STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: David Ott, City Manager
MEETING DATE: July 8, 2009
ORIGINATING DEPT: City Manager’s Office
SUBJECT: Adopt (2nd Reading) Ordinance 399 – Noise Abatement and Storm Water Management

BACKGROUND
On June 24, 2009, the City Council introduced Ordinance 399, which would amend Chapter 7.34 and Chapter 13.10 of the Solana Beach Municipal Code relating to noise abatement and storm water management.

This staff report is introducing amendments to the Solana Beach Municipal Code (SBMC) Chapters 7.34, Noise Abatement and Control and 13.10, Storm Water Management. The amendment to Chapter 7.34 addresses an un-prioritized environmental sustainability item regarding a ban on leaf blowers in the 2008/2009 Workplan. The amendment to Chapter 13.10 strengthens the intent of the environmental sustainability strategic priority.

Three interests emerged regarding the use of leaf blowers; a reduction in the release of hydrocarbon emissions, a reduction in noise pollution, and controlled discharge of leaves, lawn clippings, dirt, and other debris that can enter the storm drain conveyance system. The amendments discussed below address these concerns.

At the time this matter was heard at the May 27, 2009 meeting, the City Council directed the deletion of the provisions regarding prima facie evidence. Moreover, in an effort to substantiate violations and prevent the City getting entangled in private neighborhood disputes, a provision compelling the number of persons required to initiate an investigation has been added throughout and references made to evidence necessary to constitute prima facie evidence of violations has been removed.

DISCUSSION:
On June 24, 2009, Ordinance 399 was introduced and is being presented for final adoption.

CITY COUNCIL ACTION:

AGENDA ITEM C.9.
Noise Abatement
The regulation regarding leaf blowers is found under SBMC Chapter 7.34, Noise Abatement and Control, and presently only regulates the hours of use. The City of Solana Beach is dedicated to protecting the environment and reducing its carbon footprint, and in the 2008/2009 Workplan identified the ban of leaf blowers as a measure the City can take towards this end.

The California Air Resources Board (CARB) calculated that hydrocarbon emissions from ½ hour of leaf blower operation equal about 7,700 miles of driving at 30 mph average speed. To reduce the amount of carbon emissions released into the air, Staff is recommending a ban on internal combustion 2-stroke engine leaf blowers. In addition to wasting roughly 30% of the fuel by boosting it out through the exhaust and into the air, these two-stroke engines burn their remaining fuel inefficiently, reaching levels of emissions that would prejudice your personal automobile from getting a “clean” smog certificate. Twenty cities in California have banned the use of gas-powered leaf blowers and five other states have at least one city that has placed restrictions on their use.

The proposed amendment to SBMC section 7.34.080 addresses this concern by banning leaf blowers powered by an internal combustion 2-stroke gas engines beginning January 1, 2011. This future date provides time for citizen’s and service providers to replace gas-powered leaf blowers with electric leaf blowers should they decide to continue using them. In the meantime, changes to SBMC section 7.34.080 also regulates the day and time leaf blowers powered by an internal combustion 2-stroke gas engines may be used until the ban takes effect. To reduce noise levels further, the proposed amendment also requires all mufflers and full extension tubes supplied by the manufacturer be used when operating the equipment. This provision is a new requirement that is not in the current ordinance.

While reviewing SBMC Chapter 7.34, the City’s Noise Abatement and Control Ordinance, a couple of housekeeping items were noted and are also being addressed at this time. It was enacted in 1991 pursuant to Ordinance Number 147. Since that time, no changes have been made. Upon comprehensive review, it was noted certain references are out of date and needs revisions. Specifically, references to a Noise Review Board and the characterization of temporary permits as variances. The proposed changes will clarify this terminology as used in the permit process.

The proposed amendment eliminates the reference to the Noise Review Board. While a Noise Review Board is referenced in SBMC Chapter 7.34, there has never been a Noise Review Board created in Solana Beach. Therefore, references to this board should be removed from the SBMC. A “variance” is a term of art used in the context of zoning which are subject to strict statutory requirements in the Government Code. Relief from the restrictions in the Noise Ordinance should rather be characterized as “permits” instead of a “variance” for the purpose of clarity.

Moreover, Section 7.34.140, subsection B (1) is modified to remove reference to the California Vehicle Code. Under the existing provision, the City code enforcement
personnel cannot take action because it is a state code violation and not subject to the enforcement provisions of the SBMC. As a general law city, the City does not have the ability to enforce state codes. As revised, violations of SBMC section 7.34.140(B)(1) will now be subject to enforcement conditions under SBMC.

The proposed amendment also requires two complaints from persons residing at two different dwellings to initiate an investigation. This change brings more consistency to the complaint process and will focus limited resources on investigations that are more likely to involve disturbance to more than one individual. In addition the proposed amendment deletes references to what constitutes prima facie evidence of violations.

**Storm Water**

The purpose of the City of Solana Beach’s Municipal Code Chapter 13.10 “Storm Water Management” is to protect the health, safety, and general welfare of Solana Beach residents; to protect water resources and to improve water quality; to cause the use of management practices by the City and its citizens that will reduce the adverse effects of polluted runoff discharges on waters of the state; to secure benefits from the use of storm water as a resource; and to ensure that the City is compliant with California Regional Water Quality Control Board San Diego Region Order No. R9-2007-0001, and with applicable state and federal law.

SBMC section 13.10.030 defines organic materials as a "pollutant" and therefore must be prevented from entering the storm drain conveyance system, which includes, among other things, the streets, gutters, and catch basins. Leaf blowers can contribute to the discharge of pollutants into the City's storm drain conveyance system. Often times, leaves and other organic debris are blown into the street, gutter, and catch basins during routine landscaping activities. This has the potential to introduce pollutants into the storm drain conveyance system through indirect transport mechanisms, including over-irrigation and wind. These organic materials break down in the storm drain pipes and provide optimal conditions for bacteria re-growth, which can be a violation of the National Pollutant Discharge Elimination System (NPDES) permit.

The proposed amendment to SBMC Section 13.10.030 expands the definition of ‘pollutant’ to specify leaves, grass clippings, and yard waste and trimmings as organic contaminants. Violations of SBMC section 13.10.050 will be enforced pursuant to SBMC section 13.10.180 which includes administrative and judicial remedies.

To address the un-prioritized environmental sustainability item regarding a ban on leaf blowers in the 2008/2009 Workplan, City staff recommends for the City Council to introduce Ordinance No. 399.

**CEQA COMPLIANCE STATEMENT:**
The proposed amendments to the SBMC qualify as "categorical exemptions" from CEQA. (Pub. Resources Code § 21084(a).) The CEQA Guidelines include a list of classes of projects that have been determined not to have a significant effect on the
environment and which are therefore categorically exempt from the provisions of CEQA. (14 Cal Code Regs. § 15300.) Section 15308 of the Guidelines states:

"Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption."

Here, since both the Noise Ordinance and Storm Water Management amendments are for the protection of the environment, the City should find that a categorical exemption to CEQA exists. In determining that a categorical exemption applies, staff has relied on documents to support a finding that these SBMC amendments protect the environment.

Specifically, the leaf blower regulation is supported by evidence of the negative environmental impacts of leaf blowers discussed in a report by Cal EPA - California Air Resources Board entitled: "A REPORT TO THE CALIFORNIA LEGISLATURE ON THE POTENTIAL HEALTH AND ENVIRONMENTAL IMPACTS OF LEAF BLOWERS." A copy of this report is on file at the City Clerk’s Office. This document may also be found at: http://www.arb.ca.gov/msprog/mailouts/msc0005/msc0005.pdf.

For the storm water maintenance amendment, the supporting documentation evidencing increased environmental hazards of organic contaminants introduced to the storm drain conveyance may be found in the “FACT SHEET/TECHNICAL REPORT and the permit for CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION ORDER NO. R9-2007-0001 NPDES NO. CAS0108758 WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES OF URBAN RUNOFF FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s) DRAINING THE WATERSHEDS OF THE COUNTY OF SAN DIEGO, THE INCORPORATED CITIES OF SAN DIEGO COUNTY, THE SAN DIEGO UNIFIED PORT DISTRICT, AND THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY." Both documents are on file at the City Clerks office and may be found at:


Specifically, the FACT SHEET/TECHNICAL REPORT states:

"the most common categories of pollutants in urban runoff include ... pathogens (e.g., bacteria, viruses, protozoa...synthetic organics (e.g., pesticides, herbicides, and PCBs); nutrients (e.g., nitrogen and phosphorus fertilizers), oxygen-demanding substances (decaying vegetation, animal waste), and trash. The National Urban Runoff Program (NURP) study showed that heavy metals, organics, coliform bacteria, nutrients, oxygen
demanding substances (e.g., decaying vegetation), and total suspended solids are found at relatively high levels in urban runoff. Also, urban runoff pollutants in receiving waters can bioaccumulate in the tissues of invertebrates and fish, which may be eventually consumed by humans. Furthermore, urban runoff pollutants in receiving waters can bioaccumulate in the tissues of invertebrates and fish, which may eventually be consumed by humans. Pollutants such as heavy metals and pesticides, which are commonly found in urban runoff, have been found to bioaccumulate and biomagnify in long-lived organisms at the higher trophic levels.

Additionally, Staff has determined that none of exceptions apply to the use of a categorical exemption found in Section 15300.2 of the CEQA Guidelines. Therefore, following approval of the ordinance amendments, the City should file a Notice of Exemption with the San Diego County Clerk.

**FISCAL IMPACT:**
There is no fiscal impact associated with proposed changes to the SBMC.

**WORKPLAN:**
This item is in FY2008/09 Workplan under Environmental Sustainability, Un-prioritized Issues.

**OPTIONS:**
- Approve Staff recommendation adopting Ordinance 399 amending SBMC Chapters 7.34 and 13.10.
- Provide direction.

**DEPARTMENT RECOMMENDATION:**
Staff recommends that the City Council:

1. Adopt Ordinance 399 amending Chapter 7.34 and Chapter 13.10 of the Solana Beach Municipal Code.

**CITY MANAGER'S RECOMMENDATION:**
Approve Department Recommendation.

David Ott, City Manager

Attachment:
1. Ordinance 399
ORDINANCE 399

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, AMENDING AND REPEALING SECTIONS OF CHAPTER 7.34 OF THE SOLANA BEACH MUNICIPAL CODE, ALL RELATED TO NOISE ABATEMENT AND CONTROL AND AMENDING SECTION 13.10.030 OF THE SOLANA BEACH MUNICIPAL CODE, RELATED TO STORM WATER MANAGEMENT

WHEREAS, the City’s Noise Abatement and Control Ordinance (Chapter 7.34 of the Solana Beach Municipal Code) was enacted in 1991 pursuant to Ordinance Number 147; and

WHEREAS, no amendments have been made to Chapter 7.34 of the Solana Beach Municipal Code since its enactment;

WHEREAS, the City Council desires to update Chapter 7.34 to clarify certain provisions and to repeal sections that are unnecessary.

WHEREAS, the City of Solana Beach’s storm water management and discharge control ordinance, Chapter 13.10 of the Solana Beach Municipal Code, provides for the prevention and enforcement of certain discharges into the storm water system within the City; and

WHEREAS, organic contaminants whose presence degrades the quality of the receiving waters in violation of basin plan, enclosed bays and estuaries plan, inland surface water plan, and California ocean plan standards including but not limited to leaves, grass clippings and yard waste and trimmings must be prevented from entering the storm drain conveyance system, which includes, among other things, the streets, gutters, and catch basins.

WHEREAS, leaf blowers can contribute to the discharge of pollutants, specifically organic contaminants, into the City’s storm drain conveyance system; and

WHEREAS, the SBMC section 13.10.030 needs to be amended to expand the definition of pollutants to specify leaves, grass clippings, and yard waste and trimmings as organic contaminants.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SOLANA BEACH DOES ORDAIN AS FOLLOWS:

Section 1. Section 7.34.040.A of the Solana Beach Municipal Code is hereby amended as follows:

7.34.040 Sound level limits.
A. Unless a permit has been applied for and granted pursuant to this chapter, it shall be unlawful for any person to cause or allow the creation of any noise to the extent that the one-hour average sound level, at any point on or beyond the boundaries of the property on which the sound is produced, exceeds the applicable limits set forth below except as provided in SBMC 7.34.170 and construction noise level limits governed by SBMC 7.34.100. The noise subject to the limits set forth below is that part of the total noise at the specified location that is due solely to the action of said person. The limits apply to the source of the noise only, not the source of the noise plus the ambient noise level.

<table>
<thead>
<tr>
<th>Zone</th>
<th>(Decibels)</th>
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<tbody>
<tr>
<td>ER1, ER2, LR, LMR, MR</td>
<td>7 a.m. to 10 p.m. 50</td>
</tr>
<tr>
<td>Residential</td>
<td>10 p.m. to 7 a.m. 45</td>
</tr>
<tr>
<td>MHR, HR</td>
<td>7 a.m. to 10 p.m. 55</td>
</tr>
<tr>
<td>Residential</td>
<td>10 p.m. to 7 a.m. 45</td>
</tr>
<tr>
<td>C, LC, OP</td>
<td>7 a.m. to 10 p.m. 60</td>
</tr>
<tr>
<td>Commercial Office</td>
<td>10 p.m to 7 a.m. 55</td>
</tr>
<tr>
<td>LI, SC</td>
<td>Light Industrial and 7 a.m. to 10 p.m. 70</td>
</tr>
<tr>
<td>Special Commercial</td>
<td>10 p.m. to 7 a.m. 60</td>
</tr>
<tr>
<td>PI, ROW</td>
<td>7 a.m. to 10 p.m. 60</td>
</tr>
<tr>
<td>Public/Institutional</td>
<td>10 p.m. to 7 a.m. 45</td>
</tr>
<tr>
<td>OSR</td>
<td>7 a.m. to 10 p.m. 60</td>
</tr>
<tr>
<td>Park/Recreational</td>
<td>10 p.m. to 7 a.m. 45</td>
</tr>
</tbody>
</table>

B. In the event the alleged offensive noise, as judged by the noise control officer, contains a steady, audible tone such as a whine, screech, or hum, or is a repetitive noise such as hammering or riveting, the applicable limits set forth above shall be reduced by five dB. The noise control officer may use an octave band spectral filter coupled to a sound level meter to aid in the judgment of the presence of an audible tone. If the sound intensity measured in any audible octave band exceeds that in adjacent bands by five dB, then an audible tone shall be judged as present.

C. The sound level limit at a location on a boundary between two zoning districts is the arithmetic mean of the respective limits for the two districts.

D. Fixed location public utility distribution or transmission facilities located on or adjacent to a property line shall be subject to the noise level limits of this section, measured at or beyond six feet from the boundary of the easement upon which the equipment is located.

E. “Noise control officer” as used in this Chapter shall mean the City Manager or his/her designee.

Section 2. Section 7.34.070 of the Solana Beach Municipal Code is hereby amended as follows:
7.34.070 Solid waste management vehicles and parking lot and sidewalk vacuums.

No person shall operate, or permit to be operated, a refuse compacting, processing, or collection vehicle or a parking lot or sidewalk vacuum between the hours of 6:00 p.m. and 6:30 a.m. in or immediately adjacent to any residential area of the city unless a permit has been applied for and granted pursuant to this chapter.

Section 3. Section 7.34.080 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.080 Leaf blowers.

A. Regulation. It is unlawful for any person to use or operate within the city any leaf blower powered by a 2-stroke gas-powered engine to blow leaves, dirt and other debris off sidewalks, driveways, lawns and other surfaces, except between the hours of 9:00 a.m. and 5:00 p.m. Only non-commercial residential uses of leaf blowers are permitted on Sundays.

B. No person shall operate any leaf blower without attachment of all mufflers and full extension tubes supplied by the manufacturer for that leaf blower.

C. Beginning January 1, 2011, no leaf blower powered by a 2-stroke gas engine shall be permitted to operate within the city.

Section 4. Section 7.34.140 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.140 General noise regulations.

A. General Prohibitions. Notwithstanding section 7.34.040, it is unlawful for any person to make, continue or cause to be made or continued, within the limits of the city, any disturbing, excessive or offensive noise which causes discomfort or annoyance to reasonable persons of normal sensitivity residing in the area.

The characteristics and conditions which should be considered in determining whether a violation of the provisions of this section exists, include, but are not limited to, the following:

1. The level of noise;
2. Whether the nature of the noise is usual or unusual;
3. Whether the origin of the noise is natural or unnatural;
4. The level of the background noise;
5. The proximity of the noise to sleeping facilities;
6. The nature and zoning of the area within which the noise emanates;
7. The density of the inhabitation of the area within which the noise emanates;
8. The time of the day or night the noise occurs;
9. The duration of the noise; and
10. Whether the noise is recurrent, intermittent or constant.

B. Disturbing, Excessive and Offensive Noises. The following acts, among others, are declared to be disturbing, excessive or offensive noises in violation of this section, but the enumeration shall not be deemed to be exclusive, namely:

1. Horns, Signaling, Devices, etc. Disturbing, excessive or offensive noises associated with the use or operation of horns, signaling devices, etc., on automobiles,
motorcycles, or any other vehicles except as provided in SBMC 7.34.100, is prohibited and constitutes a violation of this section.

2. Stationary Nonemergency Signaling Devices. The use, operation or the permitting to be used or operated of any stationary nonemergency signaling device including, but not limited to, outside telephone bells, buzzers, beepers or paging systems in such a manner as to disturb the peace, quiet or comfort of neighboring residents or persons of normal sensitivity residing in the area is prohibited.

   a. Uses Restricted. The use, operation, or permitting to be played, used or operated, any radio, musical instrument, phonograph, CD player, automobile or truck sound system, television set or other device for the production or reproduction of sound in such a manner as to disturb the peace, quiet and comfort of neighboring residents or persons of normal sensitivity residing in the area; or in a manner to exceed those levels set forth in SBMC 7.34.040 when measured at a distance of 25 feet from such device operating in a public right-of-way or public space, except that subject to permit issued by the city of Solana Beach parks and recreation department specifying time, location and other conditions, amplified sound may be permitted within city parks; provided, that said sound does not exceed a level of 90 decibels 50 feet from the source or exceed those levels set forth in SBMC 7.34.040 at the park boundary. This provision will be enforced by the director, parks and recreation department, or his duly authorized representative.

4. Loudspeaking Amplifiers for Advertising. The use, operation or the permitting to be played, used or operated of any sound production or reproduction device or machine including, but not limited to, radio receiving sets, phonographs, musical instruments, loudspeakers and sound amplifiers, for commercial or business advertising purposes in, upon, over or across any street, alley, sidewalk, park or public property in such a manner as to violate the provisions of this chapter is prohibited. This provision shall not be applicable to sound-amplifying equipment mounted on any sound truck or vehicle for commercial or noncommercial purposes where the owner or operator complies with the following requirements:
   a. The only sound permitted is music or human speech.
   b. Operations are permitted between the hours of 8:00 a.m. and 9:00 p.m., or after 9:00 p.m. during public events and affairs of interest to the general public.
   c. Sound-amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least 10 miles per hour, except when such truck is stopped or impeded by traffic. Where stopped by traffic the sound-amplifying equipment shall not be operated for longer than one minute at each stop.
   d. Sound shall not be issued within 100 yards of hospitals, schools or churches.
   e. The volume of sound shall be controlled so that the volume is not raucous, jarring, disturbing or a nuisance to persons within the area of audibility and so that the volume of sound shall not exceed a sound level of 65 decibels (on the A scale) at a distance of 50 feet from the sound-amplifying equipment as measured by a sound level meter which meets the American National Standard ANSI S1.4-1971 or the latest revision thereof.
f. No sound-amplifying equipment shall be operated unless the axis of the center of any sound-reproducing equipment used shall be parallel to the direction of travel of the sound truck; provided, however, that any sound-reproducing equipment may be so placed upon the sound truck as to not vary more than 15 degrees either side of the axis of the center of the direction of travel.

g. No sound truck with its amplifying device in operation shall be driven on the same street past the same point more than twice in a period of one hour.

5. Yelling, Shouting, etc. Disturbing or raucous yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 10:00 p.m. and 8:00 a.m. or at any other time or place so as to annoy or disturb the quiet, comfort or repose of neighboring residents or persons of normal sensitivity within the area for whatever reason, is prohibited.

6. Hawkers and Peddlers. The shouting or crying out of any peddlers, hawkers and vendors which disturbs the peace and quiet of a neighborhood or persons of normal sensitivity is prohibited. This provision shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at sporting events, parades, fairs, celebrations, festivals, circuses, carnivals and other similar special events for public entertainment.

7. Drums, Other Instruments. The use of any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise within the city is prohibited. This provision shall not apply to any person who is a participant in a school band or legally authorized parade or who has been otherwise duly authorized by the city to engage in such conduct.

8. Animals. The keeping or maintenance, or the permitting to be kept or maintained upon any premises owned, occupied or controlled by any person of any animal which by any frequent or long-continued noise shall cause annoyance or discomfort to persons of normal sensitivity in the vicinity; provided, however, that nothing contained herein shall be construed to apply to occasional noises emanating from legally operated dog and cat hospitals, humane societies, pounds, farm and/or agricultural facilities.

9. Schools, Libraries, Churches, Hospitals. The creation of any noise on any street, sidewalk or public place adjacent to any school, institution of learning (except recreational areas of schools), church or library, while the same are in use; or adjacent to a hospital, rest home, or long-term medical or mental care facility which noise interferes with the workings of such institution or which disturbs or annoys patients in the hospital, rest home or long-term medical or mental care facility, provided conspicuous signs are displayed in such streets, sidewalks or public places indicating the presence of a school, institution of learning, church, library, rest home or long-term medical or mental care facility, is prohibited.

10. Steam Whistles and Air Horns. The operation, use or causing to be operated or used of any steam whistle attached to any stationary boiler or of any air horn is prohibited except to give notice of the time to start or stop work or as a sound signal of imminent danger. Use of steam whistles and air horns for time signals shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m.

11. Engines and Motor Vehicles. Any disturbing or raucous noises caused off streets or highways by racing or accelerating the engine of any motor vehicle while
moving or not moving, by the willful backfiring of any engine and exhaust from the engine tailpipe or muffler, or from the screeching of tires, is prohibited.

12. Evidence to Initiate Investigation. The written affirmation by two persons having separate residences that a violation of this section disturbs the peace and quiet of such persons shall be sufficient evidence to prompt an investigation by the City as to whether a violation of this section of this chapter has occurred.

Section 5. Section 7.34.170 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.170 Exemptions.

A. Emergency Work. The provisions of this chapter shall not apply to any emergency work as defined herein, provided that:

1. The noise control officer has been notified in advance, if possible, or as soon as practical after the emergency; and

2. Any vehicle, device, apparatus or equipment used, related to or connected with emergency work is designed, modified or equipped to reduce sounds produced to the lowest possible level consistent with effective operation of such vehicle, device, apparatus or equipment.

B. Sporting, Entertainment, Public Events. The provisions of this chapter shall not apply to:

1. Those reasonable sounds emanating from authorized school bands, school athletic and school entertainment events;

2. Sporting, entertainment and public events which are conducted pursuant to a license or permit issued by the city for noise exceeding criteria, standards or levels as set forth in this chapter;

3. Those reasonable sounds emanating from a sporting, entertainment, or public event; provided, however, it shall be unlawful to exceed those levels set forth in SBMC 7.34.040 when measured at or within the property lines of any property which is developed and used either in part or in whole for residential purposes unless a permit has been granted pursuant to this chapter allowing sounds in excess of said levels.

C. Federal or State Preempted Activities. The provisions of this chapter shall not apply to any activity to the extent regulation thereof has been preempted by state or federal law.

D. Minor Maintenance to Residential Property. The provisions of SBMC 7.34.040 shall not apply to noise sources associated with minor maintenance to property used either in part or in whole for residential purposes, provided said activities take place between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday or between the hours of 8:00 a.m. and 7:00 p.m. on Saturday. Work on Sundays and holidays is prohibited unless an owner/occupant or resident/tenant is engaged in the minor maintenance between the hours of 8:00 a.m. and 7:00 p.m.

E. Agricultural Operations. The provisions of SBMC 7.34.040 shall not apply to equipment associated with agricultural operations; provided, that all equipment and machinery powered by internal-combustion engines is equipped with a proper muffler and air intake silencer in good working order, and provided further, that

1. Operations do not take place between 7:00 p.m. and the following 7:00 a.m.; or
2. Such operations and equipment are utilized for the protection or salvage of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions; or

3. Such operations and equipment are associated with agricultural pest control through pesticide application, provided the application is made in accordance with permits issued by, or regulations enforced by, the county department of agriculture.

Section 6. Section 7.34.240 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.240 Temporary permits to exceed noise limits.

The noise control officer shall evaluate all applications for temporary permits to exceed the noise limits of this chapter and may grant the permit with respect to time for compliance, subject to such terms, conditions, and requirements as he may deem reasonable to achieving compliance with the provisions of the chapter. Each such permit shall set forth in detail the approved method of achieving compliance and a time schedule for its accomplishment. If in the judgment of the noise control officer, the time for compliance cannot be reasonably determined, a permit to cause the noise may be issued for a specified period of time, subject to revocation or modification after review by the noise control officer at interim times to be designated by the noise control officer in the permit. In determining the reasonableness of the terms of any proposed permit, the noise control officer shall consider the magnitude of nuisance caused by the offensive noise, the uses of the property within the area of impingement by the noise, operations carried on under the existing nonconforming rights or conditional use permits or zone variances, the time factors related to study, design, financing and construction of remedial work, the economic factors related to age and useful life of the equipment and general public interest and welfare.

Section 7. Section 7.34.250 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.250 Applications for temporary permits.

Every applicant for a temporary permit required by this chapter shall file with the noise control officer a written application on a form prescribed by the officer. The application shall state the name and address of the applicant, the nature of the noise source involved, and such other information as the noise control officer may require.

Section 8. Section 7.34.250 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.260 Application fees.

Every applicant, except any state or local governmental agency or public district, shall pay a fee of $100.00 for each application for a temporary permit. A request for a duplicate permit shall be made in writing to the noise control officer within 10 days after the destruction, loss or defacement of a permit. A fee of $5.00 shall be charged, except to any state or local government agency or public district, for issuing a duplicate permit.
Section 9. Section 7.34.250 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.270 Extension fees.
If a permit is to be extended beyond the original use termination date on the permit, the extension fee shall be $50.00.

Section 10. Section 7.34.250 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.280 Actions on applications.
A. The noise control officer shall act, within 30 days if possible, on an application for a permit and shall notify the applicant in writing by mail or in person of the action taken, namely approval, conditional approval, or denial. Notice of the action taken shall be deemed to have been given when the written notification has been deposited in the mail, postpaid addressed to the address shown on the application, or when personally delivered to the applicant or his representative. Before acting on an application for a permit, the noise control officer may require the applicant to furnish further information or further plans or specifications. Failure of the applicant to provide such further information or further plans or specifications within 10 days shall be grounds for denial of the permit.

B. In the event of denial of an application for a permit, the noise control officer shall notify the applicant in writing of the reasons therefor. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgment of the person served or affidavit of the person making the service. The noise control officer shall not accept a further application unless the applicant has complied with the objections specified by the noise control officer as his reasons for denial.

Section 11. Section 7.34.290 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.290 Applications deemed denied.
The applicant may, at his option, deem the permit denied if the noise control officer fails to act on the application within 30 days after filing, or within 10 days after applicant furnishes the further information, plans and specifications requested by the noise control officer, whichever is later.

Section 12. Section 7.34.300 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.300 Provision of sampling and testing facilities.
A person operating under a permit shall provide and maintain such sampling and testing facilities as specified in the permit.

Section 13. Section 7.34.310 of the Solana Beach Municipal Code is hereby amended as follows:
7.34.310 Appeals.
Within 10 days after notice by the noise control officer of denial or conditional approval of a permit, or within 10 days after the effective date of the revocation of a permit by the noise control officer, the affected person may petition the city council, in writing, for a public hearing. The city council, after notice and a public hearing after filing the petition, may sustain, reverse or modify the action of the noise control officer; such order may be made subject to specified conditions.

Section 14. Section 7.34.330 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.330 Contents of petition.
A petition to review a denial or conditional approval of a permit shall include a copy of the permit application, and a copy of the noise control officer's action setting forth the reasons for the denial or the conditions of the approval, and the reasons for appeal. A petition to review a permit revocation shall include a copy of the permit, the noise control officer’s revocation notice, including his reasons for revocation, and the reasons for appeal.

Section 15. Section 7.34.390 of the Solana Beach Municipal Code is hereby amended as follows:

7.34.390 Decision.
The city council may affirm, modify or overrule the noise control officer’s decisions on permit applications, and shall be guided by the same consideration as set forth in SBMC 7.34.220. A majority of the members of the city council shall be necessary for any action. The decision shall be by written order. If requested by either party, the decision shall contain a brief statement of facts found to be true, the determination of the issues presented and the order of the city council. A copy of the decision shall be mailed or delivered to the noise control officer and the petitioner and to every person who files a written request for the decision with the city manager's office.

Section 16. Section 13.10.030 of the Solana Beach Municipal Code is hereby amended as follows:

13.10.030 Definitions.
The following definitions shall be applicable when the following words or phrases are used hereafter in this chapter, whether or not these words or phrases are capitalized.
“Attached residential development” means any development that provides 10 or more residential units that share an interior/exterior wall. This category includes, but is not limited to: dormitories, condominiums and apartments.
“Authorized enforcement official” means the city manager of the city of Solana Beach or any designee of the city manager of the city of Solana Beach who is responsible for enforcing the provisions of this chapter, including but not limited to the directors, their management staff, and designees.
“Best management practices” or “BMPs” means schedules of activities, pollution treatment practices or devices, prohibitions of practices, general good housekeeping
practices, pollution prevention and educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or the storm water conveyance system. Best management practices also include, but are not limited to, treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. Best management practices may include any type of pollution prevention and pollution control measure, approved by the city and consistent with Order No. R9-2007-0001 that can help to achieve compliance with this chapter.

"Channel" means a natural or improved watercourse with a definite bed and banks that conducts flowing water either continuously or intermittently.

"City" means the city of Solana Beach.

"Commercial development" means any development on private land that is not exclusively heavy industrial or residential uses. The category includes, but is not limited to: mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses, hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, car wash facilities, automotive dealerships, commercial airfields, and other light industrial complexes.

"Commercial development greater than one acre" means any commercial development that results in the disturbance of one acre or more in land.

"Commercial discharger" means a discharger who operates a regulated commercial facility.

"Constructed wetland" means a vegetated area that has been deliberately modified to provide or enhance habitat, to provide water quality benefits, or to moderate water flow rates or velocities, that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

"Detached residential development" means any development that provides 10 or more freestanding residential units. This category includes, but is not limited to: detached homes, such as single-family homes and detached condominiums.

"Developer," or "development project proponent" means a person who seeks or receives permits for, or who undertakes, land development activity.

"Directly connected impervious area (DCIA)" means the area covered by a building, impermeable pavement, and/or other impervious surfaces, which drains directly into the storm drain without first flowing across permeable vegetated land area (e.g., lawns).

"Directors" means the directors of community development and public works.

"Discharge," when used as a verb, means to allow pollutants to directly or indirectly enter storm water, or to allow storm water or non-storm water to directly or indirectly enter the storm water conveyance system or receiving waters, from an activity or operations which one owns or operates. When used as a noun, "discharge" means the pollutants, storm water and/or non-storm water that is discharged.

"Discharger" means any person or entity engaged in activities or operations or owning facilities, which will or may result in pollutants entering storm water, the storm water conveyance system, or receiving waters; and the owners of real property on which such activities, operations or facilities are located; provided, however, that a local government
or public authority is not a discharger as to activities conducted by others in public rights-of-way.

“Discharges directly to” means that storm water or non-storm water enters receiving waters from a facility or activity, without mixing with any storm water or non-storm water from another facility or activity prior to entering such receiving waters.

“Drainage easement” means a legal right granted by a landowner to a grantee allowing the use of private land for storm water management purposes.

“Employee training program” means a documented employee training program for all persons responsible for implementing a storm water pollution prevention plan. The employee training program shall include, but is not limited to, the following topics:

1. Laws, regulations, and local ordinances associated with storm water pollution prevention, and an overview of the potential impacts of polluted storm water on the receiving waters of the San Diego region;
2. Proper handling of all materials and wastes to prevent spillage;
3. Mitigation of spills including spill response, containment and cleanup procedures;
4. Visual monitoring of all effluent streams to ensure that no illicit discharges enter the storm water conveyance system;
5. Discussion of the differences between the storm water conveyance system and the sanitary sewer system;
6. Identification of all on-site connections to the storm water conveyance system;
7. Preventive maintenance and good housekeeping procedures;
8. Material management practices employed by the facility to reduce or eliminate pollutant contact with storm water discharge.

Enforcing Agency. The city manager, or his/her designee, is responsible for enforcing the provisions of this chapter.

“Environmentally sensitive areas,” or “ESAs,” means areas that include, but are not limited to, all Clean Water Act 303(d) impaired water bodies (“303(d) water bodies”); areas designated as “Areas of Special Biological Significance” (ASBS) by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); water bodies designated as having a RARE beneficial use by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments), or areas designated as preserves. The limits of areas of special biological significance are those defined in the Water Quality Control Plan for the San Diego Basin (1994 and amendments).

“Erosion control plan” means a plan prepared under the direction of and signed by a civil engineer competent in the preparation of such plans and knowledgeable about current erosion control methods. The plan shall provide for protection of exposed soils, prevention of discharge of sediment, and desiltation of runoff at frequent intervals along flowage areas, at entrances to storm drains, at entrances to streets and driveways, and at the exit of the area being graded.

“Erosion control system” means any combinations of desilting facilities, retarding basins, flow decelerates, and/or erosion protection (including effective planning and the maintenance thereof) to protect the project site, adjacent private property, watercourses, public facilities, graded improvements, existing natural facilities,
archaeological artifacts, and relieve waters of suspended sediments or debris prior to discharge from the site.

"Hazardous material" 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 present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of or otherwise managed (California Health and Safety Code 25117).

"Hillside" means lands that have a natural gradient of 25 percent (four feet of horizontal distance for every one foot of vertical distance) or greater and a minimum elevation differential of 50 feet, or a natural gradient of 200 percent (one foot of horizontal distance for every two feet of vertical distance) or greater and a minimum elevation differential of 10 feet.

"Hillside development greater than 5,000 square feet" means any development that would create more than 5,000 square feet of impervious surfaces in hillsides with known erosive soil conditions.

"Household hazardous waste" means a household hazardous material that no longer has a use and is discarded or intended to be discarded. The term includes, but is not limited to, paint and paint-related materials; yard and garden products; household cleaners; used oil, motor vehicle fluids, batteries and oil filters; and household batteries.

"Hydrologic soil group" means the classification system for soil erodibility set out in Soil Survey – San Diego Area, California (December 1973), issued by the U.S. Department of Agriculture Soil Conservation Service and U.S. Forest Service. In this system, soils are categorized into four runoff potential groups. The groups range from "A" soils, which have high permeability and little runoff production, to "D" soils, which have low permeability rates and produce much more runoff.

"Hydromodification" means the change in the natural hydrologic processes and runoff characteristics (i.e., interception, infiltration, overland flow, interflow and groundwater flow) cased by urbanization or other land use changes that result in increased stream flows and changes in sediment transport. In addition, alteration of stream and river channels, installation of dams and water impoundments, and excessive stream bank and shoreline erosion are also considered hydromodification, due to their disruption of natural watershed hydrologic processes.

"Illegal connection" means a pipe, facility, or other device connected to the storm water conveyance system or receiving waters, which has not been reviewed and authorized by the city; or a permitted/authorized pipe, facility, or other device, which conveys illegal discharges.

"Illegal discharge" means any discharge into storm water, the storm water conveyance system, or receiving waters that is prohibited by this chapter. This includes, but is not limited to, discharges of non-storm water that are not exempt discharges listed in SBMC 13.10.060, any discharge from an illegal connection, and any discharge that contains additional pollutants due to the absence of a required BMP or the failure of a BMP. Discharges that require a RWQCB permit that has not been issued or has not been acknowledged by the discharger to be applicable are illegal discharges. Discharges regulated under an applicable RWQCB or the storm water pollution
prevention plan (SWPPP) are illegal discharges for purposes of this chapter unless compliance with all applicable permit and SWPPP conditions is maintained.

“Impaired water body” means a water body that is listed by the SWRCB as impaired by a particular pollutant or pollutants, pursuant to Section 303(d) of the Federal Clean Water Act. “303(d) listed water body” has the same meaning.

“Impervious cover” or “impervious surface” means constructed or modified surfaces that cannot effectively infiltrate rainfall. The term includes, but is not limited to, building rooftops, pavement, sidewalks, and driveways.

“Impervious surface area” means the ground area covered or sheltered by an impervious surface, measured in plan view (i.e., as if from directly above). For example, the impervious surface area for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

“Industrial activity” means manufacturing, processing, or raw materials storage at a commercial, industrial or municipal facility. The term includes, but is not limited to, such manufacturing, processing, or storage in or upon industrial plant yards or immediate access roads used or traveled by carriers of raw materials; manufacture of products, waste material, or by-product creation or storage; material handling; refuse storage or disposal; the application or disposal of processed wastewaters; storage and maintenance of material handling equipment; treatment, storage or disposal of residuals; outdoor shipping and receiving; activities in manufacturing buildings; storage of raw materials and intermediate and finished products; and the ownership, use or control of areas where significant industrial activity has taken place in the past and significant materials remain and are exposed to storm water. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product.

“Industrial discharger” means a discharger who operates a regulated industrial facility.

“Industrial storm water permit” means the state general industrial storm water permit.

“Infiltration” means the process of percolating storm water or non-storm water into the soil.

”Infiltration BMPs” or “infiltration facility” means any structural treatment BMP designed primarily to percolate water into the subsurface, such as an infiltration trench or infiltration basin. An infiltration facility may include filtering prior to or during infiltration. BMPs that infiltrate some water but which are designed primarily to retain water or to treat water, such as retention basins, constructed wetlands, or filtering swales are not infiltration facilities.

“Land development activity” means any activity or proposed activity that requires any of the permits or approvals listed in SBMC 13.10.040(F). “Land disturbance activity” means any activity requiring a grading permit that moves soils or substantially alters the pre-existing vegetated or man-made cover of any land. This includes, but is not limited to, grading, digging, cutting, scraping, stockpiling or excavating of soil; placement of fill materials; paving, pavement removal, exterior construction; substantial removal of vegetation where soils are disturbed including, but not limited to, removal by clearing or grubbing; or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse. Land disturbance activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the
original purpose of the facility, nor does it include emergency construction activities (i.e.,
land disturbances) required to protect public health and safety.

“Land owner” means the holder of legal title to the land, and other persons or entities
who exercise control over a land development project pursuant to rights granted in a
purchase agreement, joint venture agreement, development agreement, or long-term
lease.

“Low impact development” or “LID” means a storm water management and land use
development strategy that emphasizes conservation and the use of on-site natural
features integrated with engineered, small-scale hydrologic controls to more closely
reflect pre-development hydrologic functions.

“Maintenance of a BMP” means periodic action taken to maintain the as-designed
performance of a BMP, and includes, but is not limited to, repairs to the BMP as
necessary, and replacement of the BMP by an equally effective or more effective BMP
at the end of its useful life.

“Maximum extent practicable” or “MEP” means the technology-based standard
established by Congress in the Clean Water Act 402(p)(3)(B)(iii) that municipal
dischargers of urban runoff must meet. 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 lines of defense).

“Motor vehicle” means any automobile, car, truck, bus, motor home or other self-
propelled vehicle used or suited to use for on-road transportation; and any similar
vehicle modified for off-road use.

“Municipal facility” means a facility owned or operated by the city of Solana Beach
that is used for a governmental purpose. Facilities or municipally owned land that are
leased or rented to others to generate municipal revenues are not municipal facilities.
The commercial or industrial lessees of such facilities may, however, be subject to this
chapter as commercial dischargers or industrial dischargers.

“Natural drainage” means a natural swale or topographic depression, which gathers
and/or conveys runoff to a permanent or intermittent watercourse or water body.

“New development” means land-disturbing activities; structural development,
including construction or installation of a building or structure; the creation of impervious
surfaces; and land subdivision.

“Non-storm water discharge” means any discharge to the storm water conveyance
system that is not entirely composed of storm water.

“NPDES Permit No. CAS 0108758” means RWQCB Order No. R9-2007-0001,
NPDES Permit No. CAS 0108758, “Waste Discharge Requirements for Discharges of
Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the
Watersheds of the County of San Diego, the Incorporated Cities of San Diego County,
and the San Diego Unified Port District.”

“Parking lot” means land area or a facility for the temporary parking or storage of
motor vehicles used personally, or for business or commerce.

“Pollutant” may include, but is not limited to, solid waste, sewage, garbage, medical
waste, wrecked or discarded equipment, radioactive materials, dredged soil, rock, sand,
industrial waste, and any organic or inorganic contaminant whose presence degrades
the quality of the receiving waters in violation of basin plan, enclosed bays and
estuaries plan, inland surface water plan, and California ocean plan standards such as
fecal coliform, fecal streptococcus, enterococcus, volatile organic carbon (VOC), surfactants, oil and grease, petroleum hydrocarbons, total organic carbon (TOC), lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, biocides. Organic contaminant may include leaves, grass clippings, and yard waste and trimmings. A pollutant also includes any contaminant which degrades the quality of the receiving waters in violation of basin plan, enclosed bays and estuaries plan, inland surface water plan and California ocean plan standards by altering any of the following parameters: pH, total suspended and settleable solids, biochemical oxygen demand (BOD), chemical oxygen demand (COD), nutrients, and temperature.

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

"Projects discharging to receiving waters within environmentally sensitive areas" means all development and significant redevelopment that would create 2,500 square feet of impervious surfaces or increase the area of imperviousness of a project site to 10 percent or more of its naturally occurring condition, and either discharge urban runoff to a receiving water within or directly adjacent (where any portion of the project footprint is located within 200 feet of the environmentally sensitive area) to an environmentally sensitive area, or discharge to a receiving water within an environmentally sensitive area without mixing with flows from adjacent lands (where the project footprint is located more than 200 feet from the environmentally sensitive area).

"Project footprint" means the limits of all grading and ground disturbance, including landscaping, associated with a project.

"Rainy season" means from October 1st through April 30th.

"Receiving waters" means surface bodies of water, which directly or indirectly receive discharges from urban runoff conveyance systems, including naturally occurring wetlands, streams (perennial, intermittent, and ephemeral (exhibiting bed, bank, and ordinary high water mark)), creeks, rivers, reservoirs, lakes, lagoons, estuaries, harbors, bays and the Pacific Ocean. The city's use of the term "receiving waters" is to be consistent with the federal definition utilized by the United States Army Corps of Engineers and the United States Environmental Protection Agency. Constructed wetlands are not considered wetlands under this definition, unless the wetlands were constructed as mitigation for habitat loss. Other constructed BMPs are not considered receiving waters under this definition, unless the BMP was originally constructed in receiving waters.

"Redevelopment" means any construction, alteration or improvement at an already developed site that will increase the total impervious surface area of that site, or that involves activities that could expose contaminants to rainfall. Redevelopment can include, but is not limited to, the expansion of building footprints, the addition or replacement of a structure, exterior construction and remodeling, replacement of existing impervious surfaces that are not part of a routine maintenance activity, and other activities that create additional impervious surface.

"Regulated commercial facility" means all nonresidential facilities engaged in business or commerce, whether for profit or not-for-profit, or publicly or privately owned, except for regulated industrial facilities and municipal facilities; plus residences used for commercial repair, maintenance, cleaning, manufacturing, food preparation or painting
activity if that activity has the potential to result in the discharge of non-storm water or the discharge of pollutants to storm water.

“Regulated industrial facility” means any facility subject to the state general industrial storm water permit; any other facility primarily engaged in manufacturing, processing, storage or handling of raw materials, processed bulk materials, or refuse; and any other facility with a total outdoor uncovered area of more than two acres that is used for an industrial activity. Municipal facilities are not regulated industrial facilities, unless they are subject to the state general industrial storm water permit.

“Residential development” means any development on private land that provides living accommodations for one or more persons. This category includes, but is not limited to: single-family homes, multifamily homes, condominiums, and apartments.

“Residential discharger” means, for an occupied residence, the occupants; and for a vacant residence, the owner and the manager of the residence.

“Restaurant” means, for the purposes of this chapter, a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption, where the land area for development is greater than 5,000 square feet. Restaurants where land development is less than 5,000 square feet shall meet all SUSMP requirements except hydromodification requirements.

“RWQCB” means the Regional Water Quality Control Board for the San Diego region.

“Sediment” means soils or other surficial materials eroded and then transported or deposited by the action of wind, water, ice, or gravity. Sediments can increase turbidity, clog fish gills, reduce spawning habitat, lower young aquatic organisms’ survival rates, smother bottom-dwelling organisms, and suppress aquatic vegetation growth.

“Significant redevelopment” means development that would create, add, or replace at least 5,000 square feet of impervious surfaces on an already developed site that falls under a priority development project category. Where redevelopment results in an increase of less than 50 percent of the impervious surfaces of a previously existing development, and the existing development was not subject to SUSMP requirements, the numeric sizing criteria identified in SBMC 13.30.320 through 13.30.350 applies only to the addition, and not to the entire development. When redevelopment results in an increase of more than 50 percent of the impervious surfaces of a previously existing development, the numeric sizing criteria applies to the entire development. Significant redevelopment includes, but is not limited to: the expansion of a building footprint; addition to or replacement of a structure; replacement of an impervious surface that is not part of a routine maintenance activity; and land disturbing activities related with structural or impervious surfaces. Replacement of impervious surfaces includes any activity that is not part of a routine maintenance activity where impervious material(s) is removed, exposing underlying soil during construction. Significant redevelopment does not include trenching and resurfacing associated with utility work; resurfacing and reconfiguring surface parking lots; new sidewalk construction, pedestrian ramps, or bike lanes on existing roads; and replacement of damaged pavement.

“Source control BMP (both structural and non-structural)” means land use or site planning practices, or structures that aim to prevent urban runoff pollution by reducing the potential for contamination at the source of pollution. Source control BMPs minimize
the contact between pollutants and urban runoff. Examples include roof structures over trash or material storage areas, and berms around fuel dispensing areas.

“Standard urban storm water mitigation plan” or “SUSMP” means a plan designed to reduce pollutants and runoff flows from new development and significant redevelopment.

“State general construction storm water permit” means NPDES Permit No. CAS 000002, Waste Discharge Requirements for Discharges of Storm Water Associated with Construction Activities, and any amendments thereto.

“State general industrial storm water permit” means NPDES Permit No. CAS 000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities, and any amendments thereto.

“Stop work order” means an order issued which requires that specifically identified activity or all activity on a site be stopped.

“Storm water” means surface runoff and drainage associated with storm events.

“Storm water conveyance system” means private and public drainage facilities other than sanitary sewers within the city of Solana Beach by which urban runoff may be conveyed to receiving waters, and includes, but is not limited to, roads, streets, constructed channels, aqueducts, storm drains, pipes, street gutters, inlets to storm drains, pipes, or catch basins.

“Storm water management” means the use of structural or nonstructural BMPs that are designed to reduce urban runoff pollutant loads, discharge volumes, and/or peak discharge flow rates or velocities. When applied to the city or another municipality, storm water management also includes planning and programmatic measures.

“Storm water management plan” means a plan, submitted on a city form or in a city-specific format in connection with an application for a city permit or other city approval, identifying the measures that will be used for storm water and non-storm water management during the permitted activity.

“Storm water pollution prevention plan” or “SWPPP” means a document (other than a storm water management plan), which meets the requirements for a SWPPP set out in the state general construction storm water permit or the state general industrial storm water permit. A SWPPP submitted to the city must describe the BMPs to be implemented and other steps to be taken by the discharger to meet the requirements of this chapter.

“Storm water retrofit” means a storm water management BMP designed for an existing development site or activity that previously had either no storm water management BMPs in place or that relied on BMPs inadequate to meet the storm water management requirements of the site or activity.

“Streets, roads, alleys, highways, and freeways,” for the purposes of this chapter, means any project that is not part of a routine maintenance activity, and would create a new paved surface that is 5,000 square feet or greater used for the transportation of automobiles, trucks, motorcycles and other vehicles. For the purposes of SUSMMP requirements, streets, roads, alleys, highways and freeways do not include trenching and resurfacing associated with utility work; applying asphalt overlay to existing pavement; new sidewalk, pedestrian ramps, or bike lane construction on existing roads; and replacement of damaged pavement.
“Structural BMP” means a BMP that relies on either a physical condition, other than an entirely natural and undisturbed condition, or on a constructed or installed device to reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges. Constructed or enhanced BMPs that depend on natural materials and processes (e.g., constructed drainage swales or buffers, or constructed wetlands) and that require period maintenance to function as designed are structural BMPs.

“Structural post-construction BMP” means a structural BMP, other than a temporary construction-related BMP, put in place in connection with a land development or redevelopment project to prevent or reduce contamination in storm water or receiving waters, or to prevent or reduce erosion downstream from the project.

“SWRCB” means the State Water Resources Control Board.

“Treatment control (structural) BMP” means any engineered system designed and constructed to remove pollutants from urban runoff. Pollutant removal is achieved by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

Tributary to an Impaired Water Body. A facility or activity is tributary to an impaired water body if urban runoff from that facility or activity enters: (1) the storm water conveyance system at a place and in a manner that will carry pollutants for which that water body is impaired in that discharge to the impaired water; (2) a flowing stream that will carry pollutants for which that water body is impaired in that discharge to the impaired water; or (3) an ephemeral stream that reaches the impaired water during storm events and that will carry pollutants for which that water body is impaired from the facility or activity to the impaired water body during such storm events.

“Urban runoff” means all flows in a storm water conveyance system in the city other than point source discharges in violation of a site-specific NPDES permit. Urban runoff includes, but is not limited to, storm water, exempt non-storm water discharges, and illicit discharges.

“Water main” means a potable or recycled water delivery line greater than or equal to four inches in diameter.

“Water quality standards” are defined as the beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.) of water and the water quality objectives adopted by the state or the United States Environmental Protection Agency to protect those uses.
“Watercourse” means a permanent or intermittent stream or other body of water, either natural or improved, which gathers or carries surface water.

“Waters of the United States” means water subject to the regulatory jurisdiction of the United States under the Federal Clean Water Act and applicable case law. In general, this includes “navigable” waters, waters tributary to “navigable” waters, and adjacent wetlands.

Section 17. The provisions of this ordinance are declared to be severable and if any provision, sentence, clause, section or part of this ordinance is held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance or their application to persons and circumstances.

EFFECTIVE DATE: This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Solana Beach shall cause this Ordinance to be published pursuant to the provisions of Government Code §36933.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Solana Beach, California, on the 24th day of June 2009; and

THEREAFTER ADOPTED at a regular meeting of the City Council of the City of Solana Beach, California, on the 8th day of July, 2009, by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSTAIN: Councilmembers –
ABSENT: Councilmembers –

____________________________
MIKE NICHOLS, Mayor

APPROVED AS TO FORM: ATTEST:

____________________________
JOHANNA N. CANLAS, City Attorney

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ANGELA IVEY, City Clerk