

**ORDINANCE NO. 607**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, STATE OF CALIFORNIA, ADDING CHAPTER 19.05 TO THE CALISTOGA MUNICIPAL CODE ESTABLISHING THE STORMWATER RUNOFF POLLUTION CONTROL ORDINANCE REGULATING PROHIBITED DISCHARGES, NPDES COMPLIANCE, REDUCTION OF POLUTANTS IN STORMWATER AND NOTIFICATION OF SPILLS.**

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

**SECTION 1.** Section Chapter 19.05 is hereby added to the Calistoga Municipal Code 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 cause the use of management practices by the City and its citizens that will reduce the adverse effects of polluted runoff discharges on waters of the

state; to secure benefits from the use of stormwater as a resource; and to ensure the City is compliant with applicable state and federal law. This chapter seeks to promote these purposes by:

1. Prohibiting illicit discharges to the stormwater conveyance system;
2. Establishing authority to adopt minimum requirements for stormwater management, including source control requirements, to prevent and reduce pollution;
3. Establishing authority to adopt requirements for development project site design, to reduce stormwater pollution and erosion both during construction and after project is complete.
4. 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;
5. Establishing authority to adopt standards for the use of off-site facilities for stormwater management to supplement on-site practices at new development sites; and

**19.05.030 Definitions.**

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

1. "Best Management Practices" (BMPs) means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
2. "City" means the City of Calistoga.
3. "Development" means any activity that moves soils or substantially alters the preexisting vegetated or man-made cover of any land. This includes, but is not limited to, grading, digging, cutting, scraping, stockpiling or excavating of soil, placement of fill materials, paving, pavement removal, exterior construction, substantial removal of vegetation where soils are disturbed including but not limited to removal by clearing or grubbing, or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse. Development does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of the facility, nor does it include emergency construction activities (i.e., land disturbances) required to protect public health and safety.
4. "Director of Public Works" or "Director" means the Director of the City of Calistoga Department of Public Works.

5. "Discharge" shall mean the release, addition or deposit of any fluid, liquid, solid, flowing substance, or any other material or substance to the City's stormwater conveyance system.
6. "Employee training program" means a documented employee training program which may be required to be implemented by a business pursuant to a stormwater pollution prevention plan for the purpose of educating its employees on methods of reducing discharge of pollutants to the stormwater conveyance system.
7. "Enforcement agency" means the City of Calistoga Public Works Department.
8. "Enforcement official" means the Director of Public Works or his or her designee or any agent of the City authorized to enforce compliance with this Chapter.
9. "Illicit discharge" means any discharge that is not composed entirely of stormwater except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.
10. "Illicit connection" means a pipe, facility, or other device, whether on the surface or subsurface, which allows an illicit discharge to enter the stormwater conveyance system regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency.
11. "Maximum extent practicable (MEP)" means a technology-based standard established by Congress in the Clean Water Act section 402(p) (3) (B)(iii) for stormwater discharge that municipalities must meet. MEP is generally the result of emphasizing pollution prevention and source control best management practices (BMPs) primarily (as the first line of defense) and in combination with treatment methods serving as backup (additional line of defense). The MEP approach is an ever evolving, flexible and advancing concept, which considers technical and economic feasibility. As knowledge about controlling urban runoff continues to evolve, so does what constitutes MEP.
12. "National Pollutant Discharge Elimination System" (NPDES) means a permit issued by the U.S. EPA, State Water Resources Control Board, or the California Regional Water Quality Control 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.
13. "Noncommercial vehicle washing" means the washing and rinsing of passenger vehicles on private property in which no commercial enterprise is being conducted in the washing of those vehicles.
14. "Non-stormwater discharge" means any discharge to the stormwater conveyance system that is not entirely composed of stormwater.
15. "Person" means any person, firm, corporation, business entity, or public agency, whether principal, agent, employee, or otherwise.

16. "Plan standard" means any and/or all applicable requirements of the Water Quality Control Plan for Basin 2, adopted by the Regional Water Quality Control Board, San Francisco Bay Region in 1995, and all subsequent amendments.
17. "Pollutant" means any "pollutant" defined in Section 502(6) of the CWA (33 U.S.C. 1362) or incorporated into the California Water Code Section 13373. Pollutants may include, but are not limited to the following:
  - a) Residential, commercial and industrial waste (such as trash, litter, fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge);
  - b) Metals such as cadmium, lead, zinc, silver, nickel, chromium, copper and non-metals such as phosphorous and arsenic;
  - c) Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants, and grease);
  - d) Excessive eroded soil, sediment, and particulate materials in amounts that may adversely affect the beneficial use of the receiving waters, flora or fauna of the State.
  - e) Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities; and
  - f) Substances having characteristics such as pH less than 6 or greater than 9, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus.
18. "Premises" means any building, lot, parcel, land or portion of land whether improved or unimproved.
19. "Receiving Waters" means all waters that are "Waters of the State" within the scope of the State 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 ground water.
20. "Stormwater" means surface runoff and drainage associated with storm events, which is free of pollutants to the maximum extent practicable.
21. "Stormwater conveyance system" means those artificial and natural facilities within the incorporated area of the City of Calistoga, whether publicly or privately owned, by which stormwater may be conveyed to a watercourse or Waters of the State, including any roads with drainage systems, streets, catch basins, natural and artificial channels, aqueducts, stream beds, gullies, curbs, gutters, ditches, and natural and artificial channels or storm drains.
22. "Stormwater pollution prevention plan" means a document which describes the best management practices to be implemented by the owner or operator of a business or construction site to eliminate illicit discharges and/or reduce to the maximum extent practicable pollutant discharges to the stormwater conveyance system.

23. "Watercourse" means any natural stream, whether flowing continuously or not, that is fed from permanent or natural sources, and includes, without limitation rivers, creeks, runs, and rivulets.
- B. Any term(s) defined in the Federal Clean Water Act, as amended, and/or defined in the regulations for the stormwater discharge permitting program issued by the Environmental Protection Agency, as amended, and which are not specifically defined in subsection A of this section shall, when used in this Chapter, have the same meaning as set forth in said act or regulation.

#### **19.05.040 Conflicts with Other Laws.**

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

#### **19.05.050 Discharge Prohibitions.**

- 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
- B. Illicit Connection. The construction, use, maintenance or continued existence of illicit connections 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.
- 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.

#### **19.05.060 Exceptions to Discharge Prohibition.**

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 of this Chapter.

- A. Any discharge or connection regulated under a NPDES 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;

- B. Discharges from the following activities, which do not cause or contribute to the violation of any plan standard:
1. Water line flushing and other discharges from potable water sources,
  2. Irrigation and lawn watering,
  3. Rising ground waters or springs,
  4. Passive foundation and footing drains,
  5. Water from crawl space pumps and basement pumps,
  6. Air conditioning condensate,
  7. Noncommercial vehicle washing,
  8. Natural flows from riparian habitats and wetlands,
  9. Dechlorinated swimming pool discharges,
  10. Flows from fire suppression activities, including fire hydrant flows,
  11. Waters not otherwise containing wastes as defined in California Water Code Section 13050(d) and California Health and Safety Code Section 25117,
  12. Diverted stream flows,
  13. Uncontaminated ground water infiltration (as defined at 40 CFR S35.2005(20) to separate storm sewers;
  14. Uncontaminated pumped ground water
- C. Any discharge, which the Enforcement Official, the local health officer, or the Regional Water Quality Control Board determines in writing, is necessary for the protection of the public health and safety;
- D. Any discharge caused by flooding or other natural disaster, which could not have been reasonably foreseen or mitigated for in advance by the discharger, as, determined by the enforcement official.

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

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall provide proof of compliance with said permit in a form acceptable to the Enforcement Official prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

**19.05.080 Concealment and Abetting.**

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

**19.05.090 Reduction of Pollutants in Stormwater.**

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

A. Business Related Activities.

1. Stormwater Pollution Prevention Plan. The Enforcement Official may require any business in the City that is engaged in activities, which may result in pollutant discharges to develop and implement a stormwater pollution prevention plan, which shall, without limitation, include an employee training program. Business activities, which may require a stormwater pollution prevention plan, include, but are not limited to, maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading or fueling, or cleanup procedures which are carried out partially or wholly out of doors.

B. Development. The City Council shall by resolution adopt requirements identifying appropriate Best Management Practices to control the volume, rate, and potential pollutant load of stormwater runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants. The City shall incorporate such requirements as conditions in any land use entitlement and construction or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this Chapter.

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

D. Compliance with Best Management Practices. Every person undertaking any activity or use of a premises which may cause or contribute to stormwater pollution or contamination, illicit discharges, or non-stormwater discharges shall comply with best management practices guidelines or pollution control requirements as may be established by resolution of the City Council.

**19.05.100 Containment and Notification of Spills.**

Any person owning or occupying a premises who has knowledge of any release of any pollutant or illicit discharge from or across those premises which might enter the stormwater conveyance system, other than a release or discharge that is permitted by this Chapter, shall immediately take all reasonable action to contain and abate the release of pollutants or illicit discharge, and also shall

promptly notify the enforcement agency within twenty-four (24) hours of the release of any pollutant or illicit discharge.

**19.05.110 Inspection Authority.**

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

- A. Sampling Authority. During any inspection, the Enforcement Official may take samples as necessary in order to implement and enforce the provisions of this Chapter. This authority may include the installation of sampling and metering devices on private property, or requiring the person owning or occupying the premises to supply samples.
- B. Monitoring, Analysis and Reporting Authority. The Enforcement Official may require monitoring, analysis and reporting of discharges from any premises to the stormwater conveyance system. Upon service of written notice by the Enforcement Official, the burden, including cost, of these activities, analyses and reports, incurred in complying with the requirement shall, to the extent permitted by law, be borne by the property owner or occupant of the facility or activity for which testing and monitoring has been requested.
- C. Fee Authority. The enforcement agency has the authority to conduct inspections and collect fees for the purpose of ensuring compliance with this Chapter from any person or business issued one or more of the following permits:
  - 1. Hazardous Material Business Plan;
  - 2. Food establishments except restricted food service transient occupancy establishments;
  - 3. Building permits;
  - 4. Grading permits.

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



**19.05.120 Enforcement Authority.**

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

- A. Notice of Violation (NOV). Whenever the Enforcement Official determines that any person owning or occupying a premises has violated or is violating this Chapter or order issued hereunder, the Enforcement Official may serve, by personal service, or by registered or certified mail, upon said person a written NOV. Within thirty (30) days of the receipt of this notice, or shorter period as may be prescribed in the NOV, the person to whom the NOV has been issued shall provide the Enforcement Official a written explanation or denial of the violation and, if the person does not deny the violation, a plan for the satisfactory correction and prevention thereof, which shall include without limitation specific actions or mitigations required by the Enforcement Official in the NOV. Submission of this plan shall in no way relieve the person of liability for any violation before or after receipt of the NOV.
- B. Cease and Desist Orders. The Enforcement Official may require any person owning or occupying premises to cease and desist all activities that may cause or contribute to discharge in violation of this Chapter. This order may also require such person to: (i) comply with the applicable provisions of this chapter within a designated period of time or; (ii) take such other appropriate remedial or preventative action the Enforcement Official determines to be necessary to prevent the violation from recurring.
- C. Notice to Clean and Abate. The Enforcement Official may require any person owning or occupying a premises to clean up and abate any release of one or more pollutants on those premises, which otherwise would result in a violation of this Chapter. The Enforcement Official may also order abatement of activities or practices, which otherwise reasonably would result in such a violation.
- D. Mitigation. The Enforcement Official shall have authority to order the mitigation of any condition, activity or circumstance which otherwise would result in or contribute to Illicit discharges.
- E. Stormwater Pollution Prevention Plan. The Enforcement Official shall have the authority to establish elements of a stormwater pollution prevention plan, and to require any business or person to adopt and implement such a plan, as may be reasonably necessary to fulfill the purposes of this chapter.
- F. Best Management Practices. The Enforcement Official may establish and impose the requirements of best management practices for any premises.

- G. Seasonal and Recurrent Nuisance. If any violation of this chapter constitutes a seasonal and recurrent nuisance, the Enforcement Official shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.
- H. Emergency Orders and Abatements. The Enforcement Official may order the abatement of any discharge from any source to the stormwater conveyance system when, in the opinion of the Enforcement Official, the discharge causes or threatens to cause a condition which presents an imminent danger to the public health, safety, or welfare, or the environment. In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, or welfare, or the environment or a violation of a NPDES permit, the city may perform or cause to be performed such work as shall be necessary to abate said threat or danger. The costs of any such abatement shall be borne by the owner and shall be collectable in accordance with the provisions of this Chapter.
- I. Contents of Notice. Any NOV, cease and desist order, or other civil notice or civil order issued by the enforcement official pursuant to this Chapter shall include a copy of Section 19.05.130 of this Chapter outlining appeal rights.
- J. The City is authorized to file a citizen suit pursuant to CWA Section 505(a), seeking penalties, damages and orders compelling compliance and other appropriate relief.
- K. The City may notify EPA Region IX, the Regional Board, or any other appropriate state or local agency, for any alleged violation of this Chapter.

**19.05.130 Appeal.**

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

**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 person 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.

- 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 then on \_\_\_\_\_, \_\_\_\_\_, did assess the costs expenses and civil penalties of the enforcement upon the real property and/or the costs and expenses of causing the owner or responsible person to comply with the provisions of Chapter 19.05. The City of Calistoga claims a special assessment on the real property for such costs, expenses and civil penalties in the amount of \$\_\_\_\_\_. This amount is a special assessment against the real property until it is paid, with interest at the rate of twelve percent (12%) a year from \_\_\_\_\_, \_\_\_\_ (insert date of confirmation of statement), and discharged of record. 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. The real property referred to above, and upon which the special assessment is claimed is that certain parcel of land situated within the City of Calistoga, County of Napa, State of California, more particularly described as follows:  
\_\_\_\_\_, Calistoga, California.

Dated: \_\_\_\_\_  
\_\_\_\_\_

By:

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

#### 19.05.170 Civil Actions.

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

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

**19.05.180 Violations Deemed a Public Nuisance.**

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

**SECTION 2. Severability.** If any section, sub-section, subdivision, paragraph, clause or phrase in this ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 3. Effective Date and Operational Dates.** This ordinance shall become effective thirty (30) days following adoption.

**THIS ORDINANCE** was introduced with first reading waived at a regular meeting of the Calistoga City Council on the **1<sup>st</sup> day of June, 2004** and was passed and adopted at a regular meeting of the Calistoga City Council on the **15<sup>th</sup> day of June, 2004**, by the following vote:

**AYES: Councilmembers Gingles, Slusser, Mayor Alexander**

**NOES: None**

**ABSTAIN: None**

**ABSENT: Councilmember Sterk, and Vice Mayor von Pohle**

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**DR. ANDREW ALEXANDER, Mayor**

**ATTEST:**

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**ROBERT HAYES, City Clerk**