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8.44.010 Title

This Chapter shall be known as the "City of Hermosa Beach Storm Water Management and Pollution Control Ordinance".

8.44.020 Findings

- A. The Congress of the United States (hereinafter "Congress") has determined that pollutants contained in storm water and dry weather 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 dry weather runoff discharge into municipal storm drain systems.
- C. Storm water and dry weather runoff flows from individual properties onto streets, then through storm drains to coastal waters along the City of Hermosa Beach.
- D. The City of Hermosa Beach is a co-permittee under 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, which also serves as a NPDES permit under the Federal Clean Water Act. As a co-permittee, the City is required to maintain adequate legal authority within its respective jurisdiction to control pollutant discharges and to require the use of control measures to prevent or reduce the discharge of pollutants into the MS4 to achieve water quality standards.
- E. In order to control, in a cost-effective manner, the quantity and quality of storm water and dry weather runoff to the maximum extent practicable, the adoption of reasonable regulations, as set forth herein, is essential.

8.44.030 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 NPDES Permit where the City has jurisdictional authority 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 dry weather runoff into the MS4; and
 3. Regulating non-storm water discharges to the MS4.
- B. This chapter is also intended 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 they are applicable in the City, to control discharges to and from those portions of the MS4 over which it 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 also sets forth requirements for the construction and operation of certain "Commercial and Industrial Facilities," "New Development" and "Redevelopment" projects, and other activities (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, which is on file in the office of the City Clerk of this City. This Chapter authorizes the Authorized Enforcement Officer to define and adopt applicable Best Management Practices (BMPs) and other storm water pollution control measures, to grant emergency self-waivers from Municipal NPDES Permit development and redevelopment requirements, as provided herein, 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 Chapter.

8.44.040 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 thereunder. If the definition of any term contained in this Chapter conflicts with the definition of the same term in the current version of the Municipal NPDES Permit, then the definition contained in the Municipal NPDES Permit shall govern. The following definitions apply to this Chapter only:

"Authorized Enforcement Officer" means the City Manager or his or her designee.

"Automotive Service Facilities" means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 5511, 7532-7534, or 7536-7539.

"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 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."

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"California Green Building Standards Code" or "CALGreen Code" means Part 11 of Title 24 of the California Code of Regulations, also known as the California Building Standards Code (2010 edition), as amended and adopted by the City as Chapter 15.48 of the Municipal Code.

"City" means the City of Hermosa Beach.

"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, multi-apartment buildings, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

"Construction" means any construction or demolition activity, clearing, grading, grubbing, excavation, or any other activity that results in land disturbance. Construction 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 (including fire prevention); clearing and grubbing of vegetation for landscape maintenance which is not associated with a larger construction project; 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. Where clearing, grading, or excavating of underlying soil takes place during a repaving operation, Construction General Permit coverage is required if one acre or more is disturbed or the activities are part of a larger plan of construction.

"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.

"Control" means to minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

"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 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area.

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

"Discharge" means when used without qualification the "discharge of a pollutant."

"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.

"Discharge of a Pollutant" means any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source" or, any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. The term discharge includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State,

municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

"Discretionary Project" is defined in the same manner as Section 15357 of the Guidelines For Implementation Of The California Environmental Quality Act contained in Title 14 of the California Code Of Regulations, as amended, and means a project which requires the exercise of judgment or deliberation when the City decides to approve or disapprove a particular activity, as distinguished from situations where the City merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

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

"Dry weather runoff" means surface water flow produced by non-storm water resulting from residential, commercial, and industrial activities involving the use of potable and non-potable water.

"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 materials, performed in a manner that minimizes the discharge of pollutants. Examples include, but are not limited to, purchasing only the quantity of materials to be used at a given time, use of alternative and less environmentally harmful products, cleaning up spills and leaks, and storing 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. The term illicit discharge 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 the Municipal NPDES Permit.

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

"Inspection" means the entry and conducting of an on-site review of a facility and its operations, 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 facility personnel;
- 4) Facility walk-through;
- 5) Visual observation of the condition of facility premises;
- 6) Examination and copying of records as required;
- 7) Sample collection (if necessary or required);
- 8) Exit conference (to discuss preliminary evaluation); 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.

"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.

"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" or "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 is not part of a Publicly Owned Treatment Works (POTW) 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 or from the MS4 into a receiving water that is not composed entirely of storm water.

"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 (other than the Municipal NPDES Permit).

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"Parking Lot" means land area or a facility for the temporary parking or storage of motor vehicles used personally, for business, for industry, or for commerce with a lot size of five thousand (5,000) square feet or more, or with twenty-five (25) or more parking spaces.

"Pollutant" means those "pollutants" defined in Section 502(6) of the federal Clean Water Act (33 U.S.C. §1362(6)), or incorporated into California Water Code §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 6 or greater than 9, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus;

"Project" means all development, redevelopment, and land disturbing activities.

"Redevelopment" means the creation, addition, or replacement of at least five thousand (5,000) square feet of impervious surfaces on an already developed site, as such term is defined in the current version of the Municipal NPDES Permit approved by the Regional Board. 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 or addition or replacement of a structure; (2) structural development, including an increase in gross floor area and/or exterior construction or remodeling; (3) replacement of 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 emergency redevelopment activity required to protect public health safety.

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

"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).

"Retail Gasoline Outlet" means any facility engaged in selling gasoline and lubricating oils.

"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) Includes road shoulder work, regrading dirt or gravel roadways and shoulders and performing ditch cleanouts;
- 4) Update existing lines (including replacing existing lines with new materials or pipes) and facilities to comply with applicable codes, standards, and regulations regardless if such projects result in increased capacity; and
- 5) Repair leaks

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.

"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.

"Significant Ecological Area" 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 "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

"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.

"Storm event" means a rainfall event that produces more than 0.1 inch of precipitation in 24 hours unless specifically stated otherwise.

"Storm water" means storm water runoff and surface runoff and drainage related to precipitation events (pursuant to 40 CFR § 122.26(b)(13); 55 Fed. Reg. 47990, 47996 (Nov. 16, 1990)).

"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 absorption or any other physical, biological, or chemical process.

8.44.050 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.

8.44.060 Prohibited Activities

- A. **Illicit Discharges and Connections.** It is prohibited to establish, use, maintain, or continue illicit connections to the MS4, or to commence or continue any illicit discharges to the MS4. This prohibition against illicit connections is expressly retroactive and applies to connections made in the past but excludes permitted improvements to real property over which uncontaminated storm water runoff flows.
- B. **Littering.** It is prohibited to 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, bags, or other appropriate receptacles which are placed in designated locations for regular solid waste pick up and disposal.
- C. **Disposal of Landscape Debris.** It is prohibited to 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 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:

1. The discharge of wash waters to the MS4 when gas stations, auto repair garages, or other type of automotive service facilities (including those located at automotive dealerships) 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 (e.g. motor vehicle parts), and uncovered receptacles containing hazardous materials;
 5. The discharge of chlorinated/brominated swimming pool water and filter backwash;
 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 which results in a discharge of runoff to the MS4, unless specifically required by the State's, or the City's, or Los Angeles County's health and safety codes and conducted utilizing BMPs specified in the Municipal NPDES Permit, or permitted under a separate NPDES permit;
 8. Discharges from the washing out of concrete trucks, pumps, tools, and equipment into the MS4;
 9. Discharges to the MS4 of any pesticide, fungicide, or herbicide, banned by the USEPA or the California Department of Pesticide Regulation;
 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;
 11. Discharge of any food or food processing wastes; and
 12. Discharge of any fuel and chemical wastes, animal wastes, garbage, batteries, and other materials that have potential adverse impacts on water quality.
- E. 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.
- F. 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 shall refer to the most recent edition of the Industrial/Commercial Stormwater Best Management Practices Handbook, produced and published by the California Stormwater Quality Association, for specific

guidance on selecting best management practices for reducing pollutants in storm water discharges from industrial activities.

8.44.070 Exempted Discharges and Conditionally Exempted Discharges

Discharges from those activities specifically identified in, or pursuant to the Municipal NPDES Permit as being Exempted Discharges or Conditionally Exempted Discharges shall not be considered a violation of this Chapter, provided that any applicable BMPs developed pursuant to the Municipal NPDES Permit are implemented to minimize any adverse impacts from such identified sources and that required conditions outlined in the Municipal NPDES Permit are met prior to discharge.

8.44.080 Good Housekeeping Provisions

Owners and occupants of property within the City shall implement Best Management Practices to prevent or reduce the discharge of pollutants to the MS4 to the maximum extent practicable. Treatment and structural BMPs shall be properly operated and maintained to prevent the breeding of vectors. Implementation includes, but is not limited to:

- 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 to the maximum extent practicable. Runoff of water from the conditionally exempt washing down of paved areas shall be minimized to the maximum extent practicable utilizing BMPs specified in the Municipal NPDES Permit including sweeping and collection of debris for trash disposal. 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. Conditionally exempt non-storm water discharges of roadway/driveway wash water do not include hosing of any driveway or roadway with a garden hose with a pressure nozzle.
- 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. **Removal and Disposal of Oil, Chemicals, Debris, or Other Pollutionable Materials from Industrial/Commercial Motor Vehicle Parking Lots.** Industrial/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 (including use of absorbent material if necessary) or other equally effective measures shall be utilized to remove oil, chemicals, debris, or other pollutionable materials from such parking lots.
- E. **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.
- F. **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.

8.44.090 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 U.S. Environmental Protection Agency, 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. Storm water runoff containing sediment, construction materials, or other pollutants from the construction site and any adjacent staging, storage, or parking areas shall be reduced to the maximum extent practicable. The following shall apply to all construction projects within the City, regardless of project size, and shall be required from the time of land clearing, demolition, or commencement of construction until receipt of a certificate of occupancy:
 - 1. Sediment, construction wastes, trash and other pollutants from construction activities shall be reduced to the maximum extent practicable.
 - 2. Structural controls such as sediment barriers, plastic sheeting, detention ponds, filters, berms, and similar controls shall be utilized to the maximum extent practicable in order to minimize the escape of sediment and other pollutants from the site.
 - 3. All excavated soil shall be located on the site in a manner that minimizes the amount of sediment running onto the street, drainage facilities, or adjacent properties. Soil piles not actively in use shall be bermed or covered with plastic or similar materials until the soil is either used or removed from the site.
 - 4. No washing of construction or other vehicles is permitted adjacent to a construction site. No water from the washing of construction vehicles or equipment on the construction site is permitted to run off the construction site and enter the MS4.
 - 5. Trash receptacles must be situated at convenient locations on construction sites and must be maintained in such a manner that trash and litter does not accumulate on the site nor migrate off site. Trash receptacles must be covered at the end of each business day and during rain events.
 - 6. Erosion from slopes and channels must be controlled through the effective combination of BMPs.
- C. Construction sites covering less than 1 acre must implement an effective combination of erosion and sediment control BMPs from the Municipal NPDES Permit to prevent erosion and sediment loss, and the discharge of construction wastes.
- D. The owner or authorized representative of the owner must certify in a form acceptable to the Director or duly authorized representative that Best Management Practices to control runoff from construction activity at all construction sites will be implemented prior to the issuance of any Building or Grading Permit.
- E. Construction sites covering 1 acre or more must adhere to the requirements set forth in the Municipal NPDES Permit and the Construction General Permit. A Storm Water Pollution Prevention Plan (SWPPP) shall be developed by a Qualified SWPPP Developer (QSD) for construction sites one acre or more consistent with the Municipal NPDES Permit. Such plans

must be submitted to the City for review and approval prior to the issuance of Building or Grading Permits. The SWPPP must include all elements required by the Construction General Permit. SWPPPs must be prepared in accordance with their calculated risk level per the Construction General Permit. BMPs selected for erosion and sediment control shall be detailed in the SWPPP. BMPs shall be selected from the Municipal NPDES Permit, as applicable, and, at a minimum, shall include those BMPs specified in Attachments A, C, D, and/or E of the Construction General Permit based on the project type or risk level. Selected BMPs must be selected, designed, implemented, and maintained in accordance with the BMP technical standards presented in the latest version of the California Stormwater Quality Association (CASQA) Stormwater Best Management Practice Handbook for Construction; or Caltrans Stormwater Quality Handbook, Construction Site Best Management Practices Manual and addenda.

- F. Roadway paving and repair projects must implement at a minimum the BMPs listed in the Municipal NPDES Permit for such projects. Roadway paving or repair projects 1 acre or more in size shall also abide by the Construction General Permit, and implement all necessary BMPs as required for coverage under the Construction General Permit.

8.44.095 Planning and Land Development Requirements for New Development and Redevelopment Projects

- A. Projects Required to Comply. The following New Development and Redevelopment projects are required to comply with the New Development and Redevelopment Project Performance Criteria set forth in the Municipal NPDES Permit:
 - 1. Development projects, including the construction of new single family residential homes, equal to or greater than 1 acre 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 of surface area;
 - 4. Automotive Service facilities (SIC 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539) with 5,000 square feet or more of surface area;
 - 5. Retail gasoline outlets with 5,000 square feet or more of surface area;
 - 6. Restaurants (SIC 5812) with 5,000 square feet or more of surface area;
 - 7. Parking lots with five thousand (5,000) square feet or more of surface area or with twenty-five (25) or more parking spaces;
 - 8. Single family hillside residential developments or redevelopments;
 - 9. 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.
 - 10. Any New Development or Redevelopment project located in or directly adjacent to or discharging directly into a Significant Ecological Area (as defined herein), where the development will:

- a. Discharge storm water and dry weather 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. Redevelopment 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, and
 - 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.;

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.

Where Redevelopment results in an alteration to less 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, 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.
 2. Discretionary permit projects or phased project applications which have been deemed complete by February 8, 2013 and which have not received an extension of time.
 3. Discretionary permit projects with a valid vesting tentative map.
- B. Other Projects. Projects which do not require adherence to the Planning and Land Development Requirements for New Development and Redevelopment in accordance with Paragraph A of this Section shall adhere to the development requirements set forth in the CALGreen Code, where applicable, as set forth in Chapter 15.48 of the City's Municipal Code.
- C. 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, bio-retention, 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 paragraph A of this Section shall incorporate into the applicant's project plans a Storm Water Mitigation Plan ("SWMP"), which includes those BMPs 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 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.

Single family hillside home development projects are exempt from the following project performance criteria unless they create, add or replace 10,000 square feet of impervious surface area.

4. New Development/Redevelopment Project Performance Criteria: Post-construction Treatment Control BMPs are required for all Development and Redevelopment projects identified in Paragraph A of this Section unless alternative measures are allowed as provided in the Municipal NPDES Permit. BMPs must be implemented to retain on-site the Stormwater 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 described in the Municipal NPDES Permit.

For projects unable to retain 100% of the SWQDv on-site due to technical infeasibility as defined in the Municipal NPDES Permit, projects must implement alternative compliance measures in accordance with the Municipal NPDES Permit.

5. The following categories of projects which otherwise do not require compliance with the Planning and Land Development Requirements for New Development and Redevelopment as set forth herein, but which may potentially have adverse impacts on post-development storm water quality, shall be designed to include post-construction Treatment Control BMPs to mitigate storm water pollution and must implement a site-specific plan to mitigate post-development storm water. Such projects include New Development and Redevelopment where one or more of the following project characteristics exist:
 - a. Vehicle or equipment fueling areas;
 - b. Vehicle or equipment maintenance areas, including washing and repair;
 - c. Commercial or industrial waste handling or storage;
 - d. Outdoor handling or storage of hazardous materials;
 - e. Outdoor manufacturing areas;
 - f. Outdoor food handling or processing;
 - g. Outdoor animal care, confinement, or slaughter; or
 - h. Outdoor horticulture activities.

- D. Issuance of Discretionary Permits. No discretionary permit may be issued for any New Development or Redevelopment Project identified in paragraph A of this Section until the Authorized Enforcement Officer confirms that the project plans comply with the applicable storm water mitigation plans and enumerated design criteria requirements.
- E. Issuance of Certificates of Occupancy. As a condition for issuing a Certificate of Occupancy for New Development or Redevelopment projects identified in paragraph A of this Section, the Authorized Enforcement Officer shall require facility operators and/or owners to build all the storm water pollution control BMPs 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 herein) 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, Treatment Control BMPs, and Hydromodification Control BMPs including but not limited to: final map conditions, legal agreements, covenants, conditions or restrictions, 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.

- F. 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 BMPs 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 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 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 a homeowner's association, language regarding the responsibility for maintenance shall be included in the project's conditions, covenants, and restrictions (CC&Rs). 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 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.
- G. CEQA. Provisions of this Section shall be complimentary to, and shall not replace, any applicable requirements for storm water mitigation required under the California Environmental Quality Act (CEQA).

8.44.100 Inspection Authority

- A. Authority to Inspect. The City's Director of Public Works, Authorized Enforcement Officer, building officials, and 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 provision 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 Carry Out Inspections, Conduct Samplings, and Establishing Sampling Devices. The Authorized Enforcement Officer may carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with the Municipal NPDES Permit, including the prohibition of non-storm water discharges into the MS4 and receiving waters. 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. The inspections provided for herein may include but are not limited to:
 1. Inspecting efficiency or adequacy of construction or post construction BMPs;
 2. Inspection, sampling, and testing any area runoff, soils in areas subject to runoff, and/or treatment system discharges;
 3. Inspection of the integrity of all storm drain and sanitary sewer systems, including the use of smoke and dye tests and video survey of such pipes and conveyance systems;
 4. Inspection of all records of the owner, contractor, developer or occupant of public or private property relating to BMP inspections conducted by the owner, contractor, developer or occupant and obtaining copies of such records as necessary;
 5. Identifying points of storm water discharge from the premises whether surface or subsurface and locating any illicit connection or discharge.
- 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 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 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 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. Facility Inspections. Every commercial and industrial facility as defined under the Municipal NPDES Permit shall be periodically inspected by the Director of Public Works, Authorized Enforcement Officer, Building Official, or representative thereof. Inspections shall be conducted no less than twice during the term of the Municipal NPDES Permit and as often as necessary to insure compliance with this Chapter as the Director of Public Works deems appropriate.

8.44. 110 Violations of Storm Water and Dry Weather Runoff Pollution Control Regulations

A. Enforcement Procedure.

1. Any condition caused or permitted to exist in violation of:
 - a. Any of the provisions of this Chapter; or
 - b. Any failure to comply with any applicable requirement of either the Municipal NPDES Permit, the Construction General Permit, an approved Storm Water Mitigation Plan, an approved SWPPP with respect to a property, the Industrial General Permit; or
 - c. 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
 - d. 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 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. For the first failure to comply with any provision contained in this Chapter, the Director of Public Works or 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.
3. 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 an Infraction. Violations of the provisions of this Chapter shall constitute an infraction. 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 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 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. In addition to the preceding measures, violations of the provisions of this Chapter are subject to the administrative penalty provisions of Chapter 1.10.
- 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.
 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 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 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.

- 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.

8.44. 120 No Taking

The provisions of this Chapter shall 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.

