

**CITY OF CALISTOGA  
PLANNING COMMISSION  
RESOLUTION PC 2013-\_\_**

**RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A TEXT AMENDMENT  
TO THE CALISTOGA MUNICIPAL CODE, ADDING MUNICIPAL CODE CHAPTER  
17.50 RIGHT TO FARM**

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WHEREAS, it is the policy of the City of Calistoga to preserve, protect and encourage the use of agricultural lands within and adjacent to the city for the production of food and other agricultural projects, recognizing that agriculture is an important component of the local economy and contributed to the city's unique qualities; and

WHEREAS, as urban development occurs within the city, residential, commercial and industrial land uses will locate adjacent to pre-existing agricultural activities. As a result, agricultural operations may become the subject of nuisance complaints or litigation, and could be pressured to cease or curtail operations, or may be discouraged from making improvements; and

WHEREAS, to conserve and protect the continued viability of agricultural operations, it is the intention of the City to limit the circumstances under which agricultural operations may be deemed to constitute a nuisance, consistent with the California Agricultural Protection Act (Civil Code 3482.5); and

WHEREAS, the proposed ordinance is consistent with the following provisions of the Open Space and Conservation Element of the City of Calistoga's General Plan reflect the City's intent to promote agricultural uses, and would fulfill an action calling for the adoption for a right-to-farm ordinance:

- |                          |  |
|--------------------------|--|
| <i>Goal OSC-3</i>        | <i>Protect open space important for the managed production of resources in the Planning Area, including agriculture and viticulture.</i>   |
| <i>Objective OSC-3.1</i> | <i>Preserve agricultural land, a vital part of Calistoga's open space network.</i>   |
| <i>Policy P2</i>         | <i>The City shall encourage the continued agricultural use of lands within the Planning Area that are currently being farmed.</i>  |
| <i>Objective OSC-3.2</i> | <i>Encourage agricultural production through City policies and regulations.</i>  |
| <i>Action A2</i>         | <i>Adopt a right-to-farm ordinance to:</i> <ul style="list-style-type: none"><li><i>◆ Advise purchasers and users of property near agricultural operations of the inherent potential problems.</i></li><li><i>◆ Prevent existing farms operating according to accepted agricultural practices from being unfairly judged to be a public nuisance or unacceptable use.; and</i></li></ul> |

WHEREAS, the Planning Commission reviewed the proposed reasonable ordinance at a public hearing at its meeting of August 14, 2013, and during its review, considered the public record, including the staff report, findings, and written materials and testimony presented by the public during the hearing; and

WHEREAS, the Planning Commission has determined that this action is not subject to the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED by the City of Calistoga Planning Commission that, based on the above findings and the findings set forth in the proposed ordinance, it is recommended the City Council adopt the ordinance attached hereto and incorporated herein as Exhibit A.

ADOPTED on August 14, 2013, by the following vote of the Calistoga Planning Commission:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Jeff Manfredi, Chairman

ATTEST: \_\_\_\_\_  
Lynn Goldberg  
Secretary to the Planning Commission

Exhibit A

Title 17 Zoning

Chapter 17.50 Right to Farm

1 15.50.010 Purpose and intent

2 A. It is the policy of the City of Calistoga to preserve, protect and encourage the use  
3 of agricultural lands within and adjacent to the city for the production of food and other  
4 agricultural projects, recognizing that agriculture is an important component of the local  
5 economy and contributed to the city's unique qualities.

6 B. As urban development occurs within the city, residential, commercial and  
7 industrial land uses will locate adjacent to pre-existing agricultural activities. As a result,  
8 agricultural operations may become the subject of nuisance complaints or litigation, and  
9 could be pressured to cease or curtail operations, or may be discouraged from making  
10 improvements.

11 C. To conserve and protect the continued viability of agricultural operations, it is the  
12 intention of the City to limit the circumstances under which agricultural operations may  
13 be deemed to constitute a nuisance, consistent with the California Agricultural  
14 Protection Act (Civil Code 3482.5).

15 D. These provisions are not intended to prohibit the conversion of agricultural  
16 operations to other uses allowed by the Calistoga General Plan.

17 15.50.020 Definitions

18 For the purposes of this Chapter, the following words and phrases shall be  
19 construed as defined in this section.

20 A. "Agricultural activity, operation, or facility, or appurtenances thereof" includes, but  
21 is not limited to:

- 22 1. The preparation, tillage, and maintenance of soil and other growing media;
- 23 2. The production, cultivation, raising and breeding of any living organism  
24 having value as an agricultural commodity or product;
- 25 3. The harvesting, processing, transporting and storage of agricultural  
26 commodities and products; and
- 27 4. Commercial practices performed incidental to or in conjunction with such  
28 operations on the site where the agricultural product is being produced,  
29 including preparation for market, and delivery to storage, market, and  
30 carriers for transportation to market.

31 B. "Transfer" means, but is not limited to, the sale, exchange or lease of property.

32

33 15.50.030 Nuisance prohibition

34 A. No agricultural activity, operation or facility, or any of its appurtenances,  
35 conducted or maintained for commercial purposes in a manner consistent with proper  
36 and accepted customs and standards, as established and followed by similar  
37 agricultural operations in the same locality, shall be determined to be a nuisance, public  
38 or private, after the same has been in operation for more than three years if it was not  
39 formally declared a nuisance by the City of Calistoga or County of Napa during that  
40 time, or due to any changed condition in the city.

41 B. The right to farm does not protect the farm operator from operating in an illegal  
42 manner or violating any standard farming practices or regulations.

43 15.50.040 Disclosure requirements

44 A. No person shall transfer real property within the Calistoga city limits until the  
45 following disclosure in the form required by of Civil Code Section 1102.6(a)  
46 subparagraph (b) is made in writing to the transferee and is signed by the transferee.  
47 The disclosure shall include a statement containing the following language:

48 *The City of Calistoga recognizes and supports the right to farm property*  
49 *upon which agricultural activities may be legally operated, including but*  
50 *not limited to at any time, noise; lights, odors; fumes; dust; smoke; insects;*  
51 *the operation of machinery (including aircraft); the application of fertilizers,*  
52 *soil amendments, seeds, herbicides, and pesticides; the storage of*  
53 *livestock feed and other agricultural commodities; the storage, application*  
54 *and disposal of manure; and the processing, transport and storage of*  
55 *agricultural products. The City of Calistoga has determined that*  
56 *inconveniences and discomforts associated with such agricultural*  
57 *operations and activities, conducted in a manner consistent with proper*  
58 *and accepted customs and standards, is not a nuisance.*

59 B. An owner of rental property within the Calistoga city limits shall disclose the  
60 above in writing to a tenant prior to their rental of the property.

61 C. Any transferor of property within the Calistoga city limits shall insert the  
62 disclosure recited above in the deed transferring any right, title or interest in the property  
63 to the transferee.

64 D. Any visitor accommodations operation established, and any visitor  
65 accommodations operation whose use permit is amended following the effective date of  
66 this Chapter, shall display an informational card in its guest rooms and/or in a  
67 conspicuous public location that recites the disclosure set forth above.

68 E. Prior to the issuance of a building permit for the construction of a residence or  
69 commercial building within the Calistoga city limits, the property owner upon which the  
70 building is to be constructed shall file with the City a signed and dated  
71 acknowledgement of the disclosure set forth above.

72 15.50.050 Other applicable laws

73 This Chapter is not intended to, and shall not be construed or given effect in a manner  
74 that modifies or abridges federal law or regulation, or state law as set out in the Civil  
75 Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code,  
76 Division 7 of the Water Code, or any other applicable provision of state law relative to  
77 nuisances; instead, this Chapter is only to be utilized in the interpretation and  
78 enforcement of provisions of this Code and City regulations. Further, this article is not  
79 intended to, and shall not be construed or given effect in a manner that limits or restricts  
80 the City's authority to review and approve or disapprove proposals for agricultural  
81 operations on agricultural land in accordance with other provisions of this Code or other  
82 laws.