

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Long Beach, CA 90802-4302
(562) 590-5071



Th11a

May 21, 2015

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director
Charles Posner, Supervisor of Planning
Shannon Vaughn, Coastal Program Analyst

RE: Amendment Request No. 1-14 (LCP-5-LGB-14-0344-1) to the City of Laguna Beach Local Coastal Program, for Commission Action at its June 11, 2015 meeting in Newport Beach.

Local Coastal Program Amendment No. 1-14

The Coastal Commission certified the City of Laguna Beach Local Coastal Program (LCP) on July 7, 1992. Amendment Request No. 1-14 would amend the City's Zoning Code provisions to update the City's Water Quality Control provisions of Municipal Code Chapter 16.01. This LCP amendment request affects only the LCP Implementation Plan (LIP) portion of the certified LCP and does not propose any rezoning or land use changes.

The proposed changes to the City's zoning code are contained in City Council Ordinance No. 1597 (**EXHIBIT 2**). The LCP amendment request was submitted for Commission certification by City Council Resolution No. 15.021 (**EXHIBIT 1**). The City held public hearings for the LCP Amendment on April 14, 2015 and January 21, 2014. The LCP amendment request was deemed submitted on April 24, 2015.

STAFF RECOMMENDATION

The standard of review for the proposed amendment to the LCP Implementing Ordinances (LIP), pursuant to Sections 30513 and 30514 of the Coastal Act, is that the proposed LIP amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan (LUP). There are three significant changes that the Water Quality Control Ordinance makes to the LCP, including: 1) expanding Priority Development Project categories; 2) changing Treatment Control Best Management Practices (BMPs) Performance Criteria; and 3) adding a new requirement for Hydromodification BMPs (retain pre-project natural watercourse flows) for some along streams. Additionally, language updates to the Water Quality Control Ordinance are proposed to ensure that definitions and terminology are consistent with the 2009 National Pollutant Discharge Elimination System (NPDES) amendment. The changes proposed in this LCP amendment are changes that make the zoning ordinances and the certified LIP more specific and include important changes that would further protect coastal resources. All of the proposed changes conform with, and are adequate to carry out, the provisions of the certified LUP.

Staff is recommending that the Commission, after public hearing, certify the LCP amendment request as submitted by the City. The motion to accomplish this recommendation is on Page Two.

I. MOTION AND RESOLUTION

Motion: *I move that the Commission reject Amendment No. 1-14 to the City of Laguna Beach Implementing Ordinances as submitted by the City."*

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to Certify the LIP Amendment as Submitted

The Commission hereby certifies Amendment Request No. 1-14 to the LCP Implementing Ordinances for the City of Laguna Beach as submitted and adopts the findings set forth below on grounds that the Implementing Ordinances conform with, and are adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementing Ordinances complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. FINDINGS

A. Description of the LCP Amendment Request

The proposed changes to the certified LCP relate to the City's Water Quality Control standards set forth in Municipal Code Chapter 16.01 (**Exhibit #2** – Ordinance No. 1597). The proposed LCP amendment modifies Chapter 16.01 of the Municipal Code to be consistent with the 2009 San Diego Regional Water Quality Control Board's (SDRWCB) South Orange County National Pollutant Discharge Elimination System / Municipal Separate Storm Sewer System Permit No. R9 2009-0002 (2009 NPDES/MS4), which was required under the "Clean Water Act" (passed by the United States Congress, 33 USC Section 1251 et seq. as amended, including Section 402(p) therein). The Clean Water Act mandates that cities obtain permits to "effectively prohibit non-storm water discharges into the storm sewers" and "require controls to reduce the discharge of pollutants to the maximum extent practicable..." This permitting authority was delegated by the United States Environmental Protection Agency to the State of California, which then authorized the State Water Resources Control Boards and its local regulatory agencies, the Regional Water Quality Control Boards, to control non-point source discharges to California's waterways.

On December 16, 2009, the SDRWQCB, in compliance with the Clean Water Act, issued the 2009 NPDES/MS4 Permit to co-permittees within Orange County, including the City of Laguna Beach. The 2009 NPDES/MS4 Permit required the co-permittees to update their enforceable ordinances to address changes within the Development Planning Component of the 2009 NPDES/MS4 Permit. Orange County, in collaboration with South Orange County Co-permittees¹, created a new Water Quality Control Ordinance (R9 2009 – 0002) and submitted it to the SDRWQCB for approval on December 16,

¹ Orange County Co-permittees include: City of Aliso Viejo, City of Dana Point, City of Laguna Beach, City of Laguna Hills, City of Laguna Niguel, City of Lake Forest, City of Mission Viejo, City of Rancho Santa Margarita, City of San Clemente, City of San Juan Capistrano, City of Laguna Woods, County of Orange, Orange, and County Flood Control District.

2011. On May 8, 2013, SDRWQCB approved and amended R9 2009 – 0002. The SDRWQCB has since amended the 2009 NPDES/MS4 Permit again, which will result in additional minor changes to the LCP once the City adopts them. The City has assured Commission Staff that it will return with another LCP amendment to address any additional changes resulting from the implementation of the amended NPDES/MS4 Permit prior to April 2017.

On April 14, 2015, the City of Laguna Beach adopted Ordinance No. 1597 to amend the LCP. The three significant changes that the Water Quality Control Ordinance makes to the LCP, include: expanding Priority Development Project categories; improving Treatment Control Best Management Practices (BMPs) Performance Criteria; and adding a new requirement for a hydromodification (retain pre-project natural watercourse flows) BMPs for some projects. Additionally, definitions and terminology are being updated to ensure that the Water Quality Control Ordinance is consistent with the 2009 NPDES Permit.

Priority Development Project Categories. Changes to Section 16.01.020 of the proposed ordinance eliminate the “residential subdivision” and “commercial development” Priority Development Project (PDP) categories. These include “single-family, multi-family, condominiums, and apartments” and all development categorized in the prior ordinance as “residential” or “heavy industry.” The ordinance will now consider all new development that creates 10,000 square feet or more (collectively) of new impervious surface to be a PDP (all commercial, industrial, residential, mixed use, and public projects on private or public land within the City.) This change decreases the threshold for inclusion of commercial development PDP projects from 100,000 square feet to 10,000 square feet, and creates a 10,000 square foot PDP threshold for any new development that creates new impervious surfaces.

The proposed ordinance also creates four new PDP categories for: 1) any pollutant generating projects disturbing one or more acres; 2) retail gasoline outlets (RGOs) that are 5,000 square feet or greater in total size, or have a daily average of 100 or more daily trips; 3) all redevelopment projects that create or replace 5,000 square feet of impervious area on an already disturbed site; and 4) includes a provision to allow the City to add other projects to the PDP list from time to time as they fall under the NPDES permit authority. Additionally, this Ordinance also strengthens the Environmentally Sensitive Area PDP category by updating Section 16.01.020(GG)(9) to make the Ordinance more inclusive of development by removing the word “significant” in a number of places from Section 16.010.040.

Treatment Control BMPs Performance Criteria. Section 16.01.050 of the LCP amendment will require all PDP projects to infiltrate, harvest, and use or evapotranspire, to the 85th percentile of a 24-hour rain storm event onsite as specified in the NPDES/MS4 Permit. The current Water Quality Control Provision allows the use of treat and release devices (rain runoff is filtered and quickly moved off site). The proposed LCP amendment will no longer allow treat and release devices.

Hydromodification BMPs. The proposed hydromodification BMPs would be a new requirement within the Sections 16.01.040 and 16.01.050 of the Water Quality Management Plan that requires sites that drain to non-hardened creeks/streams to retain the same volume of stormwater on site and to release stormwater to a drainage channel at the same rate post project as the site did pre project as specified in the NPDES/MS4 Permit. This requirement may increase the size of required onsite stormwater storage/retention and it may increase the project costs through additional design and engineering.

The proposed changes to the certified LCP are attached in Exhibit #2 (ORD-1597). The proposed LCP amendment modifies Sections 16.01.010, 16.01.020, 16.01.040, 16.01.050, 16.01.070, 16.01.080, 16.01.090, and 16.01.100. The LCP amendment adds new definitions to Section 16.01.020 for the following terms: City Model Water Quality Plan, discharge exception, Local Implementation Plan (LIP), low impact development, new development, and redevelopment. The changes in Section 16.01.020 also

clarify and enhance existing definitions, including: BMPs, priority development project, prohibited discharge, and water quality/urban runoff plan. Section 16.01.040 was modified to include development guidance regarding water quality and to make water quality requirements more descriptive. Section 16.01.050 was changed to include hydromodification controls. Sections 16.01.060, 16.01.070, 16.01.080, 16.01.090, and 16.01.100 were slightly modified to remove the previous ordinance from the description. The proposed changes will result in improved water quality within the coastal zone.

B. Consistency with the Certified Land Use Plan

The standard of review for the proposed amendment to the LCP Implementing Ordinances (LIP), pursuant to Sections 30513 and 30514 of the Coastal Act, is that the proposed LIP amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan (LUP). The certified LUP sets forth policies to preserve and enhance the community's natural environment, protect environmentally sensitive natural resources, to protect public health and safety and natural resources in relation to proposed development, and to proactively participate in the planning activities of regional and adjacent jurisdictions. Policy 10.7 of the City's certified LUP states: "[the City shall] protect marine resources by implementing methods to minimize runoff from building sites and street to the City's storm drain system (e.g., on-site water retention)." Action 10.7.1 states: "[The City shall] continue to evaluate and update criteria to minimize impermeable hardscape improvements." Action 10.7.2 states: "[The city shall] periodically, review the City's Water Quality Control Ordinance and related policies for protecting marine resources and update as appropriate." The purpose of the proposed changes to the zoning ordinance is to protect and enhance water quality throughout Laguna Beach. The changes proposed in this LCP amendment are changes that make the zoning ordinances and the certified LIP more specific and include important changes that would further protect coastal resources. All of the proposed changes conform with, and are adequate to carry out, the provisions of the certified LUP.

C. California Environmental Quality Act (CEQA)

The City of Laguna Beach is the lead agency for the purposes of California Environmental Quality Act review of the proposed LCP amendment. Pursuant to the California Environmental Quality Act (CEQA) and the California Code of Regulations [Title 14, Sections 13540(f), 13542(a), 13555(b)] the Commission's certification of this LCP amendment must be based in part on a finding that it is consistent with CEQA Section 21080.5(d)(2)(A). That section of the Public Resources Code requires that the Commission's regulatory program require that a proposal not be approved or adopted if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City determined that the proposed LCP amendment was without significant adverse environmental impacts and that the amendment qualifies for a Categorical Exemption from CEQA.

The Commission finds that, for the reasons discussed in this report, the proposed LCP amendment complies with the California Environmental Quality Act because: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, and 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts which the LCP Amendment may have on the environment. The Commission finds that the proposed LCP amendment will be consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.

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RESOLUTION NO. 15.021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA ADOPTING LOCAL COASTAL PROGRAM AMENDMENT 13-2416 REGARDING MUNICIPAL CODE CHAPTER 16.01 (WATER QUALITY DEFINITIONS AND REQUIREMENTS) AND REQUESTING ITS CERTIFICATION BY THE COASTAL COMMISSION.

RECEIVED

APR 20 2015

WHEREAS, the City Council after giving notice as ~~described by law~~ ^{WATER QUALITY} held at least one public meeting regarding the proposed Laguna Beach Local Coastal Program Amendment No. 13-2416, and the City Council finds that the proposed amendment is consistent with the Certified Laguna Beach Coastal Land Use Plan and Chapter 6 of the California Coastal Act; and

WHEREAS, the City Council of the City of Laguna Beach intends to implement the Local Coastal Program in a manner fully consistent with the California Coastal Act;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES RESOLVE AND ORDER as follows:

SECTION 1. Laguna Beach Local Coastal Program Amendment No. 13-2416 is hereby approved, consisting of an amendment to the Water Quality Control provisions of Municipal Code Chapter 16.01. A copy of the ordinance adopting the amendment is attached hereto as Exhibit "A" and is incorporated by reference as though fully set forth herein.

SECTION 2. The California Coastal Commission is hereby requested to consider, approve and certify Local Coastal Program Amendment 13-2416.

SECTION 3. Pursuant to Section 13551(b) of the Coastal Commission Regulations, Laguna Beach Local Coastal Program Amendment No. 13-2416 will take effect automatically upon Coastal Commission approval, as provided in Public Resources Code Sections 30512, 30513 and 30519.

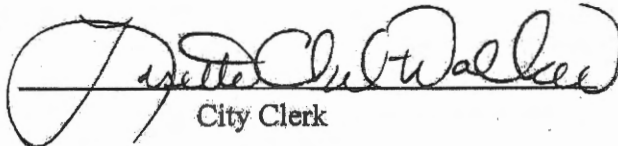
COASTAL COMMISSION
LCP-5-LGB-14-0344-1
EXHIBIT # 1
PAGE 1 OF 2

1 ADOPTED this 14th day of April, 2015.

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4 Bob Whalen, Mayor

5 ATTEST:

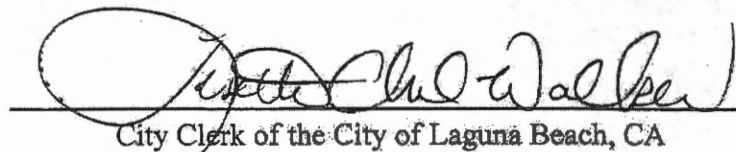
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7 City Clerk

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9 I, LISETTE CHEL-WALKER, City Clerk of the City of Laguna Beach, California, do
10 hereby certify that the foregoing Resolution No. 15.021 was duly adopted at a Regular Meeting
11 of the City Council of said City held on April 14, 2015, by the following vote:

12 AYES: COUNCILMEMBER(S): Boyd, Iseman, Zur Schmiede, Dioterow, Whalen

13 NOES: COUNCILMEMBER(S): None

14 ABSENT: COUNCILMEMBER(S): None

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16 City Clerk of the City of Laguna Beach, CA

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COASTAL COMMISSION

EXHIBIT # 1
PAGE 2 OF 2

Exhibit A

ORDINANCE NO. 1597

AN ORDINANCE OF THE CITY COUNCIL OF LAGUNA BEACH,
CALIFORNIA AMENDING LAGUNA BEACH MUNICIPAL CODE
CHAPTER 16.01 - RELATING TO WATER QUALITY CONTROL

The City Council of the City of Laguna Beach does hereby ORDAIN as follows:

SECTION 1. Laguna Beach Municipal Code Chapter 16.01 is hereby amended to read in its entirety as follows:

16.01.010 Purpose and authority.

The United States Congress passed the Clean Water Act (33 USC Section 1251 et seq., as amended, including Section 402(p) therein) as a mandate, in part, that cities, obtain permits to "effectively prohibit non-storm water discharges into the storm sewers" and "require controls to reduce the discharge of pollutants to the maximum extent practicable..." This permitting authority has been delegated by the United States Environmental Protection Agency ("EPA") to the state of California, which has authorized the State Water Resources Control Board and its local regulatory agencies, the Regional Water Quality Control Boards, to control non-point source discharges to California's waterways.

The San Diego Regional Water Quality Control Board has addressed the obligation to implement the Clean Water Act by issuing waste discharge requirements for the county of Orange, Orange County Flood Control District and those incorporated cities of Orange County within the board's jurisdiction. This permit shall be referred to herein as the National Pollution Discharge Elimination System ("NPDES")/Municipal Separate Storm Sewer Systems (MS4) permit.

The City of Laguna Beach is participating as a co-permittee under the NPDES/MS4 permit in the development and adoption of an ordinance to accomplish the requirements of the Clean Water Act.

Storm water runoff is one step in the natural cycle of water. However, human activities, such as agriculture, construction and the operation and maintenance of an urban infrastructure may result in undesirable discharges of pollutants and certain sediments, which may accumulate in local drainage channels and waterways and eventually may be deposited in the waters of the United States.

The purpose of the ordinance codified in this chapter is to help in the improvement of water quality and to comply with the federal control requirements of pollutants to storm water runoff within the city.

COASTAL COMMISSION

LCP-5-LGB-14-0344-1

EXHIBIT # 2

PAGE 1 OF 21

This chapter also regulates development within the coastal zone in accordance with the policies of the city's local coastal program and Sections 30230, 30231, 30232 and 30240 of the California Coastal Act..

16.01.020 Definitions.

As used in this chapter, the following terms are defined in this section:

(A) "Accelerated erosion" means the rate and amount of erosion caused by development activities that exceed the natural processes by which the surface of the land is worn away. Erosion includes the movement or loss of soil by the action of water, wind or chemicals.

(B) "Authorized water quality enforcement staff" means any person designated or assigned by the City Manager to undertake inspector duties including, but not limited to, inspection, investigation and enforcement of any provisions of this chapter.

(C) "Best management practices (BMPs)" means any program, activity, technology, process, siting criteria, operational method, practice, facility and/or procedure that when properly implemented will control, prevent, remove or reduce pollutants in discharges. "Source control" BMPs (both structural and nonstructural) are operational practices or methods that prevent pollution by reducing potential pollutants at the source. A "site design" BMP is a source control BMP and means any design feature that reduces the creation or severity of potential pollutant sources or reduces the alteration of the project site's natural flow regime. "Treatment control" BMPs are structural methods of treatment to remove pollutants from urban runoff. (The city utilizes the BMPs which have been specified in the city's jurisdictional urban runoff management program/local implementation plan (JURMP/LIP). Presently, these BMPs have been developed, and may be amended from time to time, by the California Stormwater Quality Association (CASQA) and can be referenced at www.cabmhandbooks.com. The city reserves the right to implement any equivalent BMP prepared by other qualified water quality organizations or government agencies.)

(D) "City" means the City of Laguna Beach, Orange County, California.

(E) "City Model Water Quality Management Plan" or "City Model WQMP" means that model water quality management plan set forth in the City's Local Implementation Plan.

(F) "Clean Water Act Section 303(d) Water Body" is an impaired water body in which water quality does not meet acceptable 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 by the co-permittees is significant because these discharges can cause or contribute to violations of applicable water quality standards.

COASTAL COMMISSION

EXHIBIT # 2
PAGE 2 OF 21

(G) "Coastal development permit" means a permit issued under the authority of Chapter 25.07 and the California Coastal Act by the City of Laguna Beach or the coastal commission to perform or undertake any development, as that term is defined in Section 25.07.066(D), within the city's coastal zone.

(H) "Co-Permittee" means the County of Orange, the Orange County Flood Control District, and/or any one of the municipalities, including the City of Laguna Beach, that are responsible for compliance with the terms of the NPDES/MS4 permit.

(I) "DAMP" means the Orange County drainage area management plan NPDES permit guidance document, including all appendices, as the same may be amended from time to time.

(J) "Development" means all public and private residential, industrial, commercial, retail and other nonresidential construction projects, or grading for future construction, for which a discretionary land use approval, such as a coastal development permit, grading permit or building permit is required.

(K) "Discharge" means any release, spill, leak, pump, flow, escape, leaching (including subsurface migration or deposition to groundwater), dumping or disposal of any liquid, semi-solid or solid substance.

(L) "Discharge exception" means the group of activities not restricted or prohibited by this ordinance, including only:

1. Discharges composed entirely of stormwater;
2. Discharges authorized by current EPA or Regional Water Quality Control Board-issued NPDES permits, State General Permits, or other waivers, permits or approvals granted by a government agency with jurisdiction over such discharges;
3. Stormwater discharges from property for which best management practices set forth in the Local Implementation Plans are being followed;
4. Discharges to the MS4s from:
 - (a) Diverted stream flows;
 - (b) Rising ground waters;
 - (c) Infiltration of groundwater uncontaminated by sewage;
 - (d) Uncontaminated pumped groundwater¹;
 - (e) Foundation drains¹;
 - (f) Springs;
 - (g) Water from crawl space pumps¹;
 - (h) Footing drains¹;
 - (i) Air conditioning condensation;
 - (j) Flows from riparian habitats and wetlands;

¹ These discharges may be covered by a State or Regional Water Quality Control Board permit for groundwater extraction or similar discharges to surface waters. The city authorizes these discharges in compliance with such permit, unless the city staff determines the discharge potentially causes, or threatens to cause a condition of pollution, contamination, or nuisance.

COASTAL COMMISSION

EXHIBIT # 2
PAGE 3 OF 21

- (k) Water line flushing, except for fire suppression sprinkler system maintenance and testing discharges. If any discharges that fall within this exception are subject to State or Regional Water Quality Control Board permits or local ordinances, they are exempt only if the discharger is in compliance with said permits or local ordinances;
- (l) Potable water sources, except to the extent such discharges are subject to, but not in compliance with general permits issued by the State or Regional Water Quality Control Board or other local ordinances;
- (m) Individual residential car washing; except to the extent that pollutants are discharged to the MS4;
- (n) Dechlorinated swimming pools;
- (o) Emergency firefighting activities
- 5. Discharges authorized pursuant to a permit issued under Section VIII hereof;
- 6. Stormwater discharges for which the discharger has reduced to the maximum extent practicable the amount of pollutants in such discharge; and
- 7. Discharges authorized pursuant to federal or state laws or regulations

(M) "Enforcing attorney" means the city attorney acting as counsel to the City of Laguna Beach and his or her designee, which counsel is authorized to take enforcement action as described herein.

(N) "EPA" means the Environmental Protection Agency of the United States.

(O) "Hearing commission" means the planning commission established by separate resolution of the city council, which shall preside at the appeal hearings authorized by this chapter and issue decisions on the matters raised therein.

(P) "Illicit discharge" means a discharge to the city's storm water drainage system that is not entirely composed of storm water except discharges pursuant to a separate NPDES/MS4 permit (other than the NPDES/MS4 permit for discharges) and discharges resulting from emergency firefighting activities.

(Q) "Impervious surfaces" means constructed or modified surfaces that cannot effectively allow for the infiltration of rainfall. The term includes, but is not limited to, building rooftops, pavement, sidewalks and driveways.

(R) "Impervious surface area" means the ground area covered or sheltered by an impervious surface, measured in plan view, i.e., as if 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.

COASTAL COMMISSION

EXHIBIT # 2
PAGE 4 OF 21

(S) "Invoice for costs" means the actual costs and expenses of the city, including but not limited to administrative overhead, salaries and other expenses recoverable under state law, incurred during any inspection conducted pursuant to this chapter, where a notice of noncompliance, administrative compliance order or other enforcement option under of this chapter is utilized to obtain compliance with this chapter.

(T) "Illicit connection" means any man-made conveyance or drainage system, pipeline, conduit, inlet or outlet through which the discharge of any pollutant to the storm water drainage system occurs or may occur. The term illicit connection shall not include legal nonconforming connections or connections to the storm water drainage system that are hereinafter authorized by the city.

(U) "Jurisdictional urban runoff management plan (JURMP)" means the city's local program to implement the NPDES/MS4 permit requirements based on the county of Orange DAMP guidance document, including all appendices, together with any amendments or revisions. The JURMP and Local Implementation Plan (LIP) are interchangeable terms and documents.

(V) "Legal nonconforming connection" means connections to the storm water drainage system existing as of the adoption of this chapter that were in compliance with all federal, state and local rules, regulations, statutes and administrative requirements in effect at the time the connection was established.

(W) "Local Implementation Plan (LIP)" means the city's adopted local plan for implementation of the NPDES /MS4 permit requirements based on the County of Orange DAMP guidance document, including all appendices, together with any amendments or revisions. The JURMP and LIP are interchangeable terms/documents.

(X) "Low impact development" (LID) means a surface runoff management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, and small scale hydrologic controls to more closely reflect predevelopment hydrologic functions, including but not limited to: site design practices, hydrologic source controls, retention BMPs, and biotreatment BMPs.

(Y) "Maximum extent practicable (MEP)" means the technology-based acceptability standard for pollution reduction by best management practices (BMPs) established by congress in Clean Water Act Section 402(p)(3)(B)(iii) that municipal dischargers of urban runoff must meet. MEP generally emphasizes pollution prevention or source control BMPs (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense).

(Z) "Municipal separate storm sewer system (MS4)" means a drainage system of conveyances used for the purpose of collecting, storing, transporting or disposal of storm water (including roads with drainage systems, city streets, catch basins, curbs, gutters, ditches, natural drainage features or channels, modified natural channels, manmade channels or storm drains) that is:

COASTAL COMMISSION

EXHIBIT # 2
PAGE 5 OF 21

(1) Owned or operated by the City of Laguna Beach, Laguna Beach County Water District or South Coast Water District;

(2) Designated or used for collecting or conveying storm water;

(3) Which is not a combined sewer; and

(4) Which is not part of a publicly owned treatment works (POTW) defined in 40 CFR 122.2.

(AA) "National pollution discharge elimination system/municipal separate storm sewer systems (NPDES/MS4) permit" means the currently applicable municipal discharge permit issued by the Regional Water Quality Control Board, San Diego Region, which permit establishes waste discharge requirements applicable to storm water runoff in the city.

(BB) "New development" means all public and private development (whether residential single, multi-unit or planned unit development; industrial; commercial; retail; and/or other nonresidential construction projects) involving grading for future construction, for which either a discretionary land use approval, a grading permit, or a building permit is required.

(CC) "Non-prohibited discharge" means all types of non-storm water discharges into the storm water drainage system that are either:

(1) Authorized by a separate NPDES/MS4 permit; or

(2) Pursuant to 40 CFR 122.26(d)(2)(iv)(B)(1), are listed in the NPDES/MS4 permit, unless such non-storm water discharges are identified as a significant source of pollutants to waters of the United States. In any action to enforce this chapter, the burden shall be on the person who is the subject of such action to establish that a discharge was within the scope of non-prohibited discharges.

(DD) "Non-storm water" means all of the discharges to and from a storm water drainage system that do not originate from precipitation events (i.e., all discharges to and from a conveyance system other than storm water). Non-storm water includes illicit discharges, non-prohibited discharges and NPDES/MS4 permitted discharges.

(EE) "Person" means any person as well as any corporation, partnership, government entity or subdivision, trust, estate, cooperative association, joint venture, business entity, or other similar entity, or the agent, employee or representative of any of the above.

(FF) "Pollutant" means 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:

COASTAL COMMISSION

EXHIBIT # 2
PAGE 6 OF 21

- (1) Artificial materials (such as floatable plastics, wood products or metal shavings);
 - (2) Household waste (such as trash, paper, and plastics; cleaning chemicals; yard wastes; animal fecal materials; used oil and fluids from vehicles, lawn mowers and other common household equipment);
 - (3) Metals and nonmetals, including compounds of metals and nonmetals, (such as cadmium, lead, zinc, copper, silver, nickel, chromium, cyanide, phosphorus and arsenic), with characteristics which cause an adverse effect on living organisms;
 - (4) Petroleum and related hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);
 - (5) Animal wastes (such as discharge from confinement facilities, kennels, pens and recreational facilities, including, stables, show facilities or polo fields);
 - (6) Substances having a pH less than 6.5 or greater than 8.6, or unusual coloration, turbidity or odor;
 - (7) Waste materials and wastewater generated on construction sites and by construction activities (such as painting and staining; use of sealants and glues, use of lime; use of wood preservatives and solvents; disturbance of asbestos fibers, paint flakes or stucco fragments; application of oils, lubricants, hydraulic, radiator or battery fluids; construction equipment washing; concrete pouring and cleanup; use of concrete detergents; steam cleaning or sand blasting; use of chemical degreasing or diluting agents; and use of super chlorinated water for potable water line flushing);
 - (8) Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or total organic carbon;
 - (9) Materials which contain base/neutral or acid extractable organic compounds;
 - (10) Those pollutants defined in Section 1362(6) of the federal Clean Water Act; and
 - (11) Any other constituent or material, including but not limited to pesticides, herbicides, fertilizers, fecal coliform, fecal streptococcus or enterococcus, or eroded soils, sediment and particulate materials, in quantities that will interfere with or adversely affect the beneficial uses of the receiving waters, flora or fauna of the state.
- (GG) "Priority development project" (PDP), as defined in the NPDES/MS4 permit means a development project that falls within any one or more of the following categories:
- (1) New development projects that create ten thousand (10,000) square feet or more of impervious surface (collectively over the entire project site), including commercial, industrial, residential, mixed-use, and public projects on private or public land within the City.

COASTAL COMMISSION

(2) All pollutant generating development or redevelopment projects that result in the disturbance of one acre or more of land.

(3) Automotive Repair Shops. This category is defined as a facility that is categorized in any one of the following standard industrial classification (SIC) Codes: 5013, 5014, 5541, 7532-7534 or 7536-7539.

(4) Retail gasoline outlets (RGOs) that meet the following criteria: (a) are five thousand (5,000) square feet or more in total size; or (b) have a projected average daily traffic (ADT) of one hundred (100) or more vehicles per day.

(5) Restaurants. This category is defined as 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) and where the land area for development is equal to or greater than five thousand (5,000) square feet. Restaurants where land development is less than five thousand square feet shall meet all WQMP requirements except for LID BMP, treatment control BMP, and hydro-modification requirements.

(6) Hillside development greater than five thousand (5,000) square feet. This category is defined as any development which is located in an area with known erosive soil conditions (as indicated in a site-specific geological or geotechnical report) or where the development will grade on any natural or preexisting slope that is twenty-five percent (25%) or greater.

(7) Parking lots of five thousand (5,000) or more square feet in area or with fifteen (15) or more parking spaces which are exposed to surface runoff. Parking lot is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business or for commerce.

(8) Street, roads, highways and freeways. This category includes any paved surface that is five thousand (5,000) or more square feet in area and is used for the transportation of automobiles, trucks, motorcycles and other vehicles.

(9) Water quality environmentally sensitive area development. Impervious surface of two thousand five hundred (2,500) square feet or more located within, directly adjacent to, or discharging directly to an environmentally sensitive area; or a project with an increase in impervious surface area of ten percent (10%) or more of its naturally occurring condition located within, directly adjacent to, or discharging directly to an environmentally sensitive area. "Directly adjacent" means situated within two hundred feet of the environmentally sensitive area. "Discharging directly to" means the outflow from a drainage conveyance system that is entirely composed of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands. "Environmentally sensitive area" are areas that include:

(i) The Clean Water Act Section 303(d) Water Bodies, including Aliso Creek and portions of the Pacific Ocean coastline;

COASTAL COMMISSION

EXHIBIT # 2
PAGE 8 OF 21

- (ii) The natural community conservation planning (NCCP) program areas;
- (iii) Coastline areas of special biological significance, including the Heisler Park Ecological Reserve, Laguna Beach Marine Life Refuge and South Laguna Marine Life Refuge;
- (iv) Areas of critical aquatic resource, including the mouth of Aliso Creek; and
- (v) Local environmentally sensitive areas, including areas of the Pacific Ocean coastline not listed as a Clean Water Act Section 303(d) Water Body. Environmentally sensitive areas are depicted on the water quality environmentally sensitive area (WQESA) map, (adopted as part of this chapter by reference). The areas directly adjacent to (within two hundred feet) of an environmentally sensitive area are also shown on the WQESA map.
- (10) All redevelopment projects that create add or replace at least five thousand (5,000) or more square feet of impervious surface area on an already developed site, and the existing development or redevelopment project falls under another priority development project category. If the redevelopment results in the addition or replacement of less than fifty percent (50%) of the impervious surface area on-site and the existing development was not previously subject to SSMP requirements, the numeric sizing criteria set forth in the NPDES/MS4 permit only apply to the addition or replacement area. If the addition or replacement accounts for fifty percent (50%) or more of the impervious surface area the SSMP requirements shall apply to the entire development.
- (11) Such additional development projects as may be added from time to time to the City's Model WQMP as priority development projects, in accordance with the NPDES/MS4 Permit.
- (HH) "Prohibited discharge" means any discharge that contains a pollutant into and from the storm water drainage system not authorized as a discharge exception in the NPDES/MS4 permit or Section 16.01.020 (L).
- (II) "Redevelopment" means the proposed creation, addition, and/or replacement of impervious surface area on an already developed site. Examples include the expansion of a building footprint, road widening, the addition to or replacement of a structure, and creation or addition of impervious surface areas. Replacement of impervious surface areas includes any activity that is not part of a routine maintenance activity where impervious material(s) are removed, exposing underlying soil during construction. Redevelopment does not include trenching and resurfacing associated with utility work, resurfacing existing roads; and routine replacement of damaged pavement, such as pothole repair.
- (JJ) "State general permit" means either the state general industrial storm water permit or the state general construction permit and the terms and requirements of either or both. In the event the U.S. Environmental Protection Agency revokes the in-lieu permitting authority of the State Water Resources Control Board, then the term state general permit shall also refer to any EPA administered storm water control program for industrial and construction activities.

COASTAL COMMISSION

(KK) "Storm water" means that portion of precipitation that flows across a surface to the storm water drainage system or receiving waters. Examples of this phenomenon include, but are not limited to: the water that flows off a building's roof when it rains (runoff from an impervious surface); the water that flows from a vegetated surface when rainfall is in excess of the rate at which it can infiltrate into the soil (runoff from a pervious surface); and the water that flows into streams when snow on the ground begins to melt (runoff from a semi-impervious surface). Runoff generally increases as the perviousness of a surface decreases. During precipitation events in urban areas, rain water picks up and transports pollutants through storm water conveyance systems and ultimately to water of the United States.

(LL) "Storm water drainage system" means any street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility which is a part of or tributary to the city-wide storm water runoff system and used for the purpose of collecting, storing, transporting or disposing of storm water. (Refer to municipal separate storm sewer system.)

(MM) "Urban runoff" means all flows in a storm water drainage system and consists of the following components:

- (1) Storm water (wet weather flows); and
- (2) Non-storm water discharges (dry weather flows).

Storm water and non-storm water flows may consist of both prohibited and non-prohibited discharges as defined in the NPDES/MS4 permit and this code.

(NN) "Water quality/urban runoff management plan (WQMP)" means a water quality plan which identifies and details appropriate/necessary source control, site design, and structural treatment BMPs that are incorporated into the project design to prevent, reduce or remove, to the maximum extent practicable, pollutant discharges, accelerated erosion and sediment runoff during development construction and operation activities. Synonymous terms for such a water quality plan are standard storm water mitigation plan (SSMP) and standard urban storm water mitigation plan (SUSMP).

16.01.030 Prohibition on illicit connections and prohibited discharges.

No person shall:

- (1) Construct, maintain, operate and/or utilize any illicit connection;
- (2) Cause, allow or facilitate any prohibited discharge or pollutant that causes or contributes to a condition of contamination;
- (3) Act, cause, permit or suffer any agent, employee, or independent contractor, to construct, maintain, operate or utilize any illicit connection, or cause, allow or facilitate any prohibited discharge; or

COASTAL COMMISSION

EXHIBIT # 2
PAGE 10 OF 21

- (4) Cause or allow a condition of accelerated erosion.

(Ord. 1442 § 1 (part), 2004).

16.01.040 Control of urban runoff.

(1) Compliance with Best Management Practices (BMPs). Every person owning property or conducting an activity or use of premises which cause or contribute to storm water pollution or contamination, prohibited discharges, or non-storm water discharges shall comply with BMP guidelines or pollution control requirements reasonably established by authorized water quality enforcement staff in order to prevent, reduce or remove, to the maximum extent practicable, pollutants from entering the storm water drainage system.

(2) All development, including redevelopment as defined above, within the city shall be undertaken and the required site design, source control, treatment control, and hydromodification BMPs implemented to ensure that pollutant discharges from development are prevented, reduced or removed, to the maximum extent practicable, and in accordance with:

(i) The NPDES/MS4 permit requirements and the JURMP/LIP and BMPs of the city. Site design and source control BMP's shall be utilized as a set of first priority measures to control pollutant discharges; and

(ii) The development project guidance, including but not limited to, where applicable, the City Model WQMP; provided however, that compliance with the requirements of the development project guidance shall not exempt a person from independently complying with all other applicable provisions of this Chapter.

(ii) Any conditions and requirements established by the community development department which are reasonably related to the reduction or elimination of pollutants in storm water runoff from the project site.

(3) Water Quality/Urban Runoff Management Plan (WQMP) Requirements. All development, including redevelopment as defined above, that is a priority development project shall comply with the requirements of Section 16.01.050.

(4) Prior to the issuance by the city of a grading permit, building permit or coastal development permit for any development, including redevelopment as defined above, the community development department shall review the project plans and impose BMPs, terms, conditions and requirements on the project in accordance with subsection (2) of this section. If the new development or redevelopment will be approved without application for a grading permit or building permit, the city's community development department shall review the project plans and impose BMPs, terms, conditions and requirements on the project in accordance with subsection (2) of this section prior to the issuance of the approval of the plans.

COASTAL COMMISSION

EXHIBIT # 2
PAGE 11 OF 21

(5) Compliance with the conditions and requirements of the NPDES/MS4 permit and JURMP/LIP shall not exempt any person from the requirement to independently comply with each provision of this chapter.

(6) The owner of a new development or redevelopment project or upon transfer of the property, its successors and assigns shall implement and adhere to the terms, conditions and requirements imposed pursuant to Section 16.01.040 on a new development or redevelopment project. Each failure by the owner of the property, or its successors or assigns to implement and adhere to the terms, conditions and requirements imposed pursuant to Section 16.01.040 on a new development or redevelopment project shall constitute a violation of this chapter.

(7) The city's community development department may require that the terms, conditions and requirements imposed pursuant to Section 16.01.040 be recorded with the county recorder's office by the property owner. The signature of the owner of the property or any successive owner shall be sufficient for the recording of these terms, conditions and requirements and a signature on behalf of the city shall not be required for recordation.

16.01.050 Water quality/urban runoff management plan (WQMP) requirements.

(1) A water quality/urban runoff management plan (WQMP) shall be prepared and submitted for all priority development projects and for non-priority projects where the city engineer or director of water quality have determined that typical site design and source control BMPs are not adequate to protect water quality along with the applicable land use, building or coastal development permit application. The WQMP shall be prepared by a qualified water quality professional, (e.g., a civil engineer or architect, including landscape architects, licensed by the state of California). The city may require independent review of the submitted WQMP, and the development project proponent shall pay for the cost of the independent review. The WQMP shall include proposed source control, site design, structural treatment control BMPs, and hydromodification controls as specified in the NPDES/MS4 permit, and the WQMP shall be prepared in conformance with the JURMP/LIP. Structural treatment BMPs may be required for any non-priority project that requires a coastal development permit for which the city engineer or the director of water quality determines that source control and site design BMPs are not sufficient to protect water quality. Factors that the city engineer or director of water quality shall consider in making the determination of a non-priority project's impact to water quality shall include, but not be limited to, the development's size, proximity to sensitive resources, drainage conditions, erosion potential of the site, amount of impervious surface, and types and quantities of contaminants at the site. Structural treatment BMP's shall be designed to comply with the volume or flow design criteria specified in the NPDES/MS4 permit.

(2) The BMPs contained in the WQMP shall at a minimum:

(i) Control the post-development peak storm water runoff discharge rates and velocities to maintain or reduce pre-development downstream erosion, and to protect stream or downstream habitat;

(ii) Conserve natural areas where feasible;

COASTAL COMMISSION

EXHIBIT # 2
PAGE 12 OF 21

(iii) Minimize storm water pollutants of concern in urban runoff from development, including redevelopment as defined above, through implementation of source control BMPs, including site design BMPs. Identification of pollutants of concern should include at a minimum consideration of any pollutants for which water bodies receiving the development runoff are listed as impaired under Clean Water Act Section 303(d), any pollutant associated with the land use type of development and any pollutant commonly associated with urban runoff;

(iv) Remove pollutants of concern from urban runoff through a combination of advanced site design, stringent source control or, where necessary, implementation of structural treatment BMPs;

(v) Minimize contiguously connected impervious areas where feasible;

(vi) Protect slopes and channels from eroding;

(vii) Include storm drain stenciling and signage;

(viii) Include properly designed outdoor material storage areas;

(ix) Include properly designed trash storage areas;

(x) Include proof of a mechanism, to be provided by the project proponent or city, which will ensure ongoing long-term structural treatment BMP maintenance.

(xi) Include additional water quality provisions applicable to individual priority project categories;

(xii) Be correctly designed so as to remove pollutants to the maximum extent practicable;

(xiii) Be implemented close to pollution sources, when feasible, and prior to discharging into receiving waters supporting beneficial uses; and

(xiv) Ensure that post-development runoff does not contain pollutant loads which cause or contribute to an exceedance of water quality objectives and which have not been reduced to the maximum extent practicable.

(3) Post-construction (Permanent) Best Management Practices (BMPs). Non-construction BMPs selected and incorporated in the WQMP are permanent and will remain in effect after the project is constructed and is placed into use.

(4) Property owners and developers, jointly and severally, and their successors shall fully comply with the requirements, plans and conditions of an approved WQMP.

COASTAL COMMISSION

EXHIBIT # 2
PAGE 13 OF 21

16.01.060 Best management practices (BMPs) maintenance.

The responsibility of maintaining BMPs incorporated into the project by an approved WQMP shall be borne by the property owners and developers, jointly and severally, and their successors. The WQMP shall include guidance on the proper maintenance of each permanent BMP. Constructive and timely notice shall be provided to all future owners of this maintenance responsibility. The owners or developers shall provide written verification to the city of acceptance for BMP maintenance. This verification shall include:

- (1) The owners or developers signed statement accepting responsibility for maintenance until the responsibility is legally transferred;
- (2) A signed statement from the property owner or public entity assuming responsibility for the BMP maintenance and that it meets all local agency design standards;
- (3) Written text in the project's conditions, covenants and restrictions (CC&Rs) for residential properties assigning maintenance responsibility to the home owner association for maintenance of the BMPs; or
- (4) Any other legally enforceable agreement that assigns responsibility for the maintenance of the BMPs, including a maintenance inspection schedule appropriate for the type of BMP.

16.01.070 Waiver.

A waiver of infeasibility, which waives the requirement for priority projects to implement structural treatment control BMPs, may be granted in the event the city engineer or director of water quality determines that all structural treatment control BMPs have been considered and determined that they are not feasible. Where waivers of infeasibility are granted, a WQMP shall be required to show how additional source control and site design BMPs, (e.g., requirements to use only landscaping that does not require irrigation or pesticides), will be implemented to minimize impacts to water quality. Projects may be denied, if the project cannot provide a combination of site design, source control and/or treatment control BMPs sufficient to protect water quality. Recognized situations of infeasibility include; extreme limitations of space for treatment on a redevelopment project; unfavorable or unstable soil conditions at a site to attempt infiltration; and risk of groundwater contamination because a known unconfined aquifer lies beneath the land surface or an existing or potential underground source of drinking water is less than ten feet from the soil surface. The city shall notify the San Diego Regional Water Quality Control Board (SDRWQCB) and the California Coastal Commission within five days of each waiver issued and shall include the name of the persons granting each waiver. Any waiver granted by the city may be revoked by the SDRWQCB for cause and with proper notice.

COASTAL COMMISSION

EXHIBIT #

PAGE

2
14 OF 2

16.01.080 Inspections.

(1) Right to Inspect. Prior to commencing any inspection as herein below authorized, the authorized water quality enforcement staff shall obtain either the consent of the owner or occupant of the property or shall obtain an administrative inspection warrant or criminal search warrant.

(2) Entry to Inspect. The authorized water quality enforcement staff may enter property to complete water quality inspections and to investigate the source of any discharge to any public street, inlet, gutter, storm drain or the storm water drainage system located within the jurisdiction of the city.

(3) Compliance Assessments. The authorized water quality enforcement staff may inspect property for the purpose of verifying compliance with this chapter, including but not limited to:

(i) Identifying products produced, processes conducted, chemicals used and materials stored on or contained within the property;

(ii) Identifying point(s) of discharge of all wastewater, process water systems and pollutants;

(iii) Investigating the natural slope at the location, including drainage patterns and man-made conveyance systems;

(iv) Establishing the location of all points of discharge from the property, whether by surface runoff or through a storm drain system;

(v) Locating any illicit connection or the source of prohibited discharge;

(vi) Investigating the condition of any legal nonconforming connection; and

(vii) Determining if BMPs are being satisfactorily implemented to eliminate sources of runoff pollution.

(4) Records Review. The authorized water quality enforcement staff may inspect all records of the owner or occupant of property relating to chemicals or processes presently or previously occurring on-site, including material and/or chemical inventories, facilities maps or schematics and diagrams, material safety data sheets, hazardous waste manifests, business plans, pollution prevention plans, state general permits, storm water pollution prevention plans, monitoring program plans and any other record(s) relating to illicit connections, prohibited discharges, a legal nonconforming connection or any other source of contribution or potential contribution of pollutants to the storm water drainage system.

COASTAL COMMISSION

EXHIBIT # 2
PAGE 15 OF 21

(5) Sample and Test. The authorized water quality enforcement staff may inspect, sample and test any area runoff, soils area (including groundwater testing), process discharge, materials within any waste storage area (including any container contents), and/or treatment system discharge for the purpose of determining the potential for contribution of pollutants to the storm water drainage system. The authorized water quality enforcement staff may investigate the integrity of all storm drain and sanitary sewer systems, any legal nonconforming connection or other pipelines on the property using appropriate tests, including but not limited to smoke and dye tests or video surveys. The authorized water quality enforcement staff may take photographs or video tape, make measurements or drawings, and create any other record reasonably necessary to document conditions on the property.

(6) Monitoring. The authorized water quality enforcement staff may erect and maintain monitoring devices for the purpose of measuring any discharge or potential source of discharge to the storm water drainage system.

(7) Test Results. The owner or occupant of property subject to inspection shall, on submission of a written request, receive copies of all monitoring and test results conducted by the authorized water quality enforcement staff.

16.01.090 Enforcement.

(A) Best Management Practices (BMPs). The city authorized water quality enforcement staff shall be authorized to reasonably require the establishment of BMPs pursuant to Section 16.01.040.

(B) Administrative Remedies.

(1) Notice of Noncompliance. The authorized water quality enforcement staff may deliver to the owner or occupant of any property, or to any person responsible for an illicit connection or prohibited discharge a notice of noncompliance. The notice of noncompliance shall be delivered in accordance with this chapter.

(i) The notice of noncompliance shall identify the provision(s) of this chapter or the applicable term(s), condition(s) or requirement(s) imposed under Section 16.01.040 which have been violated. The notice of noncompliance shall state that continued noncompliance may result in additional enforcement actions against the owner, occupant and/or person.

(ii) The notice of noncompliance shall state a compliance date that must be met by the owner, occupant and/or person; provided, however, that the compliance date may not exceed ninety days unless the authorized water quality enforcement staff extends the compliance deadline an additional ninety days where good cause exists for the extension.

(2) Administrative Compliance Order.

COASTAL COMMISSION

EXHIBIT # 2
PAGE 14 OF 21

(6) Appeal Hearing for Notices of Noncompliance, Administrative Compliance Orders, Invoices for Costs and Adverse Determinations. Except as set forth in this chapter, any person receiving a notice of noncompliance, administrative compliance order, a notice of legal nonconforming connection, an invoice for costs, or any person who is subject to any adverse determination made pursuant to this chapter, may appeal the matter by requesting an appeal hearing. Notwithstanding the foregoing, these administrative appeal procedures shall not apply to criminal proceedings initiated to enforce this chapter.

(7) Request for Appeal Hearing. Any person appealing a notice of noncompliance, an administrative compliance order, a notice of legal nonconforming connection, an invoice for costs or an adverse determination shall, within thirty days of receipt thereof, file a written request for an appeal hearing, accompanied by an appeal hearing fee as established by separate resolution, with the community development department. Thereafter, a hearing on the matter shall be held before the hearing commission within forty-five business days of the date of filing of the written request unless, in the reasonable discretion of the hearing commission and pursuant to a written request by the appealing party, a continuance of the hearing is granted.

(8) Appeal Hearing for Cease and Desist Orders and Emergency Abatement Actions. An appeal hearing on the issuance of a cease and desist order or following an emergency abatement action shall be held within five business days following the issuance of the order or the action of abatement, unless the hearing (or the time requirement for the hearing) is waived in writing by the party subject to the cease and desist order or the emergency abatement. A request for an appeal hearing shall not be required from the person subject to the cease and desist order or the emergency abatement action.

(9) Appeal Hearing Proceedings. The authorized water quality enforcement staff shall appear in support of the notice, order, determination, invoice for costs or emergency abatement action, and the appealing party shall appear in support of withdrawal of the notice, order, determination, invoice for costs, or in opposition to the emergency abatement action. Each party shall have the right to present testimony and other documentary evidence as necessary for explanation of the case.

(10) Final Decision and Appeal. The final decision of the hearing commission shall be issued as soon as possible after the conclusion of the hearing and shall be delivered by first-class mail to the appealing party. The final decision shall include notice that any appeal of the decision shall be subject to the provisions of Section 25.05.070.

(11) City Abatement. In the event the owner of property, the operator of a facility, a permittee or any other person fails to comply with any provision of a compliance schedule issued to such owner, operator, permittee or person pursuant to this chapter, the authorized water quality enforcement staff may request the enforcing attorney to obtain an abatement warrant or other appropriate judicial authorization to enter the property, abate the condition and restore the area. Any costs incurred by the city in obtaining and carrying out an abatement warrant or other judicial authorization may be recovered pursuant to this chapter.

COASTAL COMMISSION

EXHIBIT # 2
PAGE 17 OF 21

(12) Administrative Citation. Authorized water quality enforcement staff may issue an administrative citation pursuant to Chapter 1.15 of this code. Upon issuance of such a citation, all of the provisions of Chapter 1.15 shall apply.

(C) Any condition in violation of the prohibitions of this chapter, including but not limited to the maintenance or use of any illicit connection or the occurrence of any prohibited discharge, shall constitute a threat to the public health, safety and welfare, and is declared and deemed a nuisance pursuant to Government Code Section 38771.

(1) Court Order to Enjoin or Abatement. At the request of the city manager, the enforcing attorney may seek a court order to enjoin and/or abate the nuisance.

(2) Notice to Owner and Occupant. Prior to seeking any court order to enjoin or abate a nuisance or threatened nuisance, the city manager shall provide notice of the proposed injunction or abatement to the owner and occupant, if any, of the property where the nuisance or threatened nuisance is occurring.

(3) Emergency Abatement. In the event the nuisance constitutes an imminent danger to public safety or the environment, the city manager or persons designated and under his or her instruction may enter the property from which the nuisance emanates, abate the nuisance and restore any property affected by the nuisance. To the extent reasonably practicable, informal notice shall be provided to the owner or occupant prior to abatement. If necessary to protect the public safety or environment, abatement may proceed without prior notice to or consent from the owner or occupant thereof and without judicial warrant.

(i) An imminent danger shall include, but is not limited to, exigent circumstances created by the dispersal of pollutants, where the same presents a significant and immediate threat to the public safety or the environment.

(ii) Notwithstanding the authority of the city to conduct an emergency abatement action, an appeal hearing pursuant to this chapter hereinabove shall follow the abatement action.

(4) Reimbursement of Costs. All costs incurred by the city in responding to any nuisance, all administrative expenses and all other expenses recoverable under state law, shall be recoverable from the person(s) creating, causing, committing, permitting or maintaining the nuisance.

(5) Nuisance Lien. All costs shall become a lien against the property from which the nuisance emanated and a personal obligation against the owner thereof in accordance with Government Code Section 38773.1 and Section 38773.5. The owner of record of the property subject to any lien shall be given notice of the lien prior to recording as required by Government Code Section 38773.1.

COASTAL COMMISSION

EXHIBIT # 2
PAGE 18 OF 21

At the direction of the city manager, the enforcing attorney is authorized to collect nuisance abatement costs or enforce a nuisance lien in an action brought for a money judgment or by delivery to the county assessor of a special assessment against the property in accord with the conditions and requirements of Government Code Section 38773.5.

(D) Criminal Sanctions.

(1) Prosecutor. The enforcing attorney may act on the request of the city manager to pursue enforcement actions in accordance with the provisions of this chapter.

(2) Infractions. Any person who may otherwise be charged with a misdemeanor under this chapter may be charged, at the discretion of the enforcing attorney, with an infraction punishable by a fine specified by the administrative citation schedule of fines adopted by the city council in accordance with the requirements set forth in Section 1.15.070 of this code.

(3) Misdemeanors. Any person who negligently or knowingly violates any provision of this chapter, undertakes to conceal any violation of this chapter, continues any violation of this chapter after notice thereof, or violates the terms, conditions and requirements of any permit issued in conformance to this chapter, shall be guilty of a misdemeanor punishable by a fine of not more than two thousand dollars or by imprisonment for a period of not more than six months, or both.

(E) Consecutive Violations. Each day in which a violation occurs and each separate failure to comply with either a separate provision of this chapter, an administrative compliance order, a cease and desist order, an applicable water quality management plan, or a permit issued pursuant to this chapter, shall constitute a separate violation of this chapter punishable by fines or sentences issued in accordance herewith.

(F) Nonexclusive Remedies. Each and every remedy available for the enforcement of this chapter shall be nonexclusive and it is within the discretion of the authorized water quality enforcement staff or enforcing attorney to seek cumulative remedies, except that multiple monetary fines or penalties shall not be available for any single violation of this chapter.

(G) Citations. Pursuant to Penal Code Section 836.5, the authorized water quality enforcement staff shall have the authority to cause the arrest of any person committing a violation of this chapter. The person shall be released and issued a citation to appear before a magistrate in accordance with Penal Code Sections 853.5, 853.6 and 853.9, unless the person demands to be taken before a magistrate. Following issuance of any citation the authorized water quality enforcement staff shall refer the matter to the enforcing attorney.

Each citation to appear shall state the name and address of the violator, the provisions of this chapter violated, and the time and place of appearance before the court, which shall be at least ten business days after the date of violation. The person cited shall sign the citation giving his or her written promise to appear as stated therein. If the person cited fails to appear, the enforcing attorney may request issuance of a warrant for the arrest of the person cited.

COASTAL COMMISSION

EXHIBIT # 2
PAGE 19 OF 21

(H) Violations of Other Laws. Any person acting in violation of this chapter also may be acting in violation of the federal Clean Water Act or the state Porter-Cologne Act and other laws and also may be subject to sanctions including civil liability. Accordingly, the enforcing attorney is authorized to file a citizen suit pursuant to federal Clean Water Act Section 505(a), seeking penalties, damages, and orders compelling compliance, and other appropriate relief. The enforcing attorney may notify EPA Region IX, the San Diego Regional Water Quality Control Board, or any other appropriate state or local agency, of any alleged violation of this chapter.

(I) Injunctions. At the request of the city manager, the enforcing attorney may cause the filing in a court of competent jurisdiction, of a civil action seeking an injunction against any threatened or continuing noncompliance with the provisions of this chapter.

Any temporary, preliminary or permanent injunction issued pursuant hereto may include an order for reimbursement to the city of all costs incurred in enforcing this chapter, including costs of inspection, investigation and monitoring, the costs of abatement undertaken at the expense of the city, costs relating to restoration of the environment and all other expenses as authorized by law.

16.01.100 Miscellaneous.

(A) Compliance Disclaimer. Full compliance by any person or entity with the provisions of this chapter shall not preclude the need to comply with other local, state or federal statutory or regulatory requirements, which may be required for the control of the discharge of pollutants into storm water and/or the protection of storm water quality.

(B) Severability. If any provision of this chapter or the application of the chapter to any circumstance is held invalid, the remainder of the chapter or the application of the chapter to other persons or circumstance shall not be affected.

(C) Judicial Review. The provisions of Section 1094.5 and Section 1094.6 of the Code of Civil Procedures set forth the procedure for judicial review of any act taken pursuant to this chapter. Parties seeking judicial review of any action taken pursuant to this chapter shall file such action within ninety days of the occurrence of the event for which review is sought.

SECTION 2: This Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

SECTION 3: All ordinances and provisions of the Laguna Beach Municipal Code and sections thereof inconsistent herewith shall be hereby repealed to the extent of such inconsistency and no further.

COASTAL COMMISSION

EXHIBIT # 2
PAGE 20 OF 21

SECTION 4: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this entire Ordinance or any of the remaining portions hereof. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

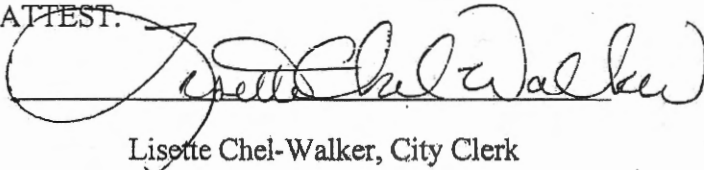
SECTION 5: The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective on the expiration of thirty (30) days from and after the date of its adoption.

ADOPTED this 14th day of April, 2015.



Bob Whalen, Mayor

ATTEST.



Lisette Chel-Walker, City Clerk

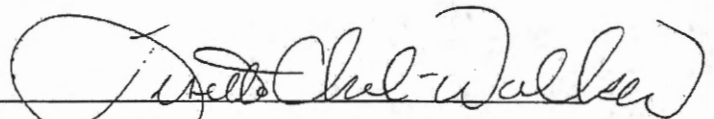
I, Lisette Chel-Walker Anderson, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. 1597 was introduced at a regular meeting of the City Council on March 31, 2015 and was finally adopted at a regular meeting of the City Council of said City held on April 14, 2015 by the following vote:

AYES: COUNCILMEMBER(S): Boyd, Iseman, Zur Schmiede, Dieterow, Whalen

NOES: COUNCILMEMBER(S): None

ABSTAIN: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): None



City Clerk, City of Laguna Beach, CA

COASTAL COMMISSION

EXHIBIT # 2
PAGE 21 OF 21