

ORDINANCE NO. 546

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AMENDING THE HAWAIIAN GARDENS MUNICIPAL CODE TO REGULATE THE SALE AND USE OF ELECTRONIC CIGARETTES IN THE CITY.

WHEREAS, the City has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and finally, and most importantly, in protecting children from being lured into illegal activity through the misconduct of adults; and

WHEREAS, it is the intent of this ordinance to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those that prohibit or discourage the sale or distribution of tobacco products to minors; and

WHEREAS, electronic cigarettes are a new medium for consuming tobacco products and other illegal substances, which have become popular with minors due to their wide availability and lack of regulation.

NOW THEREFORE, the City Council of the City of Hawaiian Gardens does ordain as follows:

SECTION 1. Chapter 6.24 of Title 6 of the Hawaiian Gardens Municipal Code is hereby amended to read as follows:

Chapter 6.24 SMOKING

Sec.

- 6.24.010 Prohibited on public transit.
- 6.24.020 Prohibited in polling places.
- 6.24.030 Prohibited in public facilities.
- 6.24.040 Electronic Cigarettes Defined.

6.24.010 Prohibited on public transit. No person shall smoke or possess any burning cigarette, cigar, pipe, or use electronic cigarettes, on any motor vehicle, bus or taxicab used to transport passengers for hire except in a smoking compartment if provided.

6.24.020 Prohibited in polling places. It is unlawful to smoke or use electronic cigarettes in a polling place during an election.

6.24.030 Prohibited in public facilities. Smoking or using electronic cigarettes is prohibited in any park, public facility or building and within twenty feet from the entries and doorways of any public facility or building.

6.24.040 Electronic Cigarettes Defined. For purposes of this Chapter, "Electronic Cigarettes" are devices designed to deliver nicotine or other substances to a user in the form of a vapor. Typically, electronic cigarettes are composed of a rechargeable, battery-operated heating element, a replaceable cartridge that may contain nicotine or other substances, and an atomizer that, when heated, converts the contents of the cartridge into a vapor.

SECTION 2. Section 5.96.020 of Chapter 5.96 of Title 5 of the Hawaiian Gardens Municipal Code, pertaining to definitions, is hereby amended by adding a definition of "electronic cigarettes" and revising the following definitions to read as follows:

"Electronic Cigarettes" are devices designed to deliver nicotine or other substances to a user in the form of a vapor. Typically, electronic cigarettes are composed of a rechargeable, battery-operated heating element, a replaceable cartridge that may contain nicotine or other substances, and an atomizer that, when heated, converts the contents of the cartridge into a vapor.

"Smoking" means possessing a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including a lighted pipe, cigar, hookah pipe, cigarette, or electronic cigarettes of any kind) and means the lighting of, or using, a tobacco product, tobacco paraphernalia, or any other weed or plant (including a pipe, cigar, hookah pipe, cigarette, or electronic cigarettes of any kind).

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products, including electronic cigarettes.

"Tobacco product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, electronic cigarettes, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia, including electronic cigarettes. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco

products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.


SECTION 3. The Mayor or presiding officer of the City Council is hereby authorized to affix his/her signature to this Ordinance signifying its adoption by the City Council.

SECTION 4. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen (15) days after passage and adoption as required by law, or in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and, within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of City Clerk.

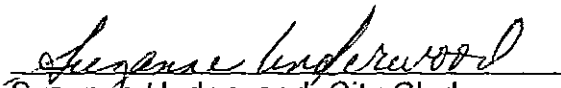
SECTION 5. This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days from the date of its final passage and adoption.

SECTION 6. If any chapter, section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, section, subsection, subdivision, paragraph, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional.

PASSED AND ADOPTED at a regular meeting of the City Council on the 10th day of September, 2013, by the following vote:


Victor Farfan, Mayor

ATTEST:


Suzanne Underwood, City Clerk

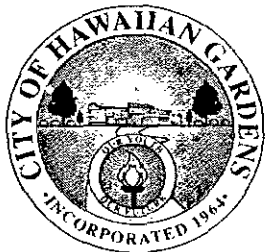
**CITY OF HAWAIIAN GARDENS
CITY CLERK'S OFFICE
CERTIFICATION**

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HAWAIIAN GARDENS)

I, Suzanne Underwood, City Clerk of the City of Hawaiian Gardens, do hereby certify that **Ordinance No. 546**, was duly and regularly introduced and placed upon its first reading at a Regular meeting of the City Council on **AUGUST 27TH, 2013** and that thereafter, said Ordinance was duly adopted and passed at a Regular meeting of the City Council on this **10th day of SEPTEMBER 2013**, by the following votes as the same appears on file and of record in the Office of the City Clerk.

AYES: OYAMA-CANADA, RODRIGUEZ, BRUCE, GOMEZ, FARFAN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE


SUZANNE UNDERWOOD
CITY CLERK/RECORDS MANAGER



**CITY OF HAWAIIAN GARDENS
CITY COUNCIL
STAFF REPORT**

Agenda Item No.: B-1

Meeting Date: 9/10/2013

City Manager: [Signature]

CITY OF HAWAIIAN GARDENS

ACTION:

- Approved
- Denied
- Amended
- Receive & File
- Other

VOTE:

DATE:

5-0
9/10/2013

TO: Honorable Mayor and Members of the City Council

FROM: Ernesto Marquez, City Administrator

DATE: September 10, 2013

SUBJECT: ADOPTION OF ORDINANCE 546 AMENDING THE HAWAIIAN GARDENS MUNICIPAL CODE TO REGULATE THE USE AND SALE OF ELECTRONIC CIGARETTES.

SUMMARY

At its meeting of August 27, 2013, the City Council introduced Ordinance 546 to amend the City's smoking regulations to regulate electronic cigarettes the same as other smoking products. The ordinance amends Chapter 6.24 pertaining to smoking in public transit, polling places and public facilities, and various definitions in Chapter 5.96 relating to Tobacco Retailers to include electronic cigarettes and treat them the same as other tobacco consumption products.

RECOMMENDATION

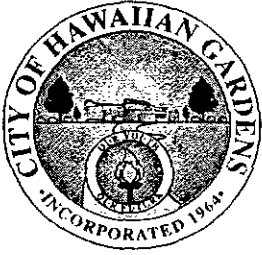
Read by title only, waive further reading, and adopt Ordinance No. 546 amending the Hawaiian Gardens Municipal Code to regulate the use and sale of electronic cigarettes.

FISCAL IMPACT

None.

ATTACHMENTS

Ordinance No.546.



**CITY OF HAWAIIAN GARDENS
CITY COUNCIL
STAFF REPORT**

Agenda Item No.: B-1

Meeting Date: 8/27/2013

City Manager: [Signature]

**CITY OF HAWAIIAN GARDENS
ACTION:**

- Approved
- Denied
- Amended
- Receive & File
- Other

First reading

VOTE: 5-0

DATE: 8/27/2013

TO: Honorable Mayor and Members of the City Council

FROM: Ernesto Marquez, City Manager

DATE: August 27, 2013

SUBJECT: ADOPTION OF ORDINANCE 546 AMENDING THE HAWAIIAN GARDENS MUNICIPAL CODE TO REGULATE THE USE AND SALE OF ELECTRONIC CIGARETTES.

SUMMARY

At its meeting of August 13, 2013, the City Council directed staff to amend the City's smoking regulations to regulate electronic cigarettes the same as other smoking products. The attached ordinance amends Chapter 6.24 pertaining to smoking in public transit, polling places and public facilities, and various definitions in Chapter 5.96 relating to Tobacco Retailers to include electronic cigarettes and treat them the same as other tobacco products.

RECOMMENDATION

Read by title only, waive further reading, and adopt Ordinance No. 546 amending the Hawaiian Gardens Municipal Code to regulate the use and sale of electronic cigarettes.

FISCAL IMPACT

None.

ATTACHMENTS

Ordinance No.546.

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

13.20.030 Application.

A. The provisions of this Chapter shall apply to the following development and redevelopment:

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 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 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 a significant ecological area, 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. The following redevelopment projects, subject to the following conditions and exemptions:
 - 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.
 - 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.

13.20.040 Low Impact Development Standards for Development and Redevelopment Planning and Construction Activities.

Each development and redevelopment subject to the provisions of this Chapter 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 minimum required standards shall be as follows:

A. 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.

B. All other projects shall prepare a LID Plan to comply with the following:

1. Retain stormwater runoff onsite for the Stormwater Quality Design Volume (SWQDv) defined as the runoff from:

a. The 85th percentile 24-hour runoff event as determined from the Los Angeles County 85th percentile precipitation isohyetal map; or

b. The volume of runoff produced from a 0.75 inch, 24-hour rain event, whichever is greater.

2. Minimize hydromodification impacts to natural drainage systems as defined in the NPDES permit.

3. 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.

4. 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 NPDES permit.

a. Additional alternative compliance options such as offsite infiltration and groundwater replenishment projects may be available to the project site. The project applicant should contact the City to determine eligibility.

5. 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 per the NPDES permit. Flow-through treatment 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.

13.20.050 Effective Date.

The requirements of this Chapter shall become effective on August 12, 2013. This includes projects subject to discretionary permits or project phases that have not been deemed complete for processing or discretionary permit projects without vesting tentative maps that have not requested and received an extension of previously granted approvals.

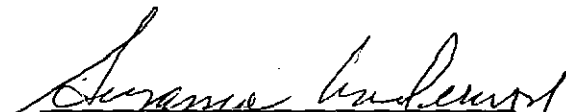
SECTION 2. Ordinance Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason, held to be unconstitutional or invalid, or ineffective by any court of competent jurisdiction such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional.

SECTION 3. Effective Date. This Ordinance shall take effect thirty days after its adoption. The City Clerk or the City Clerk's duly appointed deputy shall certify to the adoption of this Ordinance and shall cause this Ordinance to be published as required by law.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Hawaiian Gardens, California, on this 9th day of July 2013.


Victor Farfan, Mayor

ATTEST:

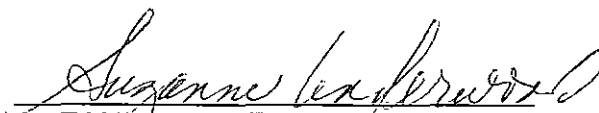

Suzanne Underwood, City Clerk

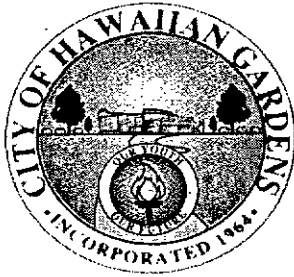
CITY OF HAWAIIAN GARDENS
CITY CLERK'S OFFICE
CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HAWAIIAN GARDENS)

I, Suzanne Underwood, City Clerk of the City of Hawaiian Gardens, do hereby certify that **Ordinance No. 545**, was duly and regularly introduced and placed upon its first reading at a Regular meeting of the City Council on **JUNE 25, 2013** and that thereafter, said Ordinance was duly adopted and passed at a Regular meeting of the City Council on this **9th day of JULY 2013**, by the following votes as the same appears on file and of record in the Office of the City Clerk.

AYES: OYAMA-CANADA, RODRIGUEZ, BRUCE, FARFAN
NOES: NONE
ABSENT: GOMEZ
ABSTAIN: NONE


SUZANNE UNDERWOOD
CITY CLERK/RECORDS MANAGER



CITY OF HAWAIIAN GARDENS
CITY COUNCIL
STAFF REPORT

Agenda Item No. B-1
Meeting Date 7/9/2013
City Manager: [Signature]

TO: Honorable Mayor and City Council Members
THRU: Ernesto Marquez, City Manager
FROM: Joseph Colombo, Community Development Director
BY: Ismile Noorbaksh, P.E., City Engineer
DATE: July 9, 2013

CITY OF HAWAIIAN GARDENS
ACTION:

Approved
 Denied
 Amended
 Receive & File

Other

NOTE:

4-0
7/9/2013
2nd reading

SUBJECT: ORDINANCE NO. 545: SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS, CALIFORNIA, ADDING CHAPTER 13.20 TO TITLE 13 OF THE HAWAIIAN GARDENS MUNICIPAL CODE ESTABLISHING STORMWATER LOW IMPACT DEVELOPMENT STANDARDS FOR DEVELOPMENT PROJECTS

SUMMARY

The proposed Ordinance No. 545 is presented for 2nd reading and adoption.

The proposed Ordinance No. 545 is a Low Impact Development (LID) Ordinance that will require new developments and redevelopment construction projects to incorporate building and landscape features designed to retain or filter stormwater runoff to prevent pollution of creeks and the ocean.

DISCUSSION

The federal Clean Water Act prohibits the discharge of pollutants to waters of the United States which includes the ocean, unless the discharge is in accordance with a permit issued pursuant to the National Pollutant Discharge Elimination System (NPDES). The Municipal Separate Storm Water System (MS4) Permit was adopted by the California Regional Water Quality Control Board, Los Angeles Region on November 8, 2012 (Order No. R4-2012-0175). The NPDES permit contains requirements to establish an LID Ordinance and Green Street Policy if participating in a Watershed Management Program. The City participates in the Gateway Water Management Authority ("Los Angeles Gateway Region Integrated Regional Water Management Joint Powers Authority"). If the City were not to participate in the Authority, the City would have to meet more strenuous requirements.

The attached ordinance was prepared by the Authority and revised by the City Attorney to conform it to the City, because the regulation presented by the Authority was created to apply to all the cities that participate in the Authority. For example the Authority's sample ordinance has provisions for single family homes located on hillsides. Our City is relative flat and hillside regulations would not be applicable.

The ordinance generally requires construction projects that submit applications after August 12, 2013, to incorporate building and landscape features designed to retain or filter stormwater runoff at their project sites. The features may include features that allow infiltration of stormwater in the soil at the site, use of landscaping for evapotranspiration (evaporation of the water through plant transpiration), bioretention (also using landscaping and swales to allow the stormwater to be filtered before it reaches the storm drain) or by harvesting the water by collecting in storage facilities at the project site.

FISCAL IMPACT

There is no direct fiscal impact to the City from adopting the Ordinance. However, from time to time, major street improvements within the City's transportation corridor may incur additional cost due to incorporation of Green Street Strategies.

Conversely, not adopting the Ordinance would make the City non-compliant with the NPDES permit requirements and the City may face fines from the Regional Board.

RECOMMENDATION

Staff respectfully recommends that the City Council waive further reading, read by title only, conduct the second reading and adopt Ordinance No. 545.



CITY OF HAWAIIAN GARDENS
CITY COUNCIL
STAFF REPORT

Agenda Item No. B-3
Meeting Date 6/25/2013
City Manager [Signature]

TO: Honorable Mayor and City Council Members
THRU: Ernesto Marquez, City Manager
FROM: Joseph Colombo, Community Development Director
BY: Ismile Noorbaksh, P.E., City Engineer
DATE: June 25, 2013

CITY OF HAWAIIAN GARDENS
ACTION:

Approved
 Denied
 Amended
 Receive & File
 Other
VOTE: 4-0
DATE: 6/25/2013
[Handwritten signatures and initials]

SUBJECT: ORDINANCE NO. 545: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS, CALIFORNIA, ADDING CHAPTER 13.20 TO TITLE 13 OF THE HAWAIIAN GARDENS MUNICIPAL CODE ESTABLISHING STORMWATER LOW IMPACT DEVELOPMENT STANDARDS FOR DEVELOPMENT PROJECTS

I. SUMMARY

The attached Ordinance No. 545, a Low Impact Development (LID) Ordinance will require new development and redevelopment construction projects to incorporate building and landscape features designed to retain or filter stormwater runoff to prevent pollution of creeks and the ocean.

II. DISCUSSION

The federal Clean Water Act prohibits the discharge of pollutants to waters of the United States which includes the ocean, unless the discharge is in accordance with a permit issued pursuant to the National Pollutant Discharge Elimination System (NPDES). The Municipal Separate Storm Water System (MS4) Permit was adopted by the California Regional Water Quality Control Board, Los Angeles Region on November 8, 2012 (Order No. R4-2012-0175). The NPDES permit contains requirements to establish a LID Ordinance if participating in a Watershed Management Program. The City participates in the Gateway Water Management Authority ("Los Angeles Gateway Region Integrated Regional Water Management Joint Powers Authority"). If the City were not to participate in the Authority, the City would have to meet more strenuous requirements.

The attached ordinance was prepared by the Authority and revised by the City Attorney to reflect the actual topography of the city. For example the Authority's sample ordinance has provisions for single family homes located on hillsides. Our City is relative flat and hillside regulations would not be applicable.

The ordinance generally requires construction projects that submit applications after August 12, 2013, to incorporate building and landscape features designed to retain or filter stormwater runoff at their project sites. The features may include features that allow infiltration of stormwater in the soil at the site, use of landscaping for evapotranspiration (evaporation of the water through plant transpiration), bioretention (also using landscaping and swales to allow the stormwater to be filtered before it reaches the storm drain) or by harvesting the water by collecting in storage facilities at the project site.

III. FISCAL IMPACT

There is no direct fiscal impact to the City from adopting the Ordinance. However, from time to time, major street improvements within the City's transportation corridor may incur additional cost.

Conversely, not adopting the Ordinance would make the City non-compliant with the NPDES permit requirements and the City may face fines from the Regional Board.

IV. RECOMMENDATION

Staff respectfully recommends that the City Council waive further reading, read by title only, conduct the first reading and introduce Ordinance No. 545.