

ATTACHMENT 3

Chapter 8.30 - SURFACE AND GROUNDWATER PROTECTION: NPDES PERMIT IMPLEMENTATION

8.30.010 - Authority.

This chapter is enacted pursuant to the National Pollutant Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements (WDRs) for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s); ~~NPDES No. CAS000004 (MS4 Permit)~~ issued and as amended, reissued, or otherwise modified by the California State Water Resources Control Board (SWRCB); pursuant to Section 402 of the Federal Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act, ("Porter-Cologne Act"), California Water Code § 13000 et seq. (MS4 Permit).

8.30.020 - Title, purpose, intent and objective.

- A. ~~(a)~~ This chapter shall be known as the City of Hesperia (city) "Surface and Groundwater Protection: NPDES Permit Implementation Ordinance," and may be cited as such.
- B. ~~(b)~~ This chapter confirms and consolidates the legal authority necessary to control discharges to and from the city's MS4 as required by the MS4 Permit.
- C. ~~(c)~~ This chapter is enacted to ensure the health, safety and general welfare of the residents of the City-city, of Hesperia and to protect and enhance the water quality of receiving waters, including and groundwater, in a manner pursuant to and consistent with the CWA, the Porter-Cologne Act, and the MS4 Permit by reducing pollutants in stormwater discharges into the city's MS4 to the maximum extent practicable (MEP).
- D. ~~(d)~~ This chapter further ensures the health, safety and general welfare of the residents of the city by prohibiting unauthorized non-stormwater discharges into the city's MS4, and by establishing legal authority to implement and enforce all stormwater management requirements, and carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter, and ~~with~~ the MS4 Permit.

8.30.030 - Definitions.

Unless specifically defined in Chapter 1.04, or as defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

~~"Basin plan" means the Water Quality Control Plan for the Lahontan Region.~~

"Beneficial Uses" means the uses of water necessary for the survival or wellbeing of man, plants, and wildlife. ~~These uses of water serve to promote the tangible and intangible economic, social, and environmental goals.~~ "Beneficial Uses" that may be protected include, but are not limited to: domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. ~~Existing beneficial uses are uses that were attained in the surface or groundwater on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. "Beneficial Uses" are equivalent to "Designated Uses" under federal law. (California~~

~~Water Code Section 13050(f)). Beneficial Uses for the Receiving Waters are identified in the Basin Plan.~~

"Best management practice(s)" or "BMP(s)" means any schedule of activities, prohibitions of practices, maintenance procedures, and other management practices or guidelines as adopted by any federal, state, regional or local agency to prevent or reduce the discharge of pollutants directly or indirectly to the city's MS4 and surface or groundwaters. BMPs include, but are not limited to: treatment requirements; operating and maintenance practices to control runoff, sludge, waste disposal, spillage or leaks of non-stormwater and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices and procedures and other such provisions as the city determines appropriate for the control of pollutants. Examples of BMPs may include: public education and outreach; proper planning of development projects; proper cleaning of catch basin inlets; proper sludge or waste handling and disposal; treatment requirements; operating procedures; and practices to control site runoff, spillage or leaks, sludge or waste storage and disposal or drainage from raw material or chemical storage.

~~"CASQA" means the California Stormwater Quality Association.~~

~~"City engineer" means the city engineer of the City of Hesperia, or his/her designee.~~

~~"Clean Water Act" or "CWA" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended (33 U.S.C. 1251, et seq.).~~

~~"Clean Water Act Section 402(p)" means the federal statute requiring municipal and industrial dischargers to obtain NPDES permits for their discharges of stormwater [33 USC 1342(p)].~~

~~"Clean Water Act Section 303(d) Listed Water Body" means an impaired water body in which water quality does not meet applicable water quality standards and/or is not expected to meet water quality standards, even after the application of technology-based pollution controls required by the CWA. The discharge of urban runoff to these water bodies by MS4 Permittees is significant because these discharges can cause or contribute to violations of applicable water quality standards.~~

"Construction activity" means any activity used in the process of developing, redeveloping, enhancing or maintaining land that involves soil disturbing activities; including, but not limited to, clearing, paving, grading, and disturbances to ground such as stockpiling and excavation.

~~"Construction General Permit" or "CGP" means the current version of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm water Discharges Associated with Construction and Land Disturbance Activities: NPDES No. CAS000002. The CGP is issued by the SWRCB for discharges associated with construction projects over one acre, or smaller sites that are part of a larger common plan of development or sale.~~

"Contamination" means "an impairment of the quality of waters of the ~~S~~state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease (as defined in the Porter Cologne Act).-" "Contamination" includes any equivalent effect resulting from the disposal of waste whether or not Waters of the ~~United~~ S ~~States~~ tates are affected.

~~"Criteria" means the numeric values and the narrative standards that represent contaminant concentrations that are not to be exceeded in the receiving environmental media (surface water, groundwater, sediment) to protect beneficial uses.~~

"Discharge" means the release or placement, either directly or indirectly, of any substance into the city's MS4, or where it can be transported to the city's MS4, through gravity-driven, hydraulic, wind, or other processes including, but not limited to, stormwater, non-stormwater, wastewater, solid materials, liquids, hazardous material, raw materials, debris, litter, trash, or any other substance.

"Discharger" means any person engaged in any activities or operations on any premises, or owning or having control over the day to day operations of facilities or premises which may result in the release or placement, either directly or indirectly, of any substance into the city's MS4, including, but not limited to, stormwater, non-stormwater, wastewater, solid materials, liquids, hazardous material, raw materials, debris, litter, trash, or any other substance. Dischargers include, but are not limited to: real property owners; occupants, tenants and lessees of real property; contractors and developers; industrial, commercial and other business facility owners, and the agents, managers, officers, ~~or employees~~, or volunteers of any of the foregoing.

~~"Environmentally Sensitive Areas (ESAs)" means areas that include but are not limited to all Clean Water Act Section 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance in the Basin Plan; water bodies designated with the RARE beneficial use in the Basin Plan; areas designated as preserves or their equivalent under the Natural Communities Conservation Program (Multiple Species Habitat Conservation Plan, MSHCP) within or with participation by the city; and any other equivalent environmentally sensitive areas which have been identified by the regional board or local jurisdictions.~~

"Erosion" means the process whereby material (such as sediment) is detached and entrained in water or air and can be transported to a different location. Chemical erosion involves materials that are dissolved and removed and transported.

"Facility" means a public or private place, amenity, structure, or piece of equipment built, installed or established for a particular purpose.

~~"Small MS4 Permit" (MS4 Permit) means the National Pollutant Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements (WDRs) for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) applicable to the City of Hesperia (Water Quality Order No. 2013-0001—DWQ, General Permit No. CAS000004), and any subsequent amendment, reissuance or successor to the municipal NPDES permit.~~

~~"GIS" means Geographical Information Systems.~~

"Grading" means the cutting and/or filling of the land surface to a desired slope or elevation.

~~"Green Infrastructure" means, generally, technologically feasible and cost-effective systems and practices that use or mimic natural processes to infiltrate, evapotranspire, or use stormwater or runoff on the site where it is generated. Green infrastructure is sometimes used interchangeably with low impact development (LID). See LID.~~

"Hazardous material" or "hazardous substance" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous materials include, but are not limited to, those specified in Division 20, Chapter 6.5 of the California Health and Safety Code; 40 CFR Part 116; or 40 CFR Part 302.

"Hydromodification" means the "alteration of the hydrologic characteristics of coastal and noncoastal waters, which in turn could cause degradation of water resources" (USEPA, 2007). The change in the natural watershed hydrologic processes and runoff characteristics (i.e., interception, infiltration, runoff flow rate and/or volume, evapotranspiration, overland flow, interflow and groundwater flow) caused by urbanization or other land use changes that may result in downstream impacts, such as increased stream flows and sediment transport.

"Illegal connection" means:

1. 1: Any drain, pipe, open channel or other conveyance, whether on the surface or subsurface, which allows, or has the potential to allow, an illicit discharge to enter the MS4, including, but not limited to, any connections to the MS4 from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted or approved by a government agency; or
2. 2: Any drain or conveyance connected to the MS4 that is not permitted pursuant to a valid NPDES permit or which has not been documented in plans, maps or equivalent records approved by the city.

"Illicit discharge" means any of the following:

1. 1: Any direct or indirect non-stormwater discharges to the MS4 that are not composed entirely of stormwater, except as exempted in ~~section~~ Section 408.30.100 of this chapter;
2. 2: Any direct discharge to the MS4 from an illegal connection; or
3. 3: Any direct or indirect discharge to the MS4 that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations, including but not limited to, those discharges prohibited by the discharge prohibitions section of the MS4 Permit.

"Impervious surface" means a constructed, modified, or natural surface that cannot effectively infiltrate rainfall. The term includes, but is not limited to, building rooftops, pavement, sidewalks, driveways, and impervious bedrock outcroppings.

"Incidental runoff" means unintended amounts (volume) of runoff, such as unintentional, minimal over-spray from sprinklers that escapes the area of intended use. Water leaving an intended use area is not considered incidental runoff if it is: (1) part of a facility's design; (2) due to intentional overflow or application; or (3) due to negligence.

~~"Industrial General Permit" or "IGP" means the current version of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated~~

with Industrial Activities Order NPDES NO. CAS000001, issued by the SWRCB (covered industrial SIC Codes are listed in 40 CFR Section 122.26(b)(14)).

"Linear Underground/Overhead Project (LUP)" means, but is not limited to, any conveyance, pipe, or pipeline for the transportation of any gaseous, liquid (including water and wastewater for domestic municipal services), liquescent, or slurry substance; any cable line or wire for the transmission of electrical energy; any cable line or wire for communications (e.g. telephone, telegraph, radio or television messages); and associated ancillary facilities. Construction activities associated with LUPs include, but are not limited to, (a) those activities necessary for the installation of underground and overhead linear facilities (e.g. conduits, substructures, pipelines, towers, poles cables, wires, connectors, switching, regulating and transforming equipment, and associated ancillary facilities); and include, but are not limited to, (b) underground utility mark-out, potholing, concrete and asphalt cutting and removal, trenching, excavation, boring and drilling, access road and pole/tower pad and cable/wire pull station, substation installation, construction of tower footings and/or foundations, pole and tower installations, pipeline installations, welding, concrete and/or pavement repair or replacement, and stockpile/borrow locations.

"Low impact development" or "LID" means a sustainable development practice that benefits water supply and contributes to water quality protection. LID uses site design and stormwater management to maintain the site's predevelopment runoff rates and volumes. The goal of LID is to mimic a site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of rainfall.

"~~MEP (Maximum Eextent Ppracticable)~~" or "MEP" means management practices, control techniques, and system design and engineering methods for the control of pollutants taking into account considerations of synergistic, additive, and competing factors, including, but not limited to pollutant removal effectiveness, regulatory compliance, gravity of the problem, public acceptance, social benefits, cost and technological feasibility. ~~although MEP is not defined in the CWA. MEP is the technology-based standard established by Congress in CWA section 402(p)(3)(B)(iii) that operators of MS4s must meet.~~ Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control BMPs that the state or city determine appropriate for the reduction of pollutants in stormwater. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense). ~~MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead, the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their urban runoff management programs. Their total collective and individual activities conducted pursuant to the urban runoff management programs becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for MS4 maintenance). In the absence of a proposal acceptable to the regional board, the regional board defines MEP.~~

"Municipal separate storm sewer system" or ("MS4") means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, natural drainage features or channels, modified natural channels, man-made channels or storm drains) which is: (1) owned or operated by the city; (2) designated or used for collecting or conveying stormwater; (3) not a combined sewer; and (4) not part of a publicly owned treatment works (POTW) as defined at 40 CFR § 122.12.

"New development" means all public and private residential (whether single family, multi-unit or planned unit development), industrial, commercial, retail, and other nonresidential construction projects, or grading for future construction, on an area/land that has not previously been developed and for which a city discretionary land use permit or approval is required.

"National Pollution Discharge Elimination System (NPDES)" means a national program under Section 402 of the CWA for regulation of discharges of pollutants from point sources to ~~w~~Waters of the United States. Such discharges are illegal unless authorized by an NPDES permit.

"NPDES permit" means a NPDES Permit issued pursuant to the CWA by the EPA, the SWRCB or a RWQCB.

"~~_NOI~~[Notice of Intent]" or "NOI" means an application for coverage under ~~the General Stormwater~~ NPDES Permits.

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

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

~~"Open space" means any parcel or area of land or water that is essentially unimproved or devoted to an open space use for the purposes of (1) the preservation of natural resources, (2) the managed production of resources, (3) outdoor recreation, or (4) public health and safety. [Riverside County General Plan, adopted October 7, 2003. Technical Appendix A, Glossary]~~

~~"Outfall" means a Point Source as defined by 40 CFR 122.2 a, the point where a municipal separate storm sewer discharges to Waters of the United States, or Water of the State, and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances which 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 122.26 (b)(9)]~~

~~"Owner" means the person with the right of possession of a parcel of real property, or the structure or facility on such real property. Owner also means and includes any part owner, joint tenant, tenant, tenant in common, or joint tenant of the whole or a part thereof.~~

~~"Person" means any individual as well as any partnership, committee, business entity, association, corporation, public agency, joint venture, and any other organization, entity or group of persons, public or private, or the agent, employee or representative of any of the above.~~

"Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, trash, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including, but not limited to, sediments, slurries, concrete rinsates, lime, and asphalt); pollutants as defined in Section 1362(6) of the CWA; and noxious or offensive matter of any kind.

"Pollution" means "the alteration of the quality of the Waters of the United States by waste, to a degree that unreasonably affects either of the following: 1) The waters for beneficial uses; or 2) Facilities that serve these beneficial uses (as defined in the Porter-Cologne Act)." Pollution may include contamination.

~~"Pollution prevention" means practices and processes that reduce or eliminate the generation of pollutants, in contrast to source control, treatment, or disposal.~~

"Pollutants of concern" means pollutants defined by the system of interest: a list of potential pollutants to be analyzed for in the Monitoring and Reporting Program. This list shall include: TSS, total inorganic nitrogen, total phosphorus, soluble reactive phosphorus, acute toxicity, fecal coliform, total coliform, pH, and chemicals/potential Pollutants expected to be present on the project site. In developing this list, consideration should be given to the chemicals and potential Pollutants available for stormwater to pick-up or transport to Receiving Waters, all Pollutants for which a waterbody within the Permit Area that has been listed as impaired under CWA Section 303(d), the category of development and the type of Pollutants associated with that development category. It also refers to pollutants for which water bodies are listed as impaired under CWA section 303(d), pollutants associated with the land use type of a development, and/or pollutants commonly associated with urban runoff. Pollutants commonly associated with urban runoff include total suspended solids; sediment; pathogens (e.g., bacteria, viruses, protozoa); heavy metals (e.g., copper, lead, zinc, and cadmium); petroleum products and polycyclic aromatic hydrocarbons; synthetic organics (e.g., pesticides, herbicides, and PCBs); nutrients (e.g., nitrogen and phosphorus fertilizers); oxygen-demanding substances (decaying vegetation, animal waste, and anthropogenic trash).

~~"Porter-Cologne Act" means the Porter-Cologne Water Quality Control Act, California Water Code section 13000, et seq.~~

"Post-Construction BMPs" means a subset of BMPs including structural and non-structural controls which detain, retain, filter, or educate to prevent the release of pollutants to surface waters during the final functional life of development.

"Premises" means any building, structure, lot, parcel or land, or portion thereof, whether improved or unimproved, including adjacent sidewalks and parking strips.

~~"Rainy season/wet season" means the period from October 1 through May 31st of each year.~~

"Receiving waters" means all surface water bodies, including any natural or manmade stream, whether flowing continuously or not, that is fed from permanent or natural sources, and, without limitation, rivers, creeks, runs, rivulets, and drains within ~~San Bernardino County~~the city that are identified by the regional board in a basin plan. A receiving water may or may not be properly defined as a Water of the United States. Groundwater is fed from receiving waters on the surface. Therefore, although not technically defined as a "receiving water", groundwater is protected as a receiving water and by groundwater-specific regulations.

"Redevelopment" means any land-disturbing activity that results in the creation, addition, or replacement of ~~exterior~~ impervious surface area on a site on which some past development has occurred and for which a city discretionary land use permit or approval is required. Redevelopment does not include trenching, excavation and resurfacing associated with linear underground projects ("LUPs"); pavement grinding and resurfacing of existing roadways; construction of new sidewalks, pedestrian ramps, or bike lanes on existing roadways; or routine replacement of damaged pavement such as pothole repair or replacement of short, non-contiguous sections of roadway.

"Regional board" or "RWQCB" means the California Regional Water Quality Control Board—Lahontan Region.

"Regulated project" means development projects that create and/or replace 5,000 square feet or more of impervious surface. ~~The Permittee shall require Regulated Projects to implement measures for site design, source control, runoff reduction, stormwater treatment and baseline hydromodification management.~~

"Sediment" means mineral and organic solid particulate matter soil, sand, and minerals that is suspended, transported, or moved from its site of origin by air, water, gravity, snow, or ice and comes to rest on the earth's surface or is washed from land into water. Sediment resulting from anthropogenic sources (Le.g. human induced land disturbance activities) is considered a pollutant. This Order code regulates only the discharges of sediment from anthropogenic sources and does not regulate naturally occurring sources of sediment. ~~Sediment can destroy fish nesting areas, clog animal habitats, and cloud waters so that sunlight does not reach aquatic plants.~~

"Site ~~d~~Design BMP" means any project design feature that reduces the creation or severity of potential pollutant sources or reduces the alteration of the project site's hydrology. Redevelopment projects that are undertaken to remove pollutant sources (such as existing surface parking lots and other impervious surfaces) or to reduce the need for new roads and other impervious surfaces (as compared to conventional or low-density new development) by incorporating higher densities and/or mixed land uses into the project design, are also considered site design BMPs.

"Site design measures" means specific measures that reduce project site runoff in accordance with the MS4 Permit and as specified by the city.

"Site design only projects" means development projects that create and/or replace 2,500 – 5,000 square feet of impervious surface including, but not limited to, single family infill development that are not part of a larger plan development, accessory dwelling units, and detached garages.

~~"Small Municipal Separate Storm Sewer System (Small MS4)" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are: (i) Owned or operated by the United States, a State, city, town, boroughs, 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 designated and approved management agency under section 208 of the CWA that discharges to waters of the United States. (ii) Not defined as "large" or "medium" municipal separate storm sewer systems (iii) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings. (40 CFR §122.26(b)(1))~~

"State Board" or "SWRCB" means the California State Water Resources Control Board.

"Stormwater pollution prevention plan" or "SWPPP" means a pollution control plan documenting site activities, pollutant sources; and all stormwater and non-stormwater BMPs used at the site, required under 40 CFR Part 122, the CWA, the CGP, IGP, and most MS4 Permits. A plan to minimize and manage **P**ollutants to minimize **P**ollution from entering the MS4, identifying all potential sources of **P**ollution and describing planned practices to reduce **P**ollutants from discharging off the site.

"Source **c**ontrol **B**MPs" means, in general, activities or programs to educate the public or provide low cost non-physical solutions, as well as facility design or practices aimed to limit the contact between pollutant sources and stormwater or authorized non-stormwater. Examples include: activity schedules, prohibitions of practices, street sweeping, facility maintenance, detection and elimination of illegal connections~~IC/ID~~illicit discharges, and other non-structural measures. Facility design (structural) examples include providing attached lids to trash containers, canopies for fueling islands, secondary containment, or roof or awning over material and trash storage areas to prevent direct contact between water and Pollutants.

~~"Stormwater" or "stormwater" means any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation. Stormwater runoff is generated when precipitation flows over land or impervious surfaces and does not percolate into the ground. Without any change in its meaning, this term may be spelled or written as one word or two separate words.~~

"Structural BMP" means any structural facility designed and constructed to mitigate the adverse impacts of stormwater and urban runoff pollution, including treatment control BMPs.

~~"Total Maximum Daily Load (TMDL)" means the maximum amount of a pollutant that can be discharged into a water body from all sources (point and non-point) while still maintaining water quality standards. Under Clean Water Act Section 303(d), TMDLs must be developed for~~

~~all water bodies that do not meet water quality standards after application of technology-based controls.~~

~~"TMDL Implementation Plan" means the component of a TMDL that describes actions, including monitoring, needed to reduce Pollutant loadings and a timeline for implementation. TMDL Implementation Plans can include a monitoring or modeling plan and milestones for measuring progress, plans for revising the TMDL if progress toward cleaning up the waters is not made, and the date by which Water Quality Standards will be met (USEPA Final TMDL Rule: Fulfilling the Goals of the CWA, EPA 841-F-00-008, July 2000).~~

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

"Unauthorized non-stormwater discharge" means discharges of material other than stormwater to waters of the United States that are not prohibited provided any pollutant discharges are identified, and appropriate control measures are developed and implemented to minimize the impacts of such discharges. The "Discharge Prohibitions" section of the MS4 Permit provides a list of specific discharge types, which are thus conditionally authorized by the MS4 Permit. Any non-stormwater discharges that are in violation of the Basin Plan are also unauthorized.

"Urban runoff" means surface water flow produced by storm and non-storm events. Non-storm events include flow from residential, commercial, or industrial activities involving the use of potable and non-potable water.

~~"USEPA" means the United States Environmental Protection Agency.~~

"Waste" means "...sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal," as defined in California Water Code Section 13050(d). Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a waste classification system which applies to solid and semi-solid waste which cannot be discharged directly or indirectly to waters of the state and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of waste (listed in order of highest to lowest threat to water quality): hazardous waste, designated waste, nonhazardous solid waste, and inert waste.

"Waste Discharge Requirements (WDRs)" means the equivalent of the term "permits" as defined in Section 13374 of the California Water Code and as used in the Federal Water Pollution Control Act, as amended. The Regional Board usually reserves reference to the term "permit" to Waste Discharge Requirements for discharges to surface Waters of the United States.

~~"Water Quality Objective" means the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area. (California Water Code Section 13050(h))~~

"Water Quality Management Plan" or "WQMP" means the document required by the city for all new development, and redevelopment projects and regulated projects as defined in accordance with the provisions of Section E.12 of the municipal NPDES MS4 permit which

demonstrates that a project site is in compliance with the post-construction requirements set forth in the ~~municipal NPDES~~MS4 permit. A WQMP will specify appropriate measures for site design, source control, runoff reduction, stormwater treatment, baseline Hydromodification management and LIDs required for such projects. The city has two WQMP "types," as follows: (1) WQMP for Regulated Projects, and (2) WQMP for Site Design Only Projects.

"Water quality standards" means (1) the beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.,) of receiving waters and (2) the water quality objectives necessary to protect those uses.

"Watershed" means the geographical area which drains to a specified point on a water course, usually a confluence of streams or rivers (also known as drainage area, catchment, or river basin).

~~"Waters of the United States" means, broadly, the navigable surface waters and all tributary surface waters to navigable surface waters. Groundwater is not considered to be a Water of the United States. In 40 CFR 122.2, Waters of the U.S. are defined as: (a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate "wetlands;" (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as waters of the United States under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial seas; and (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA.~~

~~"_WDID (Waste Discharger Identification)"~~ or "WDID" means the identification number provided by the ~~S~~state when a Notice of Intent is filed to obtain permit coverage under general permits, including the IGP, CGP, and the ~~General Small~~MS4 Permit.

8.30.040 - Administration.

A. ~~(a)~~ Except as otherwise provided in this chapter, the ~~city manager or authorized designee~~director shall administer, implement, and enforce the provisions of this chapter.

B. ~~(b)~~ This chapter applies to dischargers and places of discharge located within the city that discharge stormwater or non-stormwater into the MS4, receiving waters, and/or groundwater. However, this chapter may not be enforceable in areas where the city lacks legal jurisdiction over stormwater or non-stormwater discharges into their MS4 from State and federal facilities, e.g., schools and hospitals, utilities and special districts, Native American tribal lands, wastewater management agencies and other point and

non-point source discharges otherwise permitted by the United States Environmental Protection Agency (USEPA) or the regional board.

8.30.050 - Compatibility with other regulations.

This chapter is intended to be consistent with any current federal, ~~or state, or local~~ law, regulation, order, or permit, and as any of these may be amended, reissued, or otherwise modified from time to time.

8.30.060 - Ultimate responsibility for discharges.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into the MS4, receiving waters, or groundwater. This chapter shall not create liability on the part of the city, or any agent or employee thereof, for any damages that result from any discharger's reliance on this chapter or any administrative decision lawfully made under this chapter.

8.30.070—8.30.090 - Reserved.

8.30.100 - Prohibited discharges.

A. ~~(a)~~ Except as exempted in the MS4 Permit, no person shall discharge, facilitate, cause, permit or allow to be discharged to the MS4, receiving water, and/or groundwater, either directly or indirectly, any illicit discharge, including but not limited to, pollutants, hazardous materials and other unauthorized non-stormwater discharges.

B. ~~(b)~~ It is prohibited to intentionally dispose of leaves, dirt, other landscape debris, or trash into the MS4, receiving waters, or groundwater.

8.30.110 - Prohibited discharge exemptions.

A. ~~(a)~~ Prohibited discharges and exemptions to prohibited discharges are identified and described in the MS4 Permit.

B. ~~(b)~~ Nothing in this section eliminates the need to obtain any other appropriate permits, such as those discharges which are required to be enrolled under the "Waste Discharge Requirements and NPDES General Permit for Limited Threat Discharges to Surface Water".

8.30.120 - Limitation of exemption.

Notwithstanding the exemptions provided in the MS4 Permit, if the city, either independently or at the direction of the regional board, determines that an exempt discharge type is a significant source of pollutants, threatens applicable water quality standards, causes or contributes to a violation of any receiving water limitation, results in the conveyance of pollutants to the MS4, receiving waters, or groundwater, or is otherwise a danger to public health or safety, the city may prohibit, limit, or direct the control of such discharge and thereafter may take any enforcement option available.

8.30.130 - Requirement to ~~eliminate-abate~~ illicit/~~illegal~~ discharges.

~~The city shall require d~~Dischargers are required to promptly cease and desist discharging ~~and/or cleanup~~ and abate any illicit/~~illegal~~ discharge, including, as applicable, any of the following ~~actions~~:

~~(a)A.~~ Every owner of, and/or responsible person for, any premises, who becomes aware of an illicit ~~or illegal~~ discharge ~~from the site~~, whether to the MS4, receiving water, or land surface, shall immediately cease the discharge, eliminate-abate the discharge within seventy-two (72) hours, and prevent the occurrence of any future illicit/~~illegal~~ discharges.

~~(b)B.~~ Cleanup-Abate high-risk ~~spills-discharges as soon as possible~~immediately.

~~(c)C.~~ Abate uncontrolled sources of pollutants ~~that could pose an environmental threat~~ within ~~30 days~~the period of time dictated by the city.

~~(d)D.~~ Perform necessary clean-up work and bill the responsible party, if needed-Abate the illicit discharge within the period of time dictated by the city. Any discharger engaging in the discharge of pollutants shall abate and remediate the pollutant at their sole cost and expense. If not fully corrected within the time period stated by the city, any abatement and remediation costs incurred by the city shall be borne by the responsible person.

~~(e)E.~~ If necessary, w~~W~~here pollution problems persist, the city may order the cessation of activities until pollutant sources are effectively abated and controlled.

~~—(f) Require a new timeframe when all parties agree that cleanup-abatement activities cannot be completed within the original timeframe, and notify the regional board in writing within five business days of the determination that the timeframe requires revision.~~

F. -The city may notify the RWQCB of any illicit discharges or failure to abate and remediate any illicit discharges.

8.30.140 - Incidental runoff.

~~The city shall require every owner or responsible person for any premises from which~~Where runoff in excess of incidental runoff originates, ~~to take~~ the following actions shall be taken, as applicable, to control such runoff:

(a) Detect and correct any leak within seventy-two (72) hours of ~~learning-of~~discovery of any the leak or notification by city;

~~(b)A.~~ Properly design and maintain irrigation systems and ensure aim-sprinkler heads are aimed appropriately to prevent runoff;

B. (c) ~~Cease~~ irrigation activities during precipitation events;

~~—(d) Manage any pond containing recycled water such that no discharge occurs unless the discharge is a result of a twenty five-year, twenty four hour storm event or greater,~~

~~and the regional board is notified by email no later than twenty-four (24) hours after the discharge. Such notice must include identifying information, including the pond owner's name and permit identification number.~~

C.

8.30.150 - Illegal connections prohibited.

A. ~~(a)~~ The establishment, use, operation, maintenance, ~~and/or~~ continued use of any illegal connection to the city's MS4 is prohibited.

B. ~~(b) Any discharger or responsible person that maintains an illegal connection shall disconnect and discontinue use of such connection.~~

~~(c)~~ C. City-issued construction permits are required for the construction or modification of any storm drain or conveyor of drainage waters and appurtenant items within dedicated easements, rights-of-way, or other public place and/or facility.

~~(d)~~ D. City-issued building permits are required for the construction or modification of any storm drain or conveyor of drainage waters and appurtenant items ~~within~~ on private property so as to allow direct or indirect discharge into the city's MS4. Indirect discharges include, but are not limited to, under-sidewalk drains, driveway approaches and unrestricted street flow.

~~(e)~~ E. No person shall construct, modify or cause to be constructed or modified, any structure, facility or appurtenant devices which may alter the normal functioning of the city's MS4, including any actions which may alter the capacity, slope, or structural integrity of a storm drain, channel or related structure without first receiving a permit issued by the city.

~~(f)~~ F. In addition to any remedy provided in this chapter, the city may require ~~parties~~ the person responsible for an illegal connection to the MS4 to eliminate the connection or secure approval for the connection by a specified date. If ~~any such~~ the responsible person fails to disconnect or secure approval for an illegal connection ~~by such date as required~~, the city may ~~perform the disconnection~~ abate the illegal connection and pursue ~~the recovery of costs for such disconnection.~~

8.30.160 - Notification of illicit discharges/spills.

A. ~~(a)~~ Notwithstanding other requirements of law, as soon as any ~~responsible~~ person for a facility or operation, or ~~responsible~~ person for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into the MS4, ~~or~~ receiving waters, land surface, or groundwater from ~~said the~~ facility, ~~said that~~ person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

~~(b)~~ Any ~~such~~ releases shall ~~further~~ be reported promptly in the following manner: ~~by any responsible person for a facility or operation, or responsible for emergency response for a facility or operation:~~

~~(1)~~1. The release of a hazardous or other material which poses an imminent danger to public health and safety shall be immediately reported to emergency services by emergency dispatch services (911).

~~(2)~~2. The release of a non-hazardous material shall be reported to the city and any other applicable jurisdiction or regulatory agency as soon as the discharge is discovered.

B. (c) In addition to the above requirements, release of any hazardous materials or substances, sewage, oil, or petroleum to any Waters of the State, or discharged or deposited where it is or probably will be discharged in or on any Waters of the State, shall immediately be reported to the State Office of Emergency Services, as required by California Water Code Sections 13271 and 13272.

8.30.170 - Reduction of pollutants in urban runoff.

~~(a)~~A. Any ~~responsible~~ person engaged in activities which will or may result in pollutants entering the city's MS4 shall undertake all practicable measures to cease ~~such~~ activities, and ~~or endeavor to~~ eliminate or reduce ~~such~~ pollutants. ~~Such a~~ Activities shall include, but ~~not be~~ not limited to ownership and use of parking lots, gasoline stations, industrial facilities, commercial facilities, ground disturbing activities, and stores fronting city streets.

~~(b)~~B. ~~Littering.~~ Except for pollutants lawfully disposed of by way of containers or at a licensed dumping ground, no person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, trash, or other discarded or abandoned objects, articles and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land or other premises in the city, so that the same might be or become a pollutant discharged to the MS4 or receiving waters.

(c) ~~Persons owning or operating a p~~ Parking lots, gas station area of pavement or similar structures shall be cleaned ~~those structures~~ as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the city ~~storm drain system or watercourse~~ MS4 or receiving waters.

~~(d)~~C. ~~Construction.~~ Any person performing construction activities in the city shall implement appropriate BMPs to prevent the discharge of construction wastes, sediments, silts, pollutants, or contaminants from construction activities, materials, tools, and equipment from entering the MS4 or receiving waters in accordance with the standards set forth in this chapter. Construction activity resulting in a land disturbance of one acre or more, or less than one acre but part of a larger common plan of development or sale, must obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (CGP): NPDES NO. CAS000002 (CGP) (references herein refer to the current or most recent version of the CGP).

~~City BMP requirements for grading activities are specified in 15.06.110.~~

8.30.180 - Best management practices (BMPs).

A. ~~(a) Appropriate city departments~~The city, or other state, federal, or regional agency may establish requirements identifying BMPs to be implemented for any activity, operation, or facility ~~which that~~ may cause or contribute to pollution or contamination of stormwater, the MS4, receiving waters, or groundwater. ~~Where BMP requirements are established by the city (or promulgated by any federal, State of California, or regional agency) for any activity, operation, or facility which would otherwise cause the discharge of pollutants to the MS4, receiving waters, and/or groundwater, every responsible person undertaking such activity or operation, or owning or operating such facility, shall comply with such requirements.~~

B. ~~(b)~~ Each ~~person responsible for any~~ site, activity, operation, or facility in the city that may discharge any pollutant to the MS4, receiving waters, ~~and~~ or groundwater shall implement and maintain~~those~~ BMPs ~~as may be~~ designated by the city.

~~—(c) All operators of construction sites shall obtain coverage under the CGP, if applicable;~~

C. ~~(d)~~ All ~~operators of new, or redevelop~~mented land, and industrial, and commercial facilities shall:

~~(1)~~1. Install, implement, and maintain BMP's that Minimize the discharge of pollutants to the MS4 ~~through the installation, implementation, and/or maintenance of BMPs and which are~~ consistent with the most recent version of the California Stormwater Quality Association (CASQA) BMP Handbooks (New Development and Redevelopment; Construction; and Industrial), or consistent with other BMP Manuals or Guidance established or ~~recommended~~required by the city;

~~(2)~~2. Retain maintenance records for structural BMPs and treatment devices, including waste hauling receipts, for a period of three years and make them available to the city upon request; and

3. (3) Provide information to the city, if requested, to assess compliance with the MS4 Permit in accordance with the Homeland Security Act or other federal law that concerns security in the United States.

4. Allow reasonable inspections of the premises or facility by city officials or their designees to determine compliance with BMP's and any state or local law regarding stormwater.

D. ~~(e)~~ —All grading plans and permits shall comply with the provisions of this chapter for NPDES compliance.

E. All BMP's shall be installed before grading begins. All BMP's shall be updated as necessary to prevent erosion and control construction-related pollutants from discharging from the site. All BMP's shall be maintained in good working order to the satisfaction of the city during construction unless the project is deemed complete by the city and all permanent drainage and erosion control systems, if required, are in place.

8.30.190 - Responsibility to obtain permits and implement BMPs—Commercial and Industrial facilities.

- A. ~~(a)~~ All persons engaged in commercial or industrial activities or operations, or owning commercial or industrial facilities or property which will, or may, result in pollutants entering stormwater, the MS4, receiving waters, or groundwater, shall obtain coverage under any/all applicable permit(s), ~~(including, but not limited to: NPDES General Permit for Storm Water Discharges Associated with Industrial Activities; (IGP), other NPDES Permits;~~ or other state or federal permits); ~~and~~ shall install and maintain BMPs as required by the applicable permit, ~~and~~ consistent with city requirements and/or BMP Handbook(s) or guidance established or ~~recommended~~ required by the city, as applicable; or equivalent.
- B. ~~(b)~~ Proof of compliance with the IGP (including but not limited to: the ~~Waste Discharger Identification (WDID)~~ number, copies of any ~~Notice of Intent (NOI)~~, No Exposure Certification, SWPPP, inspection reports, monitoring results, and other information deemed necessary to assess compliance with the IGP), shall be provided to the city prior to issuance of a business license, or as a condition of, a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.
- C. ~~(c)~~ Applications for a new or renewed business license shall include the applicable Standard Industrial Classification (SIC) code for the facility; and proof of IGP coverage, if required.
- D. ~~(d)~~ Commercial and Industrial facilities or property, not subject to the IGP shall implement BMPs as required by the city.
- E. ~~(e)~~ All commercial and industrial facilities or property shall be required to:
- a. ~~(1)~~ apply for, obtain, and comply with all city building, grading, post-construction BMP, and all other city and local permits;
 - b. ~~(2)~~ prepare and implement a Water Quality Management Plan (WQMP) or equivalent (as required by the MS4 Permit); and
 - c. ~~(3)~~ comply with all the requirements of the IGP (if required) and any/all applicable permits.

8.30.200 - Construction projects: Construction Site Stormwater Runoff Control Program.

- A. ~~(a)~~ The city shall maintain a continuously updated inventory of all construction projects as described in the MS4 Permit.
- B. ~~(b)~~ Any property owner or other responsible person conducting construction activity which: disturbs one acre or more of soil; disturbs less than one acre of soil but is part of a larger common plan of development or sale; or as required by the regional board; shall obtain coverage under the CGP before conducting any construction activities.

C. ~~(c)~~ Any ~~property owner or other party person~~ conducting construction activity that could potentially have an adverse impact on the city's MS4 or on beneficial uses of receiving waters shall install and/or implement appropriate construction and post-construction BMPs to reduce the discharge of pollutants to the MEP, as listed in their city-approved WQMP, Erosion and Sediment Control Plan (ESCP), SWPPP (if required), site plan, and/or as recommended in the most recent version of the CASQA Construction BMP Handbook.

D. ~~(d)~~ Proof of coverage under the CGP (a copy of the NOI and/or the WDID) and a SWPPP, deemed complete by the city, or an Erosivity Waiver Certification issued by the SWRCB, must be provided before the city will issue any ~~grading, construction or similar~~ permits applicable to ~~such the~~ construction activity. ~~Anywhere p~~Project sites ~~operators~~ conducting construction activities ~~that~~ requireing coverage under the CGP, shall have available for review, a copy of the NOI, the WDID number, and the applicable SWPPP; shall be available for review ~~at the construction site on the premises~~, and the site must comply with all requirements of the CGP for the entire project duration. Alternatively, an Erosivity Waiver Certification issued by the SWRCB must be retained and available for inspection at the site for the entire project duration.

E. For project sites subject to the CGP, no grading permit shall be issued unless the plans include a SWPPP deemed complete by the city with details of best management practices, including desilting basins or other temporary drainage or control measures, or both, as may be necessary to control construction-related pollutants which originate from the site as a result of construction-related activities. For project sites not subject to the CGP, no grading permit shall be issued unless the plans include a city-approved erosion and sediment control plan.

8.30.210 - Erosion and sediment control plan ("ESCP").

A. ~~(a)~~ All applicants for projects involving construction activities (regardless of size) shall submit an erosion and sediment control plan (ESCP) to the city for review and approval. The city shall not issue grading or building permits until the ESCP for the project is approved. The project applicant shall prepare the ESCP using the most current version of the Hesperia city's ESCP Template and Guidance.

B. ~~(b)~~ The ESCP shall be implemented year round and must be updated to reflect changing conditions on the project site. Any modifications to the ESCP shall be submitted in advance to the city for review and approval.

C. ~~(c)~~ An applicant may submit the SWPPP required under the CGP to the city in lieu of the ESCP, provided the SWPPP meets the city's ESCP requirements.

8.30.220 - Post-construction requirements for specified site design only projects; Water Quality Management Plan ~~(WQMP)~~.

A. ~~(a)~~ Applicants for all new development and redevelopment projects ~~defined in the MS4 Permit (Water Quality Orders 2013-0001, and 2003-0005, and as amended, reissued, or modified by the SWRCB)~~, shall develop, submit to the city for approval, and implement the required WQMP. ~~Project~~ WQMPs shall: comply with all requirements specified by the

MS4 Permit and/or specified in ~~the City Development Municipal~~ Code; be prepared using the applicable city WQMP Template, and be submitted to the city for review and approval.

~~B. (b)~~—The city shall not issue an approval for a subdivision map, ~~site plan, plan review,~~ grading or building permit, ~~development or improvement plan,~~ or other ~~similar city-~~ ~~issued any other~~ permit, prior to receiving, reviewing, and approving a Final site design only WQMP for the project.

~~C.~~ The Site Design Only WQMP shall include all proposed measures for site design as applicable in accordance with the MS4 Permit and as specified by the city. Applicants shall use the State Water Board SMARTS Post-Construction Calculator, or equivalent to quantify the runoff reduction resulting from implementation of the site design measures.

8.30.230 - Post-construction requirements for regulated projects; Water Quality Management Plan (WQMP).

~~A. (a)~~—Applicants for all new development and redevelopment projects shall develop, submit to the city for approval, and implement the required WQMP. WQMPs shall: comply with all requirements specified by the MS4 Permit and/or specified in the city Municipal Code; be prepared using the applicable city WQMP Template, and be submitted to the city for review and approval.

~~B. (c)~~—A Preliminary Water Quality Management Plan (PWQMP) shall be submitted at the earliest planning stages for all Regulated Projects and shall be a condition of any required planning approval. A PWQMP shall include all sections in the Regulated WQMP template except for the BMP Educational Materials, O&M Plans and Maintenance Agreements.

~~(d)~~—The City shall not issue an approval for a subdivision map, site plan, or other entitlement prior to receiving, reviewing, and approving a PWQMP. If a PWQMP is not approved, the city shall provide the project applicant with a written explanation for the disapproval. Any disapproved PWQMP must be revised by the project applicant and resubmitted to the city for approval before a project may proceed.

~~C.~~—The city shall not issue an approval for a subdivision map, plan review, grading or building permit, or any other permit, prior to receiving, reviewing, and approving a Final WQMP for the project.

~~D. (e)~~—The regulated WQMP shall include all required and proposed measures for site design, source control, runoff reduction, stormwater treatment, baseline hydromodification management, and LID techniques as applicable and as specified in the MS4 Permit. Structural BMPs shall be required for projects as specified in the MS4 Permit, and ~~such the~~ projects shall be designed so that the structural BMPs comply with the volume and/or flow design criteria specified by the city.

E. ~~(d)~~ In developing a regulated WQMP, applicants shall comply with the following provisions and the most current versions of any WQMP manuals, templates, or guidelines as may be subsequently developed or recommended by the city:

1. ~~(1)~~ All regulated WQMPs must identify the entity responsible for maintenance, provide maintenance schedules for post-construction structural and treatment control BMPs, and for any required hydromodification and LID features (collectively referred to in this subsection (as "stormwater management facilities"), and provide a plan which ensures continued maintenance and operational effectiveness for ~~such~~ stormwater management facilities.

~~(3)~~2. The regulated WQMP shall include at least one of the following to ensure continued proper operation and maintenance of the stormwater management facilities:

~~(A)~~a. A requirement that the project applicant/property owner enter into a formal stormwater management facilities operation and maintenance agreement with the city (~~the~~ "owner's agreement") prior to the issuance of any certificate of occupancy. ~~Such~~ The owner's agreement shall be recorded by the applicant/property owner with the County of San Bernardino against the property or properties involved, and ~~such owner's agreement~~ shall be binding on all subsequent owners of land served by the stormwater management facilities.

~~(B)~~(A) For multi-unit residential townhome and condominium projects, a requirement that the recorded conditions, covenants and restrictions (CC&Rs) covering the properties include written text stating that the homeowners association is required ~~to enter into the applicable Lighting and Landscape District~~ to ensure ongoing operation and maintenance of the stormwater management facilities. If there is no association, individual owners shall provide written documentation ensuring they will assume responsibility for the operation and maintenance of the stormwater management facilities until such responsibility is legally transferred. Such CC&Rs and written commitments shall run with the land and be enforceable against all subsequent owners and/or, homeowners associations, and their successors and assigns.

b. ~~(C)~~ Any other legally enforceable mechanism as approved by the city, such as recordation in the property deed, that assigns the operations and maintenance responsibility for the stormwater management facilities to the applicant/project owner or to the city.

3. ~~(3)~~ ~~Such~~ owner's agreement, CC&Rs and/or deeds shall, at a minimum, include conditions that the applicant, owner, or homeowner's association, and all subsequent owners, transferees, successors or assigns of such persons:

~~(A)~~a. Assume responsibility for maintenance and operation of all required stormwater management facilities to the MEP standard.

~~(B)~~b. Replace any degraded or failing structural BMP feature with new control measures or BMP features meeting the current standards of the city.

- ~~(G)c.~~ Conduct stormwater management facilities maintenance and inspections as required in the approved WQMP associated with the property.
- ~~(D)d.~~ Ensure that all stormwater management facilities are inspected at least annually, that inspection findings are reported to the city annually, and that inspection records ~~inspections~~ be retained and be available for review for at least three years.
- ~~(E)e.~~ Provide access to city staff for the ~~sole~~ purpose of performing operations and management inspections of any installed stormwater management facilities.
- F. ~~(e)~~ Prior to final inspection, ~~applicants, facility operators and/or property owners, as appropriate,~~ for new development and redevelopment projects covered by this section, shall:
1. ~~(1)~~ Construct all stormwater pollution control BMPs, structural or treatment control BMPs, and LID features strictly per design standards shown on the approved project plans and the WQMP;
 2. ~~(2)~~ Submit for city review and approval a BMP and LID maintenance schedule and inspection plan;
 3. ~~(3)~~ File a signed statement that the project site and all structural or treatment control BMPs and LID features shall be maintained in compliance with the WQMP; and
 4. ~~(4)~~ Submit to the city the owner's agreement for recordation, the recorded CC&Rs, or the recorded enforceable mechanism/deeds set forth in the above provisions, specifying the responsibility for and ensuring the continued operation and maintenance of post-construction structural and treatment control BMPs, and any required site design measures, ~~H~~hydromodification and LID features for the project.
- G. (f) Each project implementing a WQMP shall be individually evaluated to ascertain if the proposed project is in substantial conformance with the approved WQMP prior to issuance of the certificate of occupancy.
- H. (g) The WQMP must demonstrate to the city's satisfaction that proposed BMPs and LID features, numeric design criteria, or design elements meet the requirements of the municipal NPDES permit and this code.
- ~~(h) The city shall review any proposed WQMPs. If a WQMP is not approved, the city shall provide the project applicant with a written explanation for the disapproval. Any disapproved WQMP must be revised by the project applicant and resubmitted to the city for approval before a project may proceed. No subdivision map, site plan, grading or building permit, development or improvement plan or other similar city-issued permit shall be issued until the city has approved the WQMP.~~
- ~~(i) Compliance with an approved WQMP shall be a condition of any required planning approval.~~

- I. (j) Projects that do not require a WQMP as described in the MS4 Permit are subject to all applicable city post-construction requirements and conditions of approval.

~~8.30.230 - Reserved.~~

8.30.240 - Source control measures.

Projects with pollutant-generating activities and/or sources shall implement permanent and operational source control measures, as specified by the MS4 Permit ~~and/or~~ specified in the City Development Municipal Code, and documented using ~~City~~ regulated WQMP ~~t~~emplates.

8.30.250 - Authority to enter, inspect, monitor and sample.

Whenever the city conducts an inspection to confirm compliance with or enforce any of the provisions of this chapter, or whenever ~~any enforcement officer has~~there is reasonable cause to believe that there exists on any premises any condition which may constitute a violation of the provisions of this chapter, ~~such an~~ enforcement officer, city inspectors, or other authorized city representative may enter ~~such the property,~~ building or premises at all reasonable times, with presentation of proper identification, to inspect ~~the same~~ or perform any duty imposed upon the enforcement officer, city inspector, or other authorized representative by this chapter; including but not limited to: testing, sampling, monitoring and record examination. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the city is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry at the expense of the property owner.

8.30.260 - Requirement to sample and monitor.

The city may require any discharger ~~and/or~~ any person engaged in any activity that may cause illicit discharges; or cause or contribute pollutant discharges to the MS4, receiving waters, or groundwater, to perform sampling, monitoring and analyses and submit the resulting reports to the city. The burden and all costs associated with the required sampling, monitoring, analyses, and reports shall be borne by the discharger or person engaging in ~~such the~~ activity.

8.30.270 - Data collection.

The city may require any discharger or ~~responsible~~ person responsible for any industrial or commercial facility or for any new development or redevelopment project to submit information to the city or other agency as necessary to comply with the CGP, the IGP or to confirm ~~such the~~ facility's or project's compliance with this chapter.

8.30.280 - Enforcement.

A. The City Council of the city hereby declares any non-stormwater discharge to the land surface, the city's MS4, receiving waters, or groundwater a public nuisance, unless authorized under Section 8.30.110 of this chapter.

B. Any person violating any provision of this chapter, or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor.

~~C. To enforce the provisions of this chapter, Upon identification of any violation of this code or public nuisance, the city inspectors, enforcement officers, and other authorized personnel shall advise the person(s) deemed responsible in writing of the violation(s) by means of a notice of correction, notice of violation, stop work order, cease and desist order, or notice of public nuisance. The notice or order shall state a reasonable period of not less than seventy-two (72) hours during which correction or abatement must occur.~~

~~D. All other enforcement will follow the enforcement procedures as specified in Title 1, Chapter 1.12 of this code. Enforcement should be conducted in a manner consistent with the City NPDES Enforcement Response Plan. Where appropriate, the city will refer violations to the regional board.~~

8.30.290 - Appeals.

~~All appeals will follow the procedures under Title 1, Chapter 1.12 of this code. Any responsible person served with a notice of violation, cease and desist, stop work or abatement order, or required to perform monitoring, analyses, reporting and/or corrective activities by an authorized enforcement officer or otherwise aggrieved by the decision of an authorized enforcement officer or the city manager, may appeal such notice, decision or order, within ten calendar days following service of the decision, notice or order by filing a written appeal with the city in the manner set forth in section 1.05.090 of this code. Appeal hearings and subsequent proceedings shall also be in accordance with the provisions of sections 1.05.090 through 1.05.100 of this code.~~

8.30.300 - Acts in violation of the CWA and/or the Porter-Cologne Water Quality Control Act.

Any person who violates any provision of this chapter or any provision of any requirement issued pursuant to this chapter may also be in violation of the CWA and/or the Porter-Cologne Act and may be subject to the provisions of those acts, including civil and criminal penalties. ~~Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability.~~

8.30.310 - Compensation for damages.

Any person who discharges pollutants into the city's MS4 which cause or have the potential to cause increased maintenance of the system, non-routine inspection or sampling of the system, system blockages or other damage or interference in the city's MS4; or causes any other damages to the city, including the imposition of fines or penalties on the city by federal, state or local regulatory agencies; shall be liable to the city for all damages and additional costs, including ~~such~~ fines and penalties, plus reasonable attorneys' fees and costs of suit required to collect such amounts.

8.30.320 - Remedies non-exclusive.

Each and every remedy available for the enforcement of this chapter shall be nonexclusive and it is within the discretion of the ~~city manager~~director or city attorney to seek cumulative remedies.