



RANCHO PALOS VERDES

Staff Report

DATE: July 2013

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: DEPARTMENT OF PUBLIC WORKS

PREPARED BY: JOHN L. HUNTER AND ASSOCIATES

SUBJECT: ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES, CALIFORNIA, AMENDING RANCHO PALOS VERDES MUNICIPAL CODE CHAPTER 13.10, TO EXPAND THE APPLICABILITY OF THE EXISTING STORM WATER AND URBAN RUNOFF POLLUTION CONTROL BY IMPOSING RAINWATER LOW IMPACT DEVELOPMENT (LID) STRATEGIES ON PROJECTS THAT REQUIRE BUILDING, GRADING AND ENCROACHMENT PERMITS WHERE TECHNICALLY FEASIBLE

Overview:

The Municipal Separate Storm Sewer System (MS4) Permit (Order No. R-2012-0175) was adopted by the California Regional Water Quality Control Board, Los Angeles Region on November 8, 2012. The Order requires for Permittees electing to prepare a Watershed Management Program or an Enhanced Watershed Management Program to “demonstrate that there are LID ordinances in place and/or commence development of a Low Impact Development (LID) ordinance(s) meeting the requirements of this Order’s Planning and Land Development Program within 60 days of the effective date of the Order and have a draft ordinance within 6 months of the effective date of the Order.” Development projects subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution, prior to completion of the project(s), are as follows:

1. All development projects equal to 1 acre or greater of disturbed area that adds more than 10,000 square feet of impervious surface area.
2. Industrial parks 10,000 square feet or more of surface area.
3. Commercial malls 10,000 square feet or more of surface area.
4. Retail gasoline outlets with 5,000 square feet or more of surface area.
5. Restaurants (Standard Industrial Classification (SIC) of 5812) with 5,000 square feet or more of surface area.
6. Parking lots with 5,000 square feet or more of impervious surface area, or with 25 or more parking spaces.
7. Streets and roads construction of 10,000 square feet or more of impervious surface area. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.
8. Automotive service facilities (Standard Industrial Classification (SIC) of 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539) 5,000 square feet or more of surface area.
9. Projects located in or directly adjacent to, or discharging directly to an Environmentally Sensitive Area (ESA), where the development will:
 - a. Discharge stormwater 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
10. Single-family hillside homes.
11. Redevelopment Projects:
 - a. With 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 on Planning Priority Project categories.
 - 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 stormwater 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 stormwater 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.

Background:

Low Impact Development “consists of building and landscape features designed to retain or filter stormwater runoff” (Order No. R4-2012-0175). These treatment systems work to reduce pollutant levels from their associated drainage area to improve the quality of runoff. The installation of these treatment systems can be low-cost and generally require low-maintenance, often being incorporated into the parcels’ landscape theme.

Analysis:

The goals of Low Impact Development include: (1) reducing the amounts of pollutants in stormwater and urban runoff, (2) development of specifications for low cost treatment systems that are easy for the property owner to install, and (3) encouraging property owners to select treatment systems that are easy to maintain and thus minimizing the need for City enforcement.

Fiscal Impact:

There is no direct fiscal impact to the city from adopting this Ordinance. There will be an increase in time spent reviewing plans, however, this cost will be offset by increased fees collected.

Recommendation:

Introduce Ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES, CALIFORNIA, AMENDING RANCHO PALOS VERDES MUNICIPAL CODE CHAPTER 13.10, TO EXPAND THE APPLICABILITY OF THE EXISTING STORM WATER AND URBAN RUNOFF POLLUTION CONTROL BY IMPOSING RAINWATER LOW IMPACT DEVELOPMENT (LID) STRATEGIES ON PROJECTS THAT REQUIRE BUILDING, GRADING AND ENCROACHMENT PERMITS.

Approved:

[NAME]

[TITLE]

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES, CALIFORNIA, AMENDING RANCHO PALOS VERDES MUNICIPAL CODE CHAPTER 13.10, TO EXPAND THE APPLICABILITY OF THE EXISTING STORM WATER AND URBAN RUNOFF POLLUTION CONTROL BY IMPOSING RAINWATER LOW IMPACT DEVELOPMENT (LID) STRATEGIES ON PROJECTS THAT REQUIRE BUILDING, GRADING AND ENCROACHMENT PERMITS

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 stormwater runoff to waters of the United States; and

WHEREAS, the City is a 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 Regional Board has adopted Total Maximum Daily Loads (TMDLs) for pollutants which are numerical limits that must be achieved effectively through LID implementation; 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 stormwater 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, is it the intent of the City to expand the applicability of the existing LID requirements by providing stormwater 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 RANCHO PALOS VERDES, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 13.10.010 of the Rancho Palos Verdes Municipal Code entitled "Findings" is hereby repealed in its entirety and shall be replaced with the following:

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 Rancho Palos Verdes.

D. The City of Rancho Palos Verdes 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.

SECTION 2. Section 13.10.020 of the Rancho Palos Verdes Municipal Code entitled "Purpose" is hereby repealed in its entirety and shall be replaced with the following:

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 Santa Monica Bay and surrounding coastal areas by:

- A. Reducing pollutants in storm water discharges to the maximum extent practicable;
- B. 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
- C. Regulating non-storm water discharges to the municipal storm water system.

D. 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. This chapter authorizes the authorized enforcement officer to define and adopt applicable Best Management Practices and other storm water pollution control measures, to grant waivers from LID 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 section.

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.

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.

SECTION 3. Section 13.10.030 of the Rancho Palos Verdes Municipal Code entitled "Definitions" is hereby repealed in its entirety and shall be replaced with the following:

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, 5511, 5541, 7532-7534, and 7536-7539 provided that these facilities have no outside activities or materials that may be exposed to stormwater.

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 (BMP's)"** means activities, practices, facilities, and/or procedures that when implemented to their maximum efficiency will prevent or reduce pollutants in discharges and any program technology, process, citing criteria, operational methods or measures, or engineered systems, which when implemented prevent, control, remove, or reduce pollution. Examples of BMP's 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.

F. **"Biofiltration"** means a LID BMP that reduces stormwater pollutant discharges by intercepting rainfall on vegetative canopy, 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 stormwater 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 stormwater runoff and to achieve a uniform sheet flow through the dense vegetation for a period of several minutes.

I. **“City”** means the City of Rancho Palos Verdes.

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 an 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 sells 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 Stormwater 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 Director of public works of the city 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. **"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 that is being used as a means of transportation. The term "discharge of a pollutant" includes additions of pollutants into waters of the United States from surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

T. **"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.

U. **"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.

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

W. **"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.

X. **"Flow-through Treatment BMPs"** means a modular, vault type "high flow biotreatment" devices contained within an impervious vault with an underdrain or designed with an impervious liner and an underdrain.

Y. **"Full Capture System"** means any single device or series of devices, certified by the Executive Officer, that traps all particles retained by a 5 mm mesh screen and has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour storm in the sub-drainage area.

Z. **"General Construction Activities Storm Water Permit (GCASP)"** means the general NPDES Permit adopted by the State Board which authorizes the discharge of stormwater from construction activities under certain conditions.

AA. **"General Industrial Activities Storm Water Permit (GIASP)"** means the general NPDES Permit adopted by the State Board which authorizes the discharge of stormwater from certain industrial activities under certain conditions.

BB. **"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.

CC. **"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.

DD. **"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.

EE. **"Industrial/Commercial Facility"** means any facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services. This category of facilities includes, but is not limited to, any facility defined by either the Standard Industrial Classifications (SIC) or the North American Industry Classification System (NAICS). Facility ownership (federal, state, municipal, private) and profit motive of the facility are not factors in this definition.

FF. **"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.

GG. **"Illicit Discharge"** means any discharge to the storm drain system that is prohibited under local, state or federal statutes, ordinances, codes or regulations. This includes all non-storm water discharges except discharges pursuant to a separate NPDES Permit and discharges that are exempted or conditionally exempted in accordance with the municipal NPDES Permit.

HH. **"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.

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

JJ. **"Infiltration BMP"** means a LID BMP that reduces stormwater runoff by capturing and infiltrating the runoff into in-situ soils or amended onsite soils. Examples of infiltration BMPs include infiltration basins, dry wells, and pervious pavement.

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

LL. **"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.

MM. **“Municipal Storm Water System” or “Municipal Separate Storm Sewer System (MS4)”** 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, stormwater, 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 stormwater;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR Section 122.2.
(40 CFR Section 122.26(b)(8)).

NN. **“Municipal NPDES Permit” or “MS4 Permit”** means the “Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges within the Costal 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 Los Angeles Regional California Regional Water Quality Control Board, and any successor permit to that permit.

OO. **“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.”

PP. **“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.

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

RR. **“Non-Stormwater Discharge”** means any discharge to a municipal storm drain system that is not composed entirely of stormwater.

SS. **“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.

TT. **“Outfall”** means a point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances with connect segments of the same stream or other waters of the United States and are used to convey waters of the United States. (40 CFR Section 122.26(b)(9)).

UU. **"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.

VV. **"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.

WW. **"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).

XX. **"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.

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

ZZ. **"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. "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.

AAA. **"Regional Board"** means the California Regional Water Quality Control Board, Los Angeles Region.

BBB. **"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).

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

DDD. **"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* 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.

EEE. **"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.

FFF. **"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.

GGG. **"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.

HHH. **"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.

III. **"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 stormwater and are located within the City.

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

KKK. **"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.

LLL. **"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 BMP's may include both treatment control BMP's and source control BMP's.

MMM. **"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.

NNN. **"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.

SECTION 4. Section 13.10.065 of the Rancho Palos Verdes Municipal Code entitled "Standard Urban Storm Water Mitigation Plan (SUSMP) requirements for new development and redevelopment projects" is hereby repealed in its entirety and shall be replaced with the following:

SECTION 13.10.065 – LOW IMPACT DEVELOPMENT MEASURES FOR NEW DEVELOPMENT AND/OR REDEVELOPMENT PLANNING AND CONSTRUCTION ACTIVITIES.

- 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 stormwater 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 stormwater pollution control measures in Development and Redevelopment projects and authorizes the City to further define and adopt stormwater pollution control measures, and to develop LID principles and requirements, including but not limited to the objectives and specifications for integration of LID strategies, grant waivers from the LID requirements, and collect funds for projects that are granted waivers. Except as otherwise provided herein, the City shall administer, implement and enforce the provisions of this Section.
- C. Applicability.** Development projects subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution, prior to completion of the project(s), are:
1. All development projects equal to 1 acre or greater of disturbed area that adds more than 10,000 square feet of impervious surface area.
 2. Industrial parks 10,000 square feet or more of surface area.
 3. Commercial malls 10,000 square feet or more of surface area.
 4. Retail gasoline outlets with 5,000 square feet or more of surface area.
 5. Restaurants (Standard Industrial Classification (SIC) of 5812) with 5,000 square feet or more of surface area.
 6. Parking lots with 5,000 square feet or more of impervious surface area, or with 25 or more parking spaces.
 7. Streets and roads construction of 10,000 square feet or more of impervious surface area. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.
 8. Automotive service facilities (Standard Industrial Classification (SIC) of 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539) 5,000 square feet or more of surface area.
 9. Projects located in or directly adjacent to, or discharging directly to an Environmentally Sensitive Area (ESA), where the development will:
 - a. Discharge stormwater 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
 10. Single-family hillside homes.

11. 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 on Planning Priority Project categories.
- 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 stormwater 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 stormwater 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. Issuance of Discretionary Permits. No discretionary permit may be issued for any new development or redevelopment project identified in subsection C of this section until the authorized enforcement officer confirms that either: (1) the project plans comply with the applicable LID requirements; or (2) compliance with the applicable LID requirements is impracticable for one or more of the reasons set forth in subsection H of this section regarding issuance of waivers. 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.

E. 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 and/or owners to build all the storm water pollution control Best Management Practices and LID BMP's that are shown on the approved project plans and to submit a signed certification statement stating that the site and all LID BMP's will be

maintained in compliance with the LID Plan and other applicable regulatory requirements.

F. Effective Date. *Insert Draft EWMP submittal date or Council adoption date*

G. Specific Requirements. The Site for every Project identified above shall 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. The project applicant shall prepare a LID Plan which implements set LID standards and practices for stormwater pollution mitigation and provides documentation to demonstrate compliance with the MS4 Permit on the plans and permit application submitted to the City. Such a LID Plan shall comply with the following:

1. A new single-family hillside home development 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 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.
3. The remainder of Planning Priority Projects shall prepare a LID Plan to comply with the following:
 - a. Retain stormwater runoff onsite for the Stormwater Quality Design Volume (SWQDv) defined as the runoff from:
 - i. The 85th percentile 24-hour runoff event as determined from the Los Angeles County 85th percentile precipitation isohyetal map; or
 - ii. 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.

H. Technical Infeasibility.

1. Full or partial waivers of compliance with the requirements of this Section may be obtained where the project applicant shows by application in writing that the incorporation and design elements that address the objectives set forth in this Section are impracticable and are non-economical or otherwise physically impossible due to the Site characteristics or other characteristics unique to the

Project. Any waiver request shall be in writing to the Authorized Enforcement Officer and may only be approved where permitted in accordance with the terms of the MS4 Permit.

2. 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.
3. 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 project Site should contact the Authorized Enforcement Officer to determine eligibility.
4. 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.

- I. 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;
 3. A Development or Redevelopment involving only activity related to gas, water, cable, or electricity services on private property;
 4. A Development involving only resurfacing and/or re-striping 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.
- J.** Any Development that is exempted from LID requirements under Subsection I of this Section has the option to voluntarily opt in and incorporate into the project the LID requirements set forth herein.
- K. 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 LID 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.
 2. The Authorized Enforcement Officer shall approve or disapprove of the LID Plan within thirty (30) calendar days of submittal, or within thirty (30) days of approval of the development project by the Planning Commission, where Planning Commission approval is required. If the LID Plan is disapproved, the reasons for disapproval shall be given in writing to the applicant. Any LID Plan disapproved may be revised by the applicant and resubmitted for approval. A resubmitted plan will be approved or disapproved within thirty (30) days of submittal. No building or grading permit shall be issued until a LID Plan has been approved by the Authorized Enforcement Officer.
 3. If no building permit has been issued or no construction has begun on a project within a period of one hundred eighty (180) days of approval of a LID Plan, the LID Plan for that project shall expire. The Authorized Enforcement Officer may extend the time by written extension for action by the applicant for a period not to exceed one hundred eighty (180) days upon written request by the applicant showing that circumstances beyond the control of the applicant prevented the construction from commencing. In order to renew the LID Plan, the applicant shall resubmit all necessary forms and other data and pay a new LID plan check fee.

L. Transfer of Properties Subject to Requirement for Maintenance of LID BMP's.

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

M. Validity. If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect remaining provisions of this Ordinance are declared to be severable.

N. 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.

SECTION 5. Section 13.10.070 of the Rancho Palos Verdes Municipal Code entitled "Enforcement" is hereby repealed in its entirety and shall be replaced with the following:

A. Violations Deemed a Public Nuisance.

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 an approved storm water mitigation plan with respect to a property; 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 LID BMP on a property in accordance with an approved storm water mitigation plan, is 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 Director of public works shall so declare. The failure of any person to take appropriate annual precautions to prevent stormwater pollution after written notice of a determination under this paragraph shall constitute a public nuisance and a violation of this chapter.

B. Concealment. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a violation of such provision.

C. 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.

D. 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.

- E. Penalties.** Violation of this section shall be punishable as provided in Section 1.08.010 of this Code. Each day that a violation continues shall constitute a separate offense.
- F. 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.
- G. 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.

DRAFT

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Rancho Palos Verdes, California, on this [DAY] day of [MONTH] 2013.

Susan Brooks
MAYOR

ATTEST:

Carla Morreale
CITY CLERK

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF RANCHO PALOS VERDES

I, Carla Morreale, City Clerk of the City of Rancho Palos Verdes, California, hereby certify that Ordinance No. [ORDINANCE NO] was introduced at a regular meeting of the City Council of the City of Rancho Palos Verdes held on the [DAY] of [MONTH] 2013, and thereafter was adopted by the City Council at a regular meeting held on the [DAY] of [MONTH], 2013, and that the same was adopted by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY CLERK