

ORDINANCE NO. 1182

**AN ORDINANCE OF THE CITY OF SOUTH EL MONTE
AMENDING IN ITS ENTIRETY CHAPTER 8.44 (STORM
WATER AND URBAN RUNOFF POLLUTION CONTROL)
OF THE SOUTH EL MONTE MUNICIPAL CODE AND
MAKING A DETERMINATION OF EXEMPTION
UNDER CEQA**

WHEREAS, the federal Clean Water Act provides for the regulation and reduction of pollutants discharged into the waters of the United States by extending National Pollutant Discharge Elimination System (“NPDES”) requirements to stormwater and urban runoff discharged into municipal storm drain systems.

WHEREAS, the City of South El Monte (the “City”) is a co-permittee under “the Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los Angeles, and the Incorporated Cities Therein, Except the City of Long Beach (Order No. R4-2012-0175), NPDES Permit No. CAS00401)” (“MS4 Permit”) issued by the California Regional Water Quality Control Board—Los Angeles Region, and, as a co-permittee under the MS4 Permit, the City is required to adopt ordinances and implement procedures with respect to discharges into the municipal separate storm sewer system (“MS4”).

WHEREAS, the City has previously adopted ordinances to ensure that it possesses the legal authority necessary to control discharges to and from those portions of the MS4 over which it has jurisdiction, in order to comply with the MS4 Permit, and to specifically prohibit certain discharges identified in the MS4 Permit.

WHEREAS, Chapter 8.44 of the South El Monte Municipal Code is being revised in order to comply with the current MS4 Permit.

NOW, THEREFORE, THE SOUTH EL MONTE CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Chapter 8.44 (Storm Water and Urban Runoff Pollution Control) of Title 8 (Health and Safety) of the South El Monte Municipal Code is hereby amended in its entirety to read as follows:

8.44.010 Title.

This chapter shall be known as the City of South El Monte Stormwater Management and Discharge Control Ordinance.

8.44.020 Findings.

A. The federal Clean Water Act (33 U.S.C. Section 1251, *et seq.*) provides for the regulation and reduction of pollutants discharged into the waters of the United States by extending National Pollutant Discharge Elimination System (“NPDES”) requirements to stormwater and urban runoff discharge into municipal storm drain systems;

B. Stormwater and urban runoff flows from individual properties onto streets, then through storm drains passing through the City and finally into the waters of the United States;

C. The City is a co-permittee under the “Waste Discharge Requirements for Municipal Separate Storm Sewer System (“MS4”) discharges within the Coastal Watersheds of Los Angeles County, except those discharges originating from the City of Long Beach MS4, which also serves as a NPDES Permit under the federal Clean Water Act (NPDES No. CAS614001), as well as waste discharge requirements under California law (the Municipal NPDES Permit”) and, as a co-permittee under the Municipal NPDES Permit, the City is required to adopt ordinances and implement procedures with respect to the entry of non-stormwater discharges into the municipal stormwater system;

D. Part III, Section A of the Municipal NPDES Permit requires the City to effectively prohibit non-stormwater discharges from within its boundaries, into that portion of the MS4 which it owns or operates and into watercourses, except where such discharges are: (1) in compliance with a separate individual or general NPDES permit, or (2) identified and in compliance with Part III.A (non-stormwater discharges) of the Municipal NPDES Permit, or (3) originate from federal, state or other facilities which the City is preempted from regulating, and further provides that compliance with the terms of the Municipal NPDES Permit through the development and implementation of the programs described in the Municipal NPDES Permit will constitute compliance with the discharge prohibition in the Municipal NPDES Permit;

E. Part VI, Section A.2 of the Municipal NPDES Permit requires the City to establish and maintain the legal authority necessary to control discharges to and from those portions of the MS4 over which it has jurisdiction, so as to comply with the Municipal NPDES Permit and to specifically prohibit certain discharges identified in the Municipal NPDES Permit;

F. The Municipal NPDES Permit contemplates the development of a Watershed Management Program in which the City will participate, which will in turn require the development and the implementation of programs for, among other things, the elimination of illicit connections and illicit discharges, development planning, development construction, and public information and education requirements, and which may require the later adoption of additional legal authority to implement such programs as they are developed by the permittees and approved by the Regional Board;

G. In order to control, in a cost-effective manner, the quantity and quality of stormwater and urban runoff to the maximum extent practicable, the adoption of the ordinance codified in this chapter is essential.

8.44.030 Purpose and intent.

A. The purpose of this chapter is to ensure the future health, safety and general welfare of the citizens of the City and the water quality of the receiving waters of the County of Los Angeles and surrounding coastal areas by:

1. Reducing pollutants in stormwater discharges to the maximum extent practicable;
2. Regulating illicit connections and illicit discharges and reducing the level of contamination of stormwater and urban runoff in the municipal stormwater system; and
3. Regulating non-stormwater discharges to the municipal stormwater system.

B. The intent of this chapter is to protect and enhance the quality of watercourses, water bodies, and wetlands within the City in a manner consistent with the federal Clean Water Act, the California Porter-Cologne Water Quality Control Act and the Municipal NPDES Permit.

C. This chapter is also intended to provide the City with the legal authority necessary to control discharges to and from those portions of the municipal stormwater system over which it has jurisdiction as required by the Municipal NPDES Permit, and fully and timely comply with the terms of the Municipal NPDES Permit while the Watershed Management Program is being developed by the permittees under the Municipal NPDES Permit, and in contemplation of the subsequent amendment of this chapter or adoption by the City of additional provisions of this chapter to implement the subsequently adopted Watershed Management Program, or other programs developed under the Municipal NPDES Permit.

D. This chapter also sets forth requirements for the construction and operation of certain commercial development, new development and redevelopment and other projects (as further defined herein) which are intended to ensure compliance with the stormwater mitigation measures prescribed in the current MS4 Permit. This chapter authorizes the Director to define and adopt applicable best management practices and other stormwater pollution control measures, as provided herein, to carry out all inspections including entering entities discharging to the MS4, conduct surveillance, conduct monitoring, cite infractions and to impose fines pursuant to this chapter. Except as otherwise provided herein, the Director shall administer, implement and enforce the provisions of this section.

E. The City Council shall approve and enter into interagency agreements as deemed necessary by the City Council to control the contribution of pollutants of the shared MS4.

8.44.040 Definitions.

Except as specifically provided herein, any term used in this chapter shall be defined as that term is defined in the current Municipal NPDES Permit, or if it is not specifically defined in the Municipal NPDES Permit, then as such term is defined in the Federal Clean Water Act, as amended, or the regulations promulgated thereunder. If the definition of any term contained in this section conflicts with the definition of the same term in the current Municipal NPDES Permit, then the definition contained in the Municipal NPDES Permit shall govern. The following words and phrases shall have the following meanings when used in this chapter:

“Area susceptible to runoff” means any surface directly exposed to precipitation or in the path of runoff caused by precipitation which path leads off the parcel on which the surface is located.

“Automotive service facilities” means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) codes. For inspection purposes, Permittees need not inspect facilities with SIC codes 5013, 5014, 5511, 5541, 7532-7534, and 7536-7539 provided that these facilities have no outside activities or materials that may be exposed to stormwater

“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, or designed to reduce the volume of stormwater or non-stormwater discharged to the receiving water. Examples of BMPs may include public education and outreach, proper planning of development projects, proper cleaning of catch basin inlets, and proper sludge- or waste-handling and disposal, among others.

“Biofiltration” means a LID BMP that reduces stormwater pollutant discharges by intercepting rainfall on vegetative canopy, and through incidental infiltration and/or evapotranspiration, and filtration. Incidental infiltration is an important factor in achieving the required pollutant load reduction. Therefore, the term “biofiltration” as used in this chapter is defined to include only systems designed to facilitate incidental infiltration or achieve the equivalent pollutant reduction as biofiltration BMPs with an underdrain (subject to approval by the Regional Board’s Executive Officer). Biofiltration BMPs include bioretention systems with an underdrain and bioswales.

“Bioretention” means a LID BMP that reduces stormwater runoff by intercepting rainfall on vegetative canopy, and through evapotranspiration and infiltration. The bioretention system typically includes a minimum 2-foot top layer of a specified soil and compost mixture underlain by a gravel-filled temporary storage pit dug into the in-situ soil. As defined in this Ordinance, a bioretention BMP may be designed with an overflow drain, but may not include an underdrain. When a bioretention BMP is designed or constructed with an underdrain it is regulated by the Municipal NPDES Permit as biofiltration.

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

“City” means the City of South El Monte, California.

“Clean Water Act (CWA)” means the Federal Water Pollution Control Act enacted in 1972, by Public Law 92-500, and amended by the Water Quality Act of 1987. The Clean Water Act prohibits the discharge of pollutants to Waters of the United States unless the discharge is in accordance with an NPDES permit.

“Commercial development” means any development on private land that is not heavy industrial or residential. The category includes, but is not limited to: hospitals, laboratories and

other medical facilities, educational institutions, recreational facilities, plant nurseries, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

“Commercial Malls” means any development on private land comprised of one or more buildings forming a complex of stores which sells various merchandise, with interconnecting walkways enabling visitors to easily walk from store to store, along with parking area(s). A commercial mall includes, but is not limited to: mini-malls, strip malls, other retail complexes, and enclosed shopping malls or shopping centers

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

“Control” means to minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

“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 nonresidential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

“Directly adjacent” means situated within two hundred (200) feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area.

“Director” means the City’s Director of Community Development or his or her designee.

“Discharge” means when used without qualification the discharge of a pollutant.

“Discharge of a pollutant” means any addition of any pollutant or combination of pollutants to waters of the United States from any point source or, any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

The term discharge includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by a state, municipality, or other person which do not lead to treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

“Discharging” directly means outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands.

“Discretionary project” is defined in the same manner as Section 15357 of the Guidelines for Implementation of the California Environmental Quality Act contained in Title 14 of the California Code of Regulations, as amended, and means a project which requires the exercise of judgment or deliberation when the City decides to approve or disapprove a particular activity, as distinguished from situations where the City merely has to determine whether there has been conformity with applicable statutes, ordinances or regulations.

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

“Environmentally sensitive area (ESA)” means an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments (California Public Resources Code § 30107.5). Areas subject to storm water mitigation requirements are areas designated as Significant Ecological Areas by the County of Los Angeles (Los Angeles County Significant Areas Study, Los Angeles County Department of Regional Planning (1976) and amendments); an area designated as a Significant Natural Area by the California Department of Fish and Games Significant Natural Areas Program, provided that area has been field verified by the Department of Fish and Game; an area listed in the Basin Plan as supporting the Rare, Threatened, or Endangered Species (RARE) beneficial use; and an area identified by the City as environmentally sensitive.

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

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

“Good housekeeping practices” means common practices related to the storage, use or cleanup of materials, performed in a manner that minimizes the discharge of pollutants. Examples include, but are not limited to, purchasing only the quantity of materials to be used at a given time, use of alternative and less environmentally harmful products, cleaning up spills and leaks, and storing materials in a manner that will contain any leaks or spills.

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

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

“Green Roof” means a LID BMP using planter boxes and vegetation to intercept rainfall on the roof surface. Rainfall is intercepted by vegetation leaves and through evapotranspiration. Green roofs may be designed as either a bioretention BMP or as a biofiltration BMP. To receive credit as a bioretention BMP, the green roof system planting medium shall be of sufficient depth to provide capacity within the pore space volume to contain the design storm depth and may not be designed or constructed with an underdrain.

“Hillside” means property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is twenty-five percent (25%) or greater and where grading contemplates cut or fill slopes.

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

“Illicit discharge” means any discharge to the storm drain system that is prohibited under local, state or federal statutes, ordinances, codes or regulations. This includes all non-stormwater discharges except discharges pursuant to a separate NPDES permit and discharges that are exempted or conditionally exempted in accordance with Part III the Municipal NPDES permit.

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

“Industrial Park” means land development that is set aside for industrial development. Industrial parks are usually located close to transport facilities, especially where more than one transport modalities coincide: highways, railroads, airports, and navigable rivers. It includes office parks, which have offices and light industry.

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

“Infiltration” means the downward entry of water into the surface of the soil.

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

“Material” means any substance including, but not limited to: garbage and debris; lawn clippings, leaves, and other vegetation; biological and fecal waste; sediment and sludge; oil and grease; gasoline; paints, solvents, cleaners, and any fluid or solid containing chemicals.

“Municipal NPDES Permit” means the Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los Angeles, and the Incorporated Cities Therein, Except the City of Long Beach (Order No. R4-2012-0175), NPDES Permit No. CAS00401), 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):

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

“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 to a municipal stormwater system that is not composed entirely of stormwater.

“NPDES permit” means any waste discharge requirements issued by the Regional Board or the State Water Resources Control Board in the form of an NPDES permit pursuant to Water Code Section 13370 (other than the Municipal NPDES Permit).

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

“Parking lot” means land area or a facility for the parking or storage of motor vehicles used for businesses, commerce, industry or personal use with a lot size of five thousand (5,000) square feet or more of surface area, or with twenty-five (25) or more parking spaces.

“Planning priority projects” means those projects specified in Section 8.44.110.C of this chapter that are required to incorporate appropriate storm water mitigation measures into the design plan for their respective projects.

“Pollutant” means those pollutants defined in Section 502(6) of the federal Clean Water Act (33 U.S.C. Section 1362(6)), or incorporated into California Water Code Section 13373. Examples of pollutants include, but are not limited to the following:

1. Commercial and industrial waste (such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash and sludge);
2. Metals such as cadmium, lead, zinc, copper, silver, nickel, chromium, and nonmetals such as phosphorus and arsenic;
3. Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);
4. Excessive eroded soils, sediment and particulate materials in amounts which may adversely affect the beneficial use of the receiving waters, flora or fauna of the state;
5. Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables and show facilities);
6. Substances having characteristics such as pH less than six or greater than nine, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus;

The term “pollutant” shall not include uncontaminated stormwater, potable water or reclaimed water generated by a lawfully permitted water treatment facility.

“Project” means all development, redevelopment, and land disturbing activities. The term is not limited to "Project" as defined under CEQA (California Public Resources Code Section 21065).

“Rainfall Harvest and Use” means a LID BMP system designed to capture runoff, typically from a roof but can also include runoff capture from elsewhere within the site, and to provide for temporary storage until the harvested water can be used for irrigation or non-potable uses. The harvested water may also be used for potable water uses if the system includes disinfection treatment and is approved for such use by the local building department (Order No. R4-2012-0175).

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

“Redevelopment” means land-disturbing activity that result in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of routine maintenance activity; and land disturbing activity related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

“Regional Board” means the California Regional Water Quality Control Board—Los Angeles Region.

“Restaurant” means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption. (SIC Code 5812).

“Retail gasoline outlet” means any facility engaged in selling gasoline and lubricating oils.

“Routine Maintenance” includes, but is not limited to projects conducted to:

1. Maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
2. Perform as needed restoration work to preserve the original design grade, integrity and hydraulic capacity of flood control facilities.
3. Includes road shoulder work, regrading dirt or gravel roadways and shoulders and performing ditch cleanouts.
4. Update existing lines and facilities, which include replacing existing lines with new materials or pipes, to comply with applicable codes, standards, and regulations regardless if such projects result in increased capacity.
5. Repair leaks.

Routine maintenance does not include construction of new lines or facilities resulting from compliance with applicable codes, standards and regulations.

“Runoff” means any runoff including storm water and dry weather flows from a drainage area that reaches a receiving water body or subsurface. During dry weather it is typically comprised of base flow either contaminated with pollutants or uncontaminated, and nuisance flows.

“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 facility or activity.

“Source control BMP” means any schedule of activities, prohibition of practices, maintenance procedures, managerial practices or operational practices that aim to prevent stormwater pollution by reducing the potential for contamination at the source of pollution.

“Standard urban stormwater mitigation plan” or “SUSMP” means a report submitted by an applicant for approval by the Director prior to issuance of a building, grading, planning or similar permit outlining the necessary LID requirements and BMPs which must be incorporated into design plans for development or redevelopment projects.

“Storm Drain System” means any facility or any parts of the facility, including streets, gutters, conduits, natural or artificial drains, channels and watercourse that are used for the purpose of collecting, storing, transporting or disposing of stormwater and are located within the City.

“Stormwater runoff” means that part of precipitation (rainfall) which travels via flow across a surface to the MS4 or receiving waters from impervious, semi-pervious or pervious surfaces. When all other factors are equal, runoff increases as the perviousness of a surface decreases.

“Structural BMP” means any structural facility designed and constructed to mitigate the adverse impacts of stormwater and urban runoff pollution (e.g. canopy, structural enclosure). Structural BMPs may include both treatment control BMPs and source 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 adsorption, 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 adsorption or any other physical, biological or chemical process.

“Urban runoff” means surface water flow produced by non-stormwater resulting from residential, commercial and industrial activities involving the use of potable and nonpotable water.

8.44.050 Construction and application.

This chapter shall be construed to assure consistency with the requirements of the federal Clean Water Act and acts amendatory or supplementary to the Federal Clean Water Act, applicable implementing regulations, and the Municipal NPDES Permit, and any amendment, revision or reissuance of the Municipal NPDES Permit.

8.44.060 No taking.

The provisions of this chapter shall not operate to deprive any property owner of substantially all of the market value of such owner's property or otherwise constitute an unconstitutional taking without compensation.

8.44.070 Prohibited activities.

A. Illicit Discharges and Connections. It is prohibited 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 or 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 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 section shall not apply to refuse, rubbish or garbage deposited in containers, bags or other appropriate receptacles which are placed in designated locations for regular solid waste pick-up and disposal.

C. Disposal of Landscape Debris. No person shall dispose of leaves, dirt, or other landscape debris into the municipal separate stormwater system.

D. Non-stormwater Discharges. The following non-stormwater discharges into the MS4 are prohibited unless in compliance with a separate NPDES permit or pursuant to a discharge exemption by the Regional Board, the Regional Board's Executive Officer, or the State Water Resources Control Board:

1. The discharge of untreated wash waters to the MS4 when gas stations, auto repair garages, or other type of automotive service facilities are cleaned;

2. The discharge of untreated wastewater to the MS4 from mobile auto washing, steam cleaning, mobile carpet cleaning, and other such mobile commercial and industrial operations;

3. To the maximum extent practicable, 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 untreated 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/municipal swimming pool filter backwash to the MS4;
6. Discharges of untreated runoff from the washing of toxic materials from paved or unpaved areas to the MS4; provided, however, that nonindustrial and noncommercial activities which incidentally generate urban runoff, such as the hosing of sidewalks, shall be excluded from this prohibition;
7. To the maximum extent practicable, discharges to the MS4 from washing impervious surfaces in industrial/commercial areas which results in a discharge of untreated runoff to the MS4, unless specifically required by state law, or the City's Municipal code, or Los Angeles County's Health and Safety Codes, or permitted under a separate NPDES permit;
8. Discharges from the washing out of concrete trucks into the MS4;
9. Discharges to the MS4 of any pesticide, fungicide or herbicide, banned by the USEPA or the California Department of Pesticide Regulation; or
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. Car Washing. No motor vehicle, boat, trailer, or other type of mobile transportation may be washed, other than at a commercial carwash, unless such vehicle is being washed by:

1. A resident at their residence using a hand-held bucket or a water hose equipped with an automatic shutoff nozzle as long as water does not flow onto streets; or
2. A business that has an approved car wash facility for its fleet vehicles, provided that water does not flow onto streets.

8.44.080 Exempted discharges, conditionally exempted discharges or designated discharges.

A. Discharges from those activities specifically identified in, or pursuant to, Part III.A.1-3 of the Municipal NPDES Permit as being exempted discharges, conditionally exempted discharges or designated discharges shall not be considered a violation of this chapter; provided that, consistent with Part III.A.1-3 of the Municipal NPDES Permit:

1. Any applicable BMPs developed pursuant to the Municipal NPDES Permit are implemented to minimize any adverse impacts from such identified sources;
2. The discharger meets all notification, reporting and recordkeeping requirements; and

3. The discharge has conducted all applicable monitoring requirements.

B. Discharges in Violation of the Municipal NPDES Permit. Any discharge that would result in 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.

8.44.090 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 in an area where a discharge to City streets or MS4 may or does occur.

B. Use of Water. Runoff of water used for irrigation purposes shall be minimized to the maximum extent practicable. Runoff of water from the permitted washing down of paved areas shall be minimized to the maximum extent practicable.

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. Removal and Disposal of Debris from Industrial/Commercial Motor Vehicle Parking Lots. Industrial/commercial motor vehicle parking lots with more than twenty-five (25) parking spaces that are located in areas potentially exposed to stormwater shall be swept regularly or other equally effective measures shall be utilized to remove debris from such parking lots.

E. Food Wastes. Food wastes generated by nonresidential food service and food distribution sources shall be properly disposed of and in a manner so such wastes are not discharged to the MS4.

F. Best Management Practices. Best management practices 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.

G. Maintenance of Structural BMPs. Structural BMPs shall be properly operated and maintained, consistent with the approved SUSMP. Records and documentation of such maintenance shall be provided to the Director upon request.

8.44.100 Requirements for industrial/commercial and construction activities.

A. Industrial/Commercial and Construction Related Dischargers Generally. Each discharger associated with industrial/commercial activity or construction activity, or other discharger described in any general NPDES permit addressing such discharges, as may be issued by the U.S. Environmental Protection Agency, the State Water Resources Control Board, or the Regional Board shall comply with all requirements of such NPDES permit and the City's development construction program. 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 NPDES permit and the City's development construction program may be required in a form acceptable to the Director 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-stormwater discharges to the MS4 from industrial, commercial or construction are prohibited.

C. Source Control BMPs for Industrial/Commercial Facilities. Industrial/commercial facilities shall implement the effective source control BMPs listed in Table 10 of Part VI.D.6.f. of the Municipal NPDES Permit, unless a particular pollutant generating activity does not occur on a facility's site.

8.44.110 Standard urban stormwater mitigation plan (SUSMP) and low impact development (LID) requirements for new development and redevelopment projects.

A. Objective. Pursuant to Part VI.D.7.b of the Municipal NPDES Permit, the provisions of this section establish requirements for construction activities and facility operations of development and redevelopment projects to comply with the current Municipal NPDES Permit to lessen the water quality impacts of development by using smart growth practices and integrate LID practices and standards for stormwater pollution mitigation through means of infiltration, evapotranspiration, biofiltration, and rainfall harvest and use. Except as otherwise provided herein, the City shall administer, implement and enforce the provisions of this section.

B. Scope. This section contains requirements for stormwater pollution control measures in development and redevelopment projects and authorizes the City to further define and adopt stormwater pollution control measures, and to develop LID principles and requirements, including but not limited to the objectives and specifications for integration of LID strategies. As specified in this section, certain Planning Priority Projects shall meet the requirements of this section through the preparation and submittal of a standard urban stormwater mitigation plan (SUSMP), which shall include the applicable LID requirements set forth in this section as an element of the SUSMP.

C. Applicability – Planning Priority Projects. The following development and redevelopment projects shall be designated as Planning Priority Projects, which are subject to City conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution prior to completion of the projects, and shall meet the requirements of this section:

(1) New Development Projects.

- a. All development projects equal to one (1) acre or greater of disturbed area that adds more than 10,000 square feet of impervious surface area.
- b. Industrial parks 10,000 square feet or more of surface area.
- c. Commercial malls 10,000 square feet or more of surface area.
- d. Retail gasoline outlets with 5,000 square feet or more of surface area.
- e. Restaurants (Standard Industrial Classification (SIC) of 5812) with 5,000 square feet or more of surface area.
- f. Parking lots with 5,000 square feet or more of impervious surface area, or with 25 or more parking spaces.
- g. Streets and roads construction of 10,000 square feet or more of impervious surface area. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.
- h. Automotive service facilities (Standard Industrial Classification (SIC) of 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539) 5,000 square feet or more of surface area.
- i. Projects located in or directly adjacent to, or discharging directly to an Environmentally Sensitive Area (ESA), where the development will:
 - (i) Discharge stormwater runoff that is likely to impact a sensitive biological species or habitat; and
 - (ii) Create 2,500 square feet or more of impervious surface area.
- j. Single-family hillside homes.

(2) Redevelopment Projects

- a. Land disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site on Planning Priority Project categories.
- b. Where Redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-construction stormwater quality control requirements, the entire project must be mitigated.
- c. Where Redevelopment results in an alteration of less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-construction stormwater quality control requirements, only the alteration must be mitigated, and not the entire development.
- d. Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of

facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade and alignment, is considered a routine maintenance activity. Redevelopment does not include the repaving of existing roads to maintain original line and grade.

e. Existing single-family dwelling and accessory structures are exempt from the Redevelopment requirements unless such projects create, add, or replace 10,000 square feet of impervious surface area.

D. Specific Requirements. The site for every Planning Priority Project shall be designed to control pollutants, pollutant loads, and runoff volume to the maximum extent feasible by minimizing impervious surface area and controlling runoff from impervious surfaces through infiltration, evapotranspiration, bioretention and/or rainfall harvest and use. In addition, the following specific requirements apply:

(1) New Single-Family Hillside Homes. A new single-family hillside home development project shall include mitigation measures to:

- a. Conserve natural areas;
- b. Protect slopes and channels;
- c. Provide storm drain system stenciling and signage;
- d. Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability; and
- e. Direct surface flow to vegetated areas before discharge, unless the diversion would result in slope instability.

(2) Street and Road Construction of 10,000 square feet or more. Street and road construction of 10,000 square feet or more of impervious surface shall follow the City's Green Street Manual developed by the Director and approved by City Council resolution. The City's Green Street Manual shall be based on the USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009).

(3) Remainder of Planning Priority Projects Require a SUSMP. Except for the projects listed in paragraphs (1) and (2) of subsection D of this section, all other Planning Priority Projects shall prepare and submit to the Director for review and approval a SUSMP which shall also contain LID requirements consistent with Parts VI.D.7.c and VI.D.7.d(iii) of the Municipal NPDES Permit. In addition, Planning Priority Projects subject to this paragraph (3) shall do the following:

a. Incorporate the SUSMP into Project Plans. An applicant for a Planning Priority Project identified in paragraph (3) of subsection D of this section shall incorporate into the applicant's project plans a Storm Water Mitigation Plan (SWMP), which includes those BMPs necessary to control storm water pollution from construction activities and facility operations, as set forth in the SUSMP applicable to the applicant's project. Structural or Treatment Control BMPs (including, as applicable, post-construction treatment control BMPs) set forth in project plans shall meet the design standards set forth in the SUSMP and the current Municipal NPDES Permit.

b. Verify Maintenance of BMPs. If a project applicant has included or is required to include structural or treatment control BMPs in project plans, the applicant shall provide verification of maintenance provisions. The verification shall include the applicant's signed statement, as part of its project application, accepting responsibility for all structural and treatment control BMP maintenance until such time, if any, the property is transferred.

E. Issuance of Discretionary Permits. No discretionary permit may be issued for any Planning Priority Project identified in this section until the Director confirms the project plans comply with the applicable requirements of this section.

F. Issuance of Certificates of Occupancy. As a condition for issuing a certificate of occupancy for a Planning Priority Project identified in this section, the Director shall require facility operators and/or owners to build all the stormwater pollution control BMPs 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 SUSMP and other applicable regulatory requirements.

G. 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 then current standards of the City and the SUSMP. 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 a homeowners association, language regarding the responsibility for maintenance shall be included in the projects conditions, covenants and restrictions (CC&Rs). Printed educational materials will be required to accompany the first deed transfer to highlight the existence of the requirement and to provide information on what stormwater management facilities are present, signs that maintenance is needed, and how the necessary maintenance can be performed. The transfer of this information shall also be required with any subsequent sale of the property.

3. If structural or treatment control BMPs are located within an area proposed for dedication to a public agency, said BMPs shall be the responsibility of the developer until the dedication is accepted by the public agency.

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

8.44.120 Enforcement.

A. Violations Deemed a Public Nuisance.

1. The following violations shall be deemed a public nuisance:

a. Any condition caused or permitted to exist in violation of any of the provisions of this chapter; or

b. Any failure to comply with any applicable requirement of either the SUSMP or an approved stormwater mitigation plan with respect to a property; or

c. Any false certification or verification, or any failure to comply with a certification or verification provided by a project applicant or the applicant's successor in interest; or

d. Any failure to properly operate and maintain any structural or treatment control BMP on a property in accordance with an approved stormwater mitigation plan or the SUSMP, is determined to be a threat to the public health, safety and welfare, is declared and deemed a public nuisance, and may be abated or restored by any Director, 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 shall be billed to the owner of the property, as provided by law or ordinance for the recovery of nuisance abatement costs,

3. If any violation of this chapter constitutes a seasonal and recurrent nuisance, the Director 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 section shall constitute a public nuisance and a violation of this chapter.

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

C. Civil Actions. In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the City. In any such action, the City may seek 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 section;

3. Costs incurred in removing, correcting or terminating the adverse effects resulting from violation;

4. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

D. Administrative Enforcement Powers. In addition to the other enforcement powers and remedies established by this chapter, the Director has the authority to utilize the following administrative remedies:

1. Cease and Desist Orders. When a discharge has taken place or is likely to take place in violation of this chapter, the Director may issue an order to cease and desist such discharge, or practice or operation likely to cause such discharge and direct that those persons not complying shall: (a) comply with the requirement; (b) comply with a time schedule for compliance; and (c) take appropriate remedial or preventive action to prevent the violation from recurring.

2. Notice to Clean. Whenever the Director finds any oil, earth, debris, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in pollutants entering the 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 material, in any manner that he or she may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice.

E. Penalties. Violation of this chapter shall be punishable as provided in Chapter 1.16 of this code. Each day that a violation continues shall constitute a separate offense.

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

G. Burden of Proof. In an enforcement action, the burden of proof shall be on the person who is the subject of such action to establish that the reduction or elimination of the discharge to the maximum extent practicable has been accomplished through compliance with the best management practices available, including applicable monitoring, notifications and reporting requirements.

H Remedies. Remedies under this chapter are in addition to and do not supersede or limit any and all other available remedies, civil or criminal. The remedies provided for in this chapter shall be cumulative and not exclusive.

Section 2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance for any reason is held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity or the remaining portions of this ordinance. The City Council of the City of Calimesa hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions were to be declared invalid or unconstitutional.

Section 3. CEQA. The City Council hereby finds, in the exercise of its independent judgment and analysis, that this ordinance is exempt from the California Environmental Quality Act (“CEQA”) because this ordinance is an administrative and enforcement activity of the City that will not result any direct or indirect physical changes in the environment pursuant to CEQA Guideline Section 15378(b)(5). Additionally, the adoption of this ordinance is also exempt from CEQA because there is no possibility the proposed ordinance would have a significant impact on the environment pursuant to CEQA Guideline Section 15061(b)(3).

Section 4. Effective Date; Publication. The City Clerk of the City of South El Monte shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of South El Monte at a meeting thereof held on the ___ day of _____.

Luis A. Aguinaga, Mayor

ATTEST:

Rose Juarez, City Clerk

APPROVED AS TO FORM:

Quinn M. Barrow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) S.S.
CITY OF SOUTH EL MONTE)

I, Rose Juarez, City Clerk for the City of South El Monte, hereby certify that the foregoing Ordinance, being Ordinance No. 1182, was duly passed and approved by the City Council of the City of South El Monte at a regular meeting of said Council held on the ____ day of _____, and that said Ordinance was adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Rose Juarez, City Clerk