

ORDINANCE NO. 2002-2718

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA MESA,  
CALIFORNIA, AMENDING CHAPTER 14.05 TO ADD STORM WATER  
QUALITY REQUIREMENTS TO THE GRADING ORDINANCE

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Whereas, the City of La Mesa is a Co-permittee under the San Diego County National Pollutant Discharge Elimination System (NPDES), Permit number CAS0108758; and

Whereas, the California Regional Water Quality Control Board for the San Diego Region issued Order 2001-01 directing the Co-permittees to include certain regulations in their grading ordinances; and

Whereas, the City of La Mesa intends to adopt amendments to its grading ordinance to comply with the Order for the protection of the water quality of the Waters of the State.

NOW, THEREFORE, THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1: Chapter 14.05 of the La Mesa Municipal Code is hereby amended to add Section 14.05.050 to read as follows:

“14.05.050 Definitions.

Section 3308 of Appendix Chapter 33, 1998 California Building Code, 1998 Edition, adopted by reference in Section 14.05.010 is amended to add the following definitions:

“Best Management Practices” 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 that can help to achieve compliance with this Chapter. BMPs may include any type of pollution prevention and pollution control measure, which the City Engineer finds, is necessary to reduce pollutants entering the Waters of the State to the Maximum Extent Practicable.

"Erosion Control Plan" is 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.

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“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.

“Maximum Extent Practicable or MEP means the standard established by Congress in Clean Water Act section 402(p)(3)(B)(iii) that municipal dischargers of Storm Water must meet. MEP is an acceptability standard for Best Management Practices based on a level of pollutant reduction that can be achieved by the most effective set of BMPs that can be implemented and still remain practicable; MEP generally emphasizes pollution prevention and source control BMPs as the first line of defense in combination with treatment methods as a backup.

“Permittee” means any person, corporation, partnership, limited liability company, non-profit entity, joint venture, association of any type, public entity or any other legal entity which submits an application for a permit pursuant to this Chapter.

“Pollutant” means any agent that may cause or contribute to the degradation of water quality, including, but not limited to, earth materials.

"Rainy Season" means the period beginning October 1 and ending April 30 in the next calendar year. The remainder of the year is the dry season.

“Storm Water Conveyance System” means private and public drainage facilities within the City of La Mesa by which Storm Water may be conveyed to Waters of the United States, including but not limited to, streets, roads, catch basins, natural and artificial channels, natural and artificial drainage features, aqueducts, canyons, stream beds, gullies, curbs, gutters, ditches, and storm drains. Historic and current development makes use of natural drainage patterns and features as conveyances for urban runoff. Urban streams used in this manner are part of the Storm Water Conveyance System regardless of whether they are natural, man-made, or partially modified features.

“Waters of the State” means any water, surface or underground, including saline waters within the boundaries of California. The definition of the “Waters of the State” is broader than that for the “Waters of the United States” in that all water in the State is considered to be a “Waters of the State” regardless of circumstances or condition. Under this definition, a municipal storm sewer system (MS4) is always considered to be a “Waters of the State.” [California Water Code Section 13050 (e)].

“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. [40 Code of Federal Regulations section 122.2.]”

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SECTION 2: Chapter 14.05 of the La Mesa Municipal Code is hereby amended to add Section 14.05.060 to read as follows:

“14.05.060 Purpose.

Section 3304 of Appendix Chapter 33, 1998 California Building Code, 1998 Edition, adopted by reference in Section 14.05.010 is amended to read as follows:

The purpose of this Chapter is to safeguard life, limb, property and the public welfare by regulating grading on private property, and to ensure that soil erosion, sedimentation, and storm water runoff are regulated to reduce, to the Maximum Extent Practicable, Pollutants entering the Storm Water Conveyance System and Waters of the State to protect water quality.”

SECTION 3: Chapter 14.05 of the La Mesa Municipal Code is hereby amended to add Section 14.05.070 to read as follows:

“14.05.070 Hazards and Safety Precautions.

Section 3307 of Appendix Chapter 33, 1998 California Building Code, 1998 Edition, adopted by reference in Section 14.05.010 is amended to add the following paragraphs:

If, at any stage of work, the City Engineer determines that authorized grading is likely to endanger any public or private property or result in the deposition of debris on any public way or interfere with any existing drainage course, the City Engineer may specify and require reasonable safety precautions to avoid the danger. The Permittee shall be responsible for removing excess soil and debris deposited upon adjacent and downstream public or private property resulting from Permittee’s grading operations. Soil and debris shall be removed and damage to adjacent and downstream property repaired as directed by the City Engineer. Erosion and siltation control shall require temporary or permanent siltation basins, energy dissipaters, or other measures as field conditions warrant, whether or not such measures are a part of approved plans. Cost associated with any work outlined in this section shall be incurred by the permittee.

The City Engineer shall not issue a grading permit in any case where the City Engineer finds that the work, as proposed by the applicant, will damage any private or public property, or interfere with any existing drainage course in a manner which may cause damage to any adjacent property, or result in the depositing of debris on any public way, or create an unreasonable hazard to person or property, or cause or contribute to an exceedance of state water quality objectives, or fail to reduce pollutants from the site to the Maximum Extent Practicable.”

SECTION 4: Chapter 14.05 of the La Mesa Municipal Code is hereby amended to add Section 14.05.080 to read as follows:

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“14.05.080 Compliance with Storm Water Ordinance.

Section 3309 of Appendix Chapter 33, 1998 California Building Code, 1998 Edition, adopted by reference in Section 14.05.010 is amended to add the following subsections:

3309.10 Standard Condition for Water Quality.

It shall be a condition of every permit issued under this Chapter that the Permittee shall comply with all the provisions of the City of La Mesa Watercourse Protection, Storm Water Management and Discharge Control Ordinance in Chapter 7.18 of this Code.”

3309.11 Minimum BMPs.

The BMPs required by the City of La Mesa Storm Water Best Management Practices Manual adopted in Chapter 7.18 of this Code shall be the minimum BMPs required for issuance of a grading permit and additional BMPs may be required by the City Engineer as a condition of issuance of the grading permit.

3309.12 Grading Plan Requirements.

All grading plans, regardless of the date of submittal, shall include an erosion control plan designed to limit erosion of all disturbed portions of the property and to eliminate the transport of soil onto adjacent properties or into streets, storm drains, or drainage ways.

3309.13 Erosion Control Required.

A. Plans for an erosion control system shall be prepared and submitted for the review and approval of the City Engineer as a part of any application for a grading permit. The erosion control system shall comply with the requirements of the latest National Pollutant Discharge Elimination System permit and Chapter 7.18 of this Code to satisfy the requirements for erosion control and eliminate the discharge of sediment and pollutants. The erosion control plan shall include, but not be limited to, the following information:

1. Name, address, and a twenty-four-hour phone number of the owner or responsible party, and the person or contractor responsible for installing and maintaining the erosion control system and performing emergency erosion control work.
2. The name, address and signature of the Civil Engineer or person who prepared the plan.
3. All desilting basins, debris basins, silt traps, and other desilting, velocity retarding and protection facilities necessary to adequately protect the site and downstream properties from erosion and its effects, preserve natural hydrologic features, and preserve riparian buffers and corridors.

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4. The streets, easements, drains, and other improvements.
5. The location and placement of gravel bags, diverters, check dams, slope planting, drains, and other erosion controlling devices and measures.
6. Access routes to all such erosion control facilities and how access shall be maintained during inclement weather.

B. Erosion control system standards shall be as follows:

1. The faces of cut-and-fill slopes and the project site shall be prepared and maintained to control against erosion. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted upon approval of the City Engineer.
2. Where necessary, temporary and/or permanent erosion control devices such as desilting basins, check dams, cribbing, riprap, or other devices or methods as approved by the City Engineer, shall be employed to control erosion, prevent discharge of sediment, and provide safety.
3. Temporary desilting basins constructed of compacted earth shall be compacted to a relative compaction of ninety percent of maximum density. A gravel bag or plastic spillway must be installed for overflow, as designed by the engineer of work, to avoid failure of the earthen dam. A soils engineering report prepared by the Soils Engineer, including the type of field-testing performed, location and results of testing shall be submitted to the City Engineer for approval upon completion of the desilting basins.
4. Desilting facilities shall be provided at drainage outlets from the graded site, and shall be designed to provide a desilting capacity capable of containing the anticipated runoff for a period of time adequate to allow reasonable settlement of suspended particles.
5. Desilting basins shall be constructed around the perimeter of projects, whenever feasible, and shall provide improved maintenance access from paved roads during wet weather. Grading cost estimates must include maintenance and ultimate removal costs for temporary desilting basins.
6. The erosion control provisions shall take into account drainage patterns during the current and future phases of grading.
7. All removable protective devices shown shall be in place at the end of each working day when there is a fifty percent chance of rain within a forty-eight hour

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period. If the Permittee does not provide the required installation or maintenance of erosion control structures within two hours of notification at the twenty-four hour number on the plans, the City Engineer may order City crews to do the work or may issue contracts for such work and charge the cost of this work along with reasonable overhead charges to the cash deposits or other instruments implemented for this work without further notification to the owner. No additional work on the project except erosion control work may be performed until the Permittee restores the full amount drawn from the deposit.

8. At any time of year, an inactive site shall be fully protected from erosion and discharges of sediment. Flat areas with less than five percent grade shall be fully covered unless sediment control is provided through desiltation basins at all project discharge points. A site is considered inactive if construction activities have ceased for a period of ten or more consecutive days.

C. No grading shall be allowed from October 1 thru the following April 30 on any site if the City Engineer determines that erosion, mudflow or sediment of silt discharge may adversely affect water quality, downstream properties, drainage courses, storm drains, streets, easements, or public or private facilities or improvements unless an approved erosion control system has been implemented on the site. If the City determines that it is necessary for the City to cause erosion control measures to be installed or cleanup to be done, the Permittee shall pay all of the City's direct and indirect costs including extra inspection, supervision, and reasonable overhead charges.

3309.14 Preservation Of Natural Hydrologic Features, Riparian Buffers and Corridors.

All natural hydrologic features and riparian buffer zones and corridors must be preserved to eliminate or minimize runoff from construction sites.

3309.15 Phased Grading.

Grading shall be phased whenever the City Engineer finds that phasing is feasible and necessary to protect the Waters of the State. Areas that are cleared and graded shall be minimized to only portions of the site that are necessary for construction, and the exposure time of disturbed soil areas shall be minimized.

3309.16 Establishment of Permanent Vegetation.

A. General. The face of all cut and fill slopes, in excess of (3) feet in vertical height, but only final slopes of any borrow pit, shall be planted and maintained with a ground cover or other planting to protect the slopes against erosion and instability. Planting shall commence as soon as slopes are completed on any portion of the site and shall be established upon all slopes prior to the final approval of the grading. In order to minimize the period during which a cut or filled surface remains exposed, such planting shall provide for rapid short-term coverage of the slope as well as long-term permanent coverage. Planting materials and procedures shall conform to regulations adopted by the City Engineer. The City Engineer may approve other plant materials as specified by a landscape architect. The permittee shall maintain such planting until it is well established as determined by the City Engineer.

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- B. Minimum Requirements. In addition to planting with ground cover, slopes in excess of fifteen (15) feet in vertical height shall be planted with shrubs in 2-1/4 inch pots or trees having a one (1) gallon minimum size at ten (10) feet on center in both directions on the slope. The City Engineer may vary the plant and planting pattern, but not the quantity, upon the recommendation of landscape architect and approval.
- C. Where cut slopes are not subject to erosion due to their rocky character or where the slopes are protected with pneumatically applied concrete mortar or otherwise treated to protect against erosion and instability to the satisfaction of the City Engineer, the requirement of this subsection may be waived by the City Engineer.
- D. The City Engineer may require the applicant to temporarily stabilize and reseed disturbed soil areas to protect the Waters of the State. If grass or ground cover is not established by the beginning of the wet season, temporary erosion control measures such as erosion control mats or blankets shall be installed on the slopes. If grass or ground cover is not established by the beginning of the wet season, temporary erosion control measures such as erosion control mats or blankets shall be installed on the slopes.

3309.17 Irrigation System Requirements.

- A. General. Except for agricultural grading permits, all slopes to be constructed, but only final slopes of any borrow pit, shall be provided with an irrigation system which shall be used by the permittee to promote the growth of plants to protect the slopes against erosion. The permittee shall be responsible for installation and maintenance of the irrigation system until the City Engineer determines that the system has been properly installed and meets the minimum requirements of this section. When the City Engineer finds that a slope less than fifteen (15) feet in height is located in an area as to make hand watering possible, conveniently located hose bibs may be accepted in lieu of the required irrigation system when a hose no longer than fifty (50) feet would be required.
- B. Minimum Requirements: (1) Plans for the irrigation system shall be in accordance with San Diego Regional Standard Specifications for Sprinkler Irrigation Systems and shall be approved by the La Mesa City Engineer prior to installation. (2) The irrigation system shall be located relative to existing and proposed property lines to insure that the irrigation system and the slopes sprinkled thereby will both be within the same property boundaries. The irrigation system shall be supplied or readily converted so as to be supplied through the metered water service line serving each individual property. (3) The irrigation system shall provide uniform coverage for the slope area at a rate of not less than 0.03 inches per hour, nor greater than 0.30 inches per hour. A functional test of the irrigation systems shall be performed to the satisfaction of the City Engineer prior to final approval of the grading. (4) A check valve and balance cock shall be installed in the system where drainage from sprinkler heads will create an erosion problem. (5) Adequate back flow protection devices shall be installed in each irrigation system. Such devices shall be protected against physical damage during construction operations.

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3309.18 Waiver Of Planting And Irrigation Requirements.

The City Engineer may modify or waive the requirements for planting and/or irrigation systems if he/she finds that said requirements would be unreasonable or unnecessary for any of the following reasons: (a) the area is subject to periodic inundation, or (b) water is unavailable to the area such that irrigation would be impractical or impossible, or (c) the area is naturally devoid of vegetation.

3309.19 General Construction Permit Requirements.

A. Notice of Intent

Permittees required to comply with the State Construction General Storm Water Permit shall maintain on site and make available for inspection on request by the City any state-issued Waste Discharge Identification Number (WDID) for the site, and a copy of the Notice of Intent (NOI) filed with the State Water Resources Control Board (SWRCB) pursuant to that permit.

B. Storm Water Pollution Prevention Plan

Permittees required to prepare a SWPPP under the State General Construction Storm Water Permit must prepare the Plan, implement the Plan and maintain it at the site, readily available for review. Failure to comply with an applicable state-required SWPPP is a violation of this Chapter.

C. Facility Monitoring

Permittees required to conduct monitoring under the State Construction General Storm Water Permit must conduct such monitoring in conformance with requirements specified by the State, retain records of such monitoring on site, and make such records available for inspection by the City Engineer.”

SECTION 5: Chapter 14.05 of the La Mesa Municipal Code is hereby amended to add Section 14.05.090 to read as follows:

“14.05.090 Erosion Control.

Section 3316 of Appendix Chapter 33, 1998 California Building Code, 1998 Edition, adopted by reference in Section 14.05.010 is amended to add the following subsections:

3316.3 Erosion Prevention.

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A. General. Permittee shall implement the following minimum erosion prevention methods to minimize the erosion potential:

1. If feasible, Permittee shall grade only during the dry season, especially in areas at high risk for erosion.
2. Permittee shall minimize the length of time that soils are left exposed to elements of wind and water.
3. If grading must occur during the rainy season, the total area of exposed soil shall be reduced during the rainy season.
4. Critical areas, such as drainage channels, streams, and natural watercourses shall be properly protected.
5. Exposed areas shall be stabilized as quickly as feasible.
6. Sufficient waste disposal facilities shall be provided for all proposed activities.
7. Sufficient storage facilities shall be provided for all materials and equipment.
8. Permittee shall ensure that materials used for erosion and sediment control are on site at all times during the rainy season.
9. All slopes shall be protected against erosion and any unstable slopes shall be stabilized.
10. Erosion prevention shall be considered the most important erosion control measure with sediment controls as a backup.

B. Dry Season (May 1 through September 30)

1. All exposed disturbed areas must have erosion prevention controls properly installed including building pads, unfinished roads and slopes. Slopes greater than 33.3 percent or 1:3 (vertical vs. horizontal) may use properly designed and installed de-silting basins at all discharge points in lieu of this requirement.
2. Adequate perimeter protection BMPs must be installed and maintained.
3. Adequate sediment control BMPs must be installed and maintained.
4. Adequate BMPs designed to control off-site sediment tracking must be installed and maintained.

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5. At a minimum, 125 percent of the materials needed to install standby BMPs necessary to completely protect exposed portions of the site from erosion and prevent sediment discharges must be stored on the site.
6. An approved “weather triggered” response plan is mandated for implementation in the event that a predicted storm event has a 50 percent chance of rain. The proponent must have the capacity to deploy the standby BMPs within 48 hours of the predicted storm event.
7. All slopes must be equipped with erosion prevention BMPs as soon as slopes are completed for any portion of the site.
8. Cleared or graded areas left exposed at any given time are limited to the amount of acreage that the project proponent can adequately protect prior to a predicted storm event.

C. Wet Season (October 1 through April 30)

In addition to the Dry Season Requirements:

1. Perimeter protection and sediment control BMPs must be upgraded if necessary to provide sufficient protection for storms.
2. Adequate erosion prevention BMPs must be installed and established for all completed slopes prior to October 1 and maintained throughout the wet season. If a BMP fails, it must be repaired, improved, or replaced with an acceptable alternate as soon as it is safe to do so.
3. The amount of exposed soil allowed at one time shall not exceed standby erosion and sediment control BMP capacity.
4. An incomplete disturbed area that is not being actively graded must be fully protected from erosion if left for 10 days or more.

3316.4 BMP Maintenance.

All BMPs for erosion prevention and sediment control shall be functional at all times. Prior to the rainy season and after each major storm, all source control and structural treatment BMPs shall be inspected by the Permittee to assure the functionality and effectiveness. Proper BMP maintenance shall be conducted throughout the life of the project.”

SECTION 6: Chapter 14.05 of the La Mesa Municipal Code is hereby amended to add Section 14.05.100 to read as follows:

“14.05.100 Violation a Misdemeanor.

Any person who commences or does any grading in violation of this Chapter is guilty of a misdemeanor. Every day that a violation of this Chapter is committed, continued or permitted to exist is a separate violation, punishable as provided in this Code.”

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SECTION 7: This ordinance shall be effective 30 days after its adoption and the City Clerk shall certify to the adoption of this Ordinance and cause the same to be published at least once in the *East County Californian/La Mesa Forum* within 15 days of its adoption.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of La Mesa, California, held the 12th day of February 2002, and thereafter PASSED AND ADOPTED at a regular meeting of said City Council held the 26th day of February 2002 by the following vote, to wit:

AYES: Councilmembers Allan, Jantz, Knepper, Sterling, and Mayor Madrid

NOES: None

ABSENT: None

APPROVED:

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ARTHUR E. MADRID, Mayor

ATTEST:

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MARY J. KENNEDY, CMC, City Clerk

CERTIFICATE OF CITY CLERK

I, MARY J. KENNEDY, City Clerk of the City of La Mesa, California, do hereby certify the foregoing to be a true and correct copy of Ordinance No. 2002-2718 duly passed and adopted by the City Council of said City on the date and by the vote therein recited and that the same has been duly published according to law.

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MARY J. KENNEDY, CMC, City Clerk

(SEAL OF CITY)