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ORD-21

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October 13, 2015

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 8.96, relating to stormwater and runoff pollution control, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION:

Pursuant to your request on October 6, 2015, this ordinance has been prepared and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

AMY R. WEBBER
Deputy City Attorney

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 8.96 RELATING
TO STORMWATER AND RUNOFF POLLUTION CONTROL

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 8.96 is hereby added to the Long Beach Municipal
Code to read as follows:

Chapter 8.96

STORMWATER AND RUNOFF POLLUTION CONTROL

8.96.010 Title.

This Chapter shall be known as the "Stormwater and Runoff Pollution
Control Ordinance of the City of Long Beach" and may be referred to as
such.

8.96.020 Statutory authority.

The provisions of the ordinance codified in this Chapter are adopted
pursuant to the Federal Water Pollution Control Act, also known as the
Clean Water Act, as amended, 33 U.S.C. § 1251 et seq; the Porter Cologne
Act (California Water Code § 13000 et seq.), the regulations and stormwater
permits issued thereunder, and any other law relating directly or indirectly to
stormwater discharge, or which may be violated by stormwater discharge or
non-stormwater discharge to City storm drains or to receiving waters.

8.96.030 Purpose and intent.

A. The purpose of this Chapter is to protect and improve water

1 quality of receiving waters by:

2 1. Prohibiting illicit discharges to the municipal stormwater
3 system;

4 2. Eliminating illicit connections to the municipal
5 stormwater system;

6 3. Eliminating spillage, dumping, and disposal of pollutant
7 materials into the municipal stormwater system;

8 4. Reducing pollutant loads in stormwater and urban
9 runoff from land uses and activities identified in the Municipal NPDES
10 Permit.

11 B. The intent of this Chapter is to enhance and protect the water
12 quality of the receiving waters of the United States in a manner that is
13 consistent with the Clean Water Act and acts amendatory thereof or
14 supplementary thereto, to applicable implementing regulations and the
15 Municipal NPDES Permit and any amendment, revision, or reissuance
16 thereof.

17 8.96.040 Definitions.

18 For the purpose of the provisions of this Chapter concerning water
19 quality hereinafter set forth, the following words and phrases shall be
20 construed to have the meanings set forth, unless it is apparent from the
21 context that a different meaning is intended:

22 A. "Best Management Practice" or "BMP" shall mean any
23 program, technology, process, siting criteria, operating method, measure, or
24 device which controls, prevents, removes, or reduces pollutants in
25 stormwater and nonstormwater runoff.

26 B. "Clean Water Act" shall mean the Federal Water Pollution
27 Control Act as amended, 33 U.S.C. 1251, et seq.

28 C. "Director" shall mean the Director of Public Works of the City

1 of Long Beach, the Director of Environmental Planning of the Port of Long
2 Beach or duly authorized designee.

3 D. "Executive Officer" shall mean Executive Officer of the
4 California Regional Water Quality Control Board, Los Angeles.

5 E. "Good Housekeeping Practice" shall mean a best
6 management practice related to the transfer, storage, use, or cleanup of
7 materials performed in a regular manner that minimizes the discharge of
8 pollutants to the storm drain system and/or receiving waters.

9 F. "Illicit Connection" shall mean any device through or by which
10 an illicit discharge is conveyed into the municipal stormwater system
11 without a permit, including but not limited to floor drains, pipes or any
12 fabricated or natural conduits, excluding roof drains which convey only
13 stormwater.

14 G. "Illicit Discharge" shall mean the entry of any material other
15 than stormwater into the MS4 unless such discharge is exempted by
16 Regional Board or under the MS4 NPDES permit or any other NPDES
17 permit to which the City may be subject.

18 H. "Industrial Activity" shall mean activities related to or involving
19 manufacturing, processing or material storage at an industrial facility,
20 including activities described in 40 Code of Federal Regulations Section
21 122.26 (b)(14). Industrial activity may be subject to Storm Water Permit
22 requirements.

23 I. "Maximum Extent Practicable" shall mean in the context of
24 BMP selection, choosing effective BMPs, and rejecting applicable BMPs
25 only 1) where effective BMPs will serve the same purpose, 2) the BMPs
26 would not be technically feasible, or 3) the cost would be prohibitive.

27 J. "MS4 NPDES Permit" shall mean any municipal NPDES
28 permit adopted by the California Regional Water Quality Control Board, Los

1 Angeles Region, to which the City is subject.

2 K. "Municipal NPDES Permit" shall mean that permit issued by
3 the most recent order of the California Regional Water Quality Control
4 Board, Los Angeles Region, currently entitled "Waste Discharge
5 Requirements for Municipal Separate Storm Sewer System from the City of
6 Long Beach."

7 L. "Municipal Stormwater System" or "MS4" shall mean those
8 facilities within the City by which stormwater discharge is conveyed to
9 waters of the United States, including but not limited to flood control
10 channels, roads with drainage systems, alleys, streets, catch basins,
11 grates, inlets, curbs, gutters, ditches, storm drains, canals, pipes, and
12 fabricated and natural channels.

13 M. "Nonstormwater Discharge" shall mean any fluid discharge to
14 the storm drain system and/or receiving waters that is not composed
15 entirely of stormwater.

16 N. "NPDES" or "National Pollutant Discharge Elimination
17 System" shall mean a permit issued by the United States Environmental
18 Protection Agency, the State Water Resources Control Board or a
19 California Regional Water Quality Control Board pursuant to the Federal
20 Water Pollution Control Act, also known as the Clean Water Act, as
21 amended, 33 U.S.C. § 1251, et seq., that authorizes discharges to waters
22 of the United States.

23 O. "Owner" as applied to a building or real property shall mean
24 any part owner, joint owner, tenant in common, tenant in partnership, joint
25 tenant or tenant by the entirety of the whole or part of such building or real
26 property.

27 P. "Person" shall mean within the context of this Chapter, any
28 natural person, firm, association, organization, partnership, business trust,

1 corporation or company.

2 Q. "Pollutant" shall mean the same as it is defined in California
3 Water Code Section 13373 and includes, but is not limited to, garbage,
4 debris, lawn clippings, leaves, fecal waste, biological waste sediment,
5 sludge, manure, fertilizers, pesticides, oil, grease, gasoline, paints,
6 solvents, cleaners, and any fluid or solid containing toxic or nontoxic
7 chemicals, metals, including batteries.

8 R. "Receiving Waters" shall mean surface waters and ground
9 water, including waters of the United States as defined in the Clean Water
10 Act (33 USC § 1251 et seq.) and waters of the state as defined the Porter-
11 Cologne Act (California Water Code § 13000 et seq.), including, but not
12 limited to, rivers, lakes, oceans or other bodies of water that receive runoff.

13 S. "Regional Board" shall mean the California Regional Water
14 Quality Control Board, Los Angeles Region.

15 T. "Runoff" shall mean the portion of rainfall or irrigation water or
16 other water activities also known as dry-weather flows that flow across the
17 ground surface and eventually to receiving waters.

18 U. "State Board" shall mean the State Water Resources Control
19 Board of the California Environmental Protection Agency (hereinafter
20 "SWRCB").

21 V. "Stormwater Laws" shall mean the Clean Water Act (33
22 U.S.C. § 1251 et seq.), the Porter-Cologne Act (California Water Code §
23 13000 et seq.), the regulations and Stormwater Permits issued thereunder,
24 and any other law relating directly or indirectly to stormwater discharge or
25 Nonstormwater discharge to the MS4 or receiving waters.

26 W. "Stormwater Permit" shall mean any applicable individual or
27 general NPDES Permit or waste discharge requirements, waiver of waste
28 discharge requirements or other authorization by a Governmental Authority

1 issued pursuant to Stormwater Laws that pertain to stormwater runoff, as
2 such may be amended, modified or revised from time to time. Stormwater
3 Permit includes without limitation the General NPDES permits pertaining to
4 Stormwater discharge from industrial activity, construction activity and
5 MS4s.

6 X. "Stormwater Runoff" shall mean any surface water flow
7 produced by rain or snow melt.

8 Y. "SWCRB" shall mean the State Water Resources Control
9 Board.

10 Z. "Urban Runoff" shall mean surface water flow produced by
11 nonstormwater resulting from residential, commercial and industrial
12 activities.

13 8.96.050 Illicit discharges and nonstormwater discharges.

14 A. No person shall cause or allow an illicit discharge to enter the
15 municipal stormwater system.

16 B. Any person causing an illicit discharge to the MS4 may be
17 required by the Director to pay for the cost of cleanup and remediation.

18 C. Any owner of any private property from which a
19 nonstormwater discharge is observed may be required by the Director to
20 pay for the cost of collecting and analyzing the discharge to determine if it is
21 an illicit discharge.

22 D. Any person causing a discharge which exceeds a receiving
23 water limitation shall be required to halt the discharge.

24 E. The following nonstormwater discharges are not considered
25 illicit discharges:

26 1. Exempt discharges specified in the Municipal NPDES
27 Permit, including flows from riparian habitats, diverted stream flows,
28 springs, rising ground waters, uncontaminated groundwater infiltration; and

1 discharges or flows from emergency firefighting activities;

2 2. Conditionally exempt nonstormwater discharges that
3 have been determined by the Executive Officer not to be significant sources
4 of pollution. Such discharges include, but are not limited to landscape
5 irrigation, potable water, foundation drains, footing drains, air conditioning
6 condensate, irrigation water, lawn watering, water from crawl space pumps,
7 dechlorinated swimming pool discharges, individual residential car washing,
8 street or sidewalk washing, or any other discharge that the Executive
9 Officer deems not to be a significant source of pollution, such
10 nonstormwater discharges shall be conducted in a manner not in violation
11 of other provisions of this Chapter.

12 3. Nonstormwater discharges specifically allowed under a
13 separate NPDES permit including but not limited to a general industrial
14 stormwater activity permit or general construction stormwater activity
15 permit.

16 8.96.060 Illegal disposal/dumping.

17 No person shall intentionally place, litter, accumulate, maintain,
18 discharge or cause to enter into the MS4 any pollutant or any foreign object
19 such as batteries, tires, waste receptacles, yard debris, refuse, rubbish, food
20 waste, chemicals, animal waste or oil cans.

21 8.96.070 Illicit connections.

22 A. No person shall maintain or intentionally use a connection that
23 operates to convey an illicit discharge to the municipal stormwater system.

24 B. Upon discovery of an illicit connection, the person owning or
25 operating such connection shall either remove it or render it incapable of
26 conveying an illicit discharge.

27 C. If any person fails to eliminate an illicit connection after being
28 called upon by the City to do so, the Director shall take appropriate

1 measures to remove or disable the illicit connection and may recover such
2 costs from the owner of such illicit connection.

3 8.96.080 Reduction of pollutants in runoff.

4 A. No person shall cause or threaten to cause the discharge of
5 pollutants to the MS4 by exposing such pollutants to stormwater runoff.

6 B. The owner of parking lot surfaces, public or private, with a
7 capacity of twenty-five (25) spaces or more, shall cause the parking lot
8 surface to be cleaned as often as necessary to remove refuse, residual oil,
9 grease or other pollutants that might otherwise be discharged to the MS4 by
10 runoff.

11 8.96.090 Control of pollutants from industrial and commercial facilities.

12 A. Certain categories of commercial facilities specified in the
13 Municipal NPDES Permit or identified by the City as being significant
14 contributors of pollution, shall implement BMPs prescribed by the Regional
15 Board or its Executive Officer, through programs or actions made pursuant
16 to the Municipal NPDES Permit, or by the Director, to minimize the
17 discharge of pollutants to the MS4.

18 B. Certain categories of commercial facilities shall be inspected
19 for pollution issues and BMP compliance with the most current MS4 Permit
20 and approved Watershed Management Programs in accordance with the
21 inspection schedule called for in the Municipal NPDES Permit or approved
22 Watershed Management Program, or as often as necessary as determined
23 by the City.

24 8.96.100 Control of pollutants from industrial activities.

25 A. It shall be a violation of this Chapter for any industry in the
26 City that is subject to waste discharge requirements specified in a statewide
27 general industrial activities Permit, any revision made thereto, or a
28 reissuance of such order, to operate without a NPDES general industrial

1 activities Stormwater Permit.

2 B. Industries that require a NPDES general industrial activities
3 Stormwater Permit shall retain on-site the following documents which
4 evidence compliance with permit requirements:

5 1. A copy of the notice of intent for general permit to
6 discharge stormwater associated with industrial activity;

7 2. A waste discharge identification number issued by the
8 SWRCB;

9 3. A stormwater pollution prevention plan and monitoring
10 program plan.

11 C. Any industry in the City requiring a NPDES general industrial
12 activities Stormwater Permit shall, upon reasonable request from a duly
13 authorized officer of the City, provide any of the documents described in
14 Subsection (B) of this Section.

15 D. Any industry, whether or not subject to a NPDES general
16 industrial activities Stormwater Permit, may be inspected in accordance
17 with a schedule established by the Municipal NPDES Permit or as often as
18 necessary as determined by the City for the purpose of determining
19 compliance with BMP requirements or to abate pollution issues.

20 8.96.110 Control of pollutants from construction activities requiring general
21 construction activity Stormwater Permit.

22 A. No person shall be granted a grading permit or shall
23 commence or continue any construction activity in the City that causes the
24 disturbance of one (1) acre or more of soil by clearing, grading, and
25 excavating without demonstrating to the City that such person has obtained
26 a NPDES general construction activity Stormwater Permit from the
27 SWRCB. NPDES construction activity does not include: 1) routine
28 maintenance to maintain original line and grade; 2) hydraulic capacity; 3)

1 the original purpose of the facility; or 4) emergency construction activities
2 required to immediately protect the public health and safety.

3 B. Any person engaged in a construction activity in the City
4 requiring a NPDES construction permit shall retain at the construction site
5 the following documents: 1) a copy of the notice of intent to comply with
6 terms of the general permit to discharge water associated with construction
7 activity; 2) a waste discharge identification number issued by the SWRCB;
8 3) a stormwater pollution prevention plan and monitoring program plan for
9 the construction activity requiring the construction permit; and 4) records of
10 all inspections, compliance and noncompliance reports, evidence of self-
11 inspection and good housekeeping practices.

12 C. Any person engaged in a construction activity in the City
13 requiring a general construction stormwater activity permit shall, upon
14 reasonable request from a duly authorized officer of the City, provide any of
15 the documents described in Subsection (B) of this Section and shall retain
16 said documents for at least three (3) years after completion of construction.

17 8.96.120 Control of pollutants from other construction activities.

18 A. No person shall be granted a grading permit for a construction
19 project that is expected to cause a disturbance of less than one (1) acre of
20 soil by grading, clearing, and/or excavation without consenting to implement
21 BMPs prescribed by the City to reduce pollutant discharges to the MS4
22 associated with construction activities.

23 B. No person shall be allowed to commence or continue any
24 construction activity in the City that causes the disturbance of less than one
25 (1) acre of soil by grading, clearing, and/or excavating without implementing
26 BMPs prescribed by the City.

27 8.96.130 Control of pollutants from new development/redevelopment projects.

28 A. Prior to the construction of any project that is subject to

1 development planning requirements specified in the MS4 NPDES Permit,
2 such project shall be evaluated by the City for its potential to discharge
3 pollutants to the MS4. Such projects must also comply with the
4 development requirements specified in the Los Cerritos Channel Watershed
5 Management Program, Near Shore Long Beach Watershed Management
6 Program, the Lower San Gabriel River Watershed Management Program,
7 or any other Watershed Management Program to which the City is currently
8 a participant. The City's Watershed Management Programs are hereby
9 incorporated by reference and shall be made available for review by the
10 public in the Public Works Department Office.

11 B. Once a development planning-subject project has been
12 evaluated for its potential to discharge pollutants to the MS4, the City shall
13 require appropriate BMPs, both structural and nonstructural, to be
14 implemented on a post-construction basis, and shall require a maintenance
15 agreement to assure the proper performance of such BMPs.

16 C. The Director shall be authorized to conduct post-construction
17 inspections and request reports for the purpose of verifying proper
18 operation and maintenance of structural BMPs.

19 8.96.140 Inspections and monitoring.

20 A. Inspections. Whenever necessary to make an inspection to
21 assess or enforce compliance with this Ordinance, or whenever the Director
22 reasonably believes a condition exists or potentially exists on a Premises
23 which constitutes a violation of this Ordinance or Storm Water Laws, or
24 poses a threat to water quality, the Director may enter such Premises at all
25 reasonable times, upon reasonable notice, to inspect such Premises,
26 review or copy records related to Storm Water or perform any duty imposed
27 by this Ordinance. The Director may seek assistance from any court of
28 competent jurisdiction in obtaining such entry, as appropriate.

1 B. Imminent Threat. The Director shall be permitted to
2 immediately enter any Premises and inspect, monitor, sample, and
3 undertake other necessary actions when, in the Director's opinion, there
4 exists an immediate threat to the health, safety or welfare of the public.

5 C. Observations and Sampling. During any inspection as
6 provided herein, the Director may photographically record site observations
7 and take samples and perform any testing deemed necessary to investigate
8 or document site conditions, or otherwise support the site inspection or
9 investigation.

10 8.96.150 Violations.

11 A. Acts in Violation of this Ordinance. It shall be a violation of
12 this Ordinance for any person to:

- 13 1. Fail to comply with any provision of this Ordinance;
- 14 2. Conceal a violation of this Ordinance;
- 15 3. Fail to timely comply with a directive of the Director
16 issued pursuant to this Ordinance;
- 17 4. Fail to comply with conditions of approval for
18 construction projects; or
- 19 5. Cause or permit any discharge to the City storm drains
20 or receiving waters that constitutes a nuisance, causes or contributes to a
21 violation of applicable Storm Water Laws, including any such prohibitions,
22 limitations, and requirements applicable to discharges from City Storm
23 Drains conveying Storm Water discharge from such person's activities,
24 Premises or facility to receiving waters.

25 B. Separate Violations. A separate violation shall be deemed
26 committed on each day during or on which a violation occurs or continues. A
27 person who violates any provision of this Ordinance may also be in violation
28 of Storm Water Laws and may be separately subject to the additional

1 sanctions of such laws including civil and criminal penalties. The violation of
2 any provision of this Chapter is hereby declared to be a nuisance, and may
3 be abated by the City in accordance with its authority to abate nuisances.

4 C. The remedies listed in this Chapter are not exclusive of any
5 other remedies available to the City under any applicable Federal, State or
6 local law and it is within the discretion of the City to seek cumulative
7 remedies.

8 D. The Director may issue notice of violation and administrative
9 orders to any other person who has failed to comply with either a notice of
10 violation or other administrative order an invoice for costs for
11 reimbursement of the City's actual costs incurred in issuing and
12 enforcement of any provision of this Chapter.

13 E. The Director may require that any person engaged in any
14 activity and/or owning or operating any facility which may cause or
15 contribute to stormwater pollution or contamination, illicit discharges and/or
16 discharge of nonstormwater to the stormwater system, undertake such
17 monitoring activities and/or analysis and furnish such reports as the officer
18 may specify. The burden, including costs, of these activities, analysis and
19 reports shall bear a reasonable relationship to the need for the monitoring,
20 analysis and the benefits to be obtained.

21 F. The Director may prepare and update as appropriate from
22 time to time, policies, procedures, specifications and other guidance to
23 implement this ordinance, City Stormwater programs or the requirements of
24 Stormwater Laws.

25 8.96.160 Enforcement actions.

26 Whenever the Director finds or has reason to believe that a violation
27 of this Ordinance has occurred or is occurring, the Director may take all
28 appropriate action and pursue all available legal remedies to enforce this

1 Ordinance, including, but not limited to, the following:

2 A. Notice of Violation ("NOV"). The Director may issue a written
3 NOV describing the violation, requiring action, specifying the time period or
4 deadline for such action, and notifying the alleged violator of his or her right
5 to protest the order as provided in Section 8.96.190 of this Ordinance. The
6 written NOV may, at the Director's discretion, include one or more of the
7 following:

8 1. An order to abate a nuisance or correct a violation,
9 including immediate action to clean up any spill or abate any violation that
10 poses an immediate threat to public health, safety or the environment. The
11 Director may require abatement of uncontrolled sources of pollutants within
12 thirty (30) calendar days of notification if such pollutants could pose an
13 environmental threat. The Director may, as appropriate, require a spill,
14 discharge or pollutant release cleaned up and abated within seventy-two
15 (72) hours of notification. An order to abate and/or clean up shall set forth a
16 deadline for completion, and shall further advise that, should the violator fail
17 to abate or clean up by the established deadline, the work will be done by
18 the City or a contractor designated by the Director and the expense thereof
19 shall be charged to the violator pursuant to Section 8.96.160;

20 2. An order to construct, implement, operate, repair,
21 maintain and/or replace source control or treatment BMPs;

22 3. An order to cease and desist specified discharges,
23 practices, activities or operations within a specified time frame if pollutant
24 sources or activities are not abated;

25 4. An order to investigate and/or eliminate illicit
26 discharges or illicit connections;

27 5. An order to inspect and/or monitor. Monitoring may
28 include sampling and analysis;

1 attorneys' fees, and costs of City's attorneys and staff in addition to any
2 taxes, fees, assessments, penalties and interest.

3 F. Written Enforcement Notices. Any written notice provided
4 under Section 8.96.160 shall be served personally by hand delivery,
5 certified mail or email to the owner or occupant of the Premises where the
6 violation occurred, or to the person believed responsible for the violation, or
7 both.

8 G. Notice to State and Federal Authorities. Notwithstanding any
9 other provision of this Ordinance, the Director may report known or
10 suspected violations of Storm Water Laws, to Governmental Authorities.

11 8.96.170 Abatement.

12 A. Failure to Abate. If a nuisance has not been abated as
13 required by the NOV, or if a spill or release has not been abated or cleaned
14 up as required by the NOV. the City may enter upon the subject Premises
15 and abate and/or clean up the nuisance or spill at the expense of the City
16 and the City may recover the amount or such expense, including the cost of
17 inspection, enforcement and correction to the full extent permitted by
18 Government Code Section 54988, as it may be amended from time to time.

19 B. Emergency. When, in the Director's discretion, a condition
20 exists which poses an immediate threat to the public health, safety or the
21 environment, or an immediate threat of significant violation of Storm Water
22 Laws affecting public health, safety or the environment, the Director may
23 immediately enter the subject Premises and inspect or perform or cause to
24 be performed work necessary to abate such danger or threat or to clean-up
25 a release.

26 C. Reimbursement. The costs of abatement or clean-up
27 performed by the City shall be fully reimbursed by the premises owner,
28 occupant and/or responsible person as appropriate. Any relief obtained

1 under this Section 8.69.170 shall not prevent the City from seeking other
2 and further relief authorized under this Ordinance, other applicable Laws or
3 any agreement with the City. Failure to reimburse the City within a
4 reasonable time shall constitute a violation of this Ordinance.

5 8.96.180 Penalties.

6 A. Penalties. In addition to all other costs, a person who violates
7 or fails to comply with a NOV or any provision of this Ordinance shall, upon
8 written NOP as provided in Section 8.69.160(C) above, be subject to a
9 penalty of up to and including Five Hundred Dollars (\$500.00) per day for
10 each violation, as such amount may be modified from time to time in the
11 Municipal Code of the City.

12 B. Penalty Alternative. In lieu of enforcement proceedings,
13 penalties, and remedies authorized by this Ordinance, the Director may
14 require alternative compensatory actions, including but not limited to,
15 monitoring, installing Stormwater Facilities, storm drain stenciling,
16 attendance at compliance workshops, shore cleanup, and other measures
17 as appropriate in the Director's discretion.

18 C. Revocation of Authorizations. The Director, may, in his/her
19 discretion, revoke or modify City authorizations, terminate any tenancy
20 agreement or right of occupancy of City Premises, or revoke or modify any
21 license, authorization or other privilege conferred by the City, for significant
22 or chronic violation of Storm Water Laws.

23 8.96.190 Appeal.

24 A. Filing a Protest. Any person named in an NOV or NOP may
25 protest such order or penalty or attorneys' fees and costs by sending by
26 certified mail or hand delivering to the Director's office a written request for
27 review within twenty (20) calendar days of receipt of such NOV or NOP.

28 Such protest shall specify all reasons why the order or penalty or

1 assessment of attorneys' fees should be rescinded or modified.

2 B. Review and Decision. Within twenty (20) calendar days of
3 receipt of a protest, the Director shall send a written decision by certified
4 mail to the person filing such protest. The Director's decision shall be final,
5 unless, within ten (10) calendar days of receipt of such decision, the person
6 requests in writing, by certified mail or hand delivery, that a hearing be held
7 on the matter.

8 C. Hearing. Within ten (10) calendar days of receiving a request
9 for a hearing, the Director shall send a written notice of the date and time of
10 a public hearing to the requesting person. At any such hearing, the
11 requesting person may attend, give testimony, and present evidence. The
12 issues addressed at the hearing shall be limited to those specifically raised
13 in the hearing request. The hearing is an administrative process, not a
14 criminal proceeding or a civil court of law proceeding. Costs of transcription
15 of any testimony taken shall be borne by the person requesting
16 transcription. The Director may affirm, modify or reverse any aspect of the
17 written notice under review. The Director shall issue a final decision within
18 twenty (20) calendar days of the hearing.

19 D. Liens. Notwithstanding any other provision of this Ordinance
20 to the contrary, the costs incurred by the City in the abatement of a violation
21 or nuisance may be placed against any privately owned and affected
22 property as either a nuisance abatement lien or a special assessment lien
23 pursuant to Government Code Section 38771, et seq., as amended from
24 time-to-time or a lien pursuant to Government Code Section 54988 as
25 amended from time to time. The City may enforce a lien under this
26 Ordinance in any manner permitted by Law, including filing a civil action to
27 either foreclose on its liens or to obtain a money judgment or both, or
28 pursuing nonjudicial foreclosure. The City may elect, upon thirty (30)

1 calendar days written notice to all known and record owners of the privately
2 owned and affected Premises, to convert any nuisance abatement lien
3 authorized by this Ordinance to a special assessment lien, or vice versa.
4 Costs recoverable under this Ordinance shall include those categories of
5 costs and fees set forth in Civil Code Section 3496, regardless of the type of
6 nuisance involved.

7 8.96.200 Remedies not exclusive.

8 The remedies provided for in this Ordinance shall be cumulative and
9 not exclusive of any other remedies and shall not preclude the City from any
10 other relief which otherwise is available.

11 8.96.210 Fees.

12 The City Council may establish fees to recover costs for complying
13 with the requirements of this Chapter, including, but not limited to, plan
14 checking, cleanup and abatement fees, and industrial and commercial
15 inspection fees, which may be fixed and established from time to time by the
16 City Council by resolution.

17 8.96.220 Compliance responsibility.

18 The standards set forth herein and promulgated pursuant to this
19 ordinance are minimum standards. Compliance with this ordinance does
20 not ensure compliance with Storm Water Laws. Any person subject to
21 requirements of Stormwater Laws or Stormwater Permits shall be
22 responsible for their compliance with Stormwater Laws or Stormwater
23 Permits.

24 8.96.230 Multi-Agency agreements.

25 The City Council or as designated, the City Manager, may enter into
26 interagency agreements with other owner/operators of the MS4 to control
27 the contribution of pollutants from shared portions of the MS4.

28 8.96.240 Miscellaneous provisions.

1 A. Written Notice. Except as otherwise provided in this
2 Ordinance or by the Director, any written notice or request provided under
3 this Ordinance may be delivered by hand delivery, mail or email.

4 B. Conflict of Law. This Ordinance is not intended to interfere
5 with, abrogate or annul any other ordinance, resolution rule, or regulation,
6 statute, or other provision of Law. If any provision of this Ordinance
7 imposes restrictions different from those imposed by any other City
8 ordinance, resolution, rule, or regulation or other provision of Law, the
9 provision that is more restrictive or imposes a higher protective standard for
10 the City, human health, safety or the environment shall take precedence.

11 C. Liability of City. Persons subject to Storm Water Laws shall
12 be solely responsible for compliance with such laws. The Director, including
13 any City or Port official or employee, acting under authorization of this
14 Ordinance, if acting in good faith and within the course and scope of his/her
15 employment, shall not be liable for any damage that may accrue to persons
16 or Premises as the result of or by reason of any act or omission occurring in
17 the good faith discharge of the duties of employment. Neither the City nor
18 any agent or employee thereof shall be liable for any injury or damage
19 resulting from any person's reliance on this ordinance or any administrative
20 decision lawfully made thereunder.

21 D. Severability. The provisions of this Ordinance are hereby
22 declared to be severable. If any provision, clause, sentence, or paragraph of
23 this Ordinance or the application thereof to any person, establishment, or
24 circumstances shall be held invalid, such invalidity shall not affect the other
25 provisions or application of this Ordinance.

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2015, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor