

ORDINANCE NO. 2015-2840

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA MESA, CALIFORNIA, REPEALING CHAPTER 7.18 OF THE MUNICIPAL CODE IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 7.18 TO UPDATE REGULATIONS PERTAINING TO STORM WATER MANAGEMENT AND DISCHARGE CONTROL

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WHEREAS, the San Diego Regional Water Quality Control Board issued National Pollutant Discharge Elimination System Permit No. R9-2013-0001, the "Permit," on May 8, 2013;

WHEREAS, the Permit requires the City to develop, adopt, and implement various programs and policies aimed at controlling storm water pollution in and out of La Mesa's storm water conveyance system;

WHEREAS, it is necessary to update Municipal Code Chapter 7.18 (Storm Water Management and Discharge Control) by repealing and adopting the aforementioned Chapter to ensure compliance with the Permit; and

WHEREAS, the City Council desires to adopt this Ordinance for the purpose of complying with the Permit.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LA MESA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 7.18 of the La Mesa Municipal Code shall be repealed in its entirety and readopted to read as follows:

"Chapter 7.18

STORM WATER MANAGEMENT AND DISCHARGE CONTROL

7.18.010 - Title.

This chapter shall be known as the "City of La Mesa Watercourse Protection, Storm Water Management and Discharge Control Ordinance."

7.18.020 - Purpose and Intent.

The purpose of this chapter is to protect the health, safety and welfare of the public by regulating all discharges into the storm water conveyance system and the waters of the state in order to preserve and enhance water quality for beneficial uses by:

- A. Prohibiting non-storm water discharges to the storm water conveyance system;
- B. Eliminating pollutants in storm water to the maximum extent practicable, including pollutants from both point and non-point sources;
- C. Prohibiting activities which cause, or contribute to, exceeding state and federal receiving water quality objectives.
- D. Protecting watercourses from disturbance and pollution.

The intent of this chapter is to use the police power of the City to regulate water quality in a manner, which complies with all applicable laws, related to water quality, including the Federal Clean Water Act, the State Porter-Cologne Water Quality Control Act, and the conditions of any NPDES permit issued to the City.

7.18.030 - Definitions.

For purposes of this chapter only, the terms below have the following meaning:

"Beneficial Uses" means uses of water necessary for the survival or well-being of man, plants, and wildlife. These uses of water serve to promote the tangible and intangible economic, social, and environmental goals.

Beneficial uses of the waters of the state that may be protected against include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing beneficial uses are uses that were attained in the surface or ground water on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. Beneficial uses are equivalent to designated uses under federal law. [California Water Code Section 13050(f)].

"Best Management Practices" or "BMPs" means schedules of activities, pollution treatment practices or devices, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, operation and maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or the storm water conveyance system. BMPs may be structural or non-structural. Best Management Practices include, but are not limited to, site design, source control, treatment control, natural design methods, low flow diversions to the sewer, and structures such as infiltration basins, clarifiers, oil and grease separators and filters. BMPs may include any type of pollution prevention and pollution control measure the can help to achieve compliance with this chapter.

"Clean Water Act Section 303(d) Impaired Water Body" or "impaired water body" means an impaired water body in which water quality does not meet applicable water quality standards and/or is not expected to meet water quality standards, even after the application of technology based pollution controls required by the Clean Water Act. The discharge of urban runoff to these water bodies is significant because these discharges can cause or contribute to violations of applicable water quality standards.

"Development Project" means new development or redevelopment with land disturbing activities; structural development, including construction or installation of a building or structure, the creation of impervious surfaces, public agency projects, and land subdivision.

"Directly Adjacent" means situated within two hundred feet of the environmentally sensitive area.

"Discharge" when used as a verb, means to allow pollutants to directly or indirectly enter storm water, or to allow storm water or non-storm water to directly or indirectly enter the storm water conveyance system or receiving waters, from an activity or operations. When used as a noun, "discharge" means the pollutants, storm water, and/or non-storm water that is discharged.

"Discharger" means any person engaged in activities or operations, or owning facilities, which may result in pollutants entering storm water, the storm water conveyance system or receiving waters. Dischargers include, but are not limited to, real and personal property owners, occupants, tenants, lessees, contractors, developers, managers and employees.

"Discharging Directly to," means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.

"Environmentally Sensitive Areas" or "ESAs" include but are not limited to all Clean Water Act Section 303(d) impaired water bodies; areas designated as areas of special biological significance by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); water bodies designated with the RARE beneficial use by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); areas designated as preserves or their equivalent under the Multi Species Conservation Program within the Cities and County of San Diego; and any other similar environmentally sensitive areas which have been identified by the City Engineer.

"Illegal Connection" means a physical connection to the storm water conveyance system or receiving waters, which has not been reviewed and authorized by the City; or a permitted connection, which conveys illegal discharges.

"Illegal Discharge" is any discharge to the storm water conveyance system that is not composed entirely of storm water or is not discharged in compliance with this chapter.

"Impervious Surface" means constructed or modified surfaces that cannot effectively infiltrate rainfall such as building rooftops, pavement, sidewalks, driveways, etc.

"Impervious Surface Area" means the ground area covered or sheltered by an impervious surface, measured in plan view, i.e., as if from directly above. For example, the impervious surface area for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

"Maximum Extent Practicable" or "MEP" refers to the standard established by Congress in Clean Water Act section 402(p)(3)(B)(iii) that municipal dischargers of storm water must meet; MEP is an acceptability standard for Best Management Practices based on a level of pollutant reduction that can be achieved by the most effective set of BMPs that can be implemented and still remain practicable; MEP generally emphasizes pollution prevention and source control BMPs as the first line of defense in combination with treatment methods as a backup.

"Non-Point Source" refers to diffuse, widespread sources of pollution. These sources may be large or small, but are generally numerous throughout a watershed. Non point sources include, but are not limited to, urban, agricultural, or industrial areas, roads, highways, construction sites, communities served by septic systems, recreational boating activities, timber harvesting, mining, livestock grazing, as well as physical changes to stream channels, and habitat degradation. Non-point source pollution can occur year round any time rainfall, snow melt, irrigation, or any other source of water runs over land or through the ground, picks up pollutants from these numerous, diffuse sources and deposits them into rivers, lakes, and coastal waters or introduces them into ground water.

"Non-Storm Water" consists of all discharges to and from a storm water conveyance system that do not originate from precipitation events, i.e., all discharges other than storm water. Non-storm water includes illegal discharges, non-prohibited discharges, and NPDES permitted discharges.

"NPDES Permit" means a National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency, the State Water Resources Control Board ("SWRCB"), or the California Regional Water Quality Control Board for the San Diego Region ("RWQCB").

"Person" means an individual, corporation, partnership, limited liability company, joint venture, non-profit organization, trust, association, or governmental agency.

"Pollutant" is broadly defined as any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated, including but not limited to, dredged spoil, rock, sand, or silt (excluding sediment, silt, or substances in quantities which would enter storm water from a natural undeveloped watershed); solid waste, animal waste, sewage, garbage, or medical waste; wrecked or discarded equipment; radioactive materials; industrial waste; any organic or inorganic contaminant; fecal coliform, fecal streptococcus, and enterococcus bacteria and other pathogens that pose a threat to human health; volatile organic carbon, surfactants, oil and grease, petroleum hydrocarbons, total organic carbon, lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides; any contaminant which can significantly degrade the quality of receiving waters by altering pH, total suspended or settle able solids, biochemical oxygen demand, chemical oxygen demand, nutrients, or temperature.

"Pollution" is the alteration of the quality of the receiving waters to a degree that unreasonably affects the beneficial use of the receiving waters or the facilities that serve the beneficial uses. "Pollution" also includes contamination, which creates a hazard to the public health through poisoning or the spread of disease.

"Point Source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged.

"RWQCB" means the California Regional Water Quality Control Board for the San Diego Region.

"Redevelopment" means any construction, alteration or improvement at an already developed site that will increase the total impervious surface area of that site, or that involves activities that could expose contaminants to rainfall. Redevelopment can include, but is not limited to, the expansion of building footprints, the addition or replacement of a structure, exterior construction and remodeling, replacement of existing impervious surfaces that are not part of a routine maintenance activity, and other activities that create additional impervious surface.

"Receiving Waters" means all waters that are waters of the state within the scope of the State Water Code, including but not limited to, natural streams, creeks, rivers, reservoirs, lakes, ponds, water in vernal pools, lagoons, estuaries, bays, the Pacific Ocean, and ground water.

"Retrofit" means storm water practice put into place after development has occurred where the practices previously did not exist or are found to be ineffective.

"State Construction General Storm Water Permit" means NPDES Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Associated with Construction Activities, and any amendments thereto.

"State Industrial General Storm Water Permit" means NPDES Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities, and any amendments thereto.

"Storm Water" means runoff that originates from precipitation events. Storm water is that portion of precipitation that flows across a surface to the storm drain system or receiving waters. Examples of this include: the water that flows off a building's roof when it rains (runoff from an impervious surface); the water that flows into streams when snow on the ground begins to melt (runoff from a semi-pervious surface); and the water that flows from a vegetated surface when rainfall is in excess of the rate at which it can infiltrate into the underlying soil (runoff from a pervious surface). During precipitation events in urban areas, rainwater picks up and transports pollutants through storm water conveyance systems, and ultimately to receiving waters.

"Storm Water Conveyance System" means private and public drainage facilities within the City of La Mesa by which storm water may be conveyed to waters of the state, including but not limited to, streets, roads, catch basins, natural and artificial channels, natural and artificial drainage features, aqueducts, canyons, stream beds, gullies, curbs, gutters, ditches, and storm drains. Historic and current development makes use of natural drainage patterns and features as conveyances for urban runoff. Urban streams used in this manner are part of the storm water conveyance system regardless of whether they are natural, man-made, or partially modified features. In these cases, the urban stream is both a storm water conveyance system and receiving water.

"Structural BMP" means a BMP that relies on either a physical condition (other than an entirely natural and undisturbed condition), or on a constructed or installed device to reduce or prevent pollutants in storm water discharges and exempt non-storm water discharges. Constructed or enhanced BMPs that depend on natural materials and processes (e.g., constructed drainage swales or buffers, or constructed wetlands), that require periodic maintenance to function as designed, are structural BMPs.

"SWRCB" means the State Water Resources Control Board.

"Watercourse" means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, arroyo or wash, in which surface waters flow in a definite direction or source, either continuously or intermittently, and which has a definite channel and a bed or banks. A channel is not limited to land covered by minimal or ordinary flow, but also includes land covered during times of high water.

"Waters of the State" means any water, surface or underground, including saline waters within the boundaries of California. The definition of the waters of the state is broader than that for the "Waters of the United States" in that all water in the state is considered to be a waters of the state regardless, of circumstances or condition. Under this definition, a municipal storm sewer system (MS4) is always considered to be a waters of the state. [California Water Code Section 13050 (e)].

"Waters of the United States" means water subject to the regulatory jurisdiction of the United States under the Federal Clean Water Act and applicable case law. In general, this includes navigable waters, waters tributary to navigable waters, and adjacent wetlands. [40 Code of Federal Regulations section 122.2.]

"Wet season" means October 1 thru April 30.

#### 7.18.040 - Illegal Discharges.

A. Compliance with this Chapter. Any discharge that is not in compliance with this chapter is an illegal discharge. The City maintains legal authority to control the contributions of pollutants in discharges of runoff into the City's MS4 associated with industrial, commercial, construction, and residential activities.

B. Discharge of Non-Storm Water Prohibited. No person shall discharge non-storm water directly or indirectly into the storm water conveyance system or receiving waters. Prohibited are illegal discharges or illegal connections that include but are not limited to:

1. Sewage;
2. Discharge of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive service facilities;
3. Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement-related equipment, and port-a-potty servicing, etc.;
4. Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning, etc.;
5. Discharge of wash water from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, and residential areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, etc.;
6. Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil, or other hazardous materials;
7. Discharge of pool or fountain water containing chlorine, algacides, biocides, or other chemicals; discharges of pool or fountain filter backwash water;
8. Discharges of saline swimming pool water unless such discharge can be discharged via a pipe or concrete channel directly to a naturally saline water body (e.g., Pacific Ocean);
9. Discharges of sediment, pet waste, vegetation clippings, or other landscape or construction related wastes;
10. Discharges of food related wastes (e.g. grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.).

C. Conditionally Allowed Non-Storm Water Discharges.

1. Storm water discharges regulated under a valid facility-specific NPDES permit or facility specific RWQCB waste discharge requirements permit are exempt from discharge prohibitions established by this chapter, provided compliance with all relevant permit conditions is maintained to the satisfaction of the RWQCB and the City Engineer. Facilities and activities whose storm water discharges are regulated under a general permit, including the State Industrial General Storm Water Permit, State Construction General Storm Water Permit and the State General Dewatering Permit, are not exempted from this chapter.
2. Non-storm water discharges to the MS4 from the following categories of non-storm water discharges are allowed if the discharger obtains coverage under NPDES Permit No. CAG919001 (RWQCB Order No. R9-2007-0043, or subsequent order) for discharges to San Diego Bay, or NPDES Permit No. CAG919002 (RWQCB Order No. R9-2008-0002, or subsequent order) for discharges to surface waters other than San Diego Bay, and the discharger is in compliance with all requirements of the applicable

NPDES permits and all other applicable laws and regulations; or the RWQCB determines in writing that coverage under NPDES Permit Nos. CAG919001 or CAG919002 is not required. Otherwise, non-storm water discharges from the following categories are illicit discharges:

- a. Discharges from uncontaminated pumped groundwater;
  - b. Discharges from foundation drains when the system is designed to be located at or below the groundwater table to actively or passively extract groundwater during any part of the year;
  - c. Discharges from crawl space pumps;
  - d. Discharges from footing drains when the system is designed to be located at or below the groundwater table to actively or passively extract groundwater during any part of the year.
3. Non-storm water discharges to the MS4 from water line flushing and water main breaks are allowed if the discharges have coverage under NPDES Permit No. CAG679001 (Regional Water Quality Control Board Order No. R9-2010-0003, or subsequent order), and the discharger is in compliance with all requirements of that NPDES permit and other applicable laws and regulations. This category includes water line flushing and water main break discharges from water purveyors issued a water supply permit by the California Department of Public Health or federal military installations. Discharges from recycled or reclaimed water lines to the MS4 are allowed if the discharges have coverage under an NPDES permit, and the discharger is in compliance with the applicable NPDES permit and other applicable laws and regulations. Otherwise, discharges from water lines are illicit discharges.
4. Non-storm water discharges to the MS4 from the following categories are allowed, unless the enforcement official or the Regional Water Quality Control Board identifies the discharge as a source of pollutants to receiving waters, in which case the discharge is considered an illicit discharge:
- a. Discharges from diverted stream flows;
  - b. Discharges from rising groundwater;
  - c. Discharges from uncontaminated groundwater infiltration to the MS4;
  - d. Discharges from springs;
  - e. Discharges from riparian habitats and wetlands;
  - f. Discharges from potable water sources, except as set forth in La Mesa Municipal Code section 7.18.040-3;
  - g. Discharges from foundation drains when the system is designed to be located above the groundwater table at all times of the year, and the system is only expected to produce non-storm water discharges under unusual circumstances; and
  - h. Discharges from footing drains when the system is designed to be located above the groundwater table at all times of the year, and the system is only expected to produce non-storm water discharges under unusual circumstances.
5. Non-storm water discharges from the following categories are allowed if they are addressed with BMPs. Otherwise, non-storm water discharges from the following categories are illicit discharges:
- a. Air conditioning condensation;
  - b. Individual residential vehicle washing

- c. Flows from non-emergency firefighting activities; and
  - d. Flows from emergency firefighting activities.
6. Public Health and Safety Exemptions. Discharges determined by the City Engineer to be necessary to protect public health and safety are allowed, provided any conditions on such discharges imposed by the City Engineer are satisfied and the City Engineer makes written findings supporting the exemption.
  7. On-Site Wastewater Systems. Discharges to the subsurface from properly functioning permitted site waste water systems are not prohibited by this chapter.
  8. Exemptions Not Absolute. Any conditionally allowed discharge described above which the City Engineer determines is a significant source of pollutants to receiving waters or the City's storm water conveyance system, shall be prohibited unless the discharger complies with additional BMPs imposed by the City Engineer to reduce pollutants in the discharge to the maximum extent practicable and the BMPs are effective. Such prohibitions shall take effect after written notice to the discharger by the City Engineer containing a schedule for compliance based on the necessity to protect public health and safety or the environment.

7.18.050 - Notification and Mitigation of Illegal Discharges.

A Discharger shall immediately notify the City Engineer of an illegal discharge and take immediate action to control and contain the illegal discharge at the discharger's expense. The discharger shall also mitigate any damage caused by the illegal discharge. Should the City respond to the illegal discharge, the discharger shall be responsible for all costs associated with the City's response and cleanup efforts. The City Engineer may order the discharger to prepare and implement an approved mitigation plan with a time schedule for completion. A mitigation plan may include, but is not limited to, requiring a discharger to prepare a local SWPPP or implement retrofits where applicable.

7.18.060 - Illegal Connections.

No person shall establish, use, or maintain an illegal connection to the storm water conveyance system or the receiving waters.

7.18.070 - Littering and Sweeping.

No person shall throw, deposit, leave, maintain, keep or permit to be thrown, deposited, placed, left or maintained, any refuse, pet waste, rubbish, garbage, or other discarded or abandoned objects, in or upon any street, alley, parking lot, sidewalk, curb, gutter, storm drain, catch basin, conduit, or other drainage structure or lot except in receptacles maintained for the regular disposal of garbage.

Impervious surfaces, which drain directly or indirectly into the storm water conveyance system, shall be kept free of dirt and debris by regular sweeping. The sweepings shall be placed in garbage receptacles and shall not be allowed to enter the storm water conveyance system.

7.18.080 - Compliance with Best Management Practices.

No discharger shall fail to implement, install, use, or maintain BMPs established by the City Engineer pursuant to this chapter and in compliance with the City's BMP Manual.



7.18.090 - Conclusive Determination of Maximum Extent Practicable.

The Best Management Practices established by the City Engineer shall reduce pollutants from the use or activity to the maximum extent practicable. For purposes of enforcement of this chapter, the City Engineer's determination of the maximum extent practicable shall be conclusive.

7.18.100 - Establishment and Prioritization of Best Management Practices for Construction Activities, New Development, Significant Redevelopment and Existing Development.

A. The City Engineer shall establish written BMPs for the following uses:

1. Construction activities;
2. New development and significant redevelopment;
3. Existing industrial development;
4. Existing commercial development;
5. Mobile businesses;
6. Existing residential areas and development;
7. Existing municipal areas and activities;
8. Any other use if it is necessary to reduce pollutants entering receiving waters to the maximum extent practicable.

The document containing the Best Management Practices established by the City Engineer and required for the uses listed above shall be entitled the "The City of La Mesa Storm Water Best Management Practices Manual" (BMP Manual) and shall be incorporated by this reference as an appendix to this chapter.

B. The City Engineer shall establish priorities for implementation and enforcement of BMPs based on the threat to water quality for each use described in the subsection above.

1. Each site of construction activities shall be categorized as a high, medium, or low threat to water quality by considering the following:
  - a. Soil erosion potential;
  - b. Site slope;
  - c. Project size and type;
  - d. Sensitivity of receiving water bodies;
  - e. Proximity to receiving water bodies;
  - f. Non-storm water discharges;
  - g. Past record of non-compliance by the operators of the construction site; and
  - h. Any other relevant factors.
2. Each construction site that is determined by the City Engineer to present an exceptional threat to water quality shall be required to implement advanced treatment for sediment per the requirements of the BMP Manual.
3. Development projects will be required to meet the hydromodification management requirements as described in the BMP Manual.
4. Development and redevelopment projects will be required to meet the applicable post-construction storm water management requirements as described in the BMP Manual. The BMP Manual includes criteria for categorizing as priority development projects.
5. Areas of commercial, industrial, municipal and residential will be included in a general existing development inventory.
6. Each site of existing industrial development that meets at least one of the following criteria will be included in the industrial inventory:
  - a. Industrial facilities as defined at 40 CFR § 122.26(b)(14);

- b. Industrial facilities that are subject to section 313 of Title III of the Superfund amendments and Reauthorization Act of 1986 (SARA);
  - c. Industrial facilities tributary to a Clean Water Act Section 303(d) Impaired Water Body, where a facility generates pollutants for which the water body is impaired;
  - d. Industrial facilities within or directly adjacent to or discharging directly to receiving waters within environmentally sensitive areas;
  - e. Facilities subject to the State Industrial General Storm Water Permit or other individual NPDES permits;
  - f. Operating and closed landfills;
  - g. Hazardous waste treatment, disposal, storage and recovery facilities;
  - h. All other industrial facilities that the City Engineer determines are contributing significant pollutant loading to its storm water conveyance system, regardless of whether such facilities are covered under the State Industrial General Storm Water Permit or other NPDES permit.
7. Each site of existing commercial development that conducts activities consistent with any of the categories in the following list shall be included in the commercial inventory:
- a. Automobile mechanical repair, maintenance, fueling, or cleaning;
  - b. Airplane mechanical repair, maintenance, fueling, or cleaning;
  - c. Boat mechanical repair, maintenance, fueling, or cleaning;
  - d. Equipment repair, maintenance, fueling, or cleaning;
  - e. Automobile and other vehicle body repair or painting;
  - f. Automobile (or other vehicle) parking lots and storage facilities;
  - g. Retail or wholesale fueling;
  - h. Pest control services;
  - i. Eating or drinking establishments including food markets;
  - j. Cement mixing or cutting;
  - k. Masonry;
  - l. Painting and coating;
  - m. Botanical or zoological gardens and exhibits;
  - n. Landscaping;
  - o. Nurseries and greenhouses;
  - p. Golf courses, parks and other recreational areas/facilities;
  - q. Cemeteries;
  - r. Marinas;
  - s. Building material retailers and storage;
  - t. Animal facilities;
  - u. Portable sanitary services;
  - v. Mobile business (including but not limited to mobile automobile or other vehicle washing, mobile carpet/drape/furniture cleaning, painting and coating, pool and fountain cleaning, and power washing services);
  - w. Other commercial sites or sources that the City Engineer determines may contribute a significant pollutant load to the storm water conveyance system;
  - x. Any commercial site or source tributary to a Clean Water Act Section 303(d) impaired water body, where, the site or source generates pollutants for which the water body is impaired;
  - y. Any commercial site or source within or directly adjacent to or discharging directly to a receiving water within an environmentally sensitive area.

8. Each inventoried site of existing industrial development and existing commercial development shall be assigned a threat to water quality prioritization based on the following factors:
  - a. Type of industrial activity (SIC Code);
  - b. Materials used at the facility;
  - c. Wastes generated;
  - d. Pollutant discharge potential;
  - e. Non-storm water discharges;
  - f. Size of facility;
  - g. Facility design;
  - h. Proximity to receiving water bodies;
  - i. Sensitivity of receiving water bodies;
  - j. Whether the industrial site is subject to the State Industrial General Storm Water Permit or an individual NPDES permit;
  - k. Whether the facility has filed a no exposure certification/notice of non-applicability;
  - l. Total area of the site, area of site where industrial activities occur, and area of the site exposed to rainfall and runoff;
  - m. Facility's compliance history;
  - n. Any other relevant factors.
  
9. The City Engineer shall identify residential areas and activities that are a high priority threat to water quality. At a minimum, these shall include:
  - a. Automobile repair and maintenance;
  - b. Automobile washing;
  - c. Automobile parking;
  - d. Home and garden care activities, product use, and disposal (pesticides, herbicides, and fertilizers);
  - e. Disposal of household hazardous waste (e.g., paints, cleaning products);
  - f. Disposal of trash and pet waste;
  - g. Disposal of green waste;
  - h. Any other residential source that the City Engineer determines may contribute a significant pollutant load to the storm water conveyance system;
  - i. Any residence tributary to a Clean Water Act Section 303(d) Impaired Water Body, where the residence generates pollutants for which the water body is impaired;
  - j. Any residence within or directly adjacent to or discharging directly to a receiving waters within an environmentally sensitive area.
  
10. Each existing municipal area or activity shall be categorized as a high, medium, or low threat to water quality by considering factors including but not limited to the following:
  - a. Type of municipal area or activity;
  - b. Materials used;
  - c. Wastes generated;
  - d. Pollutant discharge potential;
  - e. Non-storm water discharges;
  - f. Size of facility or area;
  - g. Proximity to receiving water bodies;
  - h. Sensitivity of receiving water bodies;
  - i. Any other relevant factors.

At a minimum, the high priority municipal areas and activities shall include the following:

- a. Roads, streets, highways, and parking facilities;
- b. Flood management projects and flood control devices;
- c. Areas and activities tributary to a Clean Water Act Section 303(d) Impaired Water Body, where an area or activity generates pollutants for which the water body is impaired;
- d. Areas and activities within or adjacent to or discharging directly to receiving waters within environmentally sensitive areas;
- e. Municipal waste facilities such as active or closed municipal landfills; publicly owned treatment works (including water and wastewater treatment plants) and sanitary sewage collection systems; municipal separate storm sewer systems; incinerators; solid waste transfer facilities; land application sites; uncontrolled sanitary landfills; corporate yards including maintenance and storage yards for materials, waste, equipment and vehicles; sites for disposing and treating sewage sludge; and hazardous waste treatment, disposal, and recovery facilities;
- f. Municipal airfields;
- g. Parks and recreation facilities;
- h. Special event venues following special events (festivals, sporting events, etc.);
- i. Power washing;
- j. Other municipal areas and activities that the City Engineer determines may contribute a significant pollutant load to the storm water conveyance system.

7.18.110 - Site Specific Best Management Practices.

The City Engineer may establish written Best Management Practices for a specific site or activity if necessary to reduce pollutants to the maximum extent practicable or to comply with total maximum daily load orders or other orders issued to the City that require additional control of sources or potential sources of pollutants to the City's storm water conveyance system.

7.18.120 - Alternative Best Management Practices.

The City Engineer may establish written alternative Best Management Practices. The allowable use of alternative BMPs at a specific site shall be determined at the sole discretion of the City Engineer.

7.18.130 - Additional Best Management Practices.

The City Engineer may establish additional written Best Management Practices for a specific site if the City Engineer determines that the Best Management Practices implemented at the site have not reduced the pollutants to the maximum extent practicable.

7.18.140 - Minimum Best Management Practices.

All dischargers shall implement all applicable Best Management Practices required by the BMP Manual. All dischargers shall also install, implement and maintain at least the following minimum Best Management Practices:

- A. Eroded Soils. Prior to the rainy season, dischargers must remove or secure any significant accumulations of eroded soils from slopes previously disturbed by clearing or grading, if those eroded soils could otherwise enter the storm water conveyance system or receiving waters during the rainy season. Slopes more than five feet in height, more than two hundred fifty square feet in total area, and steeper than 3:1 (run-to-rise) that have been disturbed at any time by clearing, grading, or landscaping, shall be continuously protected from erosion. Additionally, cleared or graded areas left exposed at any given time are limited to the

amount of acreage that the project proponent can adequately protect prior to predicted storm event or seventeen acres unless disturbance of a larger area is approved in writing by the City Engineer.

- B. **Parking Lots.** Dischargers with parking lots or impervious surfaces used for similar purposes shall clean the surfaces frequently and thoroughly in a manner that does not cause non-storm water discharge to the storm water conveyance system. In most cases, this will require dry cleaning methods such as sweeping and removal of dirt and debris. The dirt and debris shall be disposed of in a manner that prevents it from entering the storm water conveyance system or the receiving waters. At least one cleaning shall be completed in September of each year.
- C. **Storage of Materials and Wastes.** All materials and wastes with the potential to pollute urban runoff shall be stored in a manner that either prevents contact with rainfall and storm water, or contains contaminated runoff for treatment and disposal. Stockpiles of soil or other materials shall be covered and contained throughout the year. All liquid material shall be covered, contained, and placed over secondary containment at all times.
- D. **Use of Materials.** All materials with the potential to pollute urban runoff, including but not limited to, cleaning and maintenance products used outdoors, fertilizers, pesticides and herbicides, shall be used in accordance with label directions. If a label cautions against use of a product where it may enter water or waterways, or cautions that the product may be toxic or have toxic effects, the product may not be disposed of or rinsed into receiving waters or the storm water conveyance system.
- E. **Self-Inspection for Illegal Discharges.** All dischargers, except residential single-family home dischargers, shall inspect their facilities, activities, operations, and procedures at least annually to detect illegal connections and illegal discharges. The self-inspection shall be documented in records kept on the premises for at least five years.
- F. **Inspection, Maintenance, Repair and Upgrading of BMPs.** Structural BMPs must be inspected by the discharger before predicted rain events and following actual rain events. These BMPs must be maintained so that they continue to function as designed. Structural BMPs that fail must be repaired as soon as it is safe to do so. Annual verification of maintenance of structural BMPs must be submitted to the City as required by the City Engineer. If the failure of a structural or nonstructural BMP indicates that the BMPs in use are inappropriate or inadequate to the circumstances, the BMPs must be modified or upgraded to prevent any further failure in the same or similar circumstances. All sediment and debris in catch basins must be removed prior to the wet season and disposed of in a manner that prevents it from entering the storm water conveyance system or the receiving waters.

7.18.150 - Discharger Sampling, Testing, Monitoring, and Reporting.

The City Engineer may require dischargers to perform sampling, testing, monitoring and reporting of results as a best management practice. In addition, the City Engineer may order a discharger to conduct testing or monitoring and to report the results to the City if:

- A. The City Engineer determines that testing or monitoring is needed to determine whether BMPs are effectively preventing or reducing pollutants in storm water to the maximum extent practicable, or to determine whether the facility is a significant source of contaminants to waters of the state; or

- B. The City Engineer determines that testing or monitoring is needed to assess the impacts of an illegal discharge on health, safety or the environment; or
- C. An illegal discharge has not been eliminated after written notice by the City Engineer; or
- D. The discharger is in violation of any provision of this chapter; or the regional water quality control board requires the City to provide information on the discharger's activities.

Testing and monitoring ordered pursuant to this section may include the following:

- A. Visual monitoring of dry weather flows, wet weather erosion, or BMPs;
- B. Visual monitoring of premises for spills or discharges;
- C. Laboratory analyses of storm water or non-storm water discharges for pollutants;
- D. Background or baseline monitoring or analysis; and
- E. Monitoring of receiving waters or sediments that may be affected by pollutant discharges by the discharger.

The City Engineer may direct the time and manner in which the results of required testing and monitoring are reported, and shall determine when required sampling, testing or monitoring may be discontinued. The sampling, testing, monitoring and reporting shall be at the expense of the discharger.

#### 7.18.160 - City Authority to Sample, Inspect, and Monitor.

- A. **Regulatory Inspections.** The City Engineer or his designee may inspect the premises of any discharger at reasonable times and in a reasonable manner to carry out the purposes of this chapter. If a discharger refuses to allow entry for an inspection, an inspection warrant shall be obtained prior to inspection.
- B. **Scope of Inspections.** Inspections may include all actions necessary to determine whether any illegal discharges or illegal connections exist, whether the BMPs installed and implemented are adequate to comply with this chapter, whether those BMPs are being properly maintained, and whether the discharger complies with other requirements of this chapter. This may include sampling, metering, monitoring, visual inspections, and records review. Where samples are collected the discharger may request and receive split samples. Records, reports, analyses, or other required information may be inspected and copied, and photographs taken for purposes of enforcement of this chapter.
- C. **Installation of Sampling Devices.** As part of the inspection, the City Engineer may authorize the installation of sampling or metering devices.

#### 7.18.170 - Establishment of a Fee.

The City council may establish a fee by resolution to recover the cost of inspection, sampling, metering or monitoring by the City Engineer.

#### 7.18.180 - Local Storm Water Pollution Prevention Plan.

The City Engineer may require a discharger to prepare and submit a local storm water pollution prevention plan (local SWPPP) for approval as a best management practice (BMP). In addition, the City Engineer may require a discharger to prepare and submit a local SWPPP for approval if (1) the discharger is not in compliance with this chapter; or (2) the facility or activity is a significant source of pollutants to the receiving waters despite compliance with this chapter. Any discharger required to submit and to obtain approval of a local SWPPP shall install, implement, and maintain the BMPs specified in the approved local SWPPP.

The local SWPPP shall identify the BMPs that will be used by the discharger to prevent or control pollutants in storm water to the maximum extent practicable. If the facility is an industrial facility, the local SWPPP submitted to the City shall at a minimum meet the requirements of the State Industrial General Storm Water Permit. If the activity at issue is a construction or land disturbance activity, the local SWPPP submitted to the City shall at a minimum meet the requirements of the State Construction General Storm Water Permit. Additional minimum local SWPPP requirements are:

- A. An inventory of all materials on site that may adversely affect storm water quality;
- B. A description of measures that will be taken to reduce the possibility of accidental spillage resulting from equipment failure or employee error;
- C. A description of onsite spill control procedures and equipment to prevent pollutants from entering the storm water conveyance system;
- D. A site map showing all building structures, materials and waste storage areas, outdoor equipment; storage areas, vehicle service areas, paved areas, areas of existing and potential erosion, storm drain inlets, points of discharge to the storm water conveyance system, and an estimate of the size of the facility and the size of the impervious surface area;
- E. A description of the storm water monitoring program conducted on the site, if any.
- F. A documented employee training program which includes, but is not limited to, the following topics:
  - 1. Laws, regulations and local ordinances relating to storm water pollution prevention, and an overview of the potential impacts of pollutants in storm water on the receiving waters;
  - 2. Proper handling of all materials and wastes to prevent spillage;
  - 3. Proper mitigation of spills, including spill response, containment and cleanup procedures;
  - 4. Visual monitoring of all effluent streams to ensure that no illegal discharges enter the storm water conveyance system;
  - 5. Discussion of the differences between the storm water conveyance system and the sanitary sewer system;
  - 6. Identification of all onsite connections to the storm water conveyance system.
  - 7. Preventative maintenance and good housekeeping procedures;
  - 8. Material management practices employed by the facility to reduce or eliminate pollutant contact with storm water.

Training materials shall be kept onsite and records of attendance shall be retained for at least five years.

#### 7.18.190 - Violation of a State NPDES Permit.

A violation of a State Construction General Storm Water Permit, a State Industrial General Storm Water Permit, a State Dewatering Permit, or other applicable NPDES permit shall also be considered a violation of this chapter and may be enforced as such.

#### 7.18.200 - Watercourse Protection.

- A. Every person owning or occupying real property through which a watercourse passes shall keep and maintain the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles which would pollute, contaminate or retard the flow of water through the watercourse; shall maintain the private structures on the property in a manner which will prevent the structures from interfering with the use, maintenance and physical

integrity of the watercourse; shall not remove vegetation in a manner which will increase erosion or remove more healthy vegetation than is necessary for maintenance of the flow.

- B. No person shall commit, or cause to be committed, the following acts, unless a written permit has been obtained from the City Engineer and the appropriate state and federal agencies:
1. Discharge pollutants into or connect any pipe or channel to a watercourse;
  2. Modify the natural flow of water in a watercourse;
  3. Carry out development within thirty feet of the centerline of any creek, or twenty feet of the top of a bank, whichever is the greater distance from the top of the bank;
  4. Deposit in, plant in, remove any material from a watercourse, including its banks, except as required for ordinary and necessary maintenance;
  5. Construct, alter, enlarge, connect to, change, or remove any structure in a watercourse; or
  6. Place any loose or unconsolidated material (including animal manure) along side of or within a watercourse so as to cause a diversion of the flow, or to allow the material to be carried away by storm water.

7.18.210 - Permits and Approvals.

Compliance with this chapter shall be a condition of every permit or approval granted or issued by the City. Failure to comply with this chapter shall be grounds for revocation of any such permit or approval.

7.18.220 - Violation is a Nuisance.

The City council hereby declares that any violation of this chapter is a public nuisance.

7.18.230 - Enforcement of this Chapter.

- A. Misdemeanor Violation. Notwithstanding any other provision of this Code, a violation of this chapter is a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment in the County Jail for a period of not more than six months or both fine and imprisonment. Any such violation may be charged as an infraction at the discretion of the City attorney. Any person convicted of an infraction under the provisions of this Chapter shall be punishable by a fine not to exceed two hundred fifty dollars for a first or second offense in one year, and not to exceed five hundred dollars for a third violation in one year.
- B. Orders of the City Engineer. The City Engineer is authorized to issue cease and desist orders or stop work orders to any person who is in violation of this chapter. Failure to comply with a written order of the City Engineer shall be a violation of this chapter and shall be grounds for the imposition of the civil penalties described in this section.
- C. Civil Penalties. Any person who violates a provision of this chapter may be assessed a civil penalty based on the City of La Mesa Administrative Fine Schedule. Civil penalties may also be assessed by the court in a civil action filed by the City to enforce the provisions of this chapter.
- D. Abatement. Any violation of this chapter may be abated as a public nuisance and costs of abatement may be recovered by the City as allowed by law.
- E. Judicial Action. This chapter is enforceable by any judicial action allowed by law, including, but not limited to, injunctive relief.



- F. Liens. Costs of enforcement of this chapter, including but not limited to, costs of investigation, sampling and monitoring costs, and unpaid administrative fines and civil penalties, shall constitute a lien against the real property on which the violation occurs and on the real property of any person who violates this chapter until such lien is satisfied. The lien may be recorded and executed in the same manner as a judgment lien. Prior to the recordation of the lien, the property owner shall be given written notice of the lien and an opportunity to contest the validity of the lien and the amount at a hearing held by the City manager or designee.
- G. Remedies Not Exclusive. Remedies under this chapter shall be in addition to each other, and in addition to any other legally available remedy, and do not limit or supersede any other enforcement action, civil, criminal or administrative."

SECTION 2: The document containing the Best Management Practices established by the City Engineer pursuant to Section 7.18.100, entitled the "The City of La Mesa Storm Water Best Management Practices Manuals Part I & II," and on file in the City Clerk's office, is hereby adopted as an uncodified appendix to Chapter 7.18.

SECTION 3: This ordinance shall be effective 30 days after its adoption and the City Clerk shall certify to the adoption of this Ordinance and cause the same to be published at least once in the *East County Californian/La Mesa Forum* within 15 days of its adoption.

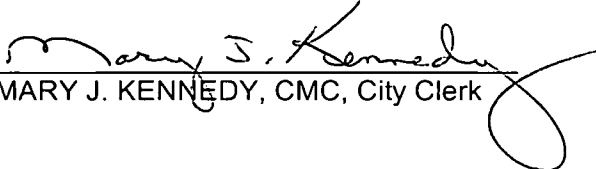
INTRODUCED AND FIRST READ at a Regular meeting of the City Council of the City of La Mesa, California, held the 28th day of April 2015, and thereafter PASSED AND ADOPTED at a Regular meeting of said City Council held the 12th day of May 2015, by the following vote, to wit:

AYES: Councilmembers Alessio, Baber, McWhirter, Sterling and Mayor Arapostathis  
NOES: None  
ABSENT: None

APPROVED:

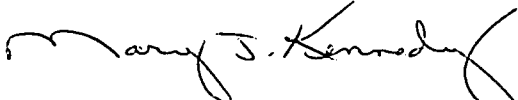
  
MARK ARAPOSTATHIS, Mayor

ATTEST:

  
MARY J. KENNEDY, CMC, City Clerk

CERTIFICATE OF CITY CLERK

I, MARY J. KENNEDY, City Clerk of the City of La Mesa, California, do hereby certify the foregoing to be a true and correct copy of Ordinance No. 2015-2840, duly passed and adopted by the City Council of said City on the date and by the vote therein recited and that the same has been duly published according to law.

  
MARY J. KENNEDY, CMC, City Clerk

(SEAL OF CITY)

