipal storm water system over which it has jurisdiction as required by the municipal NPDES Permit.

5503. DEFINITIONS:

Except as specifically provided herein, any term used in this Chapter shall be defined as that term is defined in the current 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 hereunder. If the definition of any term contained in the current municipal NPDES Permit conflicts with the definition contained in this Chapter, then the definition contained in the municipal NPDES Permit shall govern. The following words and phrases shall have the following meanings when used in this Chapter:

A. **"Area Susceptible to Runoff"** means any surface directly exposed to precipitation or in the path of runoff caused by precipitation which path leads off the parcel on which the surface is located.

B. **"Authorized Enforcement Officer"** means the Director of the Department of Public Works on his or her designee.

C. **"Automotive Service Facility"** means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) codes. For inspection purposes, Permittees need not inspect facilities with SIC codes 5013, 5014, 5541, 5511 provided that these facilities have no outside activities or materials that may be exposed to storm water.

D. **"Basin Plan"** means the Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, adopted by the Regional Water Board on June 13, 1994 and subsequent amendments.

E. **"Best Management Practices (BMPs)"** means practices or physical devices or systems designed to prevent or reduce pollutant loading from storm water or non-storm water discharges to receiving waters, or designed to reduce the volume of storm water or non-storm water discharged to the receiving water. Examples of BMPs may include, but are not limited to public education and outreach, proper planning of development projects, proper cleaning of catch basin inlets, and proper sludge- or waste-handling and disposal, among others.

F. **"Biofiltration"** means a LID BMP that reduces storm water pollutant discharges by intercepting rainfall on vegetative canopy or groundcover, and through incidental infiltration and/or evapotranspiration, and filtration. Incidental infiltration is an important factor in achieving the required pollutant load reduction. Therefore, the term "biofiltration" as used in this Ordinance is defined to include only systems designed to facilitate incidental infiltration or achieve the equivalent pollutant reduction as biofiltration BMPs with an underdrain (subject to approval by the Regional Board's Executive Officer). Biofiltration BMPs include bioretention systems with an underdrain and bioswales.

G. **“Bioretention”** means a LID BMP that reduces storm water runoff by intercepting rainfall on vegetative canopy, and through evapotranspiration and infiltration. The bioretention system typically includes a minimum 2-foot top layer of a specified soil and compost mixture underlain by a gravel-filled temporary storage pit dug into the in-situ soil. As defined in this Ordinance, a bioretention BMP may be designed with an overflow drain, but may not include an underdrain. When a bioretention BMP is designed or constructed with an underdrain it is regulated by the NPDES Permit as biofiltration.

H. **“Bioswale”** means a LID BMP consisting of a shallow channel lined with grass or other dense, low-growing vegetation. Bioswales are designed to collect storm water runoff and to achieve a uniform sheet flow through the dense vegetation for a period of several minutes.

I. **“City”** means the City of Agoura Hills.

J. **“Clean Water Act (CWA)”** means the Federal Water Pollution Control Act enacted in 1972, by Public Law 92-500, and amended by the Water Quality Act of 1987. The Clean Water Act prohibits the discharge of pollutants to Waters of the United States unless the discharge is in accordance with a NPDES Permit.

K. **“Commercial Development”** means any development on private land that is not heavy industrial or residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

L. **“Commercial Malls”** means any development on private land comprised of one or more buildings forming a complex of stores which sell various merchandise, with interconnecting walkways enabling visitors to easily walk from store to store, along with parking area(s). A commercial mall includes, but is not limited to: mini-malls, strip malls, other retail complexes, and enclosed shopping malls or shopping centers.

M. **“Construction Activity”** means any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that result in land disturbance. Construction does not include emergency construction activities required to immediately protect public health and safety or routine maintenance activities required to maintain the integrity of structures by performing minor repair and restoration work, maintain the original line and grade, hydraulic capacity, or original purposes of the facility. See “Routine Maintenance” definition for further explanation. Where clearing, grading or excavating of underlying soil takes place during a repaving operation, State General Construction Permit coverage by the State of California General Permit for Storm Water Discharges Associated with Industrial Activities or for Storm water Discharges Associated with Construction Activities is required if more than one acre is disturbed or the activities are part of a larger plan.

N. **“Control”** means to minimize, reduce or eliminate by technological, legal, contractual, or other means, the discharge of pollutants from an activity or activities.

O. **"Development"** means 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.

P. **"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.

Q. **"Director"** means the City's Director of Public Works or the Director's designee.

R. **"Discharge"** when used without further qualification of the term means any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid, or solid substance.

S. **"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.

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

U. **"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 Section 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 as reflected on the map which is on file in the City's department of planning, building and code enforcement.

V. **"General Construction Activities Storm Water Permit"** means the general NPDES Permit adopted by the State Board which authorizes the discharge of storm water from construction activities under certain conditions.

W. **"General Industrial Activities Storm Water Permit"** means the general NPDES Permit adopted by the State Board which authorizes the discharge of storm water from certain industrial activities under certain conditions.

X. **"Green Roof"** means a LID BMP using planter boxes and vegetation to intercept rainfall on the roof surface. Rainfall is intercepted by vegetation leaves and

through evapotranspiration. Green roofs may be designed as either a bioretention BMP or as a biofiltration BMP. To receive credit as a bioretention BMP, the green roof system planting medium shall be of sufficient depth to provide capacity within the pore space volume to contain the design storm depth and may not be designed or constructed with an underdrain.

Y. **"Hillside"** means a property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is 25% or greater and where grading contemplates cut or fill slopes.

Z. **"Illicit Connection"** means any man-made conveyance that is connected to the storm drain system without a permit, excluding gutters, roof-drains and other similar connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drain system.

AA. **"Illicit Discharge"** means any discharge to the MS4 that is prohibited under local, state or federal statutes, ordinances, codes or regulations. This includes all non-storm water discharges, except authorized non-storm water discharges; conditionally exempt non-storm water discharges; and non-storm water discharges resulting from natural flows specifically identified in Part III.A. of the Municipal NPDES Permit.

BB. **"Industrial Park"** means land development that is set aside for industrial development. Industrial parks are usually located close to transport facilities, especially where more than one transport modalities coincide: highways, railroads, airports, and navigable rivers. It includes office parks, which have offices and light industry.

CC. **"Infiltration"** means the downward entry of water into the surface of the soil.

DD. **"Low Impact Development (LID)"** consists of building and landscape features designed to retain or filter storm water runoff.

EE. **"Material"** means any substance including, but not limited to: garbage and debris; lawn clippings, leaves, and other vegetation; biological and fecal waste; sediment and sludge; oil and grease; gasoline; paints, solvents, cleaners, and any fluid or solid containing chemicals.

FF. **"Municipal NPDES Permit" or "MS4 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), issued on November 08, 2012, issued by the California Regional Water Quality Control Board, Los Angeles Region and any successor permit to that permit.

GG. **"Municipal Separate Storm Sewer System (MS4)" or "Municipal Storm Water System"** means a conveyance or system of conveyances (including 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 is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. Section 122.2. (40 C.F.R. Section 122.26(b)(8)).

HH. **"National Pollutant Discharge Elimination System (NPDES)"** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA Section 307, 402, 318, and 405. The term includes an "approved program."

II. **"Natural Drainage System"** means a drainage system that has not been improved (e.g., channelized or armored). The clearing or dredging of a natural drainage system does not cause the system to be classified as an improved drainage system.

JJ. **"New Development"** means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

KK. **"NPDES Permit"** means any waste discharge requirements issued by the California Regional Water Quality Control Board, Los Angeles Region or the State Water Resources Control Board as an NPDES Permit pursuant to Water Code Section 13370.

LL. **"Parking Lot"** means land area or facility for the parking or storage of motor vehicles used for businesses, commerce, industry, or personal use, with a lot size of five thousand square feet or more of surface area, or with twenty-five or more parking spaces.

MM. **"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);
6. Substances having characteristics such as pH less than six or greater than nine, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus;

The term "pollutant" shall not include uncontaminated storm water, potable water or reclaimed water generated by a lawfully permitted water treatment facility.

The term "pollutant" also shall not include any substance identified in this definition, if through compliance with the Best Management Practices available, the discharge of such substance has been reduced or eliminated to the maximum extent practicable. In an enforcement action, the burden shall be on the person who is the subject of such action to establish the reduction or elimination of the discharge to the maximum extent practicable through compliance with the Best Management Practices available.

NN. "Project" means all development, redevelopment, and land disturbing activities. The term is not limited to "Project" as defined under CEQA (Pub. Resources Code Section 21065).

OO. "Rainfall Harvest and Use" means a LID BMP system designed to capture runoff, typically from a roof but can also include runoff capture from elsewhere within the site, and to provide for temporary storage until the harvested water can be used for irrigation or non-potable uses. The harvested water may also be used for potable water uses if the system includes disinfection treatment and is approved for such use by the local building department in conjunction with requirements of the County public health department.

PP. "Receiving Water" means "water of the United States" into which waste and/or pollutants are or may be discharged.

QQ. "Redevelopment" means land-disturbing activity that results in the creation, addition or replacement of at least five thousand square feet of impervious surface area on an already developed site for all project categories except single family residential 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 area. "Redevelopment" includes, but is not limited to, the following activities that meet the minimum standards set forth in this definition: (1) the expansion of a building footprint; (2) the addition or replacement of a structure; (3) the replacement of an impervious surface that is not part of a routine maintenance activity; and (4) land-disturbing activities related to structural or impervious surfaces. "Redevelopment" does

not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or an emergency redevelopment activity that is required to protect public health and safety.

RR. **“Regional Board”** means the California Regional Water Quality Control Board, Los Angeles Region.

SS. **“Restaurant”** means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC Code 5812).

TT. **“Retail Gasoline Outlet”** means any facility engaged in selling gasoline and lubricating oils.

UU. **“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, regrade dirt or gravel roadways and shoulders and perform ditch cleanouts.
4. Update existing lines* and facilities to comply with applicable codes, standards, and regulations regardless if such projects result in increased capacity.

5. Repair leaks

Routine maintenance does not include construction of new** lines or facilities resulting from compliance with applicable codes, standards and regulations.

* Update existing lines includes replacing existing lines with new materials or pipes.

** New lines are those that are not associated with existing facilities and are not part of a project to update or replace existing lines.

VV. **“Runoff”** means any runoff including storm water and dry weather flows from a drainage area that reaches a receiving water body or subsurface. During dry weather it is typically comprised of base flow either contaminated with pollutants or uncontaminated and nuisance flows.

WW. **“Significant Ecological Areas (SEAs)”** 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.
8. Special areas.

XX. **"Site"** means land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

YY. **"Source control BMP"** means any schedule of activities, prohibition of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

ZZ. **"Storm Drain System"** means any facility or any parts of the facility, including streets, gutters, conduits, natural or artificial drains, channels and watercourse that are used for the purpose of collecting, storing, transporting or disposing of storm water and are located within the City.

AAA. **"Storm Water or Storm water"** means runoff and drainage related to precipitation events (pursuant to 40 C.F.R. Section 122.26(b)(13); 55 Fed. Reg. 47990, 47995 (Nov. 16, 1990)).

BBB. **"Storm Water Runoff" or "Urban Runoff"** means surface water flow produced by storm and non-storm events. Non-storm events include flow from residential, commercial or industrial activities involving the use of potable and non-potable water. When all other factors are constant, runoff increases as the perviousness of a surface decreases.

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

DDD. **"SUSMP"** means the Los Angeles Countywide Standard Urban Stormwater Mitigation Plan

EEE. **"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.

FFF. **"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.

5504. PROHIBITED ACTIVITIES:

A. **Illicit discharges and connections.** No person shall 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, or 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 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 or other appropriate receptacles which 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 a storm drain.

D. **Industrial Activities:** No person shall conduct any industrial activity in the City without obtaining all permits required by state or federal law, including a NPDES general industrial activity storm water permit when required. Persons conducting industrial activities within the City should refer to the most recent edition of the "Industrial/Commercial Best Management Practices Handbook", produced and published by the Storm Water Quality Task Force, for specific guidance on selecting best management practices for reducing pollutants in storm water discharges from industrial activities.

E. **Non-storm water discharges.** All non-storm water discharges into the MS4 are prohibited unless those flows are:

1. In compliance with a separate NPDES Permit;
2. Pursuant to a discharge exemption by the Regional Board, the Regional Board's Executive Officer, or the State Water Resources Control Board;

3. Associated with emergency firefighting activities (i.e., flows necessary for the protection of life or property);
4. Natural flows as defined in the Municipal NPDES Permit;
5. Conditionally exempt non-storm water discharges as defined in accordance with the Municipal NPDES Permit; or
6. Authorized as a temporary non-storm water discharge by USEPA pursuant to Sections 104(a) or 104(b) of the Comprehensive Environmental Response, Compensation, and Liability Act.

F. Prohibited discharges include, 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 water 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.
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.

G. Discharges in violation of the Municipal NPDES Permit. Any discharge that would result in 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.

5505. EXEMPTED DISCHARGES, CONDITIONALLY EXEMPTED DISCHARGES OR DESIGNATED DISCHARGES:

Discharges from those activities specifically identified in, or pursuant to, Part III.A.1-3 of the Municipal NPDES Permit as being exempted discharges, conditionally exempted discharges, or designated discharges shall not be considered a violation of this Chapter, provided that any such discharges are consistent with Part III.A of the Municipal NPDES Permit and:

- A. Applicable BMPs developed pursuant to the Municipal NPDES Permit are implemented to minimize any adverse impacts from such identified sources;
- B. The discharger meets all notification, reporting and recordkeeping requirements; and
- C. The discharger has conducted all applicable monitoring requirements.

5506. REQUIREMENTS FOR EXISTING PROPERTIES:

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 in an area where discharge to city streets or storm drains system may or does occur.

B. **Use of Water.** Runoff of water used for irrigation purposes shall be minimized to the maximum extent practicable. Runoff of water from the permitted washing down of impervious areas shall be minimized to the maximum extent practicable and diverted so that flow is directed to landscaped areas for infiltration where 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 pollutants are not discharged to the municipal storm water system.

D. **Removal and Disposal of Debris and Residue and Other Materials.**

1. Non-residential motor vehicle parking lots with more than twenty-five parking spaces that generate runoff shall be swept regularly or other equally effective measures will be utilized to remove oil, chemicals, debris or other polluting

materials from such parking lots. Sweeping and collection of debris is encouraged for trash disposal.

2. Food and liquid wastes generated by non-residential food service and food distribution sources shall be disposed of in a manner so such wastes are not discharged to the municipal storm water system.

3. Best management practices 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.

E. Maintenance of Structural BMPs. Structural BMPs required by the City, County of Los Angeles, or any state or federal agency shall be properly operated and maintained, as specified by an approved SUSMP or Storm Water Mitigation Plan, or otherwise determined by the Authorized Enforcement Officer. Records and documentation of such maintenance shall be provided to the Director upon request.

5507. REQUIREMENTS FOR INDUSTRIAL/COMMERCIAL AND CONSTRUCTION ACTIVITIES:

A. Each industrial discharger, discharger associated with construction activity, or other discharger described in any general NPDES permit addressing such discharges, as may be issued by the U.S. Environmental Protection Agency, the State Water Resources Control Board, or the Regional Board, shall comply with all requirements of such permit and the provisions of this Chapter. 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 NPDES permit may be required in a form acceptable to the Authorized Enforcement Officer, or designated representative, 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 in violation of any applicable NPDES permit or the provisions of this Chapter are prohibited.

C. Industrial and commercial dischargers and dischargers associated with construction activities shall implement effective BMPs, including source control BMPs, in accordance with Table 10 of Part VI.D.6.f of the Municipal NPDES Permit unless a particular pollutant generating activity does not occur on a facility's site.

5508. LOW IMPACT DEVELOPMENT REQUIREMENTS FOR NEW DEVELOPMENT AND REDEVELOPMENT:

A. Objective. The provisions of this Section establish requirements for construction activities and facility operations of Development and Redevelopment projects to comply with the current MS4 Permit (Order No. R4-2012-0175), to lessen the water quality impacts of development by using smart growth practices, and integrate LID practices and standards for storm water pollution mitigation through means of

infiltration, evapotranspiration, biofiltration, and rainfall harvest and use. LID shall be inclusive of new development and/or redevelopment requirements.

B. **Scope.** This Section contains requirements for storm water pollution control measures in Development and Redevelopment projects and authorizes the City to further define and adopt storm water pollution control measures, and to develop LID principles and requirements, including but not limited to the objectives and specifications for integration of LID strategies. Except as otherwise provided herein, the City shall administer, implement and enforce the provisions of this Section.

C. **Applicability.** This Section applies to the following New Development and Redevelopment Projects which are subject to City conditioning and approval for the design and implementation of post-construction controls and other BMPs to mitigate storm water pollution, prior to completion of the project(s), as follows:

1. **New Development Projects.**
 - a. All development projects equal to 1 acre or greater of disturbed area that adds more than 10,000 square feet of impervious surface area.
 - b. Industrial parks with 10,000 square feet or more of surface area.
 - c. Commercial malls with 10,000 square feet or more of surface area.
 - d. Retail gasoline outlets with 5,000 square feet or more of surface area.
 - e. Restaurants (Standard Industrial Classification (SIC) of 5812) with 5,000 square feet or more of surface area.
 - f. Parking lots with 5,000 square feet or more of impervious surface area, or with 25 or more parking spaces.
 - g. Street and road construction of 10,000 square feet or more of impervious surface area shall follow the City's Green Streets Policy 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.
 - h. Automotive service facilities (Standard Industrial Classification (SIC) of 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539) with 5,000 square feet or more of surface area.
 - i. Projects located in or directly adjacent to, or discharging directly to an Significant Ecological Area (SEA), where the development will:
 - (1) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat; and
 - (2) Create 2,500 square feet or more of impervious surface area
 - j. New single-family hillside homes.
2. **Redevelopment Projects**

a. Land disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site for categories identified in C.1.

b. 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-construction storm water quality control requirements, the entire project must be mitigated.

c. Where Redevelopment results in an alteration of less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-construction storm water quality control requirements, only the alteration must be mitigated, and not the entire development.

d. Redevelopment does not include routine maintenance activities that are 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. Redevelopment does not include the repaving of existing roads to maintain original line and grade.

e. Existing single-family dwelling and accessory structures are exempt from the Redevelopment requirements unless such projects create, add, or replace 10,000 square feet of impervious surface area.

D. LID Standards Manual. The Director shall prepare, maintain, and update, as deemed necessary and appropriate, a manual ("LID Standards Manual"), which shall include urban and stormwater runoff quantity and quality control development principles and technologies for achieving compliance with the provisions of this Section. The LID Standards Manual shall also include technical feasibility and implementation parameters, as well as other rules, requirements, and procedures as the Director deems necessary, for implementing the provisions of this Chapter.

E. Specific Requirements.

1. New Single-Family Hillside Homes. To the extent that the City may lawfully impose conditions, mitigation measures or other requirements on the construction of new single-family hillside homes, new single-family hillside homes are exempt from the New Development/Redevelopment Project Performance Criteria of Part VI.D.7.c of the MS4 Permit but shall, include 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.

2. Street and road construction of 10,000 square feet or more of impervious surface are exempt from the New Development/Redevelopment Project Performance Criteria of Part VI.D.7.c of the MS4 Permit but shall follow the City's Green Streets Policy to the maximum extent practicable.

3. **New Development and Redevelopment Projects.** Unless otherwise exempted in this Chapter or in the MS4 Permit, the site for every New Development and Redevelopment Project shall comply with Part VI.D.7.c of the MS4 Permit and be designed to control pollutants, pollutant loads, and runoff volume to the maximum extent feasible by minimizing impervious surface area and controlling runoff from impervious surfaces through infiltration, evapotranspiration, bioretention and/or rainfall harvest and use in accordance with the requirements set forth in the MS4 Permit and the LID Standards Manual. The project applicant shall prepare and submit a Storm Water Mitigation Plan, which shall implement set LID standards and practices for storm water pollution mitigation consistent with this Chapter and the LID Standards Manual, to the Director for review and approval. The Storm Water Mitigation Plan shall provide documentation to demonstrate compliance with the MS4 Permit on the plans and permit application submitted to the City, and shall comply with the following:

- a. Retain storm water runoff onsite for the Storm water Quality Design Volume (SWQDv) defined as the runoff from:
 - (1) The 85th percentile 24-hour runoff event as determined from the Los Angeles County 85th percentile precipitation isohyetal map; or
 - (2) The volume of runoff produced from a 0.75 inch, 24-hour rain event, whichever is greater.
- b. Minimize hydromodification impacts to natural drainage systems as defined in The NPDES Permit.

F. Technical Infeasibility.

1. Some relief, as outlined later in this Section, from the MS4 Permit (Part VI.D.7.c) requirements may be granted for technical infeasibility. To demonstrate technical infeasibility, the project applicant must demonstrate that the project cannot reliably retain 100 percent of the SWQDv on-site, even with the maximum application of green roofs and rainwater harvest and use, and that compliance with the applicable post-construction requirements would be technically infeasible by submitting a site-specific hydrologic and/or design analysis conducted and endorsed by a registered professional engineer, geologist, architect, and/or landscape architect. Technical infeasibility may result from conditions including the following:

- a. The infiltration rate of saturated in-situ soils is less than 0.3 inch per hour and it is not technically feasible to amend the in-situ soils to attain an infiltration rate necessary to achieve

reliable performance of infiltration or bioretention BMPs in retaining the SWQDv onsite.

- b. Locations where seasonal high groundwater is within five to ten feet of surface grade;
- c. Locations within 100 feet of a groundwater well used for drinking water;
- d. Brownfield development sites or other locations where pollutant mobilization is a documented concern;
- e. Locations with potential geotechnical hazards;
- f. Smart growth and infill or redevelopment locations where the density and/ or nature of the project would create significant difficulty for compliance with the onsite volume retention requirement.

2. If partial or complete onsite retention is technically infeasible, the project Site may biofiltrate 1.5 times the portion of the remaining SWQDv that is not reliably retained onsite. Biofiltration BMPs must adhere to the design specifications provided in the MS4 Permit (Order No. R4-2012-0175).

- a. Additional alternative compliance options such as offsite infiltration and groundwater replenishment projects may be available to the project Site. The applicant for the project should contact the Authorized Enforcement Officer to determine eligibility.

3. The remaining SWQDv that cannot be retained or biofiltered onsite must be treated onsite to reduce pollutant loading. BMPs must be selected and designed to meet pollutant-specific benchmarks as required by the MS4 Permit. Flow-through BMPs may be used to treat the remaining SWQDv and must be sized based on a rainfall intensity of:

- a. 0.2 inches per hour, or
- b. The one year, one-hour rainfall intensity as determined from the most recent Los Angeles County isohyetal map, whichever is greater.

G. Exemptions from LID Requirements. The provisions of this Section do not apply to any of the following:

1. A Development involving only emergency Construction Activity required to immediately protect public health and safety;
2. Infrastructure projects within the public right-of-way, excluding street and road construction of 10,000 square feet or more of impervious surface;
3. A Development or Redevelopment involving only activity related to gas, water, cable, or electricity services on private property;

4. A Development or Redevelopment involving only resurfacing and/or re-stripping of permitted parking lots, where the original line and grade, hydraulic capacity, and original purpose of the facility is maintained;

5. A project not requiring a City building, grading, demolition or other permit for Construction Activity.

H. City Review and Approval.

1. Prior to the issuance of a permit for a New Development or Redevelopment Project, the City shall evaluate the proposed project using the MS4 Permit, and erosion and grading requirements of the City Building Official or Authorized Enforcement Officer to determine (i) its potential to generate the flow of Pollutants into the MS4 after construction; and (ii) how well the Storm Water Mitigation Plan for the proposed project meets the goals of this Chapter. Each plan will be evaluated on its own merits according to the particular characteristics of the project and the site to be developed. Based upon the review, the City may impose conditions upon the issuance of the building permit, in addition to any required by the State Construction General Permit for the project, in order to minimize the flow of Pollutants into the MS4.

I. Issuance of Discretionary Permits. No discretionary permit may be issued for any new development or redevelopment project identified in this Section until the Authorized Enforcement Officer confirms that the project plans, including the Storm Water Mitigation Plan, comply with the applicable LID requirements of this Chapter. Where redevelopment results in an alteration to more than 50 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. Where redevelopment results in an alteration to less than 50 percent 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.

J. Issuance of Certificates of Occupancy. As a condition for issuing a certificate of occupancy for a project subject to this Chapter, the Director shall require facility operators or owners to build all BMPs that are shown on the approved project plans and to submit an owner signed certification statement stating that the site and all LID BMPs will be maintained in compliance with the Storm Water Mitigation Plan and other applicable regulatory requirements.

K. Transfer of Properties Subject to Requirement for Maintenance of BMPs.

1. The transfer or lease of a property subject to a requirement for maintenance of BMPs shall include conditions requiring the transferee and its successors and assigns to either: (a) assume responsibility for maintenance of any existing BMP, or (b) to replace an existing BMP with new control measures or BMPs meeting the then 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 BMPs at least once a year and retain proof of inspection.

2. For residential properties where the LID BMPs are located within a common area which will be maintained by a homeowner's association, language regarding the responsibility for maintenance shall be included in the project's conditions, covenants and restrictions (CC&R's). Printed educational materials will be required to accompany the first deed transfer to highlight the existence of the requirement and to provide information on what storm water management facilities are present, signs that maintenance is needed, and how the necessary maintenance can be performed. The transfer of this information shall also be required with any subsequent sale of the property.

3. If LID 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.

5509. FEES:

Fees for plan reviews, inspections, violations, corrections, and tasks associated with this Chapter may be established by resolution of the City Council."

5510. NO TAKING:

The provisions of this Article will not be construed or operated to deprive any property owner of substantially all of the market value of such owner's property or otherwise constitute an unconstitutional taking without compensation.

5511. ENFORCEMENT.

A. Violations Deemed a Public Nuisance.

1. A violation of any provision of this Chapter is declared to be a public nuisance, and the City Attorney is authorized to abate such violation by means of a civil action in addition to whatever other remedies are available to the City under this code and other applicable laws, rules or regulations. Additionally, the following conditions shall be considered a public nuisance:

a. Any failure to comply with any applicable requirement of this Chapter or the Municipal NPDES Permit; or

b. Any false certification or verification, or any failure to comply with a certification or verification provided by a project applicant or the applicant's successor in interest; or

c. Any failure to properly operate and maintain any structural or treatment control BMP on a property in accordance with an approved Storm Water Mitigation Plan or an approved SUSMP or approved SWPPP (storm water pollution prevent plan or similar type of approved water quality improvement plan, this Chapter, or the Municipal NPDES Permit.

2. The above listed conditions are hereby determined to be a threat to the public health, safety and welfare, are 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.

3. 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. If any violation of this Chapter constitutes a seasonal and recurrent nuisance, the Authorized Enforcement Officer 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 Section shall constitute a public nuisance and a violation of this Chapter.

B. Inspections.

1. Whenever necessary to make an inspection to enforce any of the provisions of this Section, or whenever an Authorized Enforcement Officer has reasonable cause to believe that there exists on any construction site any condition which constitutes a violation of the provisions of this Section, the Authorized Enforcement Officer may, upon consent or upon obtaining an inspection warrant, enter such construction site at all reasonable times to inspect the same or perform any duty imposed upon the Officer by this Section.

2. Routine or area inspections shall be based upon such reasonable selection process as may be deemed necessary to carry out the objectives of this Chapter, including, but not limited to, random sampling and/or sampling in areas with evidence of storm water contamination, discharges of nonstorm water to the MS4, discharges which are not pursuant to an NPDES permit, or similar factors.

3. Right to Inspect. Prior to commencing any inspection as herein below authorized, the Authorized Enforcement Officer shall obtain either the consent of the owner, his/her authorized representative or the occupant of the property or shall obtain an administrative inspection warrant or criminal search warrant.

4. Entry to Inspect. The Authorized Enforcement Officer may enter property to investigate the source of any discharge to any public street, inlet, gutter, storm drain or any other part of the MS4 located within the jurisdiction of the City.

5. **Compliance Assessments.** The Authorized Enforcement Officer may inspect property for the purpose of verifying compliance with this Chapter, including but not limited to (a) identifying products produced, processes conducted, chemicals used and materials stored on or contained within the property; (b) identifying point(s) of discharge of all wastewater, process water systems and pollutants; (c) investigating the natural slope at the location, including drainage patterns and man-made conveyance systems; (d) establishing the location of all points of discharge from the property, whether by surface runoff or through a storm drain system; (e) locating any illicit connection or the source of prohibited discharge; (f) evaluating compliance with any permit issued relating to a discharge to the storm water drainage system.

6. **Portable Equipment.** For purposes of verifying compliance with this Chapter, the Authorized Enforcement Officer may inspect any vehicle, truck, trailer, tank truck or other mobile equipment.

7. **Records Review.** The Authorized Enforcement Officer may inspect all records of the owner or occupant of property relating to chemicals or processes presently or previously occurring on-site, including material and/or chemical inventories, facilities maps or schematics and diagrams, material safety data sheets, hazardous waste manifests, business plans, pollution prevention plans, state general permits, storm water pollution prevention plans, monitoring program plans and any other record(s) relating to illicit connections, prohibited discharges, or any other source of contribution or potential contribution of pollutants to the storm water drainage system.

8. **Sample and Test.** The Authorized Enforcement Officer may inspect, sample and test any area runoff, soils area (including groundwater testing), process discharge, materials within any waste storage area (including any container contents), and/or treatment system discharge for the purpose of determining the potential for contribution of pollutants to the storm water drainage system. The Authorized Enforcement Officer may investigate the integrity of all storm drain and sanitary sewer systems, any legal nonconforming connection or other pipelines on the property using appropriate tests, including but not limited to smoke and dye tests or video surveys. The Authorized Enforcement Officer may take photographs or video tape, make measurements or drawings, and create any other record reasonably necessary to document conditions on the property.

9. **Monitoring.** The Authorized Enforcement Officer may erect and maintain monitoring devices for the purpose of measuring or sampling any discharge or potential source of discharge to the storm water drainage system.

10. **Test Results.** The owner or occupant of property subject to inspection shall, on submission of a written request, receive copies of all monitoring and test results conducted by the Authorized Enforcement Officer.

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

D. Civil Actions. In addition to any other remedies provided in this Section, any violation of this Section may be enforced by civil action brought by the City. In any such action, the City may seek, and the court shall grant, 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.

E. Administrative Enforcement Powers. In addition to the other enforcement powers and remedies established by this Chapter, any 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: (a) comply with the requirement, (b) comply with a time schedule for compliance, and (c) take appropriate remedial or preventive action to prevent the violation from recurring.

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 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 municipal storm drain system or a non-storm water discharge to the storm drain system, 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 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.

F. Penalties. Violation of this Section shall be punishable as provided in Chapter 1 of Article 1 of this Code. Each day that a violation continues shall constitute a separate offense.

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 under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.”

SECTION 3. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more Sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. The City Clerk shall certify to the passage of this Ordinance and shall cause same to be published pursuant to state law within fifteen (15) days after its passage, and this ordinance shall become effective thirty (30) days after its passage.

PASSED, APPROVED, and ADOPTED this _____ day of _____, 2015,
by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Illece Buckley Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney