

Town of Yountville
Ordinance Number 15-434

An Ordinance of the Town Council of the Town of Yountville Amending the Yountville Municipal Code Section 12.04.130 Drainage and Title 13 Public Services; Division 5 Stormwater Discharge System

Recitals

- A. On February 5, 2013, the State Water Resources Control Board (SWRCB) adopted the Town of Yountville's Phase II Small Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit, which includes additional requirements for stormwater management.
- B. The Town Council, acting in response to the newly adopted NPDES Permit, has undertaken to amend the Yountville Urban Runoff Pollution Prevention Ordinance to improve the Town's stormwater policies and update the chapters related to stormwater management.
- C. The Town Council fully studied all matters addressed in this Ordinance and considered all relevant public comment on such matters, and desires to approve this Ordinance.

Now therefore, the Town Council of the Town of Yountville does ordain as follows:

- 1. Chapter 12.04.130 is amended to read as follows:

Chapter 12.04.130 DRAINAGE

All existing drainage conduits, pipes, structures, ditches, or other facilities in the public street area of the Town that provide drainage for stormwater are the property of the Town and no person shall divert, plug, abandon, fill, close in, add onto or change them in any manner without a permit from the Town Engineer. (Ord. 415-13)

- 2. Division 5 is amended to read as follows:

Title 13 Public Service - Division 5. — Stormwater Discharge System

Chapter 13.120 GENERAL PROVISIONS

13.120.010 Purpose and intent.

The purpose of this Chapter is to:

- A. Protect the health, safety and general welfare of Town of Yountville residents
- B. Protect water resources and to improve water quality

- C. Establish local regulations, as mandated by the Federal Water Pollution Control Act (referred to as the Clean Water Act), 33 U.S.C. Sections 1251, *et seq.* (as amended) and the California Water Code, to prohibit certain acts and reduce the adverse effects of non-stormwater discharges into the storm drain system and watercourses
- D. Secure benefits from the use of stormwater as a resource; and
- E. Require certain conduct and the implementation of best management practices by property owners or those in possession of any land within the Town, in order to reduce the discharge of pollutants in stormwater to the maximum extent practicable.

This Chapter seeks to promote these purposes by:

- A. Prohibiting illicit discharges to the stormwater conveyance system;
- B. Establishing authority to adopt minimum requirements for stormwater management, including source control requirements, to prevent and reduce pollution;
- C. Establishing authority to adopt requirements for development project site design to reduce stormwater pollution and erosion both during construction and after project is complete;
- D. Establishing authority to adopt requirements for the management of stormwater flows from development projects, both to prevent erosion and to protect and enhance existing water-dependent habitats;
- E. Establishing authority to adopt standards for the use of off-site facilities for stormwater management to supplement on-site practices at new development sites.

(Ord. 318-01)

13.120.020 Definitions.

Any words and phrases used in this Chapter and not otherwise defined shall be interpreted as defined in the regulations ascribed by the Federal Clean Water Act Section 402, and Division 7 of the California Water Code, as amended. For the purposes of this Chapter, the following words and phrases shall have the meanings as defined below.

- A. "Administrator" means the Town Manager of the Town and any person(s) designated by the Town Manager to fulfill any of the duties or powers of the Administrator as set forth in this Chapter.
- B. "BASMAA Post-Construction Manual" shall mean the most recent version of the Bay Area Stormwater Management Agencies Association (BASMAA) Post-Construction Manual.
- C. "Best management practices (BMPs)" means the collection of written activities, practices, policies and procedures prepared and proposed by a responsible party, and then approved by the Administrator, to prevent or reduce, to the maximum extent that is technologically and economically feasible, the discharge of pollutants to the storm drain system which might be generated from any site in the Town on land under the possession or control of that responsible party, or those written standardized activities, practices, policies and procedures for the same purpose, as prepared and approved by the Administrator but without regard to any specific site and kept on file by the Public

Works Department for guidance, reference or incorporation by any person not required to prepare an individualized Best Management Practices Manual. In addition to other matters, a Best Management Practices Manual may be required to include a description of:

1. Educational efforts;
 2. Planning of development projects and treatment facilities to capture and remove pollutants from stormwater;
 3. Operation, monitoring, cleanup and maintenance procedures;
 4. Discharge notification steps;
 5. The schedule for construction of needed preventative or protective devices; and
 6. The prohibition of specific activities, practices, and procedures which could cause a discharge.
- D. "Construction activity" means any activity that involves soil disturbing activities including, but not limited to, clearing, paving, grading, disturbances to ground such as stockpiling, and excavation.
- E. "Development" means any grading, digging, construction, rehabilitation, redevelopment, addition to, or reconstruction of any private structure, or connected with any residential (whether single-family, multi-unit or planned unit development), industrial, commercial, or retail project; or mass grading for any future construction or project, for which either a Town land use approval or any type of Town permit is required.
- F. "Development runoff requirements" shall mean the provisions in the Phase II Stormwater Permit that contain design standards or performance criteria to address both the construction and post-construction phase impacts of new projects and redeveloped projects on stormwater quality and quantity.
- G. "Discharge" when used without qualification, means the discharge of a pollutant.
- H. "Discharge of a pollutant" means any addition of any pollutant to waters of the United States or the storm drainage system.
- I. "Discharge permit" means an authorization, license or equivalent control document issued by the U.S. EPA, the State Water Resources Control Board or the Regional Board, and includes NPDES general and individual permits.
- J. "Discharger" means any person causing, or failing to take reasonable steps to stop a discharge.
- K. "Erosion and Sediment Control Plan" means a plan prepared to control erosion and sediment discharges from a construction site that meets those criteria identified in the most recent version of the Napa Countywide Erosion and Sediment Control Plan Model Template.
- L. "EPA" means the Environmental Protection Agency of the United States of America.
- M. "Illicit connection" means any device or method, including but not limited to a man-made conveyance or drainage system pipeline, graded channel, conduit, inlet or outlet, or condition of property, whether on the surface or subsurface, through which conveys non-stormwater discharges of any pollutant to the storm drain system. The term "illicit connection" shall not include a connection to the storm drain system that is approved and authorized by the Town.
- N. "Illicit discharge" means any discharge to the storm drain system receiving water or an upstream flow, which is tributary to the storm drain system, and which is not composed entirely of stormwater, except for discharges pursuant to a discharge permit and

discharges that are exempt in accordance with any applicable order of the Regional Board. The term illicit discharge includes all non-stormwater discharges not composed entirely of stormwater. The term illicit discharge does not include discharges that are regulated by an NPDES permit (other than the Phase II Stormwater Permit) and discharges that are identified under the Exceptions to Discharge Prohibition Section of this Chapter.

- O. "Incidental irrigation runoff" means unintended amounts (volume) of runoff, such as minimal unintentional sprinkler over-spray that escapes the intended landscaped area. If the water runoff is part of the facility design, due to excessive application, due to intentional overflow or application, or due to negligence, then said runoff is not incidental.
- P. "Low Impact Development" (LID) means a sustainable practice that benefits water supply and contributes to water quality protection. LID uses site design and stormwater management to maintain the site's pre-development runoff rates and volumes. The goal of LID is to mimic a site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of rainfall.
- Q. "NCSPPP" is the Napa Countywide Stormwater Pollution Prevention Program.
- R. "National Pollutant Discharge Elimination System (NPDES) permit" means a permit issued by the U.S. EPA, State Water Resources Control Board, or the Regional Board pursuant to the Clean Water Act (CWA) that authorizes discharges to waters of the United States and requires the reduction of pollutants in the discharge.
- S. "Operator" means any person in charge of day-to-day operations of a property addressed in this Chapter.
- T. "Person" means any person, firm, corporation, business entity, or public agency, whether principal, agent, employee, or otherwise.
- U. "Phase II Stormwater Permit" means the NPDES general stormwater permit applicable to the Town of Yountville, Water Quality Order No. 2013-0001—DWQ, General Permit No. CAS000004, and any subsequent amendment, reissuance or successor to this NPDES permit.
- V. "Pollutant" means dredged soil, solid waste, incinerator residue, filter backwash, sewage, pet wastes, manure, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, wrecked or discarded equipment, sediment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.
- W. "Post-Construction Measures Requirements" shall mean the provisions in Section E.12 of the Phase II Stormwater Permit that contain design standards or performance criteria to address the post-construction phase impacts of new projects and redeveloped projects on stormwater quality and quantity. The BASMAA Post-Construction Manual describes projects subject to the post-construction measures.
- X. "Premises" means any building, lot parcel, real estate, or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.
- Y. "Receiving waters" means all waters that are "Waters of the United States" within the scope of the Federal Clean Water Act or "Waters of the State" within the scope of the California Water Code, including but not limited to natural streams, creeks, rivers, reservoirs, lakes, ponds, water in vernal pools, lagoons, estuaries, bays, the Pacific Ocean, and groundwater.

- Z. "Regional Board" means the California Regional Water Quality Control Board, San Francisco Bay Region.
- AA. "Responsible party" means the person(s) identified in and responsible for compliance with the provisions of a stormwater pollution prevention plan, stormwater control plan, erosion and sediment control plan, or stormwater quality master plan.
- BB. "State general permit" means a permit issued by the State of California or the Regional Board to regulate a category of point sources. The term "state general permit" includes, but is not limited to, the general permit for stormwater discharges associated with construction activity and the general industrial activities stormwater permit and the terms and requirements of both. In the event the EPA revokes the in-lieu permitting authority of the State Water Resources Control Board, then the term state general permit shall also refer to any EPA administered stormwater control program for industrial and construction activities.
- CC. "Stormwater" or "storm runoff" means any surface flow, runoff, or drainage associated with rain storm events or snow melt.
- DD. "Storm drain system" means a conveyance or system of conveyances including streets, gutters, channels, artificial drains, lined diversion structures, wash areas, inlets, outlets or any other flood control or drainage facility, which is owned, operated, maintained or controlled by the Town, the Napa County Flood Control and Water Conservation District (NCFCD), or other public entity, and used for the purpose of collecting, storing, conveying, or disposing of stormwater to waters of the United States, and also means any natural channel, arroyo, or creek which is a tributary to or located in the watercourse.
- EE. "Stormwater Control Plan" shall mean a plan that meets those criteria contained in the most recent version of the BASMAA Post-Construction Manual.
- FF. "Stormwater Pollution Prevention Plan" means the plan prepared by a responsible party as required by the state general permit identifying potential pollutant sources and describing the design, placement and implementation of that responsible party's BMPs to effectively prohibit non-stormwater discharges and reduce pollutants in stormwater discharges during activities covered by the general permit.
- GG. "Stormwater Facilities Operation and Maintenance Plan" shall mean a plan identifying the locations and characteristics of stormwater management facilities on a newly developed or redeveloped site and describing maintenance activities, schedules, and responsibilities to ensure the ongoing proper operation of those facilities.
- HH. "Stormwater management facility" means any device designated to detain, retain, filter, or infiltrate stormwater.
- II. "Town" means the Town of Yountville, situated in Napa County, California.
- JJ. "Urban runoff" means stormwater runoff from an urbanized area, including streets and adjacent domestic and commercial properties, that carries pollutants of various types into the storm drainage system and receiving waters.
- KK. "Watercourse" means any natural or artificial channel for passage of water within the Town, including the Napa County Flood Control District ("NCFCD") jurisdictional channels.

(Ord. 318-01)

Chapter 13.124 PROHIBITION OF ILLICIT CONNECTIONS AND ILLICIT DISCHARGES— REDUCTION OF POLLUTANTS

13.124.010 Prohibition of illicit connections, improper property maintenance, and illicit discharges, and other prohibited acts.

- A. The unauthorized discharge of a pollutant into the storm drain system is unlawful and prohibited. All discharges of material other than stormwater shall comply with the Phase II Stormwater Permit or any other NPDES Permit issued by the State of California. A discharger operating under an NPDES permit issued to the discharger and administered by the State of California under authority of the United States Environmental Protection Agency must comply with all requirements of the permit and other applicable laws or regulations.
- B. Unless in full compliance with a discharge permit, it is unlawful to and no person shall:
1. Construct, use, maintain, operate or continue to utilize an illicit connection to a storm drain or watercourse. This prohibition expressly includes, without limitation, illicit connections made prior to the effective date of this Division 5, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection;
 2. Cause, allow, or facilitate the continuing existence of an illicit discharge to a storm drain or watercourse.
 - a. Any person responsible for a discharge, spill, or pollutant release shall promptly cease and desist discharging, or cleanup and abate such a discharge as directed by the Administrator.
 - b. Any person responsible for an illicit connection shall promptly remove the connection as directed by the Administrator.
 - c. The Town may perform clean-up and abatement work and recover its costs from the responsible person as provided in Section 13.136.010.
 3. Act, cause, or permit any agent, employee, or contractor to construct, maintain, operate or utilize an illicit connection, or cause, allow or facilitate an illicit discharge;
 4. Use the Town's storm drain system for the discharge or disposal of wastes (including, but not limited to yard trimmings, cut grass, or paint clean-up);
 5. Block or modify the natural flow of water in the Town's storm drain system, or alter, enlarge, change or remove any part of the Town's storm drain system;
 6. Place any loose or unconsolidated material along the side of or within the storm drain system, or placed so close to the side of a storm drain system channel or facility as to cause a diversion of flow, or to create a reasonable probability such material will be removed by or transported by stormwaters passing through the storm drain system;
 7. Throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, kept, or maintained, in or upon any public or private driveway, parking area, street, alley, sidewalk, or component of the storm drain system, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles and accumulations, so that the same may cause or contribute to a pollutant entering the storm drain system or watercourse.

- C. Any owner, occupant, or operator of any private property, who fails to remove pollutants within a reasonable time, as determined by the Administrator, may be charged with a violation of this Section.
- D. It is unlawful to, and no person shall, fail to take every reasonable step, consistent with, or as set forth in, an Administrator-approved individualized BMPs manual, or if none, the written standardized Town BMPs manual on file with the Public Works Department, to reduce to the maximum extent practicable the discharge of stormwater containing any pollutant.
- E. It is unlawful to, and no person shall, engage in any activity which will, or may, result in a pollutant or pollutants entering the storm drain system or watercourses, unless, after notice from the Town, all practicable measures to reduce such pollutants have been undertaken.
- F. It is unlawful for an owner of real property (or its successors or assigns) subject to, or a named responsible party in, a Town-approved Stormwater Control Plan or Erosion and Sediment Control Plan to fail to implement and adhere to the terms, conditions, and requirements of such a plan.
- G. Any person(s) or entities responsible for a discharge shall be liable for said discharge. Such person(s) or entities shall defend, indemnify and hold harmless the Town in any administrative or judicial enforcement action relating to such discharge.
- H. Exceptions to Discharge Prohibition. The following discharges are exempt from the prohibition set forth in subsection 13.124.010.A of this Section:
 - 1. Discharges regulated under another NPDES permit issues to the discharger and administered by the State of California under authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.
 - 2. Discharges or flows from fire-fighting activities unless they are identified as significant sources of pollutants to waters of the United States.
 - 3. Discharges from the following activities, provided any pollutants in the discharges are identified and appropriate control measures to minimize the impacts of such discharges are developed and implemented:
 - a. Water line flushing and other discharges from potable water sources;
 - b. Diverted stream flows;
 - c. Rising groundwater;
 - d. Infiltration to storm drains;
 - e. Uncontaminated ground water infiltration (as defined at 40 C.F.R. §35.2005(20)) to separate storm sewers;
 - f. Uncontaminated pumped groundwater;
 - g. Foundation and footing drains;
 - h. Water from crawl space pumps;
 - i. Air conditioning condensation;
 - j. Springs;
 - k. Individual residential car washing;
 - l. Footing drains;
 - m. Flows from riparian habitats and wetlands;
 - n. Dechlorinated swimming pool discharges; and
 - o. Incidental irrigation runoff from landscaped areas, provided the conditions in subsection 13.124.010.H.4 below are met.

4. Incidental irrigation runoff is the unintended amounts of runoff that leave the area of application such as minimal overspray. Water leaving the intended area of application is not incidental if it is due to the design, excessive application, or intentional overflow or application. Irrigation systems must be designed to conserve water and prevent water leaving the area of application. Persons responsible for controlling irrigation systems shall prevent excessive irrigation runoff by:
 - a. Detecting leaks and correcting from the irrigation system within 72 hours discovering the leak.
 - b. Properly designing and aiming sprinkler heads to only irrigate the planned application area.
 - c. Not irrigating during precipitation events.
 - d. Where recycled water is used for irrigation, designing and managing holding ponds to such that no discharge occurs unless it is the result of the 25 year-24 hour storm event. Any releases from holding ponds must be reported to the Regional Water Board and the Town within 24 hours of the discharge.

(Ord. 318-01)

Chapter 13.128 CONTROL OF URBAN RUNOFF

13.128.010 Best Management Practices for Ground Disturbing Activities.

Any person performing construction activities in the Town shall implement appropriate BMPs to prevent the discharge of construction wastes or contaminants from construction materials, tools and equipment from entering the storm drains or watercourse.

- A. Construction-phase BMPs include erosion and sediment controls and pollution prevention practices. Erosion control BMPs may include, but are not limited to, scheduling and timing of grading activities, timely revegetation of graded areas, the use of hydroseed and hydraulic mulches, and installation of erosion control blankets. Sediment control may include properly sized detention basins, dams, or filters to reduce entry of suspended sediment into the storm drain system and watercourses, and installation of construction entrances to prevent tracking of sediment onto adjacent streets. Pollution prevention practices may include designated washout areas or facilities, control of trash and recycled materials, tarping of materials stored on-site, and proper location of and maintenance of temporary sanitary facilities. The combination of BMPs used, and their execution in the field, must be customized to the site using up-to-date standards and practices. The agency will provide references to current guidance manuals and BMP information on request.
- B. Financial security may be required to ensure that temporary measures to control stormwater pollution are implemented and maintained during construction and after construction for a period determined by the agency. Financial security shall consist of an irrevocable letter of credit, cash deposit, or performance bond as determined by the agency.
- C. When any work is being done contrary to the provisions of this article, the Administrator may order the work stopped by serving written notice on any persons engaged in doing or causing the work to be done. Such work shall stop until the Administrator authorizes the work to proceed. This remedy is in addition to and does not supersede or limit any and all other remedies, both civil and criminal provided in the Town Municipal Code.

- D. The Town has the authority to review designs and proposals for construction activities and new development and redevelopment sites to determine whether adequate BMPs will be installed, implemented, and maintained during construction and after final stabilization (post-construction).
- E. All construction plans and applications for construction activity submitted to the Town shall consider the potential for erosion and sedimentation at the construction site, and shall include appropriate erosion and sedimentation controls.
- F. An Erosion and Sediment Control Plan (ESCP) shall be required for:
 - 1. Any project subject to a grading permit under Chapter 15.02;
 - 2. Any project subject to another Town permit that has the potential for significant erosion, or significant non-stormwater discharges of sediment, or construction site waste, including:
 - a. Projects within 50 feet of the storm drain system, or
 - b. Project disturbing 10,000 square feet (sf) of soil or more, or
 - c. Projects installing new storm drains that discharge to the storm drain system or watercourse, or
 - d. Projects on slopes of 5% or more;
 - 3. Any other project as required by the Administrator considering factors such as whether the project involves hillside soil disturbance, rainy season construction, construction near a watercourse, or any other condition or construction site activity that could lead to a non-stormwater discharge to a storm drain if not managed by effective implementation of an ESCP.
- G. The ESCP shall be submitted for review and approval by the Administrator. The project applicant shall follow the most recent version of the *Napa Countywide Erosion and Sediment Control Plan Model Template* to prepare the ESCP. At a minimum, the ESCP shall include:
 - 1. Description of the proposed project and soil disturbing activity.
 - 2. Site specific construction-phase BMPs.
 - 3. Rationale for selecting the BMPs, including if needed, soil loss calculations.
 - 4. List of applicable permits associated with the soil disturbing activity, such as: Construction General Permit (CGP); Clean Water Act Section 404 Permit; Clean Water Act Section 401 Water Quality Certification; Streambed/Lake Alteration Agreement (1600 Agreements).
 - 5. Proof that the applicant has obtained the applicable permits associated with the soil disturbing activity must be submitted prior to approval of the ESCP.
 - 6. Project information as required by the ESCP applicant checklist provided in the *NCSTOPPP Construction Erosion and Sediment Control Plan Applicant Package*;
 - a. Owner and contractor contact information
 - b. Site information (location, status, size of project, size of disturbed area)
 - c. Project watershed
 - d. Planned start date and anticipated completion date (as may be revised from time to time).
 - 7. For projects subject to the State's General Construction Activity Stormwater Permit (CGP), project applicants may submit a Stormwater Pollution Prevention Plan (SWPPP) developed pursuant to the CGP in lieu of submitting an ESCP.

8. Implementation of an approved ESCP shall be a condition of the issuance of a building permit, a grading permit, or other permit issued by the Town for a project subject to this Section. The ESCP shall be implemented year round and must be updated to reflect changing conditions on the project site. Any modifications to the ESCP shall be submitted to the Town for review and approval.

13.128.011 Best Management Practices for New Development and Redevelopment.

- A. Prior to or during construction, the Administrator may establish controls on the volume and rate of stormwater runoff from new developments and redevelopment as may be appropriate to minimize peak flows or total runoff volume, and to mimic the pre-development site hydrology. These controls may include limits on impervious area or provisions for detention and retention of runoff on-site.
- B. The Administrator may require, as a condition of project approval, permanent structural controls designed for the removal of sediment and other pollutants and for control on the volume and rate of stormwater runoff from the project's added or replaced impervious surfaces. The selection and design of such controls shall be in accordance with criteria established or recommended by federal, state, local agencies, and where required, the BASMAA Post-Construction Manual. Where physical and safety conditions allow, the preferred control measure is to retain drainageways above ground and in as natural a state as possible or other biological methods such as bioretention areas.
- C. Stormwater Control Plan Requirements
 1. For each new development and redevelopment project subject to the post-construction measures requirements, or where required by the nature and extent of a proposed project and where deemed appropriate by the agency, every applicant shall submit a Stormwater Control Plan (SCP) that meets the criteria in the most recent version of the BASMAA Post-Construction Manual, and shall implement conditions of approval that reduce stormwater pollutant discharges through the construction, operation and maintenance of source control measures, low impact development design, site design measures, stormwater treatment measures and hydromodification management measures. Increases in runoff shall be managed in accordance with the post-construction requirements.
 2. The SCP is separate and distinct from the ESCP requirements described in Section 13.128.010.
 3. Where projects are required to have a SCP, project applicants shall follow the appropriate SCP template, based on the project type, in the BASMAA Post-Construction Manual.
 4. Implementation of an approved SCP and submittal of an approved Stormwater Facilities Operation and Maintenance Plan by the applicant shall be a condition precedent to the issuance of a building permit or a construction permit for a project subject to this Section.
 5. Financial security may be required to ensure that stormwater management facilities operate and are maintained following construction for a period which may be determined by the agency. Financial security shall consist of an irrevocable letter of credit, cash deposit, or performance bond as determined by the agency.
 6. All stormwater management facilities shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design guidelines are outlined in the BASMAA Post-Construction Manual.
 7. All stormwater management facilities shall be maintained according to the BASMAA Post-Construction Manual and the approved Stormwater Facilities

Operation and Maintenance Plan. The person(s) or organization(s) responsible for maintenance shall be designated in the plan. Unless a different time period is provided for in the plan, those responsible for maintenance shall inspect the stormwater management facilities at least annually. The Stormwater Facilities Operation and Maintenance Plan shall describe how the maintenance costs will be funded. Upon the failure of a responsible person to maintain the stormwater management facilities in accordance with this Chapter or the Plan, the Town may perform the maintenance and recover its costs from the responsible person as provided in Section 13.136.010

8. For each new development and redevelopment project subject to the post-construction measures requirements, or where deemed appropriate by the Town, the property owner shall provide the Town with access to stormwater management facilities for inspections, as provided in Section 13.132.010. Access may be granted through such means as may be appropriate, including, but not limited to, legal agreements, recorded covenants or easements.
9. All project proponents and their successors, or successors in fee title, in control of a new development and redevelopment project subject to the post-construction measures requirements, shall submit at least one of the following as a condition prior to final inspection and approval of building permit closure:
 - a. The project proponent's signed statement accepting responsibility for the operations and maintenance of stormwater management facilities until such responsibility is legally transferred to another entity;
 - b. Written conditions in the sales or lease agreements or deed for the project that requires the buyer or lessee to assume responsibility for the operations and maintenance of the stormwater management facilities until such responsibility is legally transferred to another entity;
 - c. Written text in project deeds, or conditions, covenants and restrictions for multi-unit residential projects that require the homeowners association or, if there is no association, each individual owner to assume responsibility for the operation and maintenance of the stormwater management facilities until such responsibility is legally transferred to another entity; or
 - d. Any other legally enforceable agreement or mechanism, such as recordation in the property deed, that assigns the operation and maintenance of the stormwater management facilities to the project owner(s) or the Permittee.

13.128.020 Best management practices and requirements.

- A. Any person engaged in any land use, activities or operations, or owning facilities or property, which may result in pollutants entering the storm drain system, as determined by the Administrator, shall prepare, be subject to or obtain a BMPs manual and then implement those BMPs to the maximum extent practicable to prevent or reduce such discharge of pollutants to the Town's storm drain system or watercourses.
- B. The Administrator may adopt requirements identifying appropriate terms, obligations and minimum content of a BMPs manual for any land use, activity, business, operation, or facility which may cause or contribute the discharge of a pollutant to, or contamination of, the storm drain system. If relevant, certain BMPs have been prepared and promulgated by

the Town or any Federal, State, or regional agency for certain activities, operations, or facilities, which could cause the discharge of pollutants to the Town's storm drain system or watercourses, and every person undertaking such a designated activity or operation, or owning or operating such facility shall comply with such BMPs.

- C. Any person engaged in activities which will, or may result in, pollutants entering the storm drains, shall undertake all practicable measures to cease such activities, or eliminate or reduce such pollutants.
- D. Except for pollutants lawfully disposed of by way of containers or at lawfully established dumping grounds, no person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the Town, such that, in the opinion of the Administrator, the same might be or become a pollutant discharged to the waters of the United States.
- E. The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the Town in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt or litter to the maximum extent practicable. Sweepings from said sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained on said real property as required for the recycling or disposal of garbage.

(Ord. 318-01)

13.128.030 Notification of intent and compliance with general permits.

- A. Each responsible party, owner or discharger associated with any industrial activity, construction activity, or any other discharger described in any general stormwater permit as may be adopted by the EPA, the State Water Resources Control Board, or the Regional Board, shall provide notice of intent, shall comply with, and shall undertake all other activities required by such permit applicable to such discharges.
- B. Each discharger identified in an individual NPDES permit relating to stormwater discharges shall comply with and undertake all activities required by such permit.

(Ord. 318-01)

13.128.040 Elimination of illicit discharge and illicit connections.

- A. After written notification is mailed, personally delivered or posted, the Administrator may require any person responsible for an illicit discharge to immediately, or by a specified date, eliminate or discontinue the illicit discharge. If the discharge is not discontinued in the time specified, the Administrator may take any enforcement measure described in this Chapter and steps reasonably necessary to eliminate the source of the illicit discharge or to prevent the reoccurrence of future illicit discharges. If necessary as the result of an imminent or pending storm event, the Administrator may take immediate measures to eliminate the source of the illicit discharge.

- B. After written notification is mailed, personally delivered or posted, the Administrator may require a person in control of, or responsible for, an illicit connection to the storm drain system to secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of the ordinance codified in this Chapter. If, subsequent to eliminating a connection found to be in violation of this Chapter, the person can demonstrate that an illicit discharge will no longer occur, such person may request approval to reconnect. The reconnection or reinstallation of the connection shall be at the Administrator's discretion, and shall be subject to such conditions as the Administrator may determine. Such reconnection or reinstallation shall be at the requesting person's sole expense.

(Ord. 318-01)

Chapter 13.132 INSPECTIONS

13.132.010 Scope of inspections.

- A. **Right to Enter to Inspect.** The Administrator is hereby authorized to enter onto private property within the Town for the sole purpose of inspecting, monitoring, or investigating the possible or potential source of a discharge to the storm drain system or watercourses, as provided in Section 8.05 of this Municipal Code.
- B. **Compliance Assessments.** The Administrator may inspect property for the purpose of verifying compliance with this Chapter, including but not limited to:
1. Identifying products produced, processes conducted, chemicals used, and materials stored on or contained within the property;
 2. Identifying point(s) of discharge of all stormwater, wastewater, process water systems and pollutants;
 3. Investigating the natural slope at the location, including drainage patterns and man-made conveyance systems (including roads with drainage systems, catch basins, curbs, gutters, channels and storm drains);
 4. Establishing the location of all points of discharge from the property, whether by surface runoff or through a storm drain system;
 5. Locating any illicit connection or the source of any illicit discharge;
 6. Evaluating compliance with any plans or BMPs required by this Chapter;
 7. Evaluating compliance with the Phase II Stormwater Permit; and
 8. Evaluating compliance with any permit issued pursuant to this Chapter.
- C. **Records Review.** The Administrator may demand the production of such records as is necessary to determine compliance with the provisions of this Chapter and for the purpose of examination and copying.
- D. **Sample and Test.** The Administrator may inspect, sample and test any area runoff, soils within the source property, liquids, discharge, or materials within any storage area (including any container contents), or treatment system discharge for the purpose of determining the potential for contribution of pollutants to the storm drain system. The Administrator may investigate the structural integrity and condition of all storm drains, sanitary sewer facilities or systems, or other tanks, reservoirs or pipelines on the property

using appropriate tests, including, but not limited to, smoke and dye tests or video surveys. The Administrator may take photographs or videotape, make measurements or drawings, and create any other record reasonably necessary to document conditions on the property.

- E. **Monitoring.** For the purpose of measuring any discharge or potential source of discharge to the storm drain system, the Administrator may undertake a monitoring program and other analysis, which may include both the installation and maintenance of monitoring devices, or require the owner or operator of the property to undertake the installation, record keeping and maintenance of such monitoring devices, at the owner's or operator's expense.
- F. **Test Results.** The owner or operator of the property subject to inspection shall provide copies of test results to the Town and, on submission of a written request to the Administrator, be entitled to a copy of the test results conducted by the Administrator.
- G. **Unreasonable Delays.** Unreasonable delays by the owner, occupant or operator of private property in allowing the Administrator access to the premises, or in the production of any demanded records, beyond the date set forth in a written request shall be a violation of this Chapter.
- H. **Inspection/Search Warrants.** If the Administrator has been refused access to a building, structure, property or any part thereof, the Administrator may seek issuance of an administrative inspection or criminal search warrant from any court of competent jurisdiction. Any entry by Administrator shall be in accordance with Section 8.05 of this Municipal Code.

(Ord. 318-01)

Chapter 13.136 ENFORCEMENT AND PENALTIES

13.136.010 Administrative remedies.

- A. In addition to any other enforcement powers or remedies provided in this Chapter, an authorized enforcement official may issue an order to a person to cease and desist from the discharge, practice, operation or other activity causing or likely to cause a violation of this Chapter. Such order shall be directed to those persons in violation of the Chapter stating clearly and concisely the nature of the violation, the requirements for compliance, a timetable for compliance and such other remedial or preventive action as may be necessary. Upon the violator's failure to comply with such an order, the Town shall take further enforcement action as specified in this Chapter, or in accordance with any other appropriate provision of local, State or federal law. At the discretion of the enforcement official, orders to cease and desist may take any or all of the following forms:
 - 1. Verbal Warnings, as may be issued during inspections
 - 2. Warning Letters and Orders to Abate Pollution
 - 3. Warning Letters with requirements to submit written reports
- B. **Notice of Violation.** When the Administrator has probable cause to believe that there may be a violation of this Chapter, the Administrator may issue a notice of violation to the owner, occupant or operator of any public or private property, or to any person responsible for an illicit connection or illicit discharge. The notice of violation shall:

1. Identify the provision(s) of this Chapter, the BMPs, the applicable stormwater pollution prevention plan, stormwater pollution control plan, stormwater quality management plan or permit alleged to have been, or are then being, violated and describe the manner of compliance or abatement required;
 2. State that continued noncompliance may result in additional penalties and enforcement actions against the owner, operator, or occupant; and
 3. State a compliance date that must be met by the owner, operator, or occupant.
- C. **Administrative Compliance Orders.** When the Administrator has probable cause to believe that there may be a continuing or repeated violation of this Chapter, the Administrator may issue and deliver to the owner, occupant or operator of any property, or to any person responsible for an illicit connection or illicit discharge, an administrative compliance order. The administrative compliance order may include the following terms and requirements:
1. Specific steps and time schedules for compliance as reasonably necessary to prevent continued or threatened illicit discharges;
 2. Specific steps and time schedules for compliance as reasonably necessary to discontinue any illicit connection;
 3. Specific requirements for containment, remediation, cleanup, removal, storage, installation of overhead covering, or proper disposal of any pollutant having the potential to contact stormwater runoff;
 4. Any other terms or requirements reasonably calculated to prevent continued or threatened violations of this Chapter, including, but not limited to, requirements for compliance with best management practice guidance documents promulgated by any Federal agency, the State of California or the Town; and
 5. Any other terms or requirements reasonably calculated to achieve full compliance with the terms, conditions and requirements of the BMPs, plans, or permits issued pursuant to this Chapter.
- D. **Cease and Desist Orders.** If the Administrator determines that the public health and safety requires, the Administrator may issue a cease and desist order directing the owner or operator of the private property, or any other person responsible for a violation of the Chapter, to:
1. Immediately discontinue any illicit connection or illicit discharge to the storm drain system;
 2. Immediately contain or divert any flow of non-stormwater off the property, where the flow is occurring in violation of any provision of this Chapter;
 3. Immediately discontinue any other violation of this Chapter;
 4. Immediately discontinue any discharge-causing or pollutant-causing sources or activities resulting in persistent and unabated discharge;
 5. Clean up the area affected by the violation as a condition of removal of the order.

Within five days of the Town's and discharger's agreement that clean-up activities cannot be completed within the timeframes required by the Phase II Stormwater Permit (including abatement deadlines as required by Section E.6.a.ii.h.1 and 2), notify the Regional Water Board in writing that the applicable timeframe requires revision.

- E. Recovery of Town's Costs; Invoice of Costs.** If a notice of violation, administrative compliance order, cease and desist order, or any other enforcement option is utilized to obtain compliance with this Chapter, then the person found to be violating this Chapter shall be responsible for paying all actual costs and expenses incurred by the Town for Town administrative overhead, Town salaries, attorney fees, expert fees, testing and monitoring expenses, and other expenses incurred as a result of, or during, any inspection, investigation, monitoring or administrative enforcement action conducted pursuant to this Chapter. The Administrator may deliver an invoice for costs to the owner, occupant or operator of private property, any permittee or any responsible party, or any other person who becomes subject to a notice of violation, administrative compliance order, or cease and desist order. An invoice for costs shall be immediately due and payable to the Town, and if not paid within 30 days, shall earn interest at the rate of one and one-half percent per month until fully paid. If any owner, occupant, operator, permittee or responsible party, or any other person fails to either pay the invoice for costs or have the amount of the invoice for costs reduced on appeal to the Town Council in accordance with this Chapter, then the Town may institute collection proceedings.
- F. Delivery of Notice.** Any notice of violation, administrative compliance order, cease and desist order or invoice of costs to be "delivered" pursuant to the requirements of this Chapter shall:
1. Include the address of the affected property and be mailed to the owner's address, as that address is shown on the most recently issued equalized assessment roll released to the Town for the affected property and mailed or faxed to the occupant, if any, at the address of the affected property; or
 2. If the address for the owner, occupant or operator of any private property cannot be located after the reasonable efforts of the Administrator, a notice of violation, administrative compliance order, or cease and desist order shall be deemed delivered after posting on the property at least 10 days prior to the date any order is to be complied with.
- G. Judicial Abatement.** In the event the owner of the property, the operator of a facility, a permittee, a responsible party or any other person in possession or with authority to act fails to comply with any provision of a compliance schedule of any notice of violation, administrative compliance order, or cease and desist order issued pursuant to this Chapter, the Administrator may request the Town to obtain appropriate judicial authorization to enter the property, abate the condition and restore the area to its pre-violation condition. Any costs incurred by the Town in obtaining and carrying out the judicial authorization may be recorded as lien against the affected property and recovered by the Town in a foreclosure action on that lien, or in any collection procedure authorized by law.

(Ord. 318-01)

13.136.020 Appeals of administrative remedies.

Any property owner subject to, or any person aggrieved by the issuance of a notice of violation, administrative compliance order, or cease and desist order issued pursuant to this Chapter, may appeal to the Town Council as provided in Sections 8.05 and 1.30.010 of this Municipal Code. During the Town Council's consideration of such an appeal, any requested

abatement actions shall be complied with, and the order is not stayed by reason of such an appeal.

(Ord. 318-01)

13.136.030 Public nuisance.

Any condition in violation of the prohibitions of this Chapter shall constitute a threat to the public health, safety and welfare, and is declared and deemed a public nuisance pursuant per se.

(Ord. 318-01)

13.136.040 Penalty.

- A. **Infractions.** Any person believed to be in violation of any provision of this Chapter may be charged or cited with an infraction as set forth in Section 1.20.010 of this Municipal Code.
- B. **Misdemeanor.** Any person who negligently or knowingly violates any provision of this Chapter, undertakes to conceal any violation of this Chapter, continues any violation of this Chapter beyond the date set for compliance after delivery of notice thereof; or has previously violated the same provision of this Chapter, or repeatedly violated the terms, conditions and requirements of any approved BMPs manual, stormwater pollution prevention plan, stormwater pollution control plan, stormwater quality master plan or discharge permit, may be charged with criminal misdemeanor for such violation.
- C. **Separate Offenses.** Each pollution source found to be in violation of this Chapter is a separate offense and separate violation. Each day a violation continues unabated as ordered by the Administrator is a separate offense and separate violation.

(Ord. 318-01)

13.136.050 Violations of other laws.

Any person acting in violation of this Chapter also may be acting in violation of the Federal Clean Water Act or the State Porter-Cologne Act and other laws and also may be subject to sanctions including civil liability. Accordingly, the Town is authorized to file a citizen suit pursuant to Federal Clean Water Act Section 505(a), seeking penalties, damages, and orders compelling compliance, and other appropriate relief. The Town may notify EPA Region IX, the Regional Board, or any other appropriate State or local agency, of any alleged violation of this Chapter.

(Ord. 318-01)

13.136.060 Civil remedies—Injunctions.

- A. The Administrator may request that the Town file a civil action seeking an injunction against any threatened or continuing noncompliance with the provisions of this Chapter. Any temporary, preliminary or permanent injunction issued pursuant hereto may include an

order for reimbursement to the Town of all costs incurred in enforcing this Chapter, including costs of inspection, investigation and monitoring, the costs of abatement undertaken at the expense of the Town, costs relating to restoration of the environment, attorney fees, court costs, and all other expenses as authorized by law.

B. The Administrator may request the Town to file an action for civil damages in a court of competent jurisdiction seeking recovery of:

1. A temporary or permanent injunction;
2. All costs incurred in enforcement of this Chapter, including, but not limited to, costs relating to investigation, sampling, monitoring, inspection, administrative expenses, attorney fees and court costs, and all other expenses as authorized by law, and consequential damages;
3. All costs of restoration of the premises from its condition resulting from violations back to its original condition, or incurred in mitigating harm to the environment, or reducing the threat to human health;
4. Damages for irreparable harm to the environment;
5. Damages resulting from any trespass or nuisance occurring on public land or to the storm drain system from any violation of this Chapter.

C. The remedies available to the Town pursuant to the provisions of this Chapter shall not limit the right of the Town to seek any other remedy that may be available by law.

(Ord. 318-01)

3. Effective Date. This ordinance shall take effect 30 days after its final passage.

4. Posting. Within 15 days from the date of passage of this ordinance, the Town Clerk shall post a copy of the ordinance in accordance with California Government Code in at least three public places in the Town.

INTRODUCED by the Town Council on the 3rd of March 2015; and

PASSED AND ADOPTED at a regular meeting of the Town Council on the 17th day of March 2015, by the following vote:

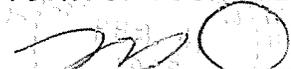
AYES: Dorenbecher, Hall, Mohler and Chilton
NOES: None
ABSENT: Dunbar
ABSTAIN: None



Lewis Chilton, Vice Mayor

ATTEST:

TOWN OF YOUNTVILLE



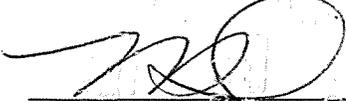
Michelle Dahme, Town Clerk

I, MICHELLE DAHME, TOWN CLERK of the Town of Yountville, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the Town Council on the 3rd day of March, 2015. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the Town Council on the 17th day of March, 2015 by the following vote:

AYES: Dorenbecher, Hall, Mohler and Chilton
NOES: None
ABSENT: Dunbar
ABSTAIN: NONE

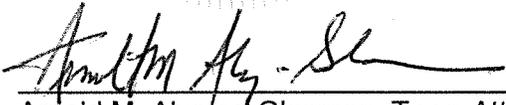
ATTEST:

TOWN OF YOUNTVILLE



Michelle Dahme, Town Clerk

APPROVED AS TO FORM:



Arnold M. Alvarez-Glasman, Town Attorney