

CITY OF CALISTOGA

STAFF REPORT

TO: COMMUNITY RESOURCES COMMISSION

FROM: CHARLENE GALLINA, PLANNING & BUILDING DIRECTOR

DATE: DECEMBER 15, 2010

SUBJECT: MUNICIPAL CODE AMENDMENT – SPECIAL EVENT ORDINANCE

1 **ISSUE:** Consideration of an amendment to the Calistoga Municipal Code and Zoning
2 Ordinance establishing provisions to establish a Special Event Permit Ordinance for the
3 City of Calistoga.

4
5 **RECOMMENDATION:** Receive presentation, discuss and pass motion to recommend
6 to the Planning Commission and City Council.

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8 **BACKGROUND/DISCUSSION:** Currently, there are various processes established by
9 the City for regulating special events, facility rentals, and other temporary
10 events/activities in Calistoga. Such processes include administrative use permits,
11 filming and photography permits, facility use permits, special event permits, parade
12 permits and encroachment permits.

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14 In order to eliminate confusion to customers and streamline City processes, City
15 Departments have collectively agreed that there should be one comprehensive permit
16 process for regulating all special events and temporary activities. Therefore, staff has
17 developed a Special Event Ordinance for this purpose and is requesting that the
18 Commission discuss and provide a recommendation for the Planning Commission and
19 City Council.

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21 As presented, the proposed Special Event Ordinance would ensure consistency in
22 review and application of conditions and provide for rules governing the issuance of
23 permits for Special Events occurring within the City. Its intent is to ensure reasonable
24 and consistent criteria for the approval of permits to allow Special Events as long as
25 those activities are consistent with the public health and safety and the protection of
26 property.

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28 As attached, staff is recommending the following components be included in the
29 establishment of this Ordinance:

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31 • Applicable to attendance of any size using City facilities or public property and
32 events attended by 20 or more people held on commercial property outside of
33 Use Permit approval as defined in CMC 17.40 Use Permits or outside of their
34 normal business operation.

- 35 • Exempts governmental agency activities, including the Governmental agencies,
36 including the Napa County Fairgrounds, the Calistoga Joint Unified School
37 District, acting within the scope of their authorized function; assembly organized
38 for the purpose of exercising First Amendment rights and involving a procession
39 of persons walking on sidewalks and obeying all traffic and other laws; a special
40 event held at a private residence; and a special events authorized by Use Permit
41 approval as defined in CMC 17.40.
- 42 • Requires an applicant to submit 45 days prior to the special event a formal
43 application and information for City review and action accompanied by a
44 nonrefundable permit application fee.
- 45 • Requires the administrative processing of a Special Event Permit by City staff.
- 46 • Provides findings for approval or denial.
- 47 • Provides a general listing of conditions. It should be noted that staff will be
48 developing standard conditions based upon this general list for application to
49 event permits.
- 50 • It should be noted that there will also be proposed amendments to the Municipal
51 Code, specifically Chapter 3.30 Film Permits for Motion Picture and Television
52 Production and Chapter 17.40.050 Administrative Use Permits to define
53 applicability, coordinate processes and insure consistency with the proposed
54 special event permit provisions.

55

56 **ATTACHMENTS:**

- 57 1. Draft Special Event Ordinance
- 58 2. Draft CMC Revisions – Film Permits for Motion Picture and Television Production
59 & Administrative Use Permits

60

**DRAFT
SPECIAL EVENT ORDINANCE**

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2 **Purpose**
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4 It is the purpose of this chapter is to provide for rules governing the
5 issuance of permits for Special Events occurring within the City. Its intent is to
6 ensure reasonable and consistent criteria for the approval of permits to allow
7 Special Events as long as those activities are consistent with the public health
8 and safety and the protection of property.
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10 **Definitions**
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12 For the purposes of this chapter, the following words and phrases shall be
13 defined as set forth in this section, unless it shall be apparent from the context
14 that a different meaning is intended.
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- 16 A. "City Manager" shall mean the City Manager of the City of Calistoga or
17 such other employee as the City Manager or his or her designee.
18
- 19 B. "Special Event" means any events, farmers market, festival, stroll, fair,
20 show, showcase, house or garden tour, concert, dance, public or private
21 firework display, rally, racing event, auction, parade, filming activity as
22 defined in CMC 3.30, demonstration or competition of creative athletic
23 form, including, but not limited to music dance, theater, speech, athletic, or
24 other visual, audio, or tactile arts or combination thereof, or other similar
25 events or activities as determined by the City Manager, including
26 incidental retail sales of products of such activities, on public or private
27 property within the City with a duration of 1 to 6 consecutive days or an
28 event series. This includes any gathering or assemblage of individuals for
29 the purpose of observing or engaging in expressive activities within the
30 ambit of the First Amendment of the United States Constitution and
31 Sections 2, 3, and 4 of Article 1 of the California Constitution.
32
- 33 C. "Special Event Permit" means a permit issued pursuant to this chapter.
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35 **Applicability**
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- 37 A. Any assembly or congregation of persons, display, entertainment or
38 demonstration, that is likely to meet one or more of the following criteria:
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- 40 1. Attendance of any size using City facilities or public property.
 - 41 2. Events attended by 20 or more people held on commercial
42 property outside of Use Permit approval as defined in CMC 17.40
43 or outside of their normal business operation.

- 44 3. Obstructs, delays or interferes with the normal flow of pedestrian
45 or vehicular traffic, or otherwise fails to comply with traffic laws
46 and controls; or
47 4. Can reasonably be expected to become a hazard to the public
48 peace, health, safety or general welfare as determined by the City
49 Manager.

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51 **B. Exemptions.**

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53 1. Governmental agencies, including the Napa County Fairgrounds,
54 the Calistoga Joint Unified School District, acting within the scope
55 of their authorized function.
56 2. Assembly organized for the purpose of exercising First Amendment
57 rights and involving a procession of persons walking on sidewalks
58 and obeying all traffic and other laws.
59 3. Special Events held at a private residence.
60 4. Special Event authorized by Use Permit approval as defined in
61 CMC 17.40.
62 5. Provisions of this chapter waived by the City Council or City
63 Manager.
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65 **Permit Required**

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67 A. Unless there has been obtained from the City a permit to do so or unless
68 the requirement has been exempted or waived, it shall be unlawful for any
69 person to organize, hold, manage, conduct, aid, participate in, form, start
70 or carry on, any Special Event, or cause or permit the same upon any
71 commercial property, or any public street, alley, park, or other public
72 property or facility in the City. Said permit shall be carried, and presented
73 for inspection upon demand to any employee of the City of Calistoga, by
74 person heading or leading said activity.
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76 **Procedures**

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78 A. Except as otherwise provided herein, all applications for permits shall be
79 filed with the City Manager no later than (45) forty days before the
80 scheduled special event.
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82 B. The City Manager shall, for good cause, consider an application that is
83 filed after the filing deadline if there is sufficient time to process and
84 investigate the application and obtain police and other city services for the
85 event. Good cause may be demonstrated by showing that the
86 circumstances that gave rise to the permit application did not reasonably
87 allow the participants to file an application within the time prescribed.

88 **Application Submittal Requirements**

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- A. Applications for a permit shall be made to the City Manager on forms provided by the City.
- B. For larger special events, a pre-application meeting is required with the City Manager.
- C. The application for a permit shall include the following information:
 - 1. Written proof of consent by the owners of the property where the special event is to be held;
 - 2. The name, address and telephone number of the applicant and an alternate contact person;
 - 3. The location of the event, including its boundaries and site plan drawings;
 - 4. If the proposed event is sponsored by an organization, the name, address, and telephone number of the organization, and the authorized representative of the organization;
 - 5. The nature and purpose of the event, including a list of all planned activities that are contemplated for the special event;
 - 6. The name, address and telephone number of the person(s) who will be present and in charge of the event on the day of the special event;
 - 7. Date and estimated starting and ending times of the special event, including set-up and cleanup time;
 - 8. The estimated number of participants of the special event;
 - 9. The type, location, and estimated number of vehicles, animals and temporary structures which will be engaged or involved in the special event activity;
 - 10. The type, location, and estimated number of water and/or first aid stations that will be available to serve participants of the special event;
 - 11. The type, location, and estimated number of the sanitary facilities that will be available to serve the participants of the special event;
 - 12. A description and location of any sound-amplification equipment and the times during which such equipment will be used at the special event, a sound plan that describes measures to be taken by the applicant to ensure compliance with all applicable City laws, rules and regulations regarding amplified sound and music, sound contact person during event activities;
 - 13. Whether any food or nonalcoholic beverages will be sold or consumed at the special event and, if so, proof of compliance with all applicable local, state and federal laws, rules and regulations, including proof that the applicant has obtained all necessary permits;

- 133 14. Whether any alcoholic beverages will be sold or consumed at the
134 event and, if so, proof of compliance with all applicable laws, rules
135 and regulations of the California Department of Alcoholic
136 Beverages Control;
- 137 15. Expected parking requirements and parking plan for the special
138 event;
- 139 16. Required California Department of Transportation encroachment
140 permit if event is being held on a State highway;
- 141 17. Required Napa County encroachment permit if event is being held
142 on a County roadway;
- 143 18. The plan for cleanup after the special event, including any contracts
144 to effectuate the cleanup;
- 145 19. Proof of event, liquor and general liability and property insurance.
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- 147 D. Supplemental Information. The applicant shall provide any supplemental
148 information that, under the particular circumstances of the special event,
149 the City Manager finds reasonably necessary to determine whether to
150 approve or conditionally approve a permit application.
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- 152 E. Each application shall be accompanied by a nonrefundable permit
153 application fee in the amount set by City Council resolution. This non-
154 refundable fee shall cover the actual costs of processing and investigating
155 special events applications and administering the special events permit
156 program.
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158 **Permit Approval or Denial**
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- 160 A. The application for a Special Event permit shall be approved or denied
161 within fifteen (15) calendar days of receipt of a completed application. The
162 permit shall be approved by the City unless, based on any of the following
163 criteria and/or considerations, denial of the permit would be in the best
164 interest of the City:
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- 166 1. The Special Event will substantially disrupt the use of a street at a
167 time when it is usually subject to traffic congestion, or potentially
168 interfere with the operation of emergency vehicles in the proposed
169 special event area;
 - 170 2. The location of the Special Event will substantially interfere with
171 street maintenance work, or a previously authorized excavation
172 permit;
 - 173 3. The location of the Special Event is on City owned property and the
174 event will substantially interfere with municipal functions, or other
175 previously authorized activities on City property;
 - 176 4. The Special Event creates a substantial risk of injury to persons or
177 property;

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5. The applicant failed to complete the application after being requested to do so, or the information contained in the application is found to be false in any material detailed;
 6. The particular activity associated with the Special Event would violate federal, state or local law(s) including license or permit requirements;
 7. The Special Event would pose a potential threat to the health, safety and welfare of the City's population;
 8. Past history which resulted in hazards in public health, safety and welfare, falsified information, and improper conduct.
- 189 B. When the grounds for permit denial can be corrected by imposing
190 reasonable conditions, the City Manager may impose such conditions
191 rather than denying the permit.
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193 **Permit Conditions**
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- 195 A. A permit issued pursuant to this Chapter shall prescribe the day(s), hours,
196 and location of the event in addition to any conditions of operation which
197 may be necessary or convenient to insure the public health, safety or
198 welfare including, but not limited to:
199
- 200 1. Requirements for the presence of Calistoga Police, Fire, Public
201 Works or Community Resources employees, or private security
202 personnel at the applicant's expense;
 - 203 2. Requirements concerning the posting of no parking signs and
204 placement of other traffic control devices at the applicant's
205 expense;
 - 206 3. Adequate, safe parking and staging areas for the participants;
 - 207 4. Arrangements for emergency services and sanitation facilities for
208 participants;
 - 209 5. Restrictions on the use of gunfire, explosives, pyrotechnics or other
210 hazardous devices;
 - 211 6. Restrictions on the use of noise generating equipment, including
212 maximum decibel levels and duration of use of any amplified sound
213 system equipment;
 - 214 7. Restrictions of hours of activity;
 - 215 8. Requirements concerning notice to affected adjacent property
216 owners of the Special Event;
 - 217 9. Other matters which may significantly affect the safety or welfare of
218 event participants and the general welfare;
 - 219 10. Private and public insurance and indemnification requirements as
220 outlined in Section X.XX.XXX of this chapter.
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- 222 C. The City Manager is authorized to modify the permit on, before, or during
223 the Special Event to insure the public health, safety, or welfare.

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D. The City Manager is authorized to require immediate modification or termination of the Special Event if any of the conditions imposed upon the permit pursuant to Section X.XX.XXX of this chapter are violated, or found to be insufficient by appropriate City employees while the Special Event is in progress.

Public Liability and Insurance Requirements *(Proposed language to be reviewed and confirmed by City Attorney)*

A. Indemnification of the City.

1. As a condition of issuance, the approved permittee, agrees to indemnify, hold harmless, release and defend (even if the allegations are false, fraudulent, or groundless) to the maximum extent allowed by law, the City Manager, the City of Calistoga, its City Council, and each member thereof, and its officers, employees, advisory board members and representatives, from and against any and all liability, loss, suits, claims, damages, costs, judgments and expenses (including attorney's fees and costs of litigation) which in whole or in part result from, arise out of, or are claimed to result from or to arise out of any acts, negligence, errors, or omissions of approved applicant, its employees, representatives, contractors, subcontractors, or agents by reason of or arising out of, or in any matter connected with, any and all acts, operations, privileges authorized, allowed or undertaken pursuant to the use approval under their ordinance including, without limitation, any condition or property used in operations.
2. This agreement of indemnity includes, but is not limited to, personal injury, (including death at any time) and property or other damage sustained by any person or persons (including, but not limited to, companies, corporations, approved applicant and its employees or agents, and members of the general public).
3. As a further condition of issuance of the approval, the approved permittee covenants not to sue the City Manager or designee, City, its City Council and each member thereof, and its employees, agents and representatives and shall cause its insurers to waive subrogation against the same with respect to any action, claim or demand in any way resulting from or connected with any or all undertakings and operations conducted pursuant to the permit approval.

B. Liability insurance. The approved permittee shall be required to have comprehensive general liability insurance providing for the following limits

270 naming the City of Calistoga an additional insured in an amount not less
271 than one million dollars (\$1,000,000). If alcohol is to be sold or served,
272 insurance coverage must include Liquor Liability.
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274 C. A copy of the indemnification, policy or a certificate of insurance along with
275 all necessary endorsements along with a separate endorsement page
276 naming the City of Calistoga, including its electives and appointive boards,
277 commissioners, officers, agents and employees, as additionally insured for
278 the duration of the scheduled event must be filed with the City with the
279 special event application pursuant to Section X.XX.XXX of this chapter.
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281 **Fees**

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283 A. A special event permit application processing fee shall be established by
284 City Council resolution.
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286 B. A schedule of fees and deposits for required City services and use of City
287 property shall be established by City Council Resolution. The applicant
288 shall prepay such fees and/or deposit funds as determined by the City to
289 be appropriate within fifteen (15) days prior to the Special Event.
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291 C. Any additional fees incurred at the event will be billed back to the applicant
292 within fifteen (15) days and due to the City within forty-five (45) days from
293 the event.
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295 **Appeals**

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297 Any decision on a special event permit pursuant to the provisions of this
298 chapter may be appealed to the City Manager and/or the City Council pursuant to
299 CMC Chapter 1.20 Appeals.
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301 **Interfering with Special Events**

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303 No person shall, without consent of the permittee, join or participate in the
304 Special Event, or in any manner interfere with its progress or orderly conduct.
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306 **Violation Penalties**

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308 Persons who violate any provisions of this chapter or who otherwise fail to
309 comply with any of the requirements herein shall be subject to penalties as
310 prescribed in CMC Chapter 1.08 General Penalty.
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Proposed Calistoga Municipal Code Revisions

Title 3 Revenue, Finance, and Expenditure

Chapter 3.30

Film Permits for Motion Picture and Television Production

3.30.010 Purpose of chapter.

It is the purpose of this chapter to provide for rules governing the issuance of permits for filming activities on location within the City. The intent of this chapter is to ensure that motion picture, television, commercial and nontheatrical filming companies will be encouraged to use locations for filming activities within the City so long as those activities are consistent with the public health and safety and the protection of property. (Ord. 454, 1990).

3.30.020 Definitions

As used in this chapter:

- A. "Filming activity" shall mean the filming, videotaping, photographing or other similar process conducted for the making of motion pictures, television programs, commercial and nontheatrical film productions.
- B. "Film permit" shall mean written authorization from the City Manager to conduct the filming activity described in the permit.
- C. "News purposes" shall mean a filming activity conducted for the purpose of reporting on persons or events which are in the news for television and other news services.
- D. "Studio" shall mean a fixed place of business where filming activities are regularly conducted upon the premises. (Ord. 454, 1990).

3.30.030 Permit required.

It is unlawful to conduct a filming activity as defined in CMC 3.30.020(A) without first obtaining a film permit from the City pursuant to the procedures set forth in CMC X.XX.XXX Special Events. (Ord. 454, 1990).

3.30.040 Permit exemptions.

The provisions of this chapter shall not apply to the following activities:

- A. Film activities conducted for news purposes as defined in CMC 3.30.020(C);
- B. Filming activities conducted in a studio as defined in CMC 3.30.020(D);
- C. Filming activities conducted for use in a criminal investigation or civil or criminal proceedings. (Ord. 454, 1990).

41 **3.30.050 Permit issuance and fees.**

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43 Permits shall be issued by the City pursuant to the provisions adopted
44 from time to time by the Council, by resolution. Fees shall be as set forth in said
45 resolution as adopted by the Council from time to time. (Ord. 454, 1990).

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47 **3.30.060 Appeals.**

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49 The permit applicant may appeal a permit denial, permit condition or
50 permit revocation, or refusal to waive a deadline, under this chapter by filing an
51 appeal, within five days of the date of denial, or other action on the permit
52 application, with the City Clerk. (Ord. 454, 1990).

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55 **Title 17 Zoning**

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57 **Chapter 17.40**
58 **Use Permits**

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60 **17.40.050 Action – Administrative use permits.**

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62 A. Administrative use permits shall be required for uses that are limited in
63 scope or of a temporary nature. An administrative use permit shall be required
64 for the following uses:

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66 ~~1. Artisans, arts and crafts display and sales;~~
67 ~~2. Car shows, antique and specialty;~~
68 3-1. Holiday or other seasonal events and sales lots for a duration of 7 or
69 more consecutive days, such as Christmas trees, pumpkin patches
70 and the like;
71 ~~4. Farmer's markets;~~
72 ~~5. Festivals, exhibits and special events;~~
73 6-2. Outdoor bicycle rentals in conjunction with an established retail sales
74 operation;
75 3. Outdoor dining in conjunction with an established restaurant operation;
76 4. Live entertainment, outdoor with nonamplified instruments in
77 conjunction with an established business operation.
78 5. Other temporary uses conducted on private property and not subject to
79 provisions provided in CMC X.XX.XXX Special Events, as determined
80 by the Director of Planning and Building.

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82 B. The Director of Planning and Building shall adopt findings and approve,
83 conditionally approve or deny an administrative use permit.