### A 2011-01

For City Use

Date Received\_\_\_

**ATTACHMENT 4** 

## **City of Calistoga**

By\_\_\_\_\_ Appeal Fee Rece

copy of the City's Municipal Code excerpt regarding appeals and the appeals procedure summary is attached.

The fee to file an appeal is \$200.00 and must accompany this form.

Appeals must be filed with the City Clerk within ten (10) calendar days of the action.

Appeals must address issues raised or decisions made.

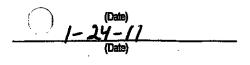
In order for your appeal to be determined to be complete this form must be filled out enitirely.

	Appellant Information (Please Pri	int)
Appellant Name JOAN CAPUTI, et a	al	
Appellant Address 1605 WASHINGTON STREET	City CALISTOGA	State/Zip Code CALIFORNIA 94515
Appellant Phone 707-942-6968	Fax 707-942-0775	Email
Representative Address	City	State/Zip Code
Representative Phone	Fax	Email
I/We the undersigned do hereby appeal the	e decision of the:	
X Planning Commission RESOLUTION Po		<b>eals</b>
Department Director or Department Staff	Other	
Regarding: CHANRIC INN CONDITION	ONAL USE PERMIT AMENDN (Title of project or application)	MENT U-2010-09
Located at: 1805 FOOTHILL BLVD.	CALISTOGA, CA 94515 (Address)	
		CITY OF CALISTOG/
Made on: 1/12/11  I/We hereby declare that I/We are eligible to file	(Address)  (Date decision was made) e an appeal because:	CITY OF CALISTOG/ JAN 2 4 2011
Made on: 1/12/11  I/We hereby declare that I/We are eligible to file	(Address)  (Date decision was made) e an appeal because: de, Appeals – reverse side)	JAN 2 4 2011
Made on: 1/12/11  I/We hereby declare that I/We are eligible to file (Refer to Chapter 1.20 of the Callistoga Municipal Co  We are aggrieved parties unde	(Address)  (Date decision was made) e an appeal because: de, Appeals – reverse side) er Calistoga Municipal Code 1	JAN 2 4 2011 .20.030 A.8 CITY NANAGER
Made on: 1/12/11  I/We hereby declare that I/We are eligible to fill (Refer to Chapter 1.20 of the Calistoga Municipal Co  We are aggrieved parties under  The facts of the case and basis for the appeal	(Address)  (Date decision was made) e an appeal because: de, Appeals – reverse side) er Calistoga Municipal Code 1 are: (Additional sheets may be attached	JAN 2 4 2011 20.030 A.8 CITY MANAGER

(Signature)

Leanuette Judson
(Signature)

2273 Grant St. (OVER)



#### APPEALS TO THE CITY COUNCIL

#### **CALISTOGA MUNICIPAL CODE SECTION 1.20.030**

1.20.030 Appeals to the Council.

A. Timing. An appeal to the Council may be made by filing a notice of appeal with the City Clerk within 10 days of the action or decision from which appeal is made, unless another time is specifically provided herein.

1. Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of the transient occupancy tax, and/or interest and penalties, if any, thereon, may appeal by filing a notice of appeal within 15 days of the serving or mailing of the determination of tax due.

2. Appeals by film permit applicants under Chapter 3.30 CMC shall be made within five days of the date of

denial or other action on the permit application.

3. Any person aggrieved by any decision of the collector of business license taxes made pursuant to Chapter 5.04 CMC may appeal by filing a notice of appeal within 30 days after the receipt of written notice from the collector of the disputed decision.

4. A person may appeal the decision of the Chief of Police to revoke or deny a taxicab or rent car driver's

permit, made pursuant to Chapter 5.16 CMC.

An appeal may be taken from the order of the Health Officer revoking or suspending a permit pursuant to Chapter 8.12 CMC by filing a notice of appeal within 15 days of the issuance of the order. The appellant shall serve a copy of the notice of appeal on the Health Officer.

6. An appeal may be taken from a notice from the Director of Public Works made pursuant to Chapter 12.12

CMC.

7. An appeal may be taken to the Council by any citizen from any decision of an official relating to an exception permit under Chapter 13.08 CMC or a determination made under Chapter 13.16 CMC.

A subdivider or any aggrieved party may appeal a decision made by the Planning Commission.

B. Notice by Clerk. Upon receipt of the notice and fee, the City Clerk shall set the matter of the appeal on the agenda for the next regularly scheduled Council meeting, but no sooner than 10 days after the day of filing the notice of appeal and payment of fee. The City Clerk shall give notice in writing to the appellant, and any other person who has requested notice, of the date the appeal has been placed on the agenda.

All appeals from decisions of the Planning Commission shall be considered by the Council within 30 days

after the filing of the notice of appeal, unless the appellant consents to a continuance.

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3. Appeals from decisions of the Planning Director under Chapter 19.01 CMC shall be de novo, and the Council shall be guided by the criteria and standards, and shall make findings in relation thereto, as are

required for the issuance of a permit in the first instance.

D. Amounts Owed. Any amount found to be due to the City shall be immediately due and payable upon the service of notice of the findings of the Council.

(Signature)

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| Signature | DV | Marketon | 12.05 | Willow St. (OVER) | (OVER) | APPEALS TO THE CITY COUNCIL | 14515 | CALISTOGA MUNICIPAL CODE SECTION 1.20.030

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(OVER) DUNAWEAL 942-4641 CALISTOGA

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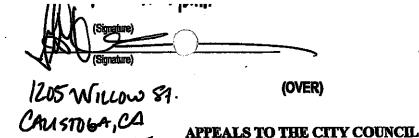
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# Appeal of Resolution PC 2011-02

# Facts of the case and basis for appeal:

Despite public concern, on 1/12/11 the Calistoga Planning Commission approved (3-2) Resolution PC 2011-02 amending the Chanric Inn use permit to allow the rental of 7 units under the updated Bed and Breakfast Ordinance (Ord. No. 667). Under the prior ordinance, the maximum rooms allowed for rent was limited to 6.

The record is clear that the City of Calistoga caught the Chanric Inn illegally renting at least one room in violation of their use permit U 84-4. At the Planning Commission hearing on 1/12/11, owner Channing McBride publicly admitted to the illegal rental and that the owners were fully aware that they were intentionally violating their use permit.

- 1) A letter exists in the record (dated 7/20/2010) from the City of Calistoga noting that no compliance action has been taken no audit, no verification of collection/payment of TOT owed to the city, nor fines imposed.
- 2) No evidence exists in the record of any compliance action.
- 3) Instead, Chanric Inn was allowed to apply for expansion under the new, relaxed B and B ordinance for the R1-10 zone, requesting additional rooms, modification of parking and removal of the on-site manager.
- 4) Despite community objection to rewarding a violator of city ordinances by using the amended use permit to legalize illegal activities engaged in by Chanric Inn, the Planning Commission approved Resolution PC 2011-02 by a 3-2 vote.
- 5) In introducing the item to the Commission on 1/12/11 Chairman Manfredi stated that the Commission, unlike the Planning Director and staff, were not mandated to follow the code book; but could apply compassion in its place.
- 6) Chairman Manfredi also stated that code enforcement was not to be discussed.
- 7) Chairman Manfredi and Commissioner Bush both made statements on the record on 1/12/11 that they felt it was not important that the use permit had been knowingly violated, that it had been going on for years, and despite neighbor

testimony to the contrary, no harm had been done. As Chairman Manfredi said, the illegal rental had been going on for years and "the sky hasn't fallen", and he claimed no harm had been done to Calistoga's "small-town charm."

- 8) The City of Calistoga has stated a policy to enforce code against illegal rentals in town. Last summer, the City of Calistoga joined in the effort to convince the Napa County Board of Supervisors to enforce laws against illegal rentals in the unincorporated Agricultural Preserve. Chairman Manfredi has been a vocal leader of the movement to enforce against illegal rentals. He has publicly stated that the current fines are too low.
- 9) The public is aware that the City of Calistoga has identified several illegal rental operations in the city.
- 10) Public perception is that the City's investigations caught a few influential parties and, instead of taking enforcement action, the City chose to liberalize the law to benefit a few operations, among them the Chanric Inn.
- 11) Public perception is that the City of Calistoga has no credibility for taking enforcement action against any of the other operators netted in their "sting."
- 12) Public perception is that this is selective enforcement of the law to protect a favored few.
- 13) Public perception is that the city has weakened its ability to enforce against other violators by setting the precedent of rewriting laws to legalize illegal activities instead of taking action against them.
- 14) Therefore, we appeal the 1/12/11 decision of the Planning Commission to selectively enforce the town's laws and attempt to legalize activities that were clearly illegal under the existing Use Permit U 84-4. Illegal operators should not be rewarded.

### **Requested City Council action**

We request that the City Council rescind PC Resolution 2011-02, enforce its laws and mandate a full audit. The city should conduct a full year of monitoring, including neighbor complaints, and IF the operation is in FULL COMPLIANCE for the entire period, and makes full restitution of any unpaid TOT and fines, Chanric Inn may be allowed to re-apply for expansion after that time.