

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

ORDINANCE NO. 2023-007

**AN ORDINANCE OF THE CITY COUNCIL OF CARMEL-BY-THE-SEA AMENDING
THE CARMEL MUNICIPAL CODE (CMC) TITLE 17 (ZONING) BY REPEALING AND
REPLACING CHAPTER 17.42 (STORMWATER QUALITY AND UTILITY) AND
CHAPTER 17.43 (WATER QUALITY PROTECTION); AND FINDING THE SAME
EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

WHEREAS, the City of Carmel-by-the-Sea currently regulates all stormwater and non-stormwater runoff entering the storm drain system or waterbodies throughout the City under Title 17, Chapter 17.42 and Title 17, Chapter 17.43 of the Municipal Code; and

WHEREAS, Chapter 17.42 and Chapter 17.43 was last amended in 2004; and

WHEREAS, there have been significant changes in state and regional law affecting stormwater and water quality since Chapter 17.42 and Chapter 17.43 was last amended; and

WHEREAS, the work the City does to prevent stormwater pollution is regulated under the jurisdiction of the Central Coast Regional Water Quality Control Board, Region 3, the enforcement arm of the State Water Resources Control Board; and

WHEREAS, the State Water Resources Control Board adopted the Phase II Small MS4 General Permit (Water Quality Order No. 2013-0001-DWQ). Since 2013, the State Water Board adopted five amendments to this Permit.; and

WHEREAS, the Phase II Small MS4 General Permits require the discharger to develop and implement a Stormwater Management Plan/Program with the goal of reducing the discharge of pollutants to the maximum extent practicable (MEP). MEP is the performance standard specified in Section 402(p) of the Clean Water Act. The management programs specify what best management practices (BMPs) will be used to address certain program areas. The program areas include public education and outreach; illicit discharge detection and elimination; construction and post-construction; and good housekeeping for municipal operations; and

WHEREAS, the Cities of Carmel-by-the-Sea, Monterey, Del Rey Oaks, Sand City, Seaside, Pacific Grove and the County of Monterey are seven local agencies that have joined to develop and implement a regional storm water program for the Monterey Peninsula and surrounding areas. This group meets monthly to discuss urban runoff issues and implement components of the Monterey Regional Storm Water Management Program (MRSWMP); and

WHEREAS, the Central Coast Regional Water Quality Control Board adopted Post Construction Requirements (PCR) for development and re-development projects on July 12, 2013. These requirements were implemented by all agencies in the Region, effective March 6, 2014; and

WHEREAS, The City is required to submit an annual report as required by General Permit NO. CAS000004: Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems. The Annual Report describes permit compliance activities performed by the City to implement pollution prevention locally and protect local water quality; and

WHEREAS, on November 7, 2023 the City Council held a duly noticed public hearing on the proposed code amendments;

WHEREAS, the City determined this ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines; and

SECTION 1. CEQA Review. This Ordinance is exempt from review under the California Environmental Quality Act (“CEQA”) (California Public Resources Code Section 21000, et seq.), pursuant to Section 15061(b)(3) of the CEQA Guidelines, covering activities with no possibility of having a significant effect on the environment. The Ordinance adopts local regulations in a manner that complies with federal and state regulations. The Ordinance does not directly or indirectly authorize or approve any actual changes in the physical environment and, therefore, does not require environmental review.

SECTION 2. Repeal and Replacement of Chapter 17.42 and Chapter 17.43. Chapter 17.42 and Chapter 17.43 of Title 17 of the Carmel-by-the-Sea Municipal Code is hereby repealed in its entirety and replaced with the following:

**Chapter 17.42
STORMWATER QUALITY AND UTILITY**

Sections:

- 17.42.010 Purpose.**
- 17.42.020 Definitions.**
- 17.42.030 Urban Runoff Water Quality and Discharge Management.**
- 17.42.040 Enforcement.**

17.42.010 Purpose.

The provisions of this chapter are intended to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses and waterbodies in compliance with the federal Clean Water Act, the California Coastal Act, and California Porter-Cologne Water Quality Control Act (Porter-Cologne Act) by reducing pollutants in stormwater discharges to the maximum extent practicable, by prohibiting non-stormwater discharges to the storm drain system, and by managing the

City's storm and surface water drainage system. Requirements of this chapter shall be implemented and enforced in accordance with schedules and requirements under the State Water Resources Control Board (SWRCB) Water Quality Order No. 2013-0001-DWQ, National Pollution Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4), as may be amended, and any superseding order, and the Central Coast Regional Water Quality Control Board Resolution No. R3-2013-0032, Approving Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region, as may be amended, and any superseding order.

17.42.020 Definitions.

The terms used in this Chapter shall have the following meanings:

- a) Best Management Practices (BMPs) means activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States. BMPs include but are not limited to: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-stormwater, wastewater, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures.
- b) California Construction Stormwater General Permit (CGP) means NDPEs No. CAS000002, State Water Resources Control Board Order No. 2009-0009-DWQ, as amended by 2010-0014-DWQ and 2012-0006-DWQ, and as may be subsequently amended.
- c) California Industrial General Permit (IGP) means the NDPEs No. CAS000001, State Water Resources Control Board Order No. 2014-0057-DWQ as amended in 2015 and 2018, as may be subsequently amended.
- d) Illegal Discharge means any direct or indirect discharge to the City's storm drain system that is not composed entirely of stormwater, except discharges pursuant to an NPDES permit, including discharges allowed in the Phase II Permit Attachment C, Area of Special Biological Significance Specific Provisions, and discharges resulting from firefighting activities.
- e) Illicit Connections means either of the following: 1. Any drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the storm drain system, including but not limited to any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or 2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been permitted and approved by the City.

f) Low Impact Development (LID) is an approach to stormwater management that aims to replicate the site's natural hydrologic balance, using site design strategies to minimize stormwater runoff, integrated with small-scale, distributed structural BMPs that retain stormwater on site via infiltration, evaporation, evapotranspiration, or harvesting for later use.

g) Non-Stormwater Discharge means any discharge to the storm drain system that is not composed entirely of storm water or that contains any pollutant.

h) Phase II Permit means the State Water Resources Control Board (SWRCB) Water Quality Order No. 2013-0001-DWQ National Pollution Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4), as may be subsequently amended.

i) Pollutant means anything that causes or contributes to water pollution, including but not limited to paints, varnishes, and solvents; oil and other automotive fluids; chemicals in dust from automotive brake pads and tires; non-hazardous liquid and solid wastes; green waste and other yard waste; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations that may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and waste; fecal coliform and other pathogens in sewage or other wastewater; dissolved and particulate metals; animal waste; waste and discharges that result from constructing a building or structure (including but not limited to sediment, slurries, and concrete rinsates); and noxious or offensive matter of any kind that may be discharged into the storm drain system or waterbodies.

j) Storm Drain System means any publicly-owned facilities operated by the City by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, storm drain pipes, pumping facilities, stormwater retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures that are within the City.

17.42.030 Urban Runoff Water Quality and Discharge Management.

A. Applicability. This chapter shall apply to all stormwater and non-stormwater runoff entering the storm drain system generated on any developed and undeveloped lands within the City.

B. Administration.

1. Responsibility for Administration. The Public Works Director shall administer, implement, and enforce the provisions of this section. Any powers granted to or duties of the Public Works Director may be delegated in writing by the Public Works Director to persons or entities acting in the beneficial interest of or in the employ of the City.

2. Regulatory Consistency. This section shall be construed to ensure consistency with the requirements of the Clean Water Act, Porter-Cologne Act, California Coastal Act, Phase II Permit, California Industrial General Permit (IGP), California Construction Stormwater General Permit (CGP) and statutes and regulations that amend or supplement those Acts and permits.

C. Discharge Prohibitions.

1. General Prohibition. No person shall discharge or cause to be discharged any pollutants or waters containing any pollutants into the municipal storm drain system or watercourses, or any materials that may cause or contribute to a violation of applicable water quality standards. Examples of prohibited discharges or illegal connections to the storm drain system include, but are not limited to:

- a. Water from the cleaning of gas stations, vehicle service garages, or other types of vehicle service facilities;
- b. Water, cleansers, or solvents from the cleaning of machinery or equipment, and other such commercial and industrial activities;
- c. Water from the washing or rinsing of vehicles, that contains soap, detergents, solvents, or other cleaners;
- d. Water from the washing or rinsing of vehicles, with or without soap, from auto body repair shops, including water from the cleaning or rinsing of vehicle engines, undercarriages, or auto parts;
- e. Automotive fluids;
- f. Wash Water from floor mat and hood cleaning at food service facilities;
- g. Food and kitchen cleaning water from food service facilities;
- h. Grease, food, or wash water from food or kitchen service facilities, or mobile food vendors;
- i. Leakage from dumpsters or other trash containers;
- j. Water from the cleaning or rinsing of garbage dumpster areas and areas where garbage is stored or contained;
- k. Water from pressure washing, steam cleaning, and hand scrubbing of sidewalks, gutters, plazas, alleyways, outdoor eating areas, steps, building exteriors, walls, driveways, and other outdoor surfaces;

l. Wastewater or cleaning fluids from commercial cleaning operations such as carpet and mat cleaning, pet washing, and vehicle detailing;

m. Swimming pool and spa water;

n. Wash out from concrete trucks, or ready-mix concrete washout;

o. Construction debris and fluids, such as, but not limited to, paint, dirt or sediment, chemical products, construction waste, rinse or wash waters; and

p. Sewage.

The commencement, conduct or continuance of any non-stormwater discharge to the storm drain system is prohibited, except for the following.

a. Discharges that are allowed in Attachment C, Area of Special Biological Significance Specific Provisions, of the Phase II Permit.

b. Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of California or the U.S. Environmental Protection Agency; provided that 1) the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and 2) written approval has been granted by the City for any discharge to the storm drain system.

c. Discharges authorized by a written exemption by the City, obtained following written concurrence of the Regional Water Quality Control Board, for specific non-stormwater discharges which are not a source of pollutants to the storm drain system.

2. Illicit Connections. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

a. The Public Works Director may require by written notice that a person responsible for an illicit connection to the storm drain system comply with the requirements of this section to eliminate or secure approval for the connection by a specified date.

b. If, subsequent to eliminating a connection found to be in violation of this section, the responsible person can demonstrate that an illegal discharge will no longer occur, the person may request City approval to reconnect. The reconnection or reinstallation of the connection shall be at the expense of the responsible person.

3. Waste Disposal. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained any liquids, powders, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that they may cause or contribute to any pollutant entering into the storm drain system or any watercourse. Wastes deposited in waste receptacles designated for the purposes of collection are not subject to this prohibition.

4. Discharges in Violation of Permits. Any person subject to an industrial or construction activity NPDES Storm Water Discharge Permit shall comply with all provisions of the permit. Proof of compliance with the permit may be required in a form acceptable to the Public Works Director prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

D. Regulations and Requirements.

1. Prevention, Control, and Reduction of Stormwater Pollutants.

a. Development. The City requires the use of BMPs to control the volume, rate, and potential pollutant load of stormwater runoff from new development and redevelopment projects to minimize the generation, transport and discharge of pollutants in stormwater runoff, and to minimize adverse impacts on aquatic environments. All development shall comply with applicable BMP requirements and standards for such development set forth in the Phase II Permit; the California Regional Water Quality Control Board Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region, as adopted by the California Regional Water Quality Control Board by Resolution No. R3-2013-0032; the City's Standard Operating Guidance 17-07 Private Stormwater Drainage Systems (SOG 17-07); and the Monterey Regional Stormwater Management Program (MRSWMP) Stormwater Technical Guide for Low Impact Development (LID). All development shall be designed consistent with such standards and guidance. Applicants shall also ensure that development projects are compliant with applicable local, state, and federal laws and regulatory permit authorities, including U.S. Army Corps of Engineers, California Coastal Commission, Regional Water Quality Control Board, State Water Resources Control Board, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Association (NOAA) Monterey Bay National Marine Sanctuary, and in conformance with Low Impact Development site assessment and design standards of the Phase II Permit and California Regional Water Quality Control Board Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region.

b. Construction Sites. BMPs to reduce pollutants in any storm water runoff activities shall be incorporated in any land use entitlement and/or construction or building-related permit. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and/or building permits as required by the City and as required by the Phase II Permit as amended thereto, including, but not limited to,

the requirement to submit, implement, and maintain site-specific construction BMPs as applicable for erosion and sediment control, soil stabilization, source controls, materials and stockpile management, dewatering, and similar pollution prevention measures to prevent dumping or illegal discharges during construction into the storm drain system.

Any person engaged in activities or operations, or owning facilities or property that may result in pollutants entering stormwater, the storm drain system, or any watercourse, shall take all necessary measures to prevent illicit discharges.

2. **Watercourse Protection.** Every person owning property through which a watercourse passes, or the person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, stagnant pools of water and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines to protect against erosion and degradation of the watercourse on site and downstream.

3. **Remediation.** Whenever the Public Works Director finds that a discharge of pollutants into the storm drain system or any watercourse is taking place, has occurred, or is likely to result absent remediation, the Public Works Director shall issue written notice to the owner of the property and/or the responsible person requiring that the pollution be remediated and the affected property restored within a specified time.

17.42.040 Enforcement.

A. Inspection.

1. **Authority to Inspect.** Whenever necessary to conduct an inspection to enforce any provision of this section, or whenever the Public Works Director has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this chapter, the Director may request to enter such premises at all reasonable times to inspect the same and to inspect and copy records related to stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

2. **Authority to Sample, Establish Sampling Devices, and Test.** During any inspection in compliance with this section, the Public Works Director may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

B. Enforcement.

1. Violations Subject to Criminal Penalty. Any violation of this chapter shall be a misdemeanor and shall be subject to penalty in accordance with Chapter 1.16. Such violations may also violate the Clean Water Act, the California Coastal Act, and/or the Porter-Cologne Act and may be subject to penalty under state and federal law including civil and criminal penalties.

2. Violations of this chapter shall also be subject to administrative civil penalties in accordance with Chapter 18.04.

3. Violations of this chapter are declared a public nuisance and shall be subject to abatement in accordance with Chapter 15.57. Nothing in this chapter shall limit the authority of the City to undertake emergency or summary abatement in the manner authorized by law.

**Chapter 17.43
WATER QUALITY PROTECTION ORDINANCE**

Sections:

17.43.010 Purpose and Intent.

17.43.020 Definitions.

17.43.030 Applicability and Stormwater Management Requirements.

17.43.040 Stormwater Control Requirements.

17.43.050 BMP Maintenance and Conditions of Transfer.

17.43.010 Purpose and Intent.

A. The purpose of this chapter is to protect and enhance coastal waters within the City of Carmel in accordance with the policies of the City's Local Coastal Program (LCP; Sections O5-45 and O5-46), Sections 30230, 30231, 30232 and 30240 of the California Coastal Act, the State Water Resources Control Board (SWRCB) Water Quality Order No. 2013-0001-DWQ (and subsequent new orders and/or amendments) National Pollution Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4) (hereafter Phase II Permit), and the Central Coast Regional Water Quality Control Board (Regional Board) Resolution No. R3-2013-0032 (and subsequent new orders and/or amendments) Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region (Central Coast PCRs). The purpose of the chapter is to ensure that permitted development shall be sited and designed to conserve natural drainage features and vegetation, minimize the introduction of pollutants into coastal waters to the maximum extent practicable, limit the discharge of stormwater runoff, and protect the overall quality of coastal waters and resources.

17.43.020 Definitions.

The terms used in this Chapter shall have the following meanings:

- a) Best Management Practices (BMPs) means activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States. BMPs include but are not limited to: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control: runoff, spillage or leaks of non-storm water, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions that the Public Works Director or designee determines appropriate for the control of pollutants.
- b) California Construction Stormwater General Permit (CGP) means the NDPEs No. CAS000002, State Water Resources Control Board Order No. 2009-0009-DWQ, as amended by 2010-0014-DWQ and 2012-0006-DWQ, and as may be subsequently amended.
- c) California Industrial General Permit (IGP) means the NDPEs No. CAS000001, State Water Resources Control Board Order No. 2014-0057-DWQ as amended in 2015 and 2018, as may be subsequently amended.
- d) Central Coast PCRs means the California Regional Water Quality Control Board Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region, as adopted by the California Regional Water Quality Control Board by Resolution No. R3-2013-0032, as may be subsequently amended.
- e) Environmentally Sensitive Habitat Areas (ESHA) means any areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.
- f) Low Impact Development (LID) means systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration, or use of stormwater in order to protect water quality and associated aquatic habitat.
- g) Phase II Permit means the State Water Resources Control Board (SWRCB) Water Quality Order No. 2013-0001-DWQ National Pollution Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4), as may be subsequently amended from time to time.
- h) Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues

that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

i) Storm Drain System means any publicly-owned facilities operated by the City by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the City.

j) Stormwater Control Plan (SWCP). A plan, developed by a development project applicant whose project is subject to the Central Coast PCRs, detailing how the project will achieve compliance with the applicable Post-Construction Stormwater Management Requirements.

17.43.020 Applicability and Stormwater Management Requirements.

A. All properties within the City of Carmel are located within the coastal zone as defined in the California Coastal Act and are subject to the policies, standards and provisions contained in the certified LCP. Where any standard provided in this chapter conflicts with any other policy or standard contained in the City's General Plan, Zoning Code or other City-adopted plan, resolution or ordinance not included in the certified Carmel LCP, and it is not possible for the development to comply with both the Carmel LCP and other plans, resolutions or ordinances, the policies, standards or provisions of the LCP shall take precedence consistent with the hierarchy established in CMC 17.02.090.

B. All projects defined as Regulated Projects in the Central Coast PCRs shall comply with the Stormwater Technical Guide for Low Impact Development (LID) (Technical Guide for LID) and develop a Stormwater Control Plan (SWCP). Development projects listed in Section 17.43.040 subsection (B) shall also comply with the Technical Guide for LID.

C. All private development projects shall comply with City Standard Operating Guidance 17-07 Private Stormwater Drainage Systems (SOG 17-07).

17.43.040 Stormwater Control Requirements.

A. The following projects shall submit an erosion and sediment control plan, to be approved by the Public Works Director or designee, as part of any building permit application:

Projects that (a) include 250 square feet or more of new floor area, or (b) disturb 500 square feet or more of soil, or (c) include any excavation whatsoever, or (d) disturb more than 50 cubic yards of soil.

The erosion and sediment control plan shall include controls on grading (i.e., timing and amounts), BMPs for staging, storage, and disposal of construction materials, design

specification of erosion and sediment control BMPs, and landscaping/revegetation of graded or disturbed areas.

Such projects shall also be subject to a post-construction phase drainage plan, to be approved by the Public Works Director or designee, as part of any building permit application, detailing how stormwater and polluted runoff will be managed or mitigated. The drainage plan shall demonstrate how runoff will be diverted from impermeable surfaces into permeable areas of the property in a nonerosive manner and filter and infiltrate stormwater prior to conveyance off-site. For development which does not mitigate impacts to water quality only using site design and source control BMPs and for certain special categories of development (see subsection (C) of this section) as defined by the LCP, the drainage plan will be required to demonstrate how treatment control (or structural) BMPs will be used (in addition to site design and source control BMPs) to minimize the discharge of polluted runoff from the project and shall be certified by a California Registered Civil Engineer.

B. Construction projects with 1.0 acre or greater of land disturbance shall comply with all requirement under the State Water Resources Control Board Construction Stormwater General Permit (Order 2009-0009-DWQ as amended by 2010-0014-DWQ and 2012-0006-DWQ and subsequent new orders and/or amendments) in addition to an erosion and sediment control plan.

C. Special Categories of Development. A SWCP shall be required for Regulated Projects as defined by the Phase II Permit that include pollutant-generating activities.

The SWCP shall include standard permanent and/or operation source control measures for the following pollutant generating activities and sources, designed consistent with recommendations from the California Stormwater Quality Association (CASQA) Stormwater BMP Handbook for New Development and Redevelopment:

- a) Accidental spills or leaks
- (b) Interior floor drains
- (c) Parking/storage areas and maintenance
- (d) Indoor and structural pest control
- (e) Landscape/outdoor pesticide use
- (f) Pools, spas, ponds, decorative fountains, and other water features
- (g) Restaurants, grocery stores, and other food service operations
- (h) Refuse areas

- (i) Industrial processes
- (j) Outdoor storage of equipment or materials
- (k) Vehicle and equipment cleaning
- (l) Vehicle and equipment repair and maintenance
- (m) Fuel dispensing areas
- (n) Loading docks
- (o) Fire sprinkler test water
- (p) Drain or wash water from boiler drain lines, condensate drain lines, rooftop equipment, drainage sumps, and other sources
- (q) Unauthorized non-storm water discharges
- (r) Building and grounds maintenance

17.43.040 BMP Maintenance and Conditions of Transfer.

All projects defined as Regulated Projects by the Central Coast PCRs that are required to install structural and treatment control BMPs to meet the requirements of the Central Coast PCRs shall be subject to legal restrictions to ensure the ongoing maintenance of structural and treatment control BMPs required for the project, pursuant to one of the following:

- A. Requirements in conditions, covenants, and restrictions (CCRs) for residential properties assigning maintenance responsibilities to the homeowners' association for maintenance of the structural and treatment control BMPs; or
- B. Deed restriction, filed with the County Recorder, requiring the present and subsequent owners to assume legal responsibility; or
- C. Any other legally enforceable agreement that assigns responsibility for the maintenance of post-construction structural and treatment control BMPs.

All documents required under this section shall be in a form approved by the City Attorney and be executed by the applicant as a condition of project approval.

SECTION 3. Effective Date. This Ordinance shall take effect 30 days after its adoption by the City Council of the City of Carmel-by-the-Sea and after approval by the California Coastal Commission.

SECTION 4. Severability. If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining sections, subsections, provisions, sentences, clauses, phrases or words of this Ordinance.

INTRODUCED at a Regular City Council Meeting on November 7, 2023.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 5th day of December, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter, Mayor

Nova Romero, MMC, City Clerk