

ORDINANCE NO. 855

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, AMENDING CHAPTER 6.15, "STORMWATER AND URBAN RUNOFF POLLUTION CONTROL," TO TITLE 6, "HEALTH AND SANITATION," OF THE DUARTE MUNICIPAL CODE (MCA 15-2)

THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA ORDAINS AS FOLLOWS:

SECTION 1. Title 6, "Health and Sanitation" of the City of Duarte Municipal Code, Chapter 6.15, "Stormwater and Urban Runoff Pollution Control," is hereby amended by deleting it in its entirety and replacing it with the following:

Chapter 6.15 Stormwater and Urban Runoff Pollution Control

- 6.15.010 General Provisions and Legislative Findings.**
- 6.15.011 Short Title.**
- 6.15.020 Definitions.**
- 6.15.030 Responsibility for Administration.**
- 6.15.040 Prohibition and Elimination of Illicit Discharges and Illicit Connections.**
- 6.15.050 Pollutant Discharge Control.**
- 6.15.060 Controlling Spills, Dumping, or Disposal of Materials Other Than Stormwater to the Storm Drain System.**
- 6.15.070 Construction Pollutant Reduction.**
- 6.15.080 Best Management Practices.**
- 6.15.090 Compliance with State and Federal Discharge Requirements.**
- 6.15.100 Inspections.**
- 6.15.110 Enforcement.**
- 6.15.120 Permits.**
- 6.15.130 New Development and Redevelopment Pollutant Reduction.**
- 6.15.140 Low Impact Development Plan.**
- 6.15.150 Filing of the Low Impact Development Plan.**
- 6.15.160 Fees.**
- 6.15.170 Interagency Cooperation.**
- 6.15.180 Judicial Review.**

6.15.010 General Provisions and Legislative Findings.

- A. **AUTHORITY.** The United States Congress passed the Clean Water Act as a mandate, in part, that cities obtain permits to "effectively prohibit non-stormwater discharges into the storm sewers" and "require controls to reduce the discharge of Pollutants to the maximum extent practicable." This permitting authority has been delegated by the United States Environmental Protection Agency (EPA) to the State of California, which has authorized the State Water Resources Control Board and its regional boards to control non-point source and point source Discharges to waters of the United States. The City is a 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," issued by the Regional Board (Order No. R4-2012-0175) which also serves as an NPDES Permit under the Federal Clean Water Act (NPDES No. CAS004001), as well as Waste Discharge Requirements under California law. The City of Duarte is authorized by Article XI, §5 and §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.
- B. **APPLICABILITY.** The provisions of this Chapter shall apply to the Discharge, deposit or disposal of any Stormwater and/or Urban Runoff to the Storm Drain System and/or Receiving Waters within any incorporated areas of the City of Duarte.

- C. **PURPOSE AND INTENT.** The purpose and intent of this Chapter is to protect and enhance the quality of the waters of the State and the United States located within and/or flowing out of the City of Duarte, in accordance with the requirements of the Clean Water Act and State law, by:
1. Imposing requirements designed to ensure compliance with all Federal and State laws, regulations and orders applicable to Runoff within the City of Duarte.
 2. Effectively prohibiting Non-Stormwater Discharges into the Municipal Stormwater System.
 3. Reducing the Discharge of Pollutants to the Municipal Stormwater System, to the Maximum Extent Practicable, including those Pollutants associated with Industrial and Commercial Activities, as needed for the City of Duarte to be determined to be in compliance with applicable water quality standards/receiving water limitations.
 4. Prohibiting and eliminating Illicit Discharges and Connections to the Municipal Stormwater System.
 5. Establishing measures to control the Discharge of spills, dumping, or disposal of materials other than Stormwater to the Municipal Stormwater System.
 6. Developing and implementing a progressive enforcement policy to ensure that regulated Industrial/Commercial Facilities, construction Project Sites, Development and Redevelopment Project Sites with post-construction controls, and Illicit Discharges are each brought into compliance with all Stormwater and Non-Stormwater requirements within a reasonable time period.
- D. **CONSTRUCTION AND APPLICATION.** This Chapter shall be interpreted to be consistent with the requirements of the Municipal NPDES Permit. This Chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this Chapter should be considered minimum requirements, and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule, or regulation, or other provision of law, whichever provisions are more restrictive or impose more protective standards for human health or the environment shall take precedence.

6.15.011 Short Title.

This Chapter is entitled “Stormwater and Urban Runoff Pollution Control Ordinance of the City of Duarte” and shall be known by this title throughout this Code.

6.15.020 Definitions.

The following words and phrases, whenever used in this Chapter, shall have the meanings defined in this Section unless the context clearly requires otherwise. The following words and phrases shall have the following meanings when used in this Chapter:

(a) “Authorized Enforcement Staff” means any City employee, including Code Enforcement, Building Inspectors and Public Works staff, assigned to duties involving permits and other City approvals, inspections, and enforcement related to this Chapter.

(b) “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: 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539. For inspection purposes, this term does not include SIC codes 5013, 5014, 5541, 5511, provided that these facilities have no outside activities or materials that may be exposed to Stormwater.

(c) “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 including subsequent amendments.

(d) “Best Management Practice (BMP)” means practices or physical devices or systems designed to prevent or reduce Pollutant loading from Stormwater or Non-Stormwater Discharges to the Municipal Stormwater System, or designed to reduce the volume of Stormwater or Non-Stormwater Discharges to the Municipal Stormwater System.

(e) “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. Biofiltration BMPs include Bioretention systems with an underdrain and Bioswales.

(f) “Bioretention” means a LID BMP that reduces Stormwater Discharges to the Municipal Stormwater System by intercepting rainfall on vegetative canopy, and through evapotranspiration and infiltration. Bioretention systems typically include a minimum 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 the Municipal NPDES Permit, 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 under this Chapter and under the Municipal NPDES Permit as a Biofiltration BMP.

(g) “Bioswale” means a LID BMP consisting of a shallow channel lined with grass or other dense, low-growing vegetation. Bioswales are to be designed to collect Stormwater Discharges and to achieve a uniform sheet flow through the use of dense vegetation for a period of several minutes.

(h) “City” means the City of Duarte or its duly authorized representatives.

(i) “Clean Water Act” means the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., and all amendments thereto and all regulations thereunder.

(j) “Co-Permittee” means Los Angeles County Flood Control District, the County of Los Angeles, and any one of the 84 municipalities (including the City), who are identified as “permittees” under the Municipal NPDES Permit.

(k) “Commercial Activity” means any public or private activity involved in the storage, transportation, distribution, exchange or sale of goods and/or commodities or providing professional and/or non-professional services.

(l) “Commercial Development” means any development on private land that is not heavy industrial or residential. Commercial Development 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.

(m) “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.

(n) “Community Development Director” or “Director” means the Director of Community Development of the City of Duarte, and his or her duly authorized agent, deputy, or representative designated to administer, implement or enforce the provisions of this Chapter.

(o) “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, or to maintain the original line and grade, hydraulic capacity, or the original purposes of the facility.

(p) “Control Measure” means a method to minimize, reduce or eliminate by technological, legal, contractual or other means, the Discharge of Pollutants from an activity or activities.

(q) “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 the original line and grade, hydraulic capacity, or the original purpose of the facility; nor does it include emergency construction activities required to immediately protect public health and safety.

(r) “Directly Adjacent” means situated within 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of an Environmentally Sensitive Area.

(s) “Discharge” means any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid or solid substance. The term includes additions of Pollutants from: Runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other Persons which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

(t) “Disturbed Area” means an area that is altered as a result of clearing, grading, and/or excavation.

(u) “Environmentally Sensitive Areas (ESAs)” is 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). The term includes 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 otherwise identified by the City or a Co-Permittee as environmentally sensitive.

(v) “Flow-through BMPs” means modular, vault type “high flow biotreatment” devices contained within an impervious vault with an underdrain or designed with an impervious liner and an underdrain.

(w) “Green Roof” means a LID BMP using planter boxes and vegetation to intercept rainfall on a roof surface. A Green Roof includes a roof that intercepts rainfall by vegetation leaves and through evapotranspiration. Green Roofs may be designed as either a Bioretention BMP or as a Biofiltration BMP. If designed 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.

(x) “Hazardous Materials” means any material defined as a “hazardous material,” a “hazardous substance” or a “hazardous waste” as such terms are defined within section 25501 of the California Health and Safety Code, and as may be amended from time to time.

(y) “Hillside” means a property located in an area with known erosive soil conditions, where the Development contemplates grading on any natural slope that is 25° or greater and where grading contemplates cut or fill slopes.

(z) “Hydromodification” means the alteration of the hydrologic characteristics of coastal and non-coastal waters, which in turn could cause degradation of water resources. Hydromodification can cause excessive erosion and/or sedimentation rates, causing excessive turbidity, channel aggradation and/or degradation.

(aa) “Illicit Connection” means any man-made device through or by which an Illicit Discharge is conveyed into the Municipal Stormwater System without a permit, including but not limited to floor drains, pipes, channels, inlets, or any fabricated or natural conduits, excluding roof drains which convey only Stormwater.

(bb) “Illicit Discharge” means any Discharges to or from the Municipal Stormwater System that is prohibited under local, state or federal statutes, ordinances, codes or regulations. Illicit Discharges include all Non-Stormwater Discharges that are prohibited by the NPDES Permit and not otherwise exempted or conditionally exempted thereunder or otherwise allowed by a special waiver or exemption granted by the Regional Board.

(cc) “Impervious Surface” means any man-made or modified surface that prevents or significantly reduces the entry of water into the underlying soil, resulting in Runoff from the surface in greater quantities and/or at an increased rate, when compared to natural conditions prior to Development. Examples of places that commonly exhibit Impervious Surfaces include: Parking Lots, driveways, roadways, storage areas, and rooftops utilizing paving, compacted gravel, compacted earth, and/or oiled earth.

(dd) “Industrial Activity” means any public or private activity that is associated with any of the eleven categories of activities specified in 40 Code of Federal Regulations 122.26(b)(14) and required to obtain an NPDES permit.

(ee) “Industrial/Commercial Facility” means any facility involved and/or used in either the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, and any facility involved and/or used in providing industrial or commercial services. This category of facility includes, but is not limited to, any facility falling within 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) “Industrial Park” means land development areas set aside specifically for industrial operations. 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 allow for both office and light industry uses.

(gg) “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.

(hh) “LID” means Low Impact Development. LID consists of building and landscape features designed to retain or filter Stormwater and Non-Stormwater Runoff.

(ii) “Maximum Extent Practicable” means such term as used and interpreted in accordance with the Clean Water Act.

(jj) “Municipal NPDES Permit” means the California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175, NPDES No. CAS004001 Waste Discharge Requirements for Municipal Stormwater and Urban Runoff Discharges within the County of Los Angeles, or such subsequent NPDES permit that may be issued in its place, including all amendments to such permits. The operative Municipal NPDES Permit will be kept on file with the City Clerk.

(kk) “Municipal Separate Storm Sewer System (“MS4” or “Municipal Stormwater System”)” means a conveyance or system of conveyances owned or operated by the City, designed or used for collecting or conveying Stormwater including but not limited to flood control channels, roads with drainage systems, alleys, streets, catch basins, grates, inlets, curbs, gutters, ditches, storm drains, canals, pipes and fabricated and natural channels.

(ll) “National Pollutant Discharge Elimination System (NPDES)” means a permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board or a California Regional Water Quality Control Board pursuant to the Clean Water Act.

(mm) “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 shall not cause said system to otherwise be classified as an improved drainage system.

(nn) “New Development” means land disturbing activities; structural development, including construction or installation of a building or structure, creation of Impervious Surfaces, and land subdivision.

(oo) “Non-Stormwater” means any Discharge that is not composed entirely of Stormwater.

(pp) “Owner” as applied to a building or real property, means any legal owner of such building or real property, including any part owner, joint owner, tenant in common, tenant in partnership, or joint tenant of such building or real property.

(qq) “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 5,000 square feet or more of surface area, or with 25 or more parking spaces.

(rr) “Person” means any natural person, firm, association, organization, partnership, business trust, corporation, or company.

(ss) “Pollutant” has the same meaning as set forth in the California Water Code section 13373. Pollutants include, but are not limited to garbage, debris, lawn clippings, leaves, fecal waste, biological waste, sediment, sludge, manure, fertilizers, pesticides, oil, grease, gasoline, paints, solvents, cleaners, and any fluid or solid containing toxic or nontoxic chemicals and metals, including batteries.

(tt) “Project” means all Development and Redevelopment land disturbing activities. The term is not limited to "Project" as that term is defined under the California Environmental Quality Act (“CEQA” – Cal. Pub. Resources Code §21000 et. seq.).

(uu) “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 property, 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.

(vv) “Receiving Waters” means all rivers, lakes, oceans, or other bodies of water that are considered waters of the United States under the Clean Water Act.

(ww) “Redevelopment” means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of Impervious Surface area on an already developed Site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of Impervious Surface area that is not part of Routine Maintenance activity; and land disturbing activity related to structural or Impervious Surfaces. 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.

(xx) “Regional Board” means the California Regional Water Quality Control Board, Los Angeles Region.

(yy) “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).

(zz) “Retail Gasoline Outlet” means any facility engaged in selling gasoline and lubricating oils.

(aaa) “Routine Maintenance” includes but is not limited to Projects conducted to:

- i. Maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
- ii. Perform, as needed, restoration work to preserve the original design grade, integrity and hydraulic capacity of flood control facilities.
- iii. Includes road shoulder work, re-grading dirt or gravel roadways and shoulders and performing ditch cleanouts.
- iv. Update existing lines (which includes replacing existing lines with new materials and/or pipes) and facilities to comply with applicable codes, standards, and regulations regardless if such Projects result in increased capacity.
- v. Repair leaks.

Routine Maintenance does not include the construction of new lines or facilities required to comply with applicable codes, standards and/or 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.

(bbb) “Runoff” means any surface runoff, including Stormwater and dry weather flows, from a drainage area within or entering the jurisdiction of the City

of Duarte. During dry weather Runoff is typically comprised of base flow either contaminated with Pollutants or uncontaminated, and nuisance flows.

(ccc) “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:

- i. The habitat of rare, endangered, and threatened plant and animal species.
- ii. 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.
- iii. 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.
- iv. Habitat that at some point in the life cycle of a species or group of species, serves as a concentrated breeding, feeding, resting, migrating ground and is limited in availability either regionally or within Los Angeles County.
- v. 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.
- vi. Areas important as game species habitat or as fisheries.
- vii. Areas that would provide for the preservation of relatively undisturbed examples of natural biotic communities in Los Angeles County.
- viii. Special areas.

(ddd) “Site” means commonly identified land or water areas, where activities of any kind or nature are or can be conducted thereon. The term includes, but is not limited to, any improvements, structures, buildings, piping, or equipment located within such area, and further includes any adjacent land or water used in any way in connection with such area.

(eee) “State General Permit” means any general NPDES permit adopted by the State Board which authorizes Discharges from Construction Activities or Industrial Activities under certain conditions.

(fff) “Storm Drain System” means any facilities or any part of those facilities, including streets, gutters, conduits, natural or artificial drains, channels, and watercourses that are used for the purpose of collecting, storing, transporting or disposing of Runoff.

(ggg) “Stormwater” means any snow melt runoff, and surface runoff and drainage related to precipitation events.

(hhh) “Structural BMP” means any structural facility designed and constructed to mitigate the adverse impacts of Pollutants in Runoff (e.g. canopy, structural enclosure). The term includes both what are commonly understood to be treatment control BMPs and source control BMPs.

(iii) “State Stormwater Pollution Prevention Plan (SWPPP)” is a plan, as required by a State General Permit, identifying potential Pollutant sources and describing the design, placement and implementation of BMPs, to effectively

prevent Non-Stormwater Discharges and reduce Pollutants in Stormwater Discharges during activities covered by the State General Permit.

(jjj) “Untreated” means any Non-Stormwater Runoff, wastewater or wash waters that have not been subjected to an applicable treatment control BMP, or that are not otherwise in compliance with conditions of an applicable NPDES permit.

(kkk) “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.

6.15.030 Responsibility for Administration.

The administration, oversight and implementation of this Chapter is delegated to the Community Development Director.

6.15.040 Prohibition and Elimination of Illicit Discharges and Illicit Connections.

- A. ILLICIT DISCHARGES PROHIBITED. No Person shall cause, permit allow or facilitate an Illicit Discharge to enter the Storm Drain System
1. All Persons who cause, permit, allow, or facilitate Non-Stormwater to enter the Storm Drain System pursuant to an exemption or a conditional exemption under the Municipal NPDES Permit must comply with the following requirements:
 - a. Notify the City of the planned Discharge in advance, consistent with the requirements in the Municipal NPDES Permit;
 - b. Obtain any local permits required by the City;
 - c. Provide documentation of any other necessary permits or water quality certifications;
 - d. Conduct monitoring of the Discharge if required by the City;
 - e. Implement BMPs and/or Control Measures as specified in the Municipal NPDES Permit as a condition of the approval to Discharge into the MS4; and
 - f. Maintain records of the Discharge into the MS4, consistent with the requirements in the Municipal NPDES Permit.
- B. ILLICIT CONNECTIONS PROHIBITED. No Person shall construct, utilize, maintain, operate or permit the existence of any Illicit Connection on any premises owned, controlled, or operated by such Person. All Illicit Connections constructed, utilized, maintained, operated or permitted in the past must be terminated and removed.

6.15.050 Pollutant Discharge Control.

- A. GENERAL DISCHARGE PROHIBITIONS. No Person shall cause, permit, allow, or facilitate a Discharge of any of the following to the Storm Drain System or a Receiving Water:
1. Any liquids, solids or gases which by reason of their nature or quantity are flammable, reactive, explosive, corrosive, or radioactive, or by interaction with other materials could result in fire, explosion or injury.

2. Any solid or viscous materials which could cause obstruction to the flow or operation of the Storm Drain System.
3. Any Pollutant that injures or constitutes a hazard to human, animal, plant, or fish life, or creates a public nuisance.
4. Any noxious or malodorous liquid, gas, or solid in sufficient quantity, either singly or by interaction with other materials, which creates a public nuisance, hazard to life, or inhibits authorized entry of any Person into the Storm Drain System.
5. Any medical, infections, toxic or hazardous material or waste.
6. Any product registered under the Federal Insecticide, Fungicide, and Rodenticide Act unless it is a product used for lawn and agricultural purposes.

B. CONTROLLING THE DISCHARGE OF POLLUTANTS ASSOCIATED WITH COMMERCIAL, INDUSTRIAL, OR CONSTRUCTION ACTIVITIES.

1. All Persons engaged in Construction or Industrial Activities requiring a State General Permit shall have the following readily available on-site and shall, upon reasonable request from Authorized Enforcement Staff, provide such documents:
 - a. One (1) copy of the Notice of Intent for the State General Permit.
 - b. The waste discharge identification number issued by the State Board.
 - c. One (1) copy of the SWPPP and Stormwater monitoring plan.

The documents must be retained for three (3) years from the date generated or submitted, whichever is later.

2. Except as allowed under a State General Permit, no Person performing any Industrial or Commercial Activity shall cause, permit, allow, or facilitate a Discharge of any of the following into the Storm Drain System:
 - a. Untreated wastewater from steam cleaning, mobile carpet cleaning, or from other such mobile commercial or industrial operations;
 - b. Untreated Runoff containing grease, oil, antifreeze, other fluids from machinery, equipment, tools or motor vehicles, or hazardous substances;
 - c. Untreated Runoff from the washing of toxic materials from paved or unpaved areas;
 - d. Wastewater from the washing out of concrete trucks;
 - e. Untreated wash water from Retail Gasoline Outlets and Automotive Service Facilities; and
 - f. Untreated Runoff from the washing of Impervious Surfaces unless the washing is specifically required by State or local health and safety codes or unless the Discharge is conditionally exempt by the Municipal NPDES Permit.

6.15.060 Controlling Spills, Dumping, or Disposal of Materials Other Than Stormwater to the Stormwater Drain System.

- A. LITTERING. This Section is in addition to any other anti-littering provisions provided in this Code. If any provision contained in this Section conflicts with another provision of the Code, the more stringent, restrictive provision shall govern.
1. No Person shall cause, permit, allow, or facilitate the Discharge of any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, gutter, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City so that such materials, when exposed to Stormwater or any Runoff, become a Pollutant in the Storm Drain System.
 2. No Person shall intentionally dispose or cause the disposal of leaves, dirt, or other landscape debris into the Storm Drain System.
 3. No Person shall spill, dump or dispose of any pesticide, fungicide, or herbicide, directly into the Storm Drain System.
 4. No Person shall cause, permit, allow, or facilitate the Discharge of Hazardous Materials in a manner that results or potentially could result in a Discharge of these materials onto any sidewalk, street or gutter that flows into the Storm Drain System.
 5. No Person shall store oil or oily material, fuels, chemicals, fuel and chemical wastes, animal wastes, garbage, batteries and any toxic or Hazardous Material(s) in a manner that causes or potentially could cause a Discharge of these materials or wastes into the Storm Drain System.
 6. No Person shall cause, permit, allow, or facilitate the Discharge of any sanitary or septic wastes from any source into the Storm Drain System.

6.15.070 Construction Pollutant Reduction.

- A. DEVELOPMENT CONSTRUCTION REQUIREMENTS. Runoff from Construction Activity at all construction Project Sites shall meet the following minimum requirements:
1. Sediments generated on the Project Site shall be retained using adequate Structural BMPs;
 2. Construction-related materials, wastes, spills, or residue shall be retained at the Project Site to avoid a Discharge to streets, drainage facilities, Receiving Waters, or adjacent properties by wind or Runoff;
 3. Non-Stormwater Runoff from equipment and vehicle washing and any other activity shall be contained at the Project Site; and
 4. Erosion from slopes and channels shall be controlled by implementing an effective combination of BMPs, such as the limiting of grading scheduled during the wet season; inspecting graded areas during rain events; planning and maintenance of vegetation on slopes; and covering erosion susceptible slopes.
- B. CITY REVIEW AND PLAN APPROVAL.

1. Prior to the issuance of a permit for a New Development or Redevelopment Project, the Project will be evaluated using the applicable State General Permit, and erosion and grading requirements of the City to determine (i) its potential to generate the flow of Pollutants into the MS4 during construction; and (ii) the effectiveness of the SWPPP for the proposed Project in complying with the requirements of this Chapter. Each SWPPP 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 General Permit for the Project, in order to minimize the flow of Pollutants into the MS4.
2. No grading permit for Developments requiring coverage under the State General Permit shall be issued unless the applicant can show that a proper Notice of Intent to comply with the State General Permit has been filed and that an SWPPP has been prepared for the Project.
3. Stormwater Runoff containing sediment, construction waste or other Pollutants from the construction Site and parking areas shall be reduced to the Maximum Extent Practicable. The following BMPs shall apply to all construction Projects within the City, and shall be required from the time of demolition of existing structures or commencement of construction until receipt of a certificate of occupancy or other evidence of completion of the Project:
 - a. Sediment, construction waste, and other Pollutants from Construction Activities shall be retained on the construction Site to the Maximum Extent Practicable;
 - b. Structural controls such as sediment barriers, plastic sheeting, detention ponds, dikes, filter beams 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;
 - c. All excavated soil shall be located on the Site in a manner that minimizes the amount of sediments running onto the street, drainage facilities or adjacent properties. Soil piles shall be covered with plastic or similar material until the soil is either used or removed from the Site;
 - d. No washing of construction or other vehicles is permitted adjacent to a construction Project Site. No water from the washing of construction or other vehicles is permitted to run off the construction Project Site, or to otherwise enter the MS4.
4. As a condition to granting a building permit or grading permit, the City may set reasonable limits on the clearing of natural vegetation from construction Project Sites, in order to reduce the potential for soil erosion. These limits may include, but are not limited to, regulating the length of time soil is allowed to remain bare or prohibiting bare soil.
5. The Community Development Director may require, prior to the issuance of any building or grading permit, the preparation of an appropriate wet weather erosion control plan, an SWPPP or other plans consistent with the goals of this chapter.

6. If the applicant determines that compliance with this section is technically infeasible for its Project, the Project applicant may apply for alternative compliance for technical infeasibility by showing that the incorporation and design elements that address the objectives set forth in this section are impracticable, non-economical, or otherwise physically impossible due to the Site characteristics or other characteristics unique to the Project. Any request for alternative compliance shall be in writing to the Community Development Director and may only be approved where permitted in accordance with the terms of the existing State General Permit.

6.15.080 Best Management Practices.

- A. BMPs. All Persons engaged in Commercial, Industrial, and Construction Activities, shall use BMPs in the use, maintenance, repair and operation of all machinery and equipment utilized on such property, to the Maximum Extent Practicable, in order to minimize and eliminate the Discharge of Pollutants to the Storm Drain System. Such BMPs are to be consistent with those BMPs prescribed by the Municipal NPDES Permit and/or established by resolution of City Council.
- B. STRUCTURAL TREATMENT CONTROL. All Persons conducting activities on Project Sites subject to a Structural BMP shall:
 1. Ensure that each and every Structural BMP is operating effectively and is being adequately maintained; and
 2. Document the operation and maintenance of Structural BMPs and their effectiveness in reducing the Discharge of Pollutants to the Municipal Stormwater System.

6.15.090 Compliance with State and Federal Discharge Requirements.

All Persons engaged in Commercial, Industrial, or Construction Activities, shall comply with all Discharge requirements of the United States Environmental Protection Agency and/or the State Board or Regional Board. Proof of compliance with such Discharge requirements may be required by the City in a form acceptable to the Director, prior to the issuance of any grading, building, or occupancy permit, or any other type of permit or license issued or to be issued by the City.

6.15.100 Inspections.

- A. AUTHORITY TO INSPECT. The Director may, on twenty-four hour oral or written notice, unless exigent circumstances justify a shorter time period, enter upon and inspect any private premises for the purposes of verifying compliance with the terms and conditions of this Chapter and is authorized to perform the following duties at that time:
 1. Inspect, take samples of any Runoff, Discharge or materials within any exposed waste storage area, and perform tests for the purpose of determining the potential for the contribution of Pollutants to the Storm Drain System;
 2. Place on the property of the inspected facility or Site any such devices as are reasonably necessary to sample, monitor, measure and record flows of Discharge or threatened Discharge;
 3. Inspect, examine and copy all records of the Owner or occupant of the inspected property that pertain to any Discharge to the Storm Drain System, including records relating to chemicals or processes presently or previously occurring on the Site, a General Construction or Industrial Activities Storm Water Permit, a Notice

of Intent to comply with a General Construction or Industrial Activities Permit, waste discharge records, waste manifests, monitoring plans, test results, any records or plans relating to discharge connections to the Storm Drain System, and any other information required by this Chapter;

4. Inspect and enforce the provisions of this Chapter requiring the implementation of applicable Best Management Practices;
5. Photograph any materials, storage or process areas, wastes, waste containers, vehicles, connections, Best Management Practices, treatment systems, discharge location(s), or any violation(s) discovered during the inspection; and
6. Abate, correct or prevent Pollutants from entering the Storm Drain System or Receiving Waters.

- B. **REPORTING REQUIREMENTS.** Following the completion of an inspection, the Director may require the Owner or operator of the facility to submit regular reports on the facility operations, for so long as the Director determines in his discretion is necessary, as needed to verify compliance with the terms and conditions of this Chapter, or to otherwise show the facility has corrected any violation(s) of this Chapter.

6.15.110 Enforcement.

- A. **ADMINISTRATIVE CITATIONS.** Violations of this Chapter may be abated by administrative action in accordance with the terms and provisions of Chapter 1.08 of this Code.

- B. **NUISANCE.** Violations of this Chapter may be deemed a public nuisance and abated in accordance with the terms and provisions of Chapter 9.32 of this Code.

- C. **CRIMINAL SANCTIONS.**

1. The enforcing attorney may act on the request of the Community Development Director or Authorized Enforcement Staff to pursue enforcement actions in accordance with the provisions of this Chapter.
2. Any Person who may otherwise be charged with a misdemeanor under this Chapter may be charged, at the discretion of the prosecuting attorney, with an infraction punishable by a fine of not more than \$100.00 for a first violation, \$200.00 for a second violation, and a fine not exceeding \$500.00 for each additional violation occurring within one year.
3. Any Person who negligently or knowingly violates any provision of this Chapter, undertakes to conceal any violation of this Chapter, continues any violation of this Chapter after notice thereof, or violates the terms, conditions and requirements of a permit or approval issued pursuant to this Chapter, shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or by imprisonment for a period of not more than six months, or both.

- D. **CONSECUTIVE VIOLATIONS.** Each day in which a violation occurs and each separate failure to comply with either a separate provision of this Chapter, an administrative compliance order, a cease and desist order, or a permit issued pursuant to this Chapter, shall constitute a separate violation of this Chapter punishable by fines or sentences issued in accordance herewith.

- E. NON-EXCLUSIVE REMEDIES. Each and every remedy available for the enforcement of this Chapter shall be non-exclusive of any other remedies available to the City under any applicable federal, state or local law. It is within the discretion of the Community Development Director, Authorized Enforcement Staff, or enforcing attorney to seek cumulative remedies, except that multiple monetary fines or penalties shall not be available for any single violation of this Chapter.
- F. CITATIONS. Pursuant to California Penal Code section 836.5, the Community Development Director or Authorized Enforcement Staff shall have the authority to cause the arrest of any Person committing a misdemeanor or infraction pursuant to the provisions of the Chapter. The Person shall be released and issued a citation to appear before a magistrate in accordance with Penal Code section 853.5, section 853.6, and section 853.9, unless the Person demands to be taken before the magistrate. Following issuance of any citation, the Community Development Director or Authorized Enforcement Staff may refer the matter to the enforcing attorney. All such criminal citations and hearings shall be in accordance with the terms and provisions of Chapter 1.04.
- G. VIOLATIONS OF OTHER LAWS. Any Person acting in violation of this Chapter also may be acting in violation of the Clean Water Act or the California Porter-Cologne Water Quality Control Act (California Water Code § 13000 et seq.) and other laws, and also may be subject to criminal and civil penalties, the payment of restitution, damages, and costs, and injunctive relief under such other laws. Accordingly, the enforcing attorney is authorized to file a citizen suit pursuant to the Clean Water Act (Title 33 U.S.C. § 1365(a)), seeking penalties and injunctive and declaratory relief, the recovery of attorney fees and costs, and other appropriate relief. The enforcing attorney may notify United States Environmental Protection Agency, the State Water Resources Control Board, the Regional Board, or any other appropriate State or local agency, of any alleged violation of this Chapter.
- H. INJUNCTIONS. At the request of the Community Development Director or Authorized Enforcement Staff, the enforcing attorney may cause the filing, in a court of competent jurisdiction, of a civil action seeking an injunction against any threatened or continuing noncompliance with the provisions of this Chapter. Any temporary, preliminary, or permanent injunction issued pursuant hereto may include an order for reimbursement to the City of all costs incurred in enforcing this Chapter, including costs of inspection, investigation and monitoring, the costs of abatement undertaken at the expense of the City, legal expense, including costs and attorney fees, and consultant and expert fees and costs, and costs relating to restoration of the environment.
- I. RECOVERY OF COSTS.
 - 1. The Community Development Director and Authorized Enforcement Staff may recover from any other Person who has been found in violation of this Chapter all costs incurred in the enforcement of the Chapter, including but not limited to:
 - a. All costs relating to investigation, sampling, inspection, monitoring, administrative expenses, legal expenses, including costs and attorney fees, and consultant and expert fees and costs, and consequential damages;
 - b. All costs incurred in mitigating harm to the environment or reducing the threat to human health; and
 - c. Damages for irreparable harm to the environment.

2. The Community Development Director or Authorized Enforcement Staff may cause the enforcing attorney to file an action for civil damages in a court of competent jurisdiction seeking recovery of such costs.

J. OTHER CIVIL REMEDIES

1. The enforcing attorney is authorized to file actions for civil damages resulting from any trespass or nuisance occurring on public land or to the Stormwater drainage system from any violation of this Chapter where the same has caused damage, contamination or harm to the environment, public property, or the Stormwater drainage system.

6.15.120 Permits.

A. DISCHARGE PERMIT PROCEDURE FOR INDIVIDUAL PERMITS.

1. On application of the Owner of private property or the operator of any facility and/or Site/source, where such private property is not otherwise subject to the requirements of an existing NPDES permit, the Community Development Director may issue an individual permit authorizing Discharges to the MS4 if:
 - a. The Discharge of material or constituents is reasonably necessary for the conduct of otherwise legal activities on the private property; and
 - b. The Discharge will not cause or contribute to a violation of the Municipal NPDES Permit.
2. The applicant shall provide all information requested by the Community Development Director for review and consideration of the application, including, but not limited to, specific detail as to the activities to be conducted on the private property, plans and specifications for facilities located on the private property, identification of equipment or processes to be used on-site and other information as may be requested in order to determine the constituents and quantities thereof which may be Discharged if permission is granted.
3. The permit applicant shall be notified whether the permit was granted or denied within sixty (60) business days following the completion and acceptance of the application, as determined by the Community Development Director. The applicant shall be notified in person or by first-class mail of the action taken.
4. The permit may include terms, conditions and requirements to ensure compliance with the objectives of this Chapter, including but not limited to:
 - a. Identification of the discharge location on the private property and the location at which the Discharge will enter the MS4;
 - b. Identification of the constituents and quantities thereof to be Discharged into the MS4;
 - c. Specification of pollution prevention techniques and structural or non-structural control requirements as reasonably necessary to prevent prohibited Discharges;
 - d. Requirements for self-monitoring of any Discharge;

- e. Requirements for submission of documents or data, such as technical reports, production data, discharge reports, self-monitoring reports and waste manifests; and
 - f. Other terms and conditions appropriate to ensure compliance with the provisions of this Chapter, including requirements for compliance with Best Management Practice guidance documents approved by any federal or regional agency.
- B. **DISCHARGE PERMIT PROCEDURE FOR GENERAL PERMITS.** In the discretion of the Community Development Director and in accordance with the conditions identified in this Section, the permit may be prepared as a general permit applicable to a specific category of activities. If a general permit is issued, any Person intending to Discharge within the scope of the authorization provided by the general permit may do so by filing an application to Discharge with the Community Development Director. No Discharge within the scope of the general permit shall occur until such application is filed and has been approved. Notwithstanding the foregoing in this Section, the Community Development Director in his or her discretion may eliminate the requirement that an application be filed for coverage under an already approved general permit.
- C. **FEES.** The permit to Discharge shall be conditioned upon the applicant's payment of the City's costs, in accordance with a fee schedule adopted by City Council resolution, as follows:
 - 1. For individually issued permits, the costs of reviewing the permit application, preparing and issuing the permit and the costs reasonably related to administering this permit program; and
 - 2. For general permits, the costs of reviewing the permit application, that portion of the costs of preparing the general permit which is reasonably attributable to the permittee's application for the general permit and the costs reasonably related to administering the general permit program.
- D. **PERMIT SUSPENSION, REVOCATION OR MODIFICATION.**
 - 1. The Community Development Director may suspend or revoke any permit when it is determined that:
 - a. The permittee has violated any term, condition or requirement of the permit or any applicable provision of this Chapter;
 - b. The permittee's Discharge or the circumstances under which the Discharge occurs have changed so that it is no longer appropriate to exempt the Discharge from the prohibitions contained within this Chapter;
 - c. The permittee failed to comply with any schedule for compliance issued pursuant to this Chapter; or
 - d. Any regulatory agency, including the United States Environmental Protection Agency, the State Water Resources Control Board, the County of Los Angeles, the Los Angeles County Flood Control District, or the Regional Board, having jurisdiction over the Discharge, provides written notice to the City that the Discharge should be terminated.
 - 2. The Community Development Director may modify any permit when it is determined that:

- a. Federal law, state law, or applicable permit requirements have changed in a manner that necessitates a change in the permit;
 - b. The permittee's Discharge or the circumstances under which the Discharge occurs have changed so that it is appropriate to modify the permit's terms, conditions or requirements; or
 - c. A change to the permit is necessary to ensure compliance with the objectives of this Chapter and/or the Municipal NPDES Permit. The permittee shall be informed of any change in the permit terms and conditions at least forty-five (45) business days prior to the effective date of the modified permit.
- 3. The determination that a permit shall be denied, suspended, revoked or modified may be appealed by a permittee pursuant to the same procedures applicable to appeal of an administrative compliance order hereunder. In the absence of a judicial order to the contrary, the permittee may not continue to Discharge pending issuance of the final administrative decision by the Hearing Officer.
- E. **PERMIT ENFORCEMENT, PENALTIES.** Any violation of the terms, conditions and requirements of any permit issued by the Community Development Director shall constitute a violation of this Chapter and subject the violator to the administrative, civil and criminal remedies available under this Chapter.
- F. **COMPLIANCE.** Compliance with the terms, conditions and requirements of a permit issued pursuant to this Chapter shall not relieve the permittee from compliance with all other federal, state and local laws, regulations and permit requirements applicable to the activity for which the permit is issued.
 - 1. Permits issued under this Chapter are for the Person identified therein as the "permittee" only, and authorize the specific operation at the specific location identified in the permit. The issuance of a permit does not vest the permittee with a continuing right to Discharge.
 - 2. No permit may be transferred to allow:
 - a. A Discharge to the MS4 at a location other than the location stated in the permit; or
 - b. A Discharge by a Person other than the permittee named in the permit or identified in a written transfer approved by the Community Development Director.

6.15.130 New Development and Redevelopment Pollutant Reduction.

- A. **OBJECTIVE.** The provisions of this section establish requirements for Construction Activities and facility operations of Development and Redevelopment Projects to comply with the MS4 permit, to lessen the water quality impacts of Development by using smart growth practices, and to 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. Nothing

in this section shall limit the City from further defining and adopting 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.

C. APPLICABILITY. All Persons engaged in the following Development and Redevelopment Projects shall comply with the requirements of this Chapter:

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 with 10,000 square feet or more of surface area.
3. Commercial Malls with 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 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. Street and road construction with 10,000 square feet or more of Impervious Surface area.
8. Automotive Service Facilities with 5,000 square feet or more of surface area.
9. Projects located in or Directly Adjacent to, or discharging directly to an Significant Ecological Area (SEA) where the Development will:
 - a. Discharge Stormwater 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. 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.
 - b. 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.
 - c. 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. REQUIREMENTS.

All Persons engaged in the Projects identified in this Section shall design their Project Sites to control Pollutants, Pollutant loads, and Runoff volume to the Maximum Extent Practicable 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 an LID Plan which implements set LID standards and practices for pollution mitigation and provides documentation demonstrating compliance with the Municipal NPDES Permit on the plans and permit application submitted to the City. LID Plans shall comply with the following:

1. The County of Los Angeles Department of Public Works Low-Impact Development Standard Manual. A copy of the manual shall be kept on file with the City Clerk.
2. A new single-family Hillside home Development shall include mitigation measures to:
 - a. Conserve natural areas;
 - b. Protect slopes and channels (including compliance with Chapter 19.46 of the Duarte Municipal Code) ;
 - 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.
3. 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.
4. The remainder of the Projects identified in this Section 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 Municipal NPDES Permit.

Notwithstanding these requirements, no person shall be excused from complying with Chapter 15.09 of the Duarte Municipal Code.

E. ALTERNATIVE COMPLIANCE FOR TECHNICAL INFEASIBILITY.

If the applicant determines that a LID Plan is technically infeasible for its Project, the Project applicant may apply for alternative compliance for technical infeasibility by showing that the incorporation and design elements that address the objectives set forth in this section are impracticable, non-economical, or otherwise physically impossible due to the Project Site characteristics or other characteristics unique to the Project. Any request for alternative compliance shall

be in writing to the Community Development Director and may only be approved where permitted in accordance with the terms of the MS4 permit and when all Structural BMPs have been considered and rejected as infeasible.

1. 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 on-site;
 - b. Locations where seasonal high groundwater is within five to ten feet of surface grade;
 - c. Locations within 100 feet of a groundwater well used for drinking water;
 - d. Brownfield Development Sites or other locations where Pollutant mobilization is a documented concern;
 - e. Locations with potential geotechnical hazards;
 - f. Smart growth and infill or Redevelopment locations where the density and/or nature of the Project would create significant difficulty for compliance with the onsite volume retention requirement.
2. If partial or complete onsite retention is technically infeasible, the Project Site may biofiltrate 1.5 times the portion of the remaining SWQDv that is not reliably retained onsite. Biofiltration BMPs must adhere to the design specifications provided in the Municipal NPDES Permit.
3. 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 Community Development Director 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 per the Municipal NPDES 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.

6.15.140 Low Impact Development Plan.

- A. LID PLAN. Prior to the issuance of a permit for a New Development or Redevelopment Project, the applicant shall submit a LID Plan to the Community Development Director. The LID Plan shall be prepared by a California registered Civil Engineer, Architect, Landscape Architect knowledgeable about Stormwater management issues. The Project will be evaluated using the applicable State General Permit, and erosion and grading requirements of the City 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 General Permit for the Project, in order to minimize the flow of Pollutants into the MS4.
- B. CITY APPROVAL. No building or grading permit shall be issued until an LID plan has been approved by the Community Development Director.
- C. EXPIRATION OF CITY APPROVAL. 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 an LID plan, the LID plan for that Project shall expire. The Community Development Director 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.

6.15.150 Filing of the Low Impact Development Plan.

Upon approval and acceptance of the LID Plan by the City, the applicant shall file a signed original of the plan with the Los Angeles County Recorder. The document shall contain a sufficient legal description to identify the property covered and shall be binding upon the applicant and all successors in interest to the property. The format shall be approved by the City and shall only be amended or removed from title with the consent of the City.

6.15.160 Fees.

The City may establish fees for the services provided under this Chapter by resolution of City Council.

6.15.170 Interagency Cooperation.

The Clean Water Act provides for cooperative implementation of requirements and interagency allocations of program resources and burdens. The City intends to cooperate with other Co-Permittees and other MS4 permittees (where appropriate) to ensure that the regulatory purposes underlying surface water Runoff regulations promulgated pursuant to the Clean Water Act are met.

The City may, to the extent authorized by law, elect to contract for the services of any public agency or private enterprise to carry out the planning approvals, inspections, permits and enforcement authorized by this Chapter.

6.15.180 Judicial Review.

The provisions of sections 1094.5 and 1094.6 of the Code of Civil Procedure set forth the procedure for judicial review of any act taken pursuant to this Chapter. Parties seeking judicial review of any action taken pursuant to this Chapter shall file such action within ninety (90) days of the occurrence of the event for which review is sought.

SECTION 2. CEQA Determination. In adopting this Ordinance, the City Council finds and determines, based on all of the information in the record and on the basis of its independent judgment, that enacting this Ordinance is a condition of the Municipal NPDES Permit, the requirements of which are exempt from the California Environmental Quality Act (“CEQA”) pursuant to Public Resources Code § 21000, including but not limited to sections 21083 and 21084 et seq. The ordinance is subject to CEQA categorical exemptions classes 4, 6 through 9, 21, and 22, pursuant to the CEQA Guidelines, respectively, Title 14, California Code of Regulations Sections 15304, 15306, 15307, 15308, 15309, 15321, and 15322.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, phrase, or portion of this Ordinance 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 adopted this Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, phrases, or portions be declared unconstitutional or invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 4. Effective Date. This Ordinance shall take effect thirty (30) days after its passage.

SECTION 5. Posting of Ordinance. The City Clerk shall certify as to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner provided for in the Duarte Municipal Code.

PASSED, APPROVED, AND ADOPTED this 10th day of February, 2015.

/s/ Tzeitel Paras-Caracci
Mayor Tzeitel Paras-Caracci

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Ordinance No. 855 was adopted by the City Council of the City of Duarte at a regular meeting of said Council held on the 10th day of February, 2015, by the following vote:

AYES: Councilmembers: Fasana, Kang, Reilly, Paras-Caracci

NOES: Councilmembers: None

ABSENT: Councilmembers: Finlay

/s/ Marla Akana
City Clerk Marla Akana
City of Duarte, California