

ORDINANCE NO. 22-0011

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH AMENDING  
MANHATTAN BEACH MUNICIPAL CODE CHAPTER 5.84 TO COMPLY  
WITH RECENT MUNICIPAL NATIONAL POLLUTANT DISCHARGE  
ELIMINATION SYSTEM (NPDES) PERMIT REQUIREMENTS

**THE MANHATTAN BEACH CITY COUNCIL HEREBY RESOLVES AS  
FOLLOWS:**

SECTION 1. The City Council hereby amends Manhattan Beach Municipal Code Chapter 5.84 to read as follows:

**"5.84.010 Purpose and intent.**

- A. The purpose of this chapter is to comply with the Federal Clean Water Act, the California Porter-Cologne Water Quality Control Act, and the Municipal National Pollutant Discharge Elimination System (NPDES) Permit by:
1. Reducing pollutants in stormwater discharges to the maximum extent practicable;
  2. Prohibit illicit connections and illicit discharges, thereby reducing the level of contamination of stormwater and urban runoff into the Municipal Separate Storm Sewer System (MS4) of the City of Manhattan Beach (City); and
  3. Prohibit non-stormwater discharges to the MS4.
- B. The intent of this chapter is to ensure the future health, safety, and general welfare of the citizens of the City and of the receiving waters of the County of Los Angeles and surrounding coastal areas to provide the City with the legal authority necessary to implement and enforce the requirements contained in 40 CFR § 122.26(d)(2)(i)(A-F) and in the municipal NPDES permit to the extent that they are applicable in the City, to control discharges to and from those portions of the municipal separate storm sewer system (MS4) over which the City has jurisdiction as required by the municipal NPDES permit, and to hold dischargers to the MS4 accountable for their contributions of pollutants and flows.
- C. This chapter authorizes the authorized enforcement officer to define and adopt applicable best management practices (BMPs) and other stormwater pollution control measures, to cite infractions, to impose fines pursuant to this chapter, and to grant emergency self-waivers from municipal NPDES permit requirements in order to conduct repairs of essential public service systems and infrastructure in emergency situations.

Except as otherwise provided herein, the authorized enforcement officer shall administer, implement, and enforce the provisions of this chapter.

- D. This chapter authorizes the authorized enforcement officer to carry out inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with the provisions of this chapter and the municipal NPDES permit, including the prohibition of non-stormwater discharges into the MS4. This includes the authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from entities discharging into the City's MS4.

**5.84.020 Definitions.**

Except as specifically provided herein, any term used in this chapter shall have the same meaning as that term is defined in the municipal NPDES permit; or, if it is not specifically defined in the municipal NPDES permit, then as such term is defined in the Federal Clean Water Act, as amended, and/or the regulations promulgated thereunder. The following words and phrases shall have the following meanings when used in this chapter:

"Area susceptible to runoff" means any surface directly exposed to precipitation or in the path of runoff caused by precipitation.

"Authorized enforcement officer" means the City Manager, Public Works Director, or their designee and any City official authorized to issue citations under this Code.

"Best management practices (BMPs)" means practices or physical devices or systems designed to prevent or reduce pollutant loading from stormwater or non-stormwater discharges to receiving waters.

"Biofiltration" is a low impact development (LID) BMP that reduces stormwater pollutant discharges by intercepting rainfall on vegetative canopies and through incidental infiltration and/or evapotranspiration and filtration. Incidental infiltration is an important factor in achieving the required pollutant load reduction. Therefore, the term "biofiltration" as used in the municipal NPDES permit is defined to include only systems designed to facilitate incidental infiltration or achieve the equivalent pollutant reduction as biofiltration BMPs with an underdrain. Biofiltration BMPs include bioretention systems with an underdrain and bioswales.

"Bioretention" is a LID BMP that reduces stormwater runoff by intercepting rainfall on vegetative canopy and through evapotranspiration and infiltration. The bioretention system typically includes a minimum 2-foot top layer of a specified soil and compost mixture underlain by a gravel-filled temporary storage pit dug into the *in-situ* soil. As defined in 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 as a biofiltration BMP.

"City" means the City of Manhattan Beach.

"Commercial Food Service Establishments (FSEs)" means business establishments engaged in the retail sale of prepared food and drinks for on-premises or immediate consumption. Caterers and industrial and institutional food service establishments are also included in this industry.

"Construction" means any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that results in land disturbance. Construction does not include emergency construction activities required to immediately protect public health and safety or routine maintenance activities required to maintain the integrity of structures by performing minor repair and restoration work, maintain the original line and grade, hydraulic capacity, or original purposes of the facility. See "Routine Maintenance" definition for further explanation. Where clearing, grading or excavating of underlying soil takes place during a repaving operation, the Statewide General Construction Permit coverage is required if more than one acre is disturbed or the activities are part of a larger plan.

"Construction General Permit" means the *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities*. General NPDES permit issued by the State Water Board, which authorizes the discharge of stormwater from construction activities under certain conditions.

"Development" means any construction, rehabilitation, redevelopment, or reconstruction of any public or private residential project (whether single-family, multi-unit, or planned unit development); industrial, commercial, retail, and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain the original line and grade, hydraulic capacity, or original purpose of the facility, nor does it include emergency construction activities required to immediately protect public health and safety.

"Directly adjacent" means priority development projects as set forth in the "Planning and Land Development" provisions, situated within 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of an environmentally sensitive area.

"Direct Discharge" means outflow from a drainage conveyance system composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility and not commingled with the flows from adjacent lands.

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

"Fats, oils, and grease (FOG)" means any substance, such as vegetable or animal product that is used in, or is a by-product of, the cooking or food preparation process and that turns or may turn viscous or solidifies with a change in temperature or other conditions.

"Illicit connection" means any man-made conveyance that is connected to the storm drain system without a permit, excluding roof drains and other similar connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drain system.

"Illicit discharge" means any discharge into the MS4 that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes any non-stormwater discharge, except authorized non-stormwater discharges; conditionally exempt non-stormwater discharges; and non-stormwater discharges resulting from natural flows specifically identified in the Order.

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

"Infiltration BMP" means a LID BMP that reduces stormwater runoff by capturing and infiltrating the runoff into in-situ soils or amended on-site soils. Examples of infiltration BMPs include infiltration basins, dry wells, and pervious pavement. Some types of infiltration BMPs such as dry wells, may meet the definition of a Class V, deep well injection facility and may be subject to permitting under U.S. EPA requirements.

"Inspection" means an on-site review of a facility and its operations, at reasonable times, to determine compliance with specific municipal or other legal requirements. The steps involved in performing an inspection include, but are not limited to:

1. Pre-inspection documentation research;
2. Request for entry;
3. Interview of facility personnel;
4. Facility walk-through;
5. Visual observation of the condition of facility premises;
6. Examination and copying of records as required;
7. Sample collection (if necessary or required);
8. Exit conference (to discuss preliminary evaluation); and
9. Report preparation, and if appropriate, recommendations for coming into compliance.

"Low impact development (LID)" means the implementation of systems and practices that use or mimic natural processes to 1) infiltrate and recharge, 2) evapotranspire, and/or 3) harvest and use precipitation near to where it falls to earth.



"Municipal NPDES permit" means the "Waste Discharge Requirements and National Pollutant Discharge Elimination System (NPDES) Permit for Municipal Separate Storm Sewer System (MS4) Discharges within the Coastal Watersheds of Los Angeles and Ventura Counties (Order No. R4-2021-0105), NPDES Permit No. CAS004004, effective September 11, 2021, issued by the California Regional Water Quality Control Board—Los Angeles Region, and any successor permit to that permit.

"Municipal separate storm sewer system (MS4)" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) (40 CFR § 122.26(b)(8)):

1. Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the United States;
2. Designed or used for collecting or conveying stormwater; and
3. Which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR §122.2.

"New development" means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

"Non-stormwater discharge" means any discharge into the MS4 that is not composed entirely of stormwater.

"National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA §307, 402, 318, and 405. The term includes an "approved program."

"NPDES permit" means an authorization, license, or equivalent control document issued by the U.S. Environmental Protection Agency (USEPA) or the State Water Resources Control Board or Regional Board to implement the requirements of Parts 122, 123, and 124 of the Code of Federal Regulations pursuant to Sections 318, 402, and 405 of the Clean Water Act, and includes an NPDES general permit.

"Permit" does not include any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit."

"Pollutants" means those pollutants defined in CWA §502(6) (33 U.S.C. §1362(6)) and incorporated by reference into California Water Code §13373.

"Rainfall harvest and use" is an LID BMP system designed to capture runoff, typically from a roof but it can also include runoff capture from elsewhere within the site, and to provide for temporary storage until the harvested water can be used for irrigation or non-potable uses. The harvested water may also be used for potable water uses if the system includes disinfection treatment and is approved for such use by the local building department.

"Receiving Water" is a water of the United States into which waste and/or pollutants are, or may be, discharged.

"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 a routine maintenance activity; and land-disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain the original line and grade, hydraulic capacity, or original purpose of the facility, nor does it include emergency construction activities required to immediately protect public health and safety.

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

"Routine maintenance" projects include, but are not limited to projects conducted to:

1. Maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
2. Perform as needed restoration work to preserve the original design grade, integrity, and hydraulic capacity of flood control facilities.
3. Includes road shoulder work, regarding dirt or gravel roadways and shoulders and performing ditch cleanouts;
4. Update existing lines and facilities to comply with applicable codes, standards, and regulations regardless if such projects result in increased capacity. This includes the replacement of existing lines with new materials or pipes.
5. Repair leaks.
6. Routine maintenance does not include construction of new lines or facilities resulting from compliance with applicable codes, standards and regulations. New lines are those that are not associated with existing facilities and are not part of a project to update or replace existing lines.

"Significant ecological area" ("SEA") means an area that is determined to possess irreplaceable biological resources as identified by the County of Los Angeles Significant Ecological Areas Program (<http://planning.lacounty.gov/site/seah/home/>).

"Simple LID BMP" means a BMP constructed above ground on a single-family residential home that a homeowner or inspector can readily inspect. Simple LID BMPs do not require an operation and maintenance plan per the Municipal NPDES permit. Examples of such BMPs include, but are not limited to, vegetated swales, rain barrels, and above ground cisterns, rain gardens, and pervious pavement.

"Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the structure or activity.

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

"Structural BMP" means any structural facility designed and constructed to mitigate the adverse impacts of stormwater and non-stormwater pollution (e.g., Treatment Control BMPs).

"Treatment" means the application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to, filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation, and UV radiation.

"Treatment control BMP" means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption, or any other physical, biological, or chemical process.

#### **5.84.030 Construction and application.**

This chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto; applicable implementing regulations; and the municipal NPDES permit and any amendment, revision, or reissuance thereof.

#### **5.84.040 Prohibited activities.**

- A. **Illicit Discharges and Connections.** It is a violation of this chapter to commence, establish, use, maintain, or continue any illicit connections to the MS4 or any illicit discharges to the MS4. This prohibition against illicit connections applies to the use, maintenance, or continuation of any illicit connection, whether that connection was established prior to or after the effective date of this chapter.
- B. **Littering.** No person shall throw, deposit, place, leave, maintain, keep, or permit to be thrown, deposited, placed, left, maintained, or kept, any refuse, rubbish, garbage,

or any other discarded or abandoned objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin conduit or drainage structure, business place, or upon any public or private plot of land in the City, so that the same might be or become a pollutant. No person shall throw or deposit litter in any fountain, pond, lake, stream, or other body of water within the City. This subsection shall not apply to refuse, rubbish, or garbage deposited in containers, bags, or other appropriate receptacles that are placed in designated locations for regular solid waste pick up and disposal.

- C. **Disposal of Landscape Debris.** No person shall intentionally dispose of leaves, dirt, or other landscape debris into the MS4.
- D. **Non-Storm Water Discharges.** All non-stormwater discharges into the MS4 are prohibited unless those flows are: in compliance with a separate NPDES permit; pursuant to a discharge exemption by the Regional Board, the Regional Board's executive officer, or the State Water Resources Control Board; associated with emergency firefighting activities (i.e., flows necessary for the protection of life or property); natural flows as defined in the municipal NPDES permit; conditionally exempt non-stormwater discharges as defined in accordance with the municipal NPDES permit; or authorized as a temporary non-stormwater discharge by the USEPA pursuant to Sections 104(a) or 104(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Prohibited discharges include, but are not limited to:
1. The discharge of wash waters to the MS4 from commercial auto washing or when gas stations, auto repair garages, or other types of automotive service facilities are cleaned;
  2. The discharge of wastewater to the MS4 from mobile auto washing, steam cleaning, mobile carpet cleaning, and other such mobile commercial and industrial operations;
  3. Discharges to the MS4 from areas where repair of machinery and equipment, including motor vehicles, which are visibly leaking oil, fluid, or antifreeze, is undertaken;
  4. Discharges of runoff to the MS4 from storage areas of materials containing grease, oil, or other hazardous substances and uncovered receptacles containing hazardous materials;
  5. Discharges of commercial/residential swimming pool filter backwash to the MS4;
  6. Discharges of runoff from the washing of toxic materials from paved or unpaved areas to the MS4;
  7. Discharges of sewage to the MS4 from private laterals, sanitary sewer overflows, or other sources of septic wastes;

8. Discharges to the MS4 from the washing out of concrete or cement laden wash water from concrete trucks, pumps, tools, and equipment;
  9. Discharges to the MS4 of any pesticide, fungicide, or herbicide banned by the USEPA or the California Department of Pesticide Regulation or a product registered under the Federal Insecticide, Fungicide and Rodenticide Act to any waste stream that may ultimately be released to waters of the United States unless specifically authorized under an NPDES permit. This requirement is not applicable to products used for lawn and agricultural purposes; and
  10. The disposal of hazardous wastes into trash containers used for municipal trash disposal where such disposal causes or threatens to cause a direct or indirect discharge to the MS4.
- E. **Discharges in Violation of the Municipal NPDES Permit.** Any discharge that would cause or contribute to a violation of the municipal NPDES permit, either separately or in combination with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such person(s) shall defend, indemnify, and hold harmless the City from all losses, liabilities, claims, or causes of actions in any administrative or judicial action relating to such discharge.

**5.84.050 Exempted discharges or conditionally exempted discharges.**

Discharges from those activities specifically identified in or pursuant to the municipal NPDES permit as being authorized discharges, or conditionally exempted shall not be considered a violation of this chapter, provided that all required conditions, including applicable BMPs pursuant to the municipal NPDES permit, are implemented prior to discharge to minimize any adverse impacts from such identified sources and that any required municipal permits are obtained prior to discharge. Conditionally exempt non-essential non-stormwater discharges are exempt only so long as they are not a source of pollutants that will cause or contribute to an exceedance of applicable water quality limitations specified in the municipal NPDES permit.

**5.84.060 Good housekeeping provisions.**

Owners and occupants of property within the City shall comply with the following requirements:

- A. **Septic Waste.** No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste to precipitation.
- B. **Use of Water.** Runoff of water used for irrigation purposes shall be minimized in accordance with the City's Water Conservation Ordinance as codified in Chapter 7.44 of the City's Municipal Code. Runoff of water from the conditionally exempt cleaning of paved areas shall be minimized to the maximum extent practicable. Conditionally

exempt non-stormwater discharges of sidewalk/street wash water only include those discharges resulting from the use of high pressure, low volume spray washing using only potable water with no cleaning agents. Sweeping and collection of debris for trash disposal instead of or prior to use of water should be utilized whenever possible.

- C. **Storage of Materials, Machinery, and Equipment.** Machinery or equipment that is to be repaired or maintained in areas susceptible to or exposed to stormwater shall be placed in a manner so that leaks, spills, and other maintenance-related pollutants are not discharged to the MS4.
- D. **Storage of Oil or Oily Material, Chemicals, Refuse, or Other Pollutionable Materials.** Oil or oily material, chemicals, refuse, or other pollutionable materials shall not be stored or deposited by any person in areas where they may be picked up by rainfall and carried off of the property and/or discharged to the MS4. Any such spill of such materials shall be contained and removed immediately.
- E. **Removal and Disposal of Debris from Industrial/Commercial Motor Vehicle Parking Lots.** Industrial or commercial motor vehicle parking lots that are located in areas potentially exposed to stormwater shall be swept regularly or other equally effective measures shall be utilized to remove oil, chemicals, debris, or other pollutionable materials from such parking lots, so as to prevent or minimize pollutants or debris from running off the parking lot into the MS4.
- F. **Food Wastes.** Food wastes generated by non-residential food service and food distribution sources, including FOG, shall be properly disposed of and in a manner, so such wastes are not discharged to the MS4 or exposed to precipitation or vectors. For example, restaurant kitchen mats may not be washed or rinsed into the street or alley.
- G. **Best Management Practices.** BMPs shall be used in areas exposed to stormwater for the removal and lawful disposal of all fuels, chemicals, fuel and chemical wastes, animal wastes, garbage, batteries, or other materials which have potential adverse impacts on water quality.

**5.84.070 Requirements for industrial/commercial and construction activities.**

- A. Each industrial discharger, discharger associated with construction activity, or other discharger described in any general stormwater permit addressing such discharges, as may be issued by the USEPA, the State Water Resources Control Board, or the Regional Board, shall comply with all requirements of such permit. Each discharger identified in an individual NPDES permit shall comply with and undertake all activities required by such permit. Proof of compliance with any such permit may be required in a form acceptable to the authorized enforcement officer prior to the issuance of any grading, building, or occupancy permits, or any other type of permit or license issued by the City.

- B. Non-storm water discharges to the MS4 from industrial, commercial, or construction activities are prohibited unless they are in compliance with a separate NPDES Permit.
- C. Industrial and commercial dischargers and dischargers associated with construction activities must implement effective BMPs, including source control BMPs, in accordance with the municipal NPDES permit to reduce pollutants in stormwater from such sites to the maximum extent practicable.
- D. The requirements of the municipal NPDES permit apply to all construction activities and must be met prior to the issuance of any grading, building, or construction permit issued by the City, including but not limited to the provisions of Part VIII.G of the municipal NPDES permit.
- E. Commercial Food Service Establishments (FSEs) shall also comply with Chapters 5.25 Mandatory Organic Waste Disposal Reduction and 5.38 Fats, Oils and Grease.

**5.84.080 Inspection authority.**

- A. **Authority to Inspect.** The authorized enforcement officer, City's Director of Public Works, building officials, community services officers, and any other representatives thereof, are authorized and directed to enforce all provisions of this chapter.
- B. **Right of Entry.** Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, the officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this chapter; provided, that: (i) if such building or premises be occupied, the officer shall first present proper credentials and request entry; and (ii) if such building or premises be unoccupied, the officer shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, the inspection may be made only upon issuance of an inspection warrant. In the event the owner and/or occupant refuses entry after such request has been made, the officer is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.
- C. **Authority to Conduct Samplings and Establishing Sampling Devices.** With the consent of the owner or occupant or pursuant to an inspection warrant, any authorized enforcement officer may establish on any property such devices as necessary to conduct sampling and monitoring activities necessary to determine the concentrations of pollutants in stormwater and/or non-stormwater runoff. During the inspections as provided herein, the authorized enforcement officer may take any samples deemed necessary.

- D. **Requirement of Sample or Monitor.** Any authorized enforcement officer may order that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution or contamination, illicit discharges, and/or discharge of non-stormwater to the stormwater system, undertake such monitoring activities and/or analyses and furnish such reports as the officer may specify. All costs incurred for such activity shall be borne by the party ordered to do the sampling. In the event the owner or operator of a facility subject to monitoring and/or analyses order fails to conduct required monitoring and/or analyses and furnish the required reports in the form required, the authorized enforcement officer may cause such monitoring and/or analyses to be conducted and the cost, therefore, including the reasonable additional administrative costs incurred by the City, shall be borne by the owner of the property and the cost thereof shall be, after notice and an opportunity for hearing, invoiced to the owner of the property. If the invoice is not paid within sixty (60) days of the issuance thereof, the costs shall be a lien upon and against the property and continue in existence until the same shall be paid. If the lien is not satisfied by the owner of the property within three (3) months after the completion by an authorized enforcement officer of the required monitoring and/or analyses and reports, the property may be sold in satisfaction thereof in a like manner as another real property is sold under execution.
- E. **Industrial and Commercial Inspections.** The Public Works Director, authorized enforcement officer, or authorized staff or contractor, shall conduct industrial and commercial facility compliance inspections to confirm that stormwater and non-stormwater BMPs are effectively implemented in compliance with this chapter and the municipal NPDES permit. These inspections shall be at a frequency sufficient to be in compliance with the municipal NPDES permit. Inspections shall be conducted no less than biennially and as often as the Director of Public Works deems appropriate to verify compliance with this chapter. A fee to cover the City's cost of conducting such inspections may be charged in an amount set by resolution of the City Council.
- F. **Construction Site Inspections.** The Public Works Director, authorized enforcement officer, or authorized staff or contractor, shall conduct as many construction site compliance inspections as the Public Works Director deems necessary to confirm that the implemented stormwater and non-stormwater BMPs are sufficiently compliant with this chapter and the municipal NPDES permit.

#### 5.84.090 Enforcement.

A. **Enforcement Procedure.**

1. For the first failure to comply with any provision contained in this chapter, the Public Works or any authorized enforcement officer shall issue to the violator a written notice which includes the following information: (i) a description of the violation being committed; (ii) a specified time within which the violation must be corrected or within which the violator may file a written response to the Director



disputing the existence of a violation; and (iii) a description of the penalties which may be imposed for continued noncompliance.

2. If the violator demonstrates that the violation does not exist, or has been corrected, no further action needs to be taken. If, however, the violation exists and is not corrected within the prescribed time, the Public Works Director may thereafter pursue any of the enforcement remedies described below in this Section.

B. **Violation a Misdemeanor.** Violation of this chapter or the municipal NPDES permit shall be punishable as a misdemeanor, punishable as set forth in Section 1.04.010(A) of this Code; provided, however, that any or all of the first three (3) violations of this chapter or the municipal NPDES permit committed within any consecutive twelve (12) month period may be charged as an infraction at the discretion of the City Prosecutor. Each day that a violation continues shall constitute a separate offense.

C. **Violations Deemed a Public Nuisance.**

1. Any condition caused or permitted to exist in violation of any of the provisions of this chapter or the municipal NPDES permit is hereby determined to be a threat to the public health, safety, and welfare; is declared and deemed a public nuisance and may be abated or restored by any authorized enforcement officer; and a civil or criminal action to abate, enjoin, or otherwise compel the cessation of such nuisance may be brought by the City Attorney.
2. The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property, as provided by law or ordinance for the recovery of nuisance abatement costs.
3. If any violation of this chapter constitutes a seasonal and recurrent nuisance, the City Manager shall so declare. The failure of any person to take appropriate annual precautions to prevent stormwater pollution after written notice of a determination under this paragraph shall constitute a public nuisance and a violation of this chapter.

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

E. **Civil Actions.** In addition to any other remedies provided in this section, any violation of this chapter may be enforced by civil action brought by the City. In any such action, the City may seek, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;

2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;
3. Costs incurred in removing, correcting, or terminating the adverse effects resulting from violation; and
4. Compensatory damages for loss or destruction to water quality, wildlife, fish, and aquatic life; and attorney fees.

F. **Administrative Enforcement Powers.** In addition to the other enforcement powers and remedies established by this Chapter, the authorized enforcement officer has the authority to utilize the following administrative remedies:

1. **Cease and Desist Orders.** When an authorized enforcement officer finds that a discharge has taken place or is likely to take place in violation of this chapter, the officer may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall: (i) comply with the requirement, (ii) comply with a time schedule for compliance, and (iii) take appropriate remedial or preventive action to prevent the violation from recurring. Failure to comply with such an order shall constitute a separate violation of this chapter.
2. **Notice to Clean.** Whenever an authorized enforcement officer finds any oil, earth, debris, grass, weeds, dead trees, tin cans, rubbish, refuse, waste, or any other pollutionable material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in pollutants entering the MS4 or a non-stormwater discharge to the MS4, he or she may give notice to the owner or occupant of the adjacent property to remove such oil, earth, debris, grass, weeds, dead trees, tin cans, rubbish, refuse, waste, or other pollutionable material, in any manner that he or she may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice. Failure to comply with such notice shall constitute a separate violation of this Chapter.
3. **Administrative Citation.** The authorized enforcement officer may issue an administrative citation pursuant to Chapter 1.06 to any person found in violation of any permit of this Chapter.

G. **Permit Revocation.** To the extent, the City makes a provision of this chapter or any identified BMP, a condition of approval to the issuance of a permit or license, any person in violation of such condition is subject to the permit revocation procedures set forth in this Code.

H. **Remedies.** Remedies specified in this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal, including remedies

under the Federal Clean Water Act and/or Porter-Cologne Act. The remedies provided for in this Section shall be cumulative and not exclusive.

- I. **Citizen Reporting.** Members of the public are encouraged to report possible violations of this chapter to the City's Public Works Department.

**5.84.100 Planning and land development program requirements for priority development projects.**

- A. **Compliance with Municipal NPDES Permit.** The following Priority Development Projects are required to comply with the Structural BMP requirements of the municipal NPDES permit:
  1. Single-family residential development projects on parcels 10,000 square feet or more in size;
  2. All other types of development projects on parcels 5,000 square feet or more in size;
  3. New development and redevelopment projects that create and/or replace 2,500 square feet or more of impervious area; discharge stormwater that is likely to impact a sensitive biological species or habitat; and are located in or directly adjacent to or are discharging directly to a Sensitive Ecological Area (SEA);
  4. Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects;
  5. Considerations for Redevelopment Projects:
    - a. The structural BMP performance requirements of the municipal NPDES Permit are applicable to redevelopment Priority Development Projects as follows:
      - i. Where redevelopment results in an alteration to more than fifty percent (50%) of the impervious surface area of a previously existing development, the entire project must be mitigated.
      - ii. Where redevelopment results in an alteration to less than fifty percent (50%) of the impervious surface area of a previously existing development, only the alteration must be mitigated and not the entire development.

- b. Redevelopment does not include routine maintenance activities conducted to maintain original line and grade, hydraulic capacity, the original purpose of the 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 the original line and grade.

**B. Incorporation of Planning and Land Development Program Structural BMP Requirements Into Project Plans.**

1. Priority development projects are required to control pollutants and stormwater runoff volume from the project site by minimizing the impervious surface area and controlling runoff through infiltration, bioretention, and/or rainfall harvest and use, in accordance with the standards set forth in the municipal NPDES permit.
2. Prior to the issuance of any grading, building, or construction permit, an applicant for a priority development project identified in this chapter shall incorporate into the project plans in a form and content acceptable to the authorized enforcement officer a post construction stormwater mitigation plan which includes those post-construction BMPs necessary to control stormwater pollution from the completed project. Structural BMPs (including, as applicable, post-construction treatment control BMPs) set forth in project plans shall meet the Structural BMP Performance Requirements set forth in Part VIII.F.4 of the municipal NPDES permit in the following order of preference:
  - a. On-site infiltration, bioretention and/or rainfall harvest and use;
  - b. Where subpart a. above is infeasible, then on-site biofiltration, off-site groundwater replenishment, and/or off-site retrofit; or
  - c. On-site treatment where a. and b. above are infeasible.
3. **Priority Development Project Structural BMP Performance Requirements.** Post-construction BMPs to mitigate stormwater pollution are required for all priority development projects identified in this chapter and the municipal NPDES permit unless alternative measures are allowed as provided in the municipal NPDES permit. Post-construction BMPs must be implemented to retain on-site the stormwater quality design volume (SWQDV), defined as runoff from either:
  - a. The 0.75-inch, twenty-four (24) hour rain event; or
  - b. The 85th percentile, twenty-four (24) hour rain event, whichever is greater.

BMPs shall meet the design specifications and on-site retention potential outlined in the municipal NPDES permit. Projects unable to retain one hundred percent (100%) of the SWQDV on-site due to technical infeasibility as defined in the municipal NPDES permit may implement alternative compliance measures in accordance with the municipal NPDES permit.

Street and road construction projects of 10,000 square feet or more of impervious surface area are exempt from the new development/redevelopment project performance criteria of the municipal NPDES permit but shall adhere to the City's Green Streets Policy and be consistent with USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable.

- C. **Issuance of Final Approval.** As a condition for issuing final approval for new development or redevelopment projects identified in this chapter, the authorized enforcement officer shall require property owners or their representative(s) to build all the stormwater pollution control best management practices and structural or treatment control BMPs that are shown on the approved project plans and to submit a signed certification statement stating that the site and all structural or treatment control BMPs will be maintained in compliance with the municipal NPDES permit and other applicable regulatory requirements.

The legal property owner(s) of all new development and redevelopment projects subject to LID requirements, with the exception of simple LID BMPs implemented on single-family residences, must record a LID Operating and Maintenance Agreement with the Los Angeles County Registrar-Recorder prior to the issuance of approval for final occupancy in a format approved by the City Attorney. With the exception of simple LID BMPs (as defined in this chapter) implemented on single-family residences, project owners shall provide an operation and maintenance plan certified and stamped by a licensed professional engineer, monitoring plan where required, and verification of ongoing maintenance provisions for LID practices and treatment control BMPs including, but not limited to: final map conditions, legal agreements, covenants, conditions or restrictions, California Environmental Quality Act (CEQA), CEQA mitigation requirements, and conditional use permits. The property owner must submit an inspection and maintenance activities report annually to the City and must retain inspection and maintenance records onsite for City inspection as requested.

- D. **Transfer of Properties Subject to Requirement for Maintenance of Structural and Treatment Control BMPs.**
1. The transfer or lease of a property subject to a requirement for maintenance of structural and treatment control BMPs shall include conditions requiring the transferee and its successors and assigns to either (a) assume responsibility for maintenance of any existing structural or treatment control BMP, or (b) to replace an existing structural or treatment control BMP with new control measures or BMPs meeting the current standards of the City and the municipal NPDES

permit. Such requirement shall be included in any sale, or lease agreement or deed for such property. The condition of transfer shall include a provision that the successor property owner or lessee conduct maintenance inspections of all structural or treatment control BMPs at least once a year and retain proof of inspection.

- 2. For residential properties where the structural or treatment control BMPs are located within a common area which will be maintained by the community association, appropriate arrangements shall be made with the association regarding the responsibility for maintenance.
- 3. If structural or treatment control BMPs are located within an area proposed for dedication to a public agency, they will be the responsibility of the developer until the dedication is accepted.

E. **California Environmental Quality Act (CEQA).** Provisions of this section shall be complementary to, and shall not replace, any applicable requirements for stormwater mitigation required under the CEQA.”

SECTION 2. INTERNAL CONSISTENCY. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 3. SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or their application and, to this end, the provisions of this Ordinance are severable.


SECTION 4. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

ADOPTED on November 15, 2022.

AYES: Franklin, Hadley, Stern, Montgomery, and Mayor Napolitano.  
 NOES: None.  
 ABSENT: None.  
 ABSTAIN: None.

  
 STEVE NAPOLITANO  
 Mayor

ATTEST:

  
 \_\_\_\_\_  
 LIZA TAMURA  
 City Clerk

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES        ) SS.  
CITY OF MANHATTAN BEACH        )

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance, being Ordinance No. 22-0011 was duly passed and adopted by the said City Council, approved and signed by the Mayor, and attested by the City Clerk, of said City, all at a regular meeting of the said Council duly and regularly held on the 15<sup>th</sup> day of November, 2022, and that the same was so passed and adopted by the following vote, to wit:

Ayes:           Franklin, Hadley, Stern, Montgomery, and Mayor Napolitano.  
Noes:           None.  
Absent:         None.  
Abstain:        None.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 28<sup>th</sup> day of November, 2022.



\_\_\_\_\_  
City Clerk of the City of  
Manhattan Beach, California

(SEAL)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES        ) SS.  
CITY OF MANHATTAN BEACH        )

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that Ordinance No. 22-0011 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Beach Reporter, a weekly newspaper of general circulation on the following date, to wit November 24, 2022 and in witness whereof, I have hereunto subscribed my name this 28<sup>th</sup> day of November, 2022.



\_\_\_\_\_  
City Clerk of the City of  
Manhattan Beach, California