
Los Angeles Regional Water Quality Control Board

TO: Los Angeles County MS4 Permittees

FROM: Samuel Unger, P.E. *SU*
Executive Officer

DATE: April 16, 2014

**SUBJECT: COMMENTS ON LOW IMPACT DEVELOPMENT (LID) ORDINANCES
AND GREEN STREET POLICIES**

Regional Water Board staff has reviewed the low impact development (LID) ordinances and green street policies received from each watershed group for compliance with Part VI.D.7 of the LA County MS4 Permit (Order No. R4-2012-0175). As you are aware, the LA County MS4 Permit requires all permittees participating in an Enhanced Watershed Management Program (EWMP) or a Watershed Management Program (WMP) with an 18-month planning horizon to have final LID ordinances and green streets policies in place and to condition projects, including street and road construction, per the requirements of Part VI.D.7 by the time of the draft EWMP/WMP submittal.

Board staff notes that many watershed groups and individual Permittees utilized LID ordinance and green street policy templates; the use of templates has been encouraged as an efficient way for Permittees to implement these requirements. However, Board staff has identified some potential issues with the language and level of detail in the templates. Additionally, in some cases, draft LID ordinances and green streets policies have been revised since submittal of the Permittee's notification of intent to develop a WMP or EWMP; however, the revised LID ordinances and green streets policies have not been provided to Board staff. All of these issues have been shared verbally with a number of watershed groups. Because the issues are common to many or all of the watershed groups, these issues are summarized in this memorandum.

First, it is important for Permittees to apprise Board staff of revisions to their draft LID ordinances and green streets policies as they occur and to provide the revised drafts to Board staff. Board staff understands that it may be necessary to revise the draft ordinances and policies as a result of internal reviews and public input. In those instances, the Permittee should notify Board staff of these changes and submit the revised draft ordinance and/or green streets policy to the Regional Water Board as soon as possible. Keeping Board staff apprised of revisions and providing Board staff with the revised drafts in a timely fashion will facilitate the Board's review of the Permittee's draft WMP/EWMP.

The following are the specific issues that Permittees must address in the LID ordinances and green streets policies before each watershed management group submits their draft WMP/EWMP. If a Permittee has not yet finalized its LID ordinance and green streets policy, these issues should be addressed prior to adoption of the draft LID ordinances and green streets policies. Where a Permittee's LID ordinance and green streets policy has already been adopted, these issues should be addressed in companion LID and/or green street design manuals and in the draft WMP/EWMP.

- 1. In many cases the draft LID ordinances and green streets policies do not contain all of the technical specifications set forth in the LA County MS4 Permit, but direct project proponents to comply with the requirements of the LA County MS4 Permit or includes technical implementation details in accompanying design manuals or plans.**

Board staff understands the technical specifications required of LID projects are lengthy and may be better included in a technical design manual or implementation plan. Where Permittees rely on a design manual or implementation plan as an integral companion document to their LID ordinance and/or green streets policy, Permittees must submit these technical design manuals or implementation plans along with the draft LID ordinance and green streets policy so that Board staff is able to fully evaluate each Permittee's LID ordinance and green streets policy for compliance with the requirements of the LA County MS4 Permit.

- 2. In many cases the LID ordinances authorize Permittees to grant "waivers" from LID requirements and collect funds for projects that are granted waivers.**

As you are aware, the LA County MS4 Permit does not give permittees the discretion to waive LID requirements for projects subject to Part VI.D.7.b.i. However, the LA County MS4 Permit does allow the use of specified alternative compliance mechanisms if technical infeasibility is demonstrated for onsite retention. The use of alternative compliance pathways is only allowed under conditions defined in the LA County MS4 Permit. The use of the word "waiver" without a proper definition in the LID ordinance is potentially confusing. Permittees should avoid using the term "waiver" and instead should use the phrase "alternative compliance for technical infeasibility" consistent with the LA County MS4 Permit. Where a Permittee's LID ordinance has already been finalized, the term "waiver" must be clarified in a companion design manual, where one exists, and in the Permittee's draft WMP. Specifically, "waiver" shall be defined as meaning "alternative compliance for technical infeasibility" as set forth in Part VI.D.7.c.ii-iii of the LA County MS4 Permit.

- 3. In many cases LID ordinances state that alternative compliance options such as offsite infiltration and ground water replenishment projects may be available to the project site and directs the project applicant to contact the city to determine eligibility.**

The LA County MS4 Permit allows for alternative compliance options such as offsite infiltration and groundwater replenishment as long as these comply with additional requirements for these types of projects in the LA County MS4 Permit (e.g., timing of completion for offsite projects). The ordinances should either identify these additional requirements or state the requirement that these projects comply with all related provisions of the LA County MS4 Permit.

If any of these issues pertains to your draft LID ordinance or green streets policy, please contact your Regional Water Board staff contact and submit revised draft ordinances and green streets policies addressing the issues above as soon as possible. Additionally, if you have not done so already, submit to your Regional Water Board staff contact the companion LID and/or green streets technical design manuals or implementation plans. If you have any questions or would like to arrange a meeting with Board staff, please contact Ivar Ridgeway by phone at (213) 620-2150 or via email at Ivar.Ridgeway@waterboards.ca.gov.