

ORDINANCE NO. _____

An ordinance amending Sections 64.70.01, 64.72, and 64.72.05 of Article 4.4, Chapter VI of the Los Angeles Municipal Code to update processes related to low impact development and stormwater approval for the construction of housing.

WHEREAS, the current National Pollutant Discharge Elimination System and Municipal Separate Storm Sewer System (MS4) Permit for Los Angeles County requires permittees, including the City of Los Angeles, to develop and implement a comprehensive stormwater management program that includes pollution prevention measures, treatment or removal techniques, monitoring, use of legal authority, and other appropriate measures to control the quality of stormwater discharged to storm drains and subsequently to waters of the United States;

WHEREAS, under the current MS4 Permit, the City is required to use its land use and planning authority to implement a planning and land development program that imposes specific requirements to implement structural best management practices in order to meet specified stormwater requirements;

WHEREAS, the City fulfills this obligation through its low impact development program, including related permitting requirements; and

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 64.70.01 of Article 4.4, Chapter VI of the Los Angeles Municipal Code is amended to add or amend the following definitions in alphabetical order, and to renumber the amended list of definitions.

“Commercial Mall” means any development on private land which sells various merchandise. A Commercial Mall includes, but is not limited to, mini-malls, strip malls, other retail complexes, and enclosed shopping malls or shopping centers.

“Industrial Park” means an area zoned and planned for the purpose of industrial development.

“MS4” or “MS4 Permit” means the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Permit for Los Angeles County, as provided or as subsequently amended.

“Multi-Phased Project” means a Development or Redevelopment that is implemented over more than one phase.

“Priority Development and Redevelopment Project” means a Development or Redevelopment that falls under the City’s MS4 planning and building authority for which the City must impose specific requirements, including the implementation of structural Best Management Practices to meet the performance requirements described in Part VIII.F.4 of the MS4 Permit, as provided or as subsequently amended. To the extent this definition conflicts with the operative MS4 Permit in the future, the MS4 Permit requirements for Priority Development and Priority Redevelopment Projects shall govern.

“Redevelopment” means the reconstruction or rehabilitation of any residential, industrial, commercial, retail, or other non-residential land use projects, including any private or public agency projects.

“SIC” or **“Standard Industrial Classification”** means the four-digit numerical code assigned by the United States government that categorizes a company’s particular industry.

“Stormwater Quality Design Volume” or **“SWQDV”** means the greater of the following:

- (i) The volume of runoff produced by a 0.75-inch, 24-hour rain event; or
 - (ii) The volume of runoff produced by an 85th percentile, 24-hour rain event, as determined from the Los Angeles County precipitation isohyetal map.
- Hydromodification impacts shall be minimized to natural drainage systems as defined in the MS4 Permit.

Sec. 2. Section 64.72 of Article 4.4, Chapter VI of the Los Angeles Municipal Code is amended in its entirety as follows:

SEC. 64.72. STORMWATER POLLUTION CONTROL MEASURES FOR DEVELOPMENT PLANNING AND CONSTRUCTION ACTIVITIES.

(A) Objective. The provisions of this section contain requirements for construction activities and facility operations of Development and Redevelopment projects to comply with the land Development requirements of the MS4 Permit through integrating LID practices and standards for stormwater pollution mitigation, and maximizing open, green, and pervious space on all Developments and Redevelopments consistent with the City’s landscape ordinance, codified at LAMC Section 12.40, as amended from time to time, and other related requirements in the Development Best Management Practices Handbook.

(B) Scope. This section contains requirements for stormwater pollution control measures for Development and Redevelopment projects, and authorizes the Board to further define and adopt stormwater pollution control measures, develop LID principles and requirements, including, but not limited to, the objectives and

specifications for integration of LID strategies, collect Best Management Practices compliance plan check fees, conduct inspections, and cite violators for infractions and impose fines. Except as otherwise provided herein, the Board shall administer, implement, and enforce the provisions of this section.

(C) LID Requirements.

1. The following Priority Development and Redevelopment Projects shall comply with the standards and requirements of this article:

a. New Development projects in any of the following categories:

(i) Projects equal to 1 acre or greater of disturbed area and adding more than 10,000 square feet of impervious surface area (collectively over the entire project site);

(ii) Industrial Parks of 10,000 square feet or more of surface area; or

(iii) Commercial Malls of 10,000 square feet or more of surface area.

b. Redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site) on any of the following:

(i) Existing sites of 10,000 square feet or more of impervious surface area;

(ii) Industrial Parks of 10,000 square feet or more of surface area; or

(iii) Commercial Malls of 10,000 square feet or more of surface area.

c. New Development and Redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site) and support any of the following uses:

(i) Restaurants;

(ii) Parking lots;

(iii) Automotive service facilities (SIC 5013, 5014, 5511, 5541, 7532-7534 or 7536-7539); or

(iv) Retail gasoline outlets.

d. New Development or Redevelopment projects that create and/or replace 2,500 square feet or more of impervious surface area and are located partly or wholly within an Environmentally Sensitive Area as defined in the MS4 Permit.

2. Street and road construction of 10,000 square feet or more of impervious surface area shall follow U.S. EPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) or as may be amended, to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects. Temporary access roads are not subject to this requirement. Projects under this category are otherwise exempt from the requirements of this article and are not considered Priority Development and Redevelopment Projects.

3. Considerations for Redevelopment Projects.

a. Where Redevelopment results in an alteration to 50% or more of impervious surface of an existing developed site, the entire site must be mitigated consistent with LAMC Section 64.72(C)(4), as may be amended from time to time.

b. Where Redevelopment results in an alteration of less than 50% of impervious surface of an existing developed site, only the alteration must be mitigated consistent with LAMC Section 64.72(C)(4), as may be amended from time to time.

c. For purposes of this subsection, Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade (i.e., maintain the existing drainage pattern, including slope and elevation), hydraulic capacity, original purpose of facility, or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade and alignment, is considered a routine maintenance activity. Redevelopment does not include the repaving of existing roads to maintain original line and grade (i.e., maintain the existing drainage pattern, including slope and elevation).

4. In the following order of preference, Priority Development and Redevelopment Projects shall be designed to manage and capture stormwater runoff, to the maximum extent feasible, consistent with the MS4 Permit and

Development Best Management Handbook. In the event of any inconsistency between the MS4 Permit and the Development Best Management Handbook, the MS4 Permit shall govern:

- a. On-site infiltration, bioretention, evapotranspiration from green roof, and/or rainfall harvest and use;
- b. If the above is infeasible, then on-site biofiltration, off-site groundwater replenishment, and/or off-site retrofit; and/or
- c. If the above are infeasible, then on-site treatment. A LID mitigation plan shall be prepared to show that on-site stormwater management techniques are properly sized to mitigate the volume of water produced by the SWQDV.

5. When the on-site LID requirements are technically infeasible, partially or fully, as defined in the Development Best Management Handbook, the infeasibility shall be demonstrated in the submitted LID mitigation plan. The technical infeasibility may result from conditions that may include, but are not limited to:

- a. The infiltration rate of the saturated in-situ soils is less than 0.3 inch per hour and it is not technically feasible to amend the in-situ soil to attain an infiltration rate necessary to achieve reliable performance of infiltration or bioretention BMPs in retaining the SWQDV on-site;
- b. Locations where seasonal high groundwater is within 5 to 10 feet of surface grade;
- c. Locations within 100 feet of a groundwater well used for drinking water;
- d. Brownfield Development sites or other locations where pollutant mobilization is a documented concern;
- e. Locations with potential geotechnical hazards; and/or
- f. Smart growth and infill or Redevelopment locations where the density and/or nature of the project would create significant difficulty for compliance with the on-site volume retention requirement.

6. If partial or complete on-site compliance of any type is technically infeasible, the project site and LID mitigation plan shall be required to manage the flow from the SWQDV on-site in order to maximize on-site compliance. For the remaining runoff that cannot feasibly be managed on-site, the project shall implement off-site mitigation on public and/or private land within the same sub-

watershed as defined by the MS4 Permit. This shall include construction and perpetual maintenance of projects that will achieve at least the same level of runoff retention, infiltration and/or use, and water quality.

7. A Multi-Phased Project may comply with the standards and requirements of this section for all of its phases by: (a) designing a system to satisfy these standards and requirements for the entire Site during the first phase; and (b) implementing these standards and requirements for each phase of Development or Redevelopment of the Site during the first phase or prior to commencement of construction of a later phase, to the extent necessary to treat the stormwater from such later phase. The Site of a Multi-Phased Project shall include any land and water area designed and used to store, treat, or manage stormwater runoff in connection with the Development or Redevelopment, including any tracts, lots, or parcels of real property, whether developed or not, associated with, functionally connected to, or under common ownership or control by such Development or Redevelopment.

8. The Director or the Director's designee shall prepare, maintain, and update, as deemed necessary and appropriate, the Development Best Management Practices Handbook to set LID standards and practices and standards for stormwater pollution mitigation, including urban and stormwater runoff quantity and quality control development principles and technologies for achieving the LID standards. The Development Best Management Practices Handbook shall be consistent with the operative MS4 permit and shall also include technical feasibility and implementation parameters, alternative compliance for technical infeasibility, as well as other rules, requirements, and procedures as the Director deems necessary for implementing the provisions of this section. The Board shall adopt the Development Best Management Practices Handbook as soon as practicable but no later than 180 days after the effective date of this section.

9. The Director or the Director's designee shall develop as deemed necessary and appropriate, in cooperation with other City departments and stakeholders, informational bulletins, training manuals, and educational materials to assist in the implementation of the LID requirements.

10. Any Development or Redevelopment that is exempted from LID has the option to voluntarily opt in and incorporate into the project the LID requirements set forth herein. In such case, the Best Management Practices plan check fee associated with the project may be reduced or waived, and all LID related plan check processes shall be expedited.

(D) Other Agencies of the City of Los Angeles. All City departments, offices, entities, and agencies shall establish administrative procedures necessary to implement the provisions of this article in their Development and Redevelopment Projects and report their activities annually to the Board.

Sec. 3. Subsections (C) and (F) of Section 64.72.05 of Article 4.4, Chapter VI of the Los Angeles Municipal Code are amended as follows:

(C) Special Projects. Any project may be categorized by the Bureau as a Special Project and billed for the actual cost incurred by the City.

(F) Deposits to Fund. All monies collected pursuant to the provisions of this section shall be placed and deposited into the Stormwater Pollution Abatement Fund established by Section 64.51.11 of this Code.

Sec. 4. A new Subsection (G) is added to Section 64.72.05 of Article 4.4, Chapter VI of the Los Angeles Municipal Code to read as follows:

(G) Applicability. The provisions of this article shall govern an application for a building or grading permit related to a Development or Redevelopment Project after the effective date of this ordinance and as otherwise consistent with this article. The provisions of this article shall also apply to a Development or Redevelopment project for which an application for a building or grading permit has been submitted before the effective date of this ordinance and accepted by the Department of Building and Safety if the associated permit application fees are paid on or after the effective date of this ordinance. An application for a building or grading permit of a Development or Redevelopment Project that has been submitted, accepted by the Department of Building and Safety, and for which the associated permit application fees are paid before the effective date of this ordinance shall be subject instead to the requirements for low impact development and stormwater approval process that existed prior to the effective date of this ordinance.

Sec. 5. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

HYDEE FELDSTEIN SOTO, City Attorney

By 
ADENA M. HOPENSTAND
Deputy City Attorney

Date June 27, 2023

File No. _____

M:\GENERAL COUNSEL DIVISION\ORDINANCES AND REPORTS\ORDINANCES - FINAL YELLOW\Ordinance re LAMC 64.70.01 and 64.72 - amendments to LID CF 22-0600-S54.docx

The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____