

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, STATE OF CALIFORNIA, REPLACING CHAPTER 19.05 TO THE CALISTOGA MUNICIPAL CODE - THE STORMWATER RUNOFF POLLUTION CONTROL ORDINANCE REGULATING PROHIBITED DISCHARGES, NPDES COMPLIANCE, REDUCTION OF POLUTANTS IN STORMWATER AND NOTIFICATION OF SPILLS AND DELETION OF SECTION 19.08.060 – REQUIREMENTS FOR EROSION CONTROL PLANS.

BE IT ORDAINED by the City Council of the City of Calistoga as follows:

**SECTION 1.** Section Chapter 19.05 is hereby amended to read as follows:

Chapter 19.05

STORMWATER RUNOFF POLLUTION CONTROL

Sections:

- 19.05.010 Title.
- 19.05.020 Purpose and Intent.
- 19.05.030 Definitions.
- 19.05.040 Conflicts with Other Laws.
- 19.05.050 Discharge Prohibitions.
- 19.05.060 Exceptions to Discharge Prohibition.
- 19.05.070 Proof of Compliance with NPDES Permit.
- 19.05.080 Concealment and Abetting.
- 19.05.090 Reduction of Pollutants in Stormwater.
- 19.05.100 Containment and Notification of Spills.
- 19.05.110 Inspection Authority.
- 19.05.120 Enforcement Authority.
- 19.05.130 Appeal.
- 19.05.140 Violations Constituting Misdemeanors.
- 19.05.150 Remedies Not Exclusive.
- 19.05.160 Costs and Expenses of Enforcement; Civil Penalties; Authorization For Special Assessment Against Subject Property; Notice.
- 19.05.170 Civil Actions.
- 19.05.180 Violations Deemed a Public Nuisance.

**19.05.010 Title.**

This chapter shall be known as the City "Stormwater Runoff Pollution Control Ordinance," and may be cited as such, and will be referred to herein as "this Chapter."

**19.05.020 Purpose and Intent.**

The purposes of this Chapter is to protect the health, safety and general welfare of City of Calistoga residents; to protect water resources and to improve water quality; to protect and enhance watercourses, fish, and wildlife habitat; to cause the use of management practices by the City and its citizens that will reduce the

50 adverse effects of polluted runoff discharges on waters of the state; to secure  
51 benefits from the use of stormwater as a resource; and to ensure the City is  
52 compliant with applicable state and federal law. This chapter seeks to promote  
53 these purposes by:

- 54 1. Prohibiting illicit discharges to the stormwater conveyance system;
- 55 2. Establishing authority to adopt minimum requirements for stormwater  
56 management, including source control requirements, to prevent and  
57 reduce pollution;
- 58 3. Establishing authority to adopt requirements for development project site  
59 design, to reduce stormwater pollution and erosion both during  
60 construction and after project is complete.
- 61 4. Establishing authority to adopt requirements for the management of  
62 stormwater flows from development projects, both to prevent erosion and  
63 to protect and enhance existing water-dependent habitats;
- 64 5. Establishing authority to adopt standards for the use of off-site facilities  
65 for stormwater management to supplement on-site practices at new  
66 development sites; and  
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69 **19.05.030 Definitions.**

70 A. The following words, when used in this Chapter, shall have the following  
71 meanings:

- 72 1. "BASMAA Post Construction Manual" means the most recent version of  
73 the Bay Area Stormwater Management Agencies (BASMAA) Post  
74 Construction Manual.
- 75 2. "Best Management Practices" (BMPs) means schedules of activities,  
76 prohibitions of practices, general good house keeping practices, pollution  
77 prevention and educational practices, maintenance procedures, and  
78 other management practices to prevent or reduce the discharge of  
79 pollutants directly or indirectly to stormwater, receiving waters, or  
80 stormwater conveyance systems. BMPs also include treatment practices,  
81 operating procedures, and practices to control site runoff, spillage or  
82 leaks, sludge or water disposal, or drainage from raw materials storage.
- 83 3. "City" means the City of Calistoga.
- 84 4. "Construction activity" means any activity that involves soil disturbing  
85 activities including, but not limited to, clearing, paving, grading,  
86 disturbances to ground such as stockpiling, and excavation.
- 87 5. "Development" means any activity that moves soils or substantially alters  
88 the preexisting vegetated or man-made cover of any land. This includes,  
89 but is not limited to, grading, digging, cutting, scraping, stockpiling or  
90 excavating of soil, placement of fill materials, paving, pavement removal,  
91 exterior construction, substantial removal of vegetation where soils are  
92 disturbed including but not limited to removal by clearing or grubbing, or  
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94 any activity which bares soil or rock or involves streambed alterations or  
95 the diversion or piping of any watercourse. Development does not  
96 include routine maintenance to maintain original line and grade, hydraulic  
97 capacity, or the original purpose of the facility, nor does it include  
98 emergency construction activities (i.e., land disturbances) required to  
99 protect public health and safety.

100 6. "Development runoff requirements" means the provisions in the Phase II  
101 Stormwater Permit that contain design standards or performance criteria  
102 to address both the construction and post-construction phase impacts of  
103 new projects and redeveloped projects on stormwater quality and  
104 quantity.

105 7. "Director of Public Works" or "Director" means the Director of the City of  
106 Calistoga Department of Public Works.

107 8. "Discharge of a Pollutant" or Discharge means the release, addition or  
108 deposit of any fluid, liquid, solid, flowing substance, or any other material  
109 or substance to the City's stormwater conveyance system.

110 9. "Employee training program" means a documented employee training  
111 program which may be required to be implemented by a business  
112 pursuant to a stormwater pollution prevention plan for the purpose of  
113 educating its employees on methods of reducing discharge of pollutants  
114 to the stormwater conveyance system.

115 10. "Enforcement agency" means the City of Calistoga Public Works  
116 Department.

117 11. "Enforcement official" or "Authorized Enforcement Official" means the  
118 Director of Public Works or his or her designee or any agent of the City  
119 authorized to enforce compliance with this Chapter.

120 12. "Erosion and Sediment Control Plan" means a plan prepared to control  
121 erosion and sediment discharges from a construction site that meets  
122 those criteria identified in the most recent version of the Napa  
123 Countywide Erosion and Sediment Control Plan Model Template any  
124 issued Technical Bulletins.

125 13. "Illicit discharge" means any discharge to a stormwater conveyance  
126 system or receiving water that is not composed entirely of stormwater  
127 that is prohibited under local, state, or federal statutes, ordinances,  
128 codes or regulations. The term illicit discharge does not include  
129 discharges that are regulated by an NPDES permit (other than the Phase  
130 II Stormwater Permit) and discharges that are identified under the  
131 Exceptions to Discharge Prohibition section of this Chapter.

132 14. "Illicit connection" means a pipe, facility, or other device, whether on the  
133 surface or subsurface, which allows an illicit discharge to enter the  
134 stormwater conveyance system or receiving water regardless of whether  
135 said drain or connection had been previously allowed, permitted, or  
136 approved by a government agency.

137 15. "Incidental irrigation runoff" (i.e. nonagricultural) means unintended

138 amounts (volume) of runoff, such as unintended, minimal over-spray  
139 from sprinklers that escapes the landscaped area of intended use.  
140 Water leaving an intended use area is not considered incidental if it is  
141 part of the facility design, if it is due to excessive application, if it is due to  
142 intentional overflow or application, or if it is due to negligence.

143 16. "Low Impact Development" (LID) means a sustainable practice that  
144 benefits water supply and contributes to water quality protection. LID  
145 uses site design and stormwater management to maintain the site's pre-  
146 development runoff rates and volumes. The goal of LID is to mimic a  
147 site's predevelopment hydrology by using design techniques that  
148 infiltrate, filter, store, evaporate, and detain runoff close to the source of  
149 rainfall.

150 17. "Maximum extent practicable (MEP)" means a technology-based  
151 standard established by Congress in the Clean Water Act section 402(p)  
152 (3) (B)(iii) for stormwater discharge that municipalities must meet. MEP  
153 is generally the result of emphasizing pollution prevention and source  
154 control best management practices (BMPs) primarily (as the first line of  
155 defense) and in combination with treatment methods serving as backup  
156 (additional line of defense). The MEP approach is an ever evolving,  
157 flexible and advancing concept, which considers technical and economic  
158 feasibility. As knowledge about controlling urban runoff continues to  
159 evolve, so does what constitutes MEP.

160 18. "National Pollutant Discharge Elimination System (NPDES) Permit"  
161 means a permit issued by the U.S. EPA, State Water Resources Control  
162 Board, or the California Regional Water Quality Control Board pursuant  
163 to the Clean Water Act (CWA) that authorizes discharges to waters of  
164 the United States and requires the reduction of pollutants in the  
165 discharge.

166 19. "NCSPPP" is the Napa County Stormwater Pollution Prevention  
167 Program.

168 20. "Non-stormwater discharge" means any discharge to the stormwater  
169 conveyance system that is not entirely composed of stormwater.

170 21. "Person" means any person, firm, corporation, business entity, or public  
171 agency, whether principal, agent, employee, or otherwise.

172 22. "Phase II Stormwater Permit" means the NPDES general stormwater  
173 permit applicable to the City of Calistoga, Water Quality Order No. 2013-  
174 001-DWQ, General Permit No. CAS000004, and any subsequent  
175 amendment, reissuance or successor to this NPDES permit.

176 23. "Plan standard" means any and/or all applicable requirements of the  
177 Water Quality Control Plan for Basin 2, adopted by the Regional Water  
178 Quality Control Board, San Francisco Bay Region, and all subsequent  
179 amendments.

180 24. "Pollutant" means any "pollutant" defined in Section 502(6) of the CWA  
181 (33 U.S.C. 1362) or incorporated into the California Water Code Section  
182 13373. Pollutants may include, but are not limited to the following:

- 183 a) Residential, commercial and industrial waste (such as trash,  
184 litter, fuels, solvents, detergents, plastic pellets, hazardous  
185 substances, fertilizers, pesticides, slag, ash, and sludge);
- 186 b) Metals such as cadmium, lead, zinc, silver, nickel, chromium,  
187 copper and non-metals such as phosphorous and arsenic;
- 188 c) Petroleum hydrocarbons (such as fuels, lubricants, surfactants,  
189 waste oils, solvents, coolants, and grease);
- 190 d) Excessive eroded soil, sediment, and particulate materials in  
191 amounts that may adversely affect the beneficial use of the  
192 receiving waters, flora or fauna of the State.
- 193 e) Animal wastes (such as discharge from confinement facilities,  
194 kennels, pens, recreational facilities, stables, and show facilities;  
195 and
- 196 f) Substances having characteristics such as pH less than 6 or  
197 greater than 9, or unusual coloration or turbidity, or excessive  
198 levels of fecal coliform, or fecal streptococcus.
- 199 25. "Post-Construction Measures Requirements" means the provisions in  
200 Section E.12 of the Phase II Stormwater Permit that contain design  
201 standards or performance criteria to address the Post-construction  
202 phase impacts of new projects and redeveloped projects.
- 203 26. "Premises" means any building, lot, parcel, land or portion of land  
204 whether improved or unimproved, including adjacent sidewalks and  
205 parking strips.
- 206 27. "Receiving Waters" means all waters that are "Waters of the United  
207 States" within the scope of the Federal Clean Water Act or Waters of the  
208 State" within the scope of the State Water Code, including but not limited  
209 to natural streams, creeks, rivers, reservoirs, lakes, ponds, water in  
210 vernal pools, lagoons, estuaries, bays, the Pacific Ocean, and ground  
211 water.
- 212 28. "Stormwater" or "storm runoff" means surface runoff and drainage  
213 associated with storm events, which is free of pollutants to the maximum  
214 extent practicable.
- 215 29. "Stormwater Control Plan (SCP)" means a plan that meets those criteria  
216 contained in the most recent version of the BASMAA Post Construction  
217 Manual and any issued Technical Bulletins.
- 218 30. "Stormwater conveyance system" or "Storm Drain" means those  
219 artificial and natural facilities within the incorporated area of the City of  
220 Calistoga, whether publicly or privately owned, by which stormwater may  
221 be conveyed to a watercourse or receiving water, including any roads  
222 with drainage systems, streets, catch basins, natural and artificial  
223 channels, aqueducts, stream beds, gullies, curbs, gutters, ditches, and  
224 natural and artificial channels or storm drains.
- 225 31. "Stormwater Facilities Operation and Maintenance Plan" means a plan

226 identifying the locations and characteristics of stormwater management  
227 facilities on a newly developed or redeveloped site and describing  
228 maintenance activities, schedules, and responsibilities to ensure the  
229 ongoing proper operation of those facilities.

230 32. "Stormwater Management Facility" means any device designated to  
231 detain, retain, filter, or infiltrate stormwater.

232 33. "Stormwater pollution prevention plan (SWPPP)" means a document  
233 which describes the best management practices to be implemented by  
234 the owner or operator of a business or construction site to eliminate illicit  
235 discharges and/or reduce to the maximum extent practicable pollutant  
236 discharges to the stormwater conveyance system. SWPPP's have to be  
237 prepared by a Qualified Stormwater Developer (QSD) and inspected by  
238 a Qualified Stormwater Practitioner (QSP).

239 34. "Technical Bulletin" means a document issued by and under the authority  
240 of the Director of Public Works to revise, amend, augment guidance  
241 manuals, documents, and templates including but not limited to the  
242 BASMAA Post-Construction Manual and the Napa Countywide Erosion  
243 and Sediment control Plan Model Template.

244 35. "Urban runoff" means stormwater runoff from an urbanized area  
245 including streets and adjacent domestic and commercial properties that  
246 carry pollutants of various types into the storm drainage system and  
247 receiving waters.

248 36. "Watercourse" means any natural stream, whether flowing continuously  
249 or not, that is fed from permanent or natural sources, and includes,  
250 without limitation rivers, creeks, runs, and rivulets.

251 37. Quantity – Stormwater peak flow and/or volume

252 38. Quality – Stormwater pollutants

253 B. Any term(s) defined in the Federal Clean Water Act and the California Water  
254 Code, as amended, and/or defined in the regulations for the stormwater  
255 discharge permitting program issued by the Environmental Protection  
256 Agency, as amended, and/or defined in the Phase II Stormwater Permit, and  
257 which are not specifically defined in subsection A of this section shall, when  
258 used in this Chapter, have the same meaning as set forth in said act or  
259 regulation.

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261 **19.05.040 Conflicts with Other Laws.**

262 In the event of any conflict between this chapter and any federal or state law or  
263 regulation, that requirement which establishes the higher standard for public  
264 health or safety shall govern. Nothing in this Chapter is intended to duplicate nor  
265 shall preclude enforcement of any other applicable law, regulation, order, or  
266 permit.

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**19.05.050 Discharge Prohibitions.**

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A. Illicit Discharges. Except as provided in Section 19.05.060 of this Chapter, it is unlawful for any person to make or cause to be made any illicit discharge. Notwithstanding the exemptions provided by Section 19.05.060A and B of this Chapter, if the Regional Water Quality Control Board or the Enforcement Official determines that any otherwise exempt discharge causes or significantly contributes to violations of any plan standard, or conveys significant quantities of pollutants to surface water(s) or watercourse(s), or is a danger to public health or safety, such discharge shall be prohibited from entering the stormwater conveyance system

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B. Illicit Connection. The construction, use, maintenance or continued existence of illicit connections to a storm drain or watercourse is prohibited. This prohibition includes illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connection.

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C. Litter, Dumps, and Stockpiles. Throwing, depositing, leaving, abandoning, maintaining or keeping materials or wastes on public or private lands in a manner and place where they may result in an illicit discharge is prohibited.

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**19.05.060 Exceptions to Discharge Prohibition.**

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Subject to the authority granted to the Enforcement Official in this Chapter, the following discharges are exempt from the prohibition set forth in Section 19.05.050:

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A. Any discharge or connection regulated under a NPDES permit (other than the Phase II Permit, e.g. agricultural or industrial under different permit) issued to the discharger and administered by the State of California pursuant to Division 7, Chapter 5.5 of the California Water Code, provided that the discharger is in compliance with all requirements of the permit and all other applicable laws and regulations;

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B. Discharges or flows from fire-fighting activities unless they are identified as significant sources of pollutants to waters of the United States.

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C. Discharges from the following activities, which do not cause or contribute to the violation of any plan standard provided any pollutant discharges are identified and appropriate control measures to minimize the impacts of such discharges are developed and implemented:

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1. Water line flushing and other discharges from potable water sources,

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2. Rising ground waters or springs,

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3. Passive foundation and footing drains,

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4. Uncontaminated infiltration to storm drains,

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5. Water from crawl space pumps and basement pumps,

- 310 6. Air conditioning condensate,
- 311 7. Individual residential vehicle washing,
- 312 8. Natural flows from riparian habitats and wetlands,
- 313 9. Dechlorinated swimming pool discharges,
- 314 10. Diverted stream flows,
- 315 11. Uncontaminated ground water infiltration (as defined at 40 CFR
- 316 S35.2005(20) to separate storm sewers,
- 317 12. Uncontaminated pumped ground water,
- 318 13. Incidental irrigation runoff from landscaped areas provided the
- 319 conditions in Item D of this section are met.

320 D. Incidental irrigation runoff is the unintended amounts of runoff that leave the  
321 area of application such as minimal overspray. Water leaving the intended  
322 area of application is not incidental if it is due to the design, excessive  
323 application, or intentional overflow or application. Irrigation systems must be  
324 designed to conserve water and prevent water leaving the area of  
325 application. Persons responsible for controlling irrigation systems shall  
326 prevent excessive irrigation runoff by:

- 327 1. Detecting and correcting leaks within 72 hours of discovering the
- 328 leak.
- 329 2. Properly designing and aiming sprinkler heads to only irrigate the
- 330 planned application area.
- 331 3. Not irrigating during precipitation events.
- 332 4. Where recycled water is used for irrigation, designing and
- 333 managing holding ponds to such that no discharge occurs unless it
- 334 is the result of the 25 year-24 hour storm event. Any releases from
- 335 holding ponds must be reported to the Regional Water Board and
- 336 the City of Calistoga within 24 hours of the discharge.

337 E. Any discharge, which the Enforcement Official, the local health officer, or the  
338 Regional Water Quality Control Board determines in writing, is necessary for  
339 the protection of the public health and safety;

340 F. Any discharge caused by flooding or other natural disaster, which could not  
341 have been reasonably foreseen or mitigated for in advance by the  
342 discharger, as, determined by the enforcement official.

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344 **19.05.070 Proof of Compliance With NPDES Permit.**

345 Any person subject to an industrial or construction activity NPDES stormwater  
346 discharge permit shall provide proof of compliance with said permit and  
347 undertake all activities required by such permit in a form acceptable to the  
348 Enforcement Official prior to or as a condition of a subdivision map, site plan,  
349 building permit, or development or improvement plan; upon inspection of the  
350 facility; during any enforcement proceeding or action; or for any other reasonable



351 cause.

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353 **19.05.080 Concealment and Abetting.**

354 Causing, permitting, aiding, abetting or concealing a violation of any provision of  
355 this Chapter shall constitute a violation of this Chapter.

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357 **19.05.090 Reduction of Pollutants in Stormwater.**

358 Any person engaged in activities which may result in pollutants entering the  
359 stormwater conveyance system shall, to the maximum extent practicable, comply  
360 with the requirements set forth below to reduce the risk of illicit discharge and/or  
361 pollutant discharge.

362 A. Urban Runoff.

363 1. Any person engaged in activities which will, or may result in,  
364 pollutants entering the storm drains, shall undertake all practicable  
365 measures to cease such activities, and/or eliminate or reduce such  
366 pollutants through the implementation of BMPs, consistent with the  
367 California Stormwater Quality Association BMPs. Such activities  
368 shall include, but not be limited to, ownership and use of parking  
369 lots, gasoline stations, industrial facilities, commercial facilities,  
370 ground disturbing activities, and stores fronting city streets.

371 2. Except for pollutants lawfully disposed of by way of containers or at  
372 lawfully established dumping grounds, no person shall throw,  
373 deposit, leave, maintain, keep, or permit to be thrown, deposited,  
374 placed, left or maintained, any refuse, rubbish, garbage or other  
375 discarded or abandoned objects, articles, and accumulations, in or  
376 upon any street, alley, sidewalk storm drain, inlet, catch basin,  
377 conduit or other drainage structures, business place, or upon any  
378 public or private lot of land in the City, such that, in the opinion of  
379 the authorized enforcement official, the same might be or become  
380 a pollutant discharged to the waters of the United States.

381 3. The occupant or tenant, or in the absence of occupant or tenant,  
382 the owner, lessee, or proprietor of any real property in the City in  
383 front of which there is a paved sidewalk shall maintain said  
384 sidewalk free of dirt and/or litter to the maximum extent  
385 practicable. Sweepings from said sidewalk shall not be swept or  
386 otherwise made or allowed to go into the gutter or roadway, but  
387 shall be disposed of in receptacles maintained on said real  
388 property as required for the recycling or disposal of garbage.

389 B. Business Related Activities.

390 1. Stormwater Pollution Prevention Plan. The Enforcement Official  
391 may require any business in the City that is engaged in activities,  
392 which may result in pollutant discharges to develop and implement  
393 a stormwater pollution prevention plan, which shall, without

394 limitation, include an employee training program. Business  
395 activities, which may require a stormwater pollution prevention  
396 plan, include, but are not limited to, maintenance, storage,  
397 manufacturing, assembly, equipment operations, vehicle loading or  
398 fueling, or cleanup procedures including grease disposal which are  
399 carried out partially or wholly out of doors.

400 2. Persons owning or operating a parking lot, gas station tarmac, or  
401 similar structure shall clean those structures as frequently and  
402 thoroughly as practicable in a manner that does not result in  
403 discharge of pollutants to the city storm drains.

404 C. Development and Redevelopment Activities. Nothing in this section shall  
405 limit the City's ability to establish requirements to control runoff to prevent  
406 flooding for the protection of safety and property.

407 1. Prior to and/or during construction, the enforcement official may  
408 establish controls on the volume and rate of stormwater runoff  
409 from new developments and redevelopment as may be  
410 appropriate to minimize peak flows or total runoff volume, and to  
411 mimic the pre-development site hydrology (for 2, 10, 100yr, 24hour  
412 events or as directed by Public Works Director). These controls  
413 may include limits on impervious area or provisions for detention  
414 and retention of runoff on-site.

415 2. The enforcement official may require, as a condition of project  
416 approval, permanent structural controls designed for the removal  
417 of sediment and other pollutants and for control on the volume and  
418 rate of stormwater runoff from the project's added or replaced  
419 impervious surfaces. The selection and design of such controls  
420 shall be in accordance with criteria established or recommended  
421 by federal, state, local agencies, and where required, the BASMAA  
422 Post-Construction Manual and any issued Technical Bulletins.  
423 Where physical and safety conditions allow, the preferred control  
424 measure is to retain drainage ways, above ground and in as  
425 natural a state as possible or other biological methods such as  
426 bioretention areas.

427 D. Stormwater Control Plan Requirements

428 1. For each new development and redevelopment project subject to  
429 the post-construction measures requirements, or where required  
430 by the nature and extend of a proposed project and where deemed  
431 appropriate by the agency, every applicant shall submit a  
432 Stormwater Control Plan (SCP) that meets the criteria in the most  
433 recent version of the BASMAA Post-Construction Manual and any  
434 issued Technical Bulletins, and shall implement conditions of  
435 approval that reduce stormwater pollutant discharges through the  
436 construction, operation and maintenance of source control  
437 measures, low impact development design, site design measures,  
438 stormwater treatment measures and hydromodification  
439 management measures, increases in runoff shall be managed in

- 440                   accordance with the post-construction requirements.
- 441                   2. The SCP is separate and distinct from the ESCP requirements  
442                   described herein. Where projects are required to have a SCP,  
443                   project applicants shall follow the appropriate SCP template,  
444                   based on the project type, in the BASMAA Post-Construction  
445                   Manual and any issued Technical Bulletins.
- 446                   3. Implementation of an approved SCP and submittal of an approved  
447                   Stormwater Facilities Operation and Maintenance Plan by the  
448                   applicant shall be a condition precedent to the issuance of a  
449                   building permit or a construction permit for a project subject to this  
450                   section.
- 451                   4. When any work is being done contrary to the provisions of this  
452                   article, the enforcement official may order the work stopped by  
453                   notice in writing served on any persons engaged in doing or  
454                   causing the work to be done. Such work shall stop until the  
455                   enforcement official authorizes the work to proceed. This remedy  
456                   is in addition to and do not supersede or limit any and all other  
457                   remedies, both civil and criminal provided in the City Municipal  
458                   Code.
- 459                   5. Financial security may be required to ensure that stormwater  
460                   management facilities operate and are maintained following  
461                   construction for a period which may be determined by the agency.  
462                   Financial security shall consist of an irrevocable letter of credit,  
463                   cash deposit, or performance bond as determined by the agency.
- 464                   6. All stormwater management facilities shall be designed in a  
465                   manner to minimize the need for maintenance and reduce the  
466                   chances of failure. Design guidelines are outlined in the BASMAA  
467                   Post-Construction Manual and any issued Technical Bulletins.
- 468                   7. All stormwater management facilities shall be maintained  
469                   according to the approved Stormwater Facilities Operation and  
470                   Maintenance Plan. The person(s) or organization(s) responsible  
471                   for maintenance shall be designated in the plan. Unless a different  
472                   time period is provided for in the plan, those responsible for  
473                   maintenance shall inspect the stormwater management facilities at  
474                   least annually. The Stormwater Facilities Operation and  
475                   Maintenance Plan shall describe how the maintenance costs will  
476                   be funded. Upon the failure of a responsible person to maintain  
477                   the stormwater management facilities in accordance with this  
478                   chapter or the plan, the City may perform and maintenance and  
479                   recover its costs from the responsible person as provided in  
480                   Section 19.05.160.
- 481                   8. For each new development and redevelopment project subject to  
482                   the post-construction measures requirements, or where deemed  
483                   appropriate by the agency, access by the City to stormwater  
484                   management facilities for inspections, as provided in Section  
485                   19.05.110 and through such means as may be appropriate,

486 including, but not limited to, legal agreements, recorded covenants  
487 or easements shall be provided by the property owner.

488 9. All project proponents and their successors, or successors in fee  
489 title, in control of a new development and redevelopment project  
490 subject to the post-construction measures requirements, shall  
491 submit on of the following as a condition prior to final inspection  
492 and approval of building permit closure:

493 i. The project proponent's signed statement accepting  
494 responsibility for the operations and maintenance of  
495 stormwater management facilities until such responsibility is  
496 legally transferred to another entity;

497 ii. Written conditions in the sales or lease agreements or deed  
498 for the project that requires the buyer or lessee to assume  
499 responsibility for the operations and maintenance of the  
500 stormwater management facilities until such responsibility is  
501 legally transferred to another entity.

502 iii. Written text in project deeds, or conditions, covenants and  
503 restrictions for multi-unit residential projects that require the  
504 homeowners association or, if there is no association, each  
505 individual owner to assume responsibility for the operation and  
506 maintenance of the stormwater management facilities until  
507 such responsibility is legally transferred to another entity; or

508 iv. Any other legally enforceable agreement or mechanism, such  
509 as recordation in the property deed, that assigns the operation  
510 and maintenance of the stormwater management facilities to  
511 the project owner(s) or the Permittee.

512 E. Ground Disturbing Activities.

513 1. Any person performing construction activities in the City shall  
514 implement appropriate BMPs to prevent the discharge of sediment,  
515 construction wastes or contaminants from construction materials,  
516 tools and equipment from entering a City storm drain or  
517 watercourse.

518 2. All construction plans and applications submitted to the City  
519 pursuant to any permit applications shall implement appropriate  
520 BMPs to prevent the discharge of construction sediments, wastes  
521 or contaminants from construction materials, tools, and equipment  
522 from entering a City storm drain or watercourse.

523 a. Construction-phase BMPs include erosion and sediment  
524 controls and pollution prevention practices. Erosion control  
525 BMPs may include, but are not limited to, scheduling and  
526 timing of grading activities, timely revegetation of graded  
527 areas, the use of hydroseed and hydraulic mulches, and  
528 installation of erosion control blankets. Sediment control  
529 may include properly sized detention basins, dams, or filters  
530 to reduce entry of suspended sediment into the storm drain

531 system and watercourses, and installation of construction  
532 entrances to prevent tracking of sediment onto adjacent  
533 streets. Pollution prevention practices may include  
534 designated washout areas or facilities, control of trash and  
535 recycled materials, tarping of materials stored on-site, and  
536 proper location of and maintenance of temporary sanitary  
537 facilities. The combination of BMPs used, and their  
538 execution in the field, must be customized to the site using  
539 up-to-date standards and practices. The agency will provide  
540 references to current guidance manuals and BMP  
541 information on request.

542 b. Financial security may be required to insure that temporary  
543 measures to control stormwater pollution are implemented  
544 and maintained during construction and after construction for  
545 a period determined by the agency. Financial security shall  
546 consist of an irrevocable letter of credit, cash deposit, or  
547 performance bond as determined by the agency.

548 c. When any work is being done contrary to the provisions of  
549 this article, the enforcement official may order the work  
550 stopped by notice in writing served on any persons engaged  
551 in doing or causing the work to be done. Such work shall  
552 stop until the enforcement official authorizes the work to  
553 proceed. This remedy is in addition to and do not supersede  
554 or limit any and all other remedies, both civil and criminal  
555 provided in the Calistoga Municipal Code.

556 d. The City has the authority to review designs and proposals  
557 for construction activities and new development and  
558 redevelopment sites to determine whether adequate BMPs  
559 will be installed, implemented, and maintained during  
560 construction and after final stabilization (post-construction).

561 e. All construction plans and applications for construction  
562 activity submitted to the City shall consider the potential for  
563 erosion and sedimentation at the construction site, and shall  
564 include appropriate erosion and sedimentation controls.

565 f. An Erosion and Sediment Control Plan (ESCP) shall be  
566 required for:

567 i. Any project subject to a grading permit under Section  
568 16.16.050.

569 ii. Any project, subject to another City permit that has  
570 the potential for significant erosion and/or significant  
571 non-stormwater discharges of sediment and/or  
572 construction site waste including but not limited to:

573 (a) Projects within 50 feet of the storm drain system,  
574 or

575 (b) Projects disturbing 10,000 square feet (sf) of soil

- 576 or more, or
- 577 (c) Projects installing new storm drains that discharge  
578 to the storm drain system or watercourse, or
- 579 (d) Projects on slopes of 5% or more.
- 580 iii. Any other project as required by the enforcement  
581 official considering factors such as whether the  
582 project involves hillside soil disturbance, rainy season  
583 construction, construction near a watercourse, or any  
584 other condition or construction site activity that could  
585 lead to a non-stormwater discharge to a storm drain if  
586 not managed by effective implementation of an  
587 ESCP.
- 588 3. The ESCP shall be submitted for review and approval by the enforcement  
589 official. The project applicant shall follow the most recent version on the  
590 Napa Countywide Erosion and Sediment Control Plan Model Template  
591 and any issued Technical Bulletins to prepare the ESCP. At a minimum,  
592 the ESCP shall include:
- 593 a. Description of the proposed project and soil disturbing  
594 activity.
- 595 b. Site specific construction-phase BMPs.
- 596 c. Rationale for selecting the BMPs, including if needed, soil  
597 loss calculations.
- 598 d. List of applicable permits associated with the soil disturbing  
599 activity, such as: Construction General Permit (CGP); Clean  
600 Water Act Section 404 Permit; Clean Water Act Section 401  
601 Water Quality Certification; Streambed/Lake Alteration  
602 Agreement (1600 Agreements).
- 603 e. Proof that the applicant has obtained the applicable permits  
604 associated with the soil disturbing activity must be submitted  
605 prior to approval of the ESCP.
- 606 f. Project information as required by the ESCP applicant  
607 checklist provided in the Napa Countywide Erosion and  
608 Sediment Control Plan Model Template and any issued  
609 Technical Bulletin's:
- 610 i. Owner and contractor contact information;
- 611 ii. Site information (location, status, size of project, size of  
612 disturbed area);
- 613 iii. Project watershed;
- 614 iv. Planned start date and anticipated completion date (as  
615 may be revised from time to time).
- 616 4. For projects subject to the State's General Construction Activity  
617 Stormwater Permit (CGP), project applicants may submit a Stormwater

618                   Pollution Prevention Plan developed pursuant to the CGP in lieu of  
619                   submitting an ESCP.

620                   5. Implementation of an approved ESCP shall be a condition of the issuance  
621                   of a building permit, a grading permit, or other permit issued by the City  
622                   for a project subject to this section. The ESCP shall be implemented year  
623                   round and must be updated to reflect changing conditions on the project  
624                   site. Any modifications to the ESCP shall be submitted to the City for  
625                   review and approval.

626                   F. Compliance with Stormwater General Permits. Any person subject to an  
627                   industrial or construction activity NPDES stormwater discharge permit shall  
628                   provide the City with proof of compliance with said permit in a form  
629                   acceptable to the enforcement official prior to or as a condition of a  
630                   subdivision map, site plan, building permit, or development or improvement  
631                   plan; upon inspection of the facility; during any enforcement proceeding or  
632                   action; or for any other reasonable cause.

633

634                   **19.05.100 Containment and Notification of Spills.**

635                   Any person owning or occupying a premises who has knowledge of any release  
636                   of any pollutant or illicit discharge from or across those premises which might  
637                   enter the stormwater conveyance system, other than a release or discharge that  
638                   is permitted by this Chapter, shall immediately take all reasonable action to  
639                   contain and abate the release of pollutants or illicit discharge, and also shall  
640                   promptly notify the enforcement agency within twenty-four (24) hours of the  
641                   release of any pollutant or illicit discharge.

642

643                   **19.05.110 Inspection Authority.**

644                   Whenever necessary to make an inspection to enforce any of the provisions of  
645                   this Chapter, or whenever the Enforcement Official has reasonable cause to  
646                   believe that there exists in any building or upon any premises any condition  
647                   which constitutes a violation of this Chapter, the Enforcement Official may enter  
648                   such building or premises at all reasonable times to inspect the same or perform  
649                   any duty imposed upon the officer by this Chapter. Any request for entry shall  
650                   state that the property owner or occupant has the right to refuse entry and that in  
651                   the event such entry is refused, inspection may be made upon issuance of a  
652                   warrant issued by a court of competent jurisdiction. In the event the owner or  
653                   occupant refuses entry after such request has been made, the Enforcement  
654                   Official is empowered to seek assistance from any court of competent jurisdiction  
655                   in obtaining such entry. Inspections shall be based upon such reasonable  
656                   selection processes as may be deemed necessary to carry out the objectives of  
657                   this Chapter, including but not limited to, random sampling and/or sampling in  
658                   areas with evidence of stormwater contamination, illicit discharge, non-  
659                   stormwater discharge to the stormwater conveyance system, or similar factors.

660                   A. Sampling Authority. During any inspection, the Enforcement Official may take  
661                   samples as necessary in order to implement and enforce the provisions of  
662                   this Chapter. This authority may include the installation of sampling and

663 metering devices on private property, or requiring the person owning or  
664 occupying the premises to supply samples.

665 B. Monitoring, Analysis and Reporting Authority. The Enforcement Official may  
666 require monitoring, analysis and reporting of discharges from any premises  
667 to the stormwater conveyance system. Upon service of written notice by the  
668 Enforcement Official, the burden, including cost, of these activities, analyses  
669 and reports, incurred in complying with the requirement shall, to the extent  
670 permitted by law, be borne by the property owner or occupant of the facility  
671 or activity for which testing and monitoring has been requested.

672 C. Fee Authority. The enforcement agency has the authority to conduct  
673 inspections and collect fees for the purpose of ensuring compliance with this  
674 Chapter from any person or business issued one or more of the following  
675 permits:

- 676 1. Hazardous Material Business Plan;
- 677 2. Food establishments except restricted food service transient  
678 occupancy establishments;
- 679 3. Building permits;
- 680 4. Grading permits.

681 A fee schedule for the purpose of enforcing this Chapter shall be set by  
682 Council resolution.

683 D. Records Review. The authorized enforcement official may demand the  
684 production of such records as is necessary to determine compliance with the  
685 provisions of this chapter and for the purpose of examination and copying.

686

687 **19.05.120 Enforcement Authority.**

688 The Enforcement Official is authorized to enforce the provisions of this Chapter  
689 and to exercise any enforcement powers authorized or provided in this Chapter,  
690 including without limitation the imposition of administrative requirements, orders  
691 and penalties pursuant to this Chapter, as may be necessary to effectively  
692 implement and enforce this Chapter. Without limitation on the enforcement  
693 authority set forth above, the Enforcement Official is authorized to exercise any  
694 and all of the following supplemental enforcement powers as he or she  
695 determines may be necessary or appropriate in the enforcement official's  
696 judgment under the circumstances:

697 A. Administrative Actions. In addition to any other enforcement powers and/or  
698 remedies provided in this chapter, an authorized enforcement official may  
699 issue an order to a person to cease and desist from the discharge, practice,  
700 operation or other activity causing or likely to cause a violation of this chapter.  
701 Such order shall be directed to those persons in violation of the chapter  
702 stating clearly and concisely the nature of the violation, the requirements for  
703 compliance, a timetable for compliance and such other remedial and/or  
704 preventive action as may be necessary. Upon the violator's failure to comply  
705 with such an order, the City shall take further enforcement action as specified



706 in this chapter, or in accordance with any other appropriate provision of local,  
707 state or federal law. At the discretion of the authorized enforcement official,  
708 enforcement may take the following forms:

- 709 1. Verbal Warnings, as may be issued during inspections;
- 710 2. Warning Letters and Orders to Abate Pollution;
- 711 3. Warning Letters with requirements to submit written reports and/or  
712 fines (per 19.050.160);
- 713 4. Civil Actions or Criminal Enforcement actions as authorized by the City  
714 Municipal Code.

715 B. Notice of Violation (NOV). Whenever the Enforcement Official determines  
716 that any person owning or occupying a premises has violated or is violating  
717 this Chapter or order issued hereunder, the Enforcement Official may serve,  
718 by personal service, or by registered or certified mail, upon said person a  
719 written NOV. Within thirty (30) days of the receipt of this notice, or shorter  
720 period as may be prescribed in the NOV, the person to whom the NOV has  
721 been issued shall provide the Enforcement Official a written explanation or  
722 denial of the violation and, if the person does not deny the violation, a plan  
723 for the satisfactory correction and prevention thereof, which shall include  
724 without limitation specific actions or mitigations required by the Enforcement  
725 Official in the NOV. Submission of this plan shall in no way relieve the  
726 person of liability for any violation before or after receipt of the NOV.

727 C. Cease and Desist Orders. The Enforcement Official may require any person  
728 owning or occupying premises to cease and desist all activities that may  
729 cause or contribute to discharge in violation of this Chapter. This order may  
730 also require such person to: (i) comply with the applicable provisions of this  
731 chapter within a designated period of time or; (ii) take such other appropriate  
732 remedial or preventative action the Enforcement Official determines to be  
733 necessary to prevent the violation from recurring.

734 D. Notice to Clean and Abate. The Enforcement Official may require any person  
735 owning or occupying a premises to clean up and abate any release of one or  
736 more pollutants on those premises, which otherwise would result in a  
737 violation of this Chapter. The Enforcement Official may also order abatement  
738 of activities or practices, which otherwise reasonably would result in such a  
739 violation.

740 E. Mitigation. The Enforcement Official shall have authority to order the  
741 mitigation of any condition, activity or circumstance which otherwise would  
742 result in or contribute to Illicit discharges.

743 F. Stormwater Pollution Prevention Plan. The Enforcement Official shall have  
744 the authority to establish elements of a stormwater pollution prevention plan,  
745 and to require any business or person to adopt and implement such a plan,  
746 as may be reasonably necessary to fulfill the purposes of this chapter.

747 G. Best Management Practices. The Enforcement Official may establish and  
748 impose the requirements of best management practices for any premises.

749 H. Seasonal and Recurrent Nuisance. If any violation of this chapter constitutes

750 a seasonal and recurrent nuisance, the Enforcement Official shall so declare.  
751 Thereafter such seasonal and recurrent nuisance shall be abated every year  
752 without the necessity of any further hearing.

753 I. Emergency Orders and Abatements. The Enforcement Official may order the  
754 abatement and cleanup of any discharge from any source to the stormwater  
755 conveyance system when, in the opinion of the Enforcement Official, the  
756 discharge causes or threatens to cause a condition which presents an  
757 imminent danger to the public health, safety, or welfare, or the environment.  
758 Discharges in violation of this Chapter are considered as presenting an  
759 imminent danger to the environment. In situations where the property owner  
760 or other responsible party is unavailable and time constraints are such that  
761 service of a notice and order to abate cannot be effected without presenting  
762 an immediate danger to the public health, safety, or welfare, or the  
763 environment or a violation of a NPDES permit, the city may perform or cause  
764 to be performed such work as shall be necessary to abate said threat or  
765 danger. The costs of any such abatement shall be borne by the owner and  
766 shall be collectable in accordance with the provisions of this Chapter.

767 J. Contents of Notice. Any NOV, cease and desist order, or other civil notice or  
768 civil order issued by the enforcement official pursuant to this Chapter shall  
769 include a copy of Section 19.05.130 of this Chapter outlining appeal rights.

770 K. The City is authorized to file a citizen suit pursuant to CWA Section 505(a),  
771 seeking penalties, damages and orders compelling compliance and other  
772 appropriate relief.

773 L. The City may notify EPA Region IX, the Regional Board, or any other  
774 appropriate state or local agency, for any alleged violation of this Chapter.

775

776 **19.05.130 Appeal.**

777 Any person served with a NOV, who is subject to a cease and desist order, who  
778 is subject to an abatement order, who is required to perform monitoring,  
779 analyses, reporting and/or corrective activities by an authorized Enforcement  
780 Official, or who is otherwise aggrieved by any decision of the Enforcement  
781 Official, may appeal the decision to the City Council. Such appeal shall be in  
782 writing, shall fully state all legal and factual basis for the appeal, and shall be filed  
783 with the City Clerk within ten (10) days following the receipt of the NOV or  
784 decision was served on the person. Upon receipt of such appeal, the City Clerk  
785 shall set the matter for an administrative hearing by the City Council at the  
786 earliest practical date, and notice of the hearing shall be provided to the person  
787 appealing. At the hearing, the City Council may hear additional evidence, and  
788 shall overrule, affirm or modify the Enforcement Official's decision. The decision  
789 by the City Council shall be in writing, shall set forth the City Council's findings,  
790 and shall be final. Any appeal that does not satisfy all of the requirements of this  
791 Chapter shall be invalid, and shall not be heard or considered by the City  
792 Council, in which case the Enforcement Official's decision shall be final.

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**19.05.140 Violations Constituting Misdemeanors.**

Any violation of this Chapter may be punishable as a misdemeanor.

**19.05.150 Remedies Not Exclusive.**

Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

**19.05.160 Costs And Expenses of Enforcement; Civil Penalties; Authorization For Special Assessment Against Subject Property; Notice.**

- A. The City shall be entitled to reimbursement from any person violating any requirement or provision of this Chapter for all costs and expenses incurred in connection with the enforcement of this Chapter. Such reimbursable costs and expenses shall include, but are not limited to, costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, costs of suit, salaries, attorney fees, expert fees, testing and monitoring expenses, and other expenses recoverable under state law, incurred during any inspection or investigation conducted pursuant to this Chapter. In addition to any and all other costs and expenses, any person who or entity that violates any provision of this Chapter shall be liable and responsible for, and shall pay to the City, a civil penalty of \$1,000.00 for each violation.
- B. The Enforcement Officer shall keep an itemized statement of costs and expenses incurred by the City in enforcing the provisions of this Chapter, the costs and expenses incurred by the City in causing the owner or responsible person to abate the violation of any provision of this Chapter and the civil penalties imposed pursuant to this Section. The costs and expenses, including but not limited to the incidental expenses of enforcing this Chapter or causing the owner or responsible person to abate the violation of this Chapter, and the civil penalties, shall be billed to the owner or responsible persona and shall become due and payable thirty (30) days thereafter. The term "incidental expenses" shall include, but not be limited to, personnel costs, both direct and indirect, for administration and enforcement including, but not limited to, attorney's fees; costs incurred in inspecting the property; costs incurred in documenting the violation; the expenses and costs of the City in preparation of notices, specifications and contracts and in inspecting the subject premises or property; and the cost of preparing, printing and mailing the notices and documents hereunder. The Enforcement Officer shall provide a copy of this statement of costs, expenses and civil penalties to the owner of the subject premises or property and to any responsible person(s). The owner of the subject premises or property, as well as any responsible person(s) shall be liable and responsible for, and required to pay, all such costs, expenses and civil penalties.

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- C. The owner and/or responsible person(s) may request an administrative hearing before the City Council to appeal the statement of costs, expenses and civil penalties. The request for a hearing shall be filed with the City Clerk in writing within ten (10) days of receipt of the statement, and shall fully state all factual and legal bases for the appeal. Any appeal that does not fully satisfy all of the requirements of this Section shall be invalid and shall not be heard by the City Council, in which case the statement of costs, expenses and civil penalties shall be final.
- D. For any appeal satisfying the requirements of this Section, the City Council shall review the statement of costs, expenses and civil penalties and any evidence presented by the owner or responsible person(s), as well as the Enforcement Official, and shall affirm, overrule or modify the decision of the Enforcement Official in imposing the costs, expenses and/or civil penalties. The City Council shall consider in making its decision (1) the nature, circumstances, extent and gravity of the violation; (2) the extent to which the violation was willful and/or intentional; and (3) whether or to what extent the violation has continued or recurred. The City Council's decision shall be in writing, shall state the City Council's findings, and shall be mailed to the owner and all responsible persons. The decision of the City Council shall be final.
- E. If the property owner does not pay the costs, expenses and civil penalties in full within thirty (30) days after receipt of the statement of costs pursuant to Section 19.05.160 B or, if requested, after any decision on appeal by the City Council pursuant to Section 19.05.160 C which confirms in whole or in part the costs, expenses and civil penalties, the costs, expenses and civil penalties shall become a special assessment against the real property upon which the violation(s) of this Chapter occurred. The assessment shall continue until it is paid, together with interest at the rate of twelve percent (12%) a year computed from the date of confirmation of the statement until payment. The assessment shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All acts applicable to levy, collection and enforcement of municipal taxes apply to this special assessment.
- F. The City shall file in the office of the County Recorder a certificate substantially in the following form:

**NOTICE OF SPECIAL ASSESSMENT**

Under the authority of Government Code Section 38773.5 and Chapter 19.05 of the Calistoga Municipal Code, the City did on \_\_\_\_\_, \_\_\_\_\_, enforce the provisions of Calistoga Municipal Code Chapter 19.05, the violation of which is deemed a public nuisance, upon the real property hereunder described and

884 then on \_\_\_\_\_, \_\_\_\_\_, did assess the costs expenses and civil  
885 penalties of the enforcement upon the real property and/or the  
886 costs and expenses of causing the owner or responsible person to  
887 comply with the provisions of Chapter 19.05. The City of Calistoga  
888 claims a special assessment on the real property for such costs,  
889 expenses and civil penalties in the amount of \$\_\_\_\_\_.  
890 This amount is a special assessment against the real property until  
891 it is paid, with interest at the rate of twelve percent (12%) a year  
892 from \_\_\_\_\_, \_\_\_\_\_ (*insert date of confirmation of statement*), and  
893 discharged of record. The assessment shall be collected at the  
894 same time and in the same manner as ordinary municipal taxes are  
895 collected and shall be subject to the same procedure and sale in  
896 case of delinquency as provided for ordinary municipal taxes. All  
897 acts applicable to levy, collection, and enforcement of municipal  
898 taxes apply to this special assessment. The real property referred  
899 to above, and upon which the special assessment is claimed is that  
900 certain parcel of land situated within the City of Calistoga, County of  
901 Napa, and State of California, more particularly described as  
902 follows: \_\_\_\_\_, Calistoga, California.

903  
904 Dated: \_\_\_\_\_

905 By: \_\_\_\_\_

- 906  
907 G. Any monies recovered under this Section shall be used exclusively for costs  
908 and programs associated with monitoring and establishing stormwater  
909 discharge pollution control systems, implementing or enforcing the provisions  
910 of this Chapter and/or creating educational and/or remedial programs relating  
911 to stormwater discharge pollution.

912  
913 **19.05.170 Civil Actions.**

914 In addition to any other remedies provided in this Chapter, any violation of this  
915 Chapter may be enforced by civil action brought by the City Attorney. In any such  
916 action, the City Attorney shall be authorized to any or all of the following  
917 remedies:

- 918 1. A temporary restraining order and/or preliminary and/or permanent  
919 injunction;
- 920 2. Assessment of the violator for the costs of any investigation,  
921 inspection, or monitoring survey which led to the establishment of  
922 the violation, and for the reasonable costs of preparing and  
923 bringing legal action under this subsection;
- 924 3. Costs incurred or required to remove, correct, or terminate the  
925 adverse effects resulting from the violation;
- 926 4. Compensatory damages for loss or destruction to water quality,  
927 wildlife, fish and aquatic life.
- 928 5. Attorney's fees.

929

930 **19.05.180 Violations Deemed a Public Nuisance.**

931 In addition or as an alternative to the penalties hereinbefore provided, any  
932 condition caused or permitted to exist in violation of any of the provisions of this  
933 chapter is a threat to the public health, safety or welfare and is thus deemed a  
934 nuisance. Any such nuisance may be abated and/or restored by the  
935 Enforcement Official and also may be abated pursuant to Chapter 19.05 of this  
936 Code. The City Attorney also is authorized to pursue any remedy he or she  
937 deems necessary or appropriate to abate, enjoin, or otherwise compel the  
938 cessation of the nuisance.

939  
940 **SECTION 2.** Section 19.08.060 (Requirements for Erosion Control Plans) of the  
941 Calistoga Municipal Code is deleted in its entirety.

942  
943 **SECTION 3.** Severability. If any section, sub-section, subdivision, paragraph, clause or  
944 phrase in this ordinance, or any part thereof, is for any reason held to be invalid or  
945 unconstitutional, such decision shall not affect the validity of the remaining sections or  
946 portions of this ordinance or any part thereof. The City Council hereby declares that it  
947 would have passed each section, sub-section, subdivision, paragraph, sentence, clause  
948 or phrase of this ordinance, irrespective of the fact that any one or more sections, sub-  
949 sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared  
950 invalid or unconstitutional.

951  
952 **SECTION 4.** Effective Date and Operational Dates. This ordinance shall become  
953 effective thirty (30) days following adoption.

954  
955 **THIS ORDINANCE** was introduced with first reading waived at a regular meeting of the  
956 Calistoga City Council on the **3<sup>rd</sup> day of February, 2015** and was passed and adopted at  
957 a regular meeting of the Calistoga City Council on the **\_\_ day of \_\_\_\_\_, 2015**, by  
958 the following vote:

- 959 **AYES:**
- 960 **NOES:**
- 961 **ABSTENTIONS:**
- 962 **ABSENT:**

963  
964  
965 **CHRIS CANNING, Mayor**

966 **ATTEST:**

967

968 \_\_\_\_\_  
969 **KATHY FLAMSON, City Clerk**  
970