

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA AMENDING CALISTOGA MUNICIPAL CODE TITLE 5 BUSINESS TAXES, LICENSES AND REGULATIONS, TITLE 3 REVENUE, FINANCE, AND EXPENDITURE, SPECIFICALLY CHAPTER 3.30 FILM PERMITS FOR MOTION PICTURE AND TELEVISION PRODUCTION AND TITLE 17 ZONING, SPECIFICALLY, SECTION 17.40.050 ACTION – ADMINISTRATIVE USE PERMITS TO ESTABLISH REGULATIONS FOR AUTHORIZING SPECIAL EVENTS OCCURRING IN THE CITY

The City Council of the City of Calistoga does hereby ordain as follows:

SECTION ONE:

WHEREAS, currently, there are various processes established by the City of Calistoga for regulating special events, facility rentals, and other temporary events/activities in Calistoga. Such processes include administrative use permits, filming and photography permits, facility use permits, special event permits, parade permits and encroachment permits; and

WHEREAS, in order to eliminate confusion to customers and streamline regulatory processes, the City of Calistoga has determined that there should be one comprehensive permit process for regulating all special events and temporary activities; and

WHEREAS, the Community Resources Commission considered the proposed Special Event Ordinance and other Calistoga Municipal Code amendments at its special meeting held on December 15, 2010 and recommended adoption to the Planning Commission and City Council; and

WHEREAS, the Planning Commission considered the proposed Special Event Ordinance and other Calistoga Municipal Code amendments at its regular meeting on January 12, 2011. Prior to taking action on the application, the Planning Commission received written and oral reports by the staff, and received public testimony; and

WHEREAS, the Planning Commission held a duly noticed public hearing on this Calistoga Municipal Code Amendment on January 12, 2011, and adopted Resolution PC 2011-04 forwarding a recommendation of an approval of this Ordinance by the City Council; and

WHEREAS, a public notice of the City Council public hearing of January 18, 2011 to establish regulations for authorizing special events occurring in the City was published in the local newspaper and made available on the City's website;

WHEREAS, the City Council of the City of Calistoga has reviewed and considered this ordinance at regular meetings held on _____ and _____, as one of its items of business, noticed in accordance with Government Code Section 65090, this Ordinance to be adopted in accordance with Code Section 65850, to include the written

40 and oral staff report, proposed findings and comments received from the general public and
41 interested agencies and parties; and
42

43 **WHEREAS**, the City Council finds that the proposed amendments to the Calistoga
44 Municipal Code will help eliminate confusion to customers and create one comprehensive
45 permit process for regulating all special events and temporary activities in the City of
46 Calistoga; and
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48 **WHEREAS**, the City Council finds the proposed amendments are necessary and
49 proper for the economic well-being and overall public welfare of the community; and
50

51 **WHEREAS**, the City Council has been determined this action to not be subject to
52 the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA
53 Guidelines.
54

55 **SECTION TWO:**
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57 A new Chapter 5.18 entitled "Special Events" is hereby added to Title 5 Business
58 Taxes, Licenses and Regulations of the Calistoga Municipal Code to read and provide as
59 follows:
60

61 **CHAPTER 5.18**
62 **SPECIAL EVENTS**
63

64 **Sections:**

- 65 **5.18.010 Purpose**
- 66 **5.18.020 Definitions**
- 67 **5.18.030 Applicability**
- 68 **5.18.040 Permit Required**
- 69 **5.18.050 Procedures**
- 70 **5.18.060 Application Submittal Requirements**
- 71 **5.18.070 Permit Approval or Denial**
- 72 **5.18.080 Permit Conditions**
- 73 **5.18.090 Public Liability and Insurance Requirements**
- 74 **5.18.100 Fees**
- 75 **5.18.110 Appeals**
- 76 **5.18.120 Interfering with Special Events**
- 77 **5.18.130 Violation Penalties**

78
79 **5.18.010 Purpose**
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81 It is the purpose of this chapter is to provide for rules governing the issuance of
82 permits for Special Events occurring within the City. Its intent is to ensure reasonable and
83 consistent criteria for the approval of permits to allow Special Events as long as those
84 activities are consistent with the public health and safety and the protection of property.
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86 **5.18.020 Definitions**
87

88 For the purposes of this chapter, the following words and phrases shall be defined
89 as set forth in this section, unless it shall be apparent from the context that a different
90 meaning is intended.
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92 A. "City Manager" shall mean the City Manager of the City of Calistoga or such other
93 employee as the City Manager or his or her designee.
94

95 B. "Special Event" means any events, farmers market, festival, stroll, fair, show,
96 showcase, house or garden tour, concert, dance, public or private firework display,
97 rally, racing event, auction, parade, filming activity as defined in CMC 3.30,
98 demonstration or competition of creative athletic form, including, but not limited to
99 music dance, theater, speech, athletic, or other visual, audio, or tactile arts or
100 combination thereof, or other similar events or activities as determined by the City
101 Manager, including incidental retail sales of products of such activities, on public or
102 private property within the City with a duration of 1 to 6 consecutive days or an event
103 series. This includes any gathering or assemblage of individuals for the purpose of
104 observing or engaging in expressive activities within the ambit of the First
105 Amendment of the United States Constitution and Sections 2, 3, and 4 of Article 1 of
106 the California Constitution.
107

108 C. "Special Event Permit" means a permit issued pursuant to this chapter.
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110 **5.18.030 Applicability**
111

112 A. Any assembly or congregation of persons, display, entertainment or demonstration,
113 that is likely to meet one or more of the following criteria:
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- 115 1. Attendance of any size using City facilities or public property.
- 116 2. Events attended by 20 or more people held on commercial property outside
117 of Use Permit approval as defined in CMC 17.40 or outside of their normal
118 business operation.
- 119 3. Obstructs, delays or interferes with the normal flow of pedestrian or vehicular
120 traffic, or otherwise fails to comply with traffic laws and controls; or
- 121 4. Can reasonably be expected to become a hazard to the public peace,
122 health, safety or general welfare as determined by the City Manager.
123

124 B. Exemptions.
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- 126 1. Governmental agencies, including the Napa County Fairgrounds, the
127 Calistoga Joint Unified School District, acting within the scope of their
128 authorized function.
- 129 2. Assembly organized for the purpose of exercising First Amendment rights and
130 involving a procession of persons walking on sidewalks and obeying all traffic
131 and other laws.

- 132 3. Special Events held at a private residence.
- 133 4. Special Event authorized by Use Permit approval as defined in CMC 17.40.
- 134 5. Provisions of this chapter waived by the City Council or City Manager.

135
136 **5.18.040 Permit Required**

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- 138 A. Unless there has been obtained from the City a permit to do so or unless the
 - 139 requirement has been exempted or waived, it shall be unlawful for any person to
 - 140 organize, hold, manage, conduct, aid, participate in, form, start or carry on, any
 - 141 Special Event, or cause or permit the same upon any commercial property, or any
 - 142 public street, alley, park, or other public property or facility in the City. Said permit
 - 143 shall be carried, and presented for inspection upon demand to any employee of the
 - 144 City of Calistoga, by person heading or leading said activity.

145
146 **5.18.050 Procedures**

- 147
- 148 A. Except as otherwise provided herein, all applications for permits shall be filed with
- 149 the City Manager no later than (45) forty days before the scheduled special event.
- 150
- 151 B. The City Manager shall, for good cause, consider an application that is filed after the
- 152 filing deadline if there is sufficient time to process and investigate the application and
- 153 obtain police and other city services for the event. Good cause may be
- 154 demonstrated by showing that the circumstances that gave rise to the permit
- 155 application did not reasonably allow the participants to file an application within the
- 156 time prescribed.

157
158 **5.18.060 Application Submittal Requirements**

- 159
- 160 A. Applications for a permit shall be made to the City Manager on forms provided by
- 161 the City.
- 162
- 163 B. For larger special events, a pre-application meeting is required with the City
- 164 Manager.
- 165
- 166 C. The application for a permit shall include the following information:
- 167 1. Written proof of consent by the owners of the property where the special
- 168 event is to be held;
- 169 2. The name, address and telephone number of the applicant and an alternate
- 170 contact person;
- 171 3. The location of the event, including its boundaries and site plan drawings;
- 172 4. If the proposed event is sponsored by an organization, the name, address,
- 173 and telephone number of the organization, and the authorized representative
- 174 of the organization;
- 175 5. The nature and purpose of the event, including a list of all planned activities
- 176 that are contemplated for the special event;

- 177 6. The name, address and telephone number of the person(s) who will be
178 present and in charge of the event on the day of the special event;
- 179 7. Date and estimated starting and ending times of the special event, including
180 set-up and cleanup time;
- 181 8. The estimated number of participants of the special event;
- 182 9. The type, location, and estimated number of vehicles, animals and temporary
183 structures which will be engaged or involved in the special event activity;
- 184 10. The type, location, and estimated number of water and/or first aid stations
185 that will be available to serve participants of the special event;
- 186 11. The type, location, and estimated number of the sanitary facilities that will be
187 available to serve the participants of the special event;
- 188 12. A description and location of any sound-amplification equipment and the
189 times during which such equipment will be used at the special event, a sound
190 plan that describes measures to be taken by the applicant to ensure
191 compliance with all applicable City laws, rules and regulations regarding
192 amplified sound and music, sound contact person during event activities;
- 193 13. Whether any food or nonalcoholic beverages will be sold or consumed at the
194 special event and, if so, proof of compliance with all applicable local, state
195 and federal laws, rules and regulations, including proof that the applicant has
196 obtained all necessary permits;
- 197 14. Whether any alcoholic beverages will be sold or consumed at the event and,
198 if so, proof of compliance with all applicable laws, rules and regulations of the
199 California Department of Alcoholic Beverages Control;
- 200 15. Expected parking requirements and parking plan for the special event;
- 201 16. Required California Department of Transportation encroachment permit if
202 event is being held on a State highway;
- 203 17. Required Napa County encroachment permit if event is being held on a
204 County roadway;
- 205 18. The plan for cleanup after the special event, including any contracts to
206 effectuate the cleanup;
- 207 19. Proof of event, liquor and general liability and property insurance.

208
209 D. Supplemental Information. The applicant shall provide any supplemental information
210 that, under the particular circumstances of the special event, the City Manager finds
211 reasonably necessary to determine whether to approve or conditionally approve a
212 permit application.

213
214 E. Each application shall be accompanied by a nonrefundable permit application fee in
215 the amount set by City Council resolution. This non-refundable fee shall cover the
216 actual costs of processing and investigating special events applications and
217 administering the special events permit program.

218
219 **5.18.070 Permit Approval or Denial**

220
221 A. The application for a Special Event permit shall be approved or denied within fifteen
222 (15) calendar days of receipt of a completed application. The permit shall be

223 approved by the City unless, based on any of the following criteria and/or
224 considerations, denial of the permit would be in the best interest of the City:
225

- 226 1. The Special Event will substantially disrupt the use of a street at a time when
227 it is usually subject to traffic congestion, or potentially interfere with the
228 operation of emergency vehicles in the proposed special event area;
- 229 2. The location of the Special Event will substantially interfere with street
230 maintenance work, or a previously authorized excavation permit;
- 231 3. The location of the Special Event is on City owned property and the event will
232 substantially interfere with municipal functions, or other previously authorized
233 activities on City property;
- 234 4. The Special Event creates a substantial risk of injury to persons or property;
- 235 5. The applicant failed to complete the application after being requested to do
236 so, or the information contained in the application is found to be false in any
237 material detailed;
- 238 6. The particular activity associated with the Special Event would violate federal,
239 state or local law(s) including license or permit requirements;
- 240 7. The Special Event would pose a potential threat to the health, safety and
241 welfare of the City's population;
- 242 8. Past history which resulted in hazards in public health, safety and welfare,
243 falsified information, and improper conduct.

244
245 B. When the grounds for permit denial can be corrected by imposing reasonable
246 conditions, the City Manager may impose such conditions rather than denying the
247 permit.
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249 **5.18.080 Permit Conditions**

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251 A. A permit issued pursuant to this Chapter shall prescribe the day(s), hours, and
252 location of the event in addition to any conditions of operation which may be
253 necessary or convenient to insure the public health, safety or welfare including, but
254 not limited to:
255

- 256 1. Requirements for the presence of Calistoga Police, Fire, Public Works or
257 Community Resources employees, or private security personnel at the
258 applicant's expense;
- 259 2. Requirements concerning the posting of no parking signs and placement of
260 other traffic control devices at the applicant's expense;
- 261 3. Adequate, safe parking and staging areas for the participants;
- 262 4. Arrangements for emergency services and sanitation facilities for participants;
- 263 5. Restrictions on the use of gunfire, explosives, pyrotechnics or other
264 hazardous devices;
- 265 6. Restrictions on the use of noise generating equipment, including maximum
266 decibel levels and duration of use of any amplified sound system equipment;
- 267 7. Restrictions of hours of activity;

- 268 8. Requirements concerning notice to affected adjacent property owners of the
269 Special Event;
270 9. Other matters which may significantly affect the safety or welfare of event
271 participants and the general welfare;
272 10. Private and public insurance and indemnification requirements as outlined in
273 Section 5.18.050 of this chapter.
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275 C. The City Manager is authorized to modify the permit on, before, or during the Special
276 Event to insure the public health, safety, or welfare.
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278 D. The City Manager is authorized to require immediate modification or termination of
279 the Special Event if any of the conditions imposed upon the permit pursuant to
280 Section 5.18.045.A of this chapter are violated, or found to be insufficient by
281 appropriate City employees while the Special Event is in progress.
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283 **5.18.090 Public Liability and Insurance Requirements**
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285 A. Indemnification of the City.
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287 1. As a condition of issuance, the approved permittee, agrees to indemnify, hold
288 harmless, release and defend (even if the allegations are false, fraudulent, or
289 groundless) to the maximum extent allowed by law, the City Manager, the
290 City of Calistoga, its City Council, and each member thereof, and its officers,
291 employees, advisory board members and representatives, from and against
292 any and all liability, loss, suits, claims, damages, costs, judgments and
293 expenses (including attorney's fees and costs of litigation) which in whole or
294 in part result from, arise out of, or are claimed to result from or to arise out of
295 any acts, negligence, errors, or omissions of approved applicant, its
296 employees, representatives, contractors, subcontractors, or agents by reason
297 of or arising out of, or in any matter connected with, any and all acts,
298 operations, privileges authorized, allowed or undertaken pursuant to the use
299 approval under their ordinance including, without limitation, any condition or
300 property used in operations.
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302 2. This agreement of indemnity includes, but is not limited to, personal injury,
303 (including death at any time) and property or other damage sustained by any
304 person or persons (including, but not limited to, companies, corporations,
305 approved applicant and its employees or agents, and members of the general
306 public).
307

308 3. As a further condition of issuance of the approval, the approved permittee
309 covenants not to sue the City Manager or designee, City, its City Council and
310 each member thereof, and its employees, agents and representatives and
311 shall cause its insurers to waive subrogation against the same with respect to
312 any action, claim or demand in any way resulting from or connected with any
313 or all undertakings and operations conducted pursuant to the permit approval.

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- B. Liability insurance. The approved permittee shall be required to have comprehensive general liability insurance providing for the following limits naming the City of Calistoga an additional insured in an amount not less than one million dollars (\$1,000,000). If alcohol is to be sold or served, insurance coverage must include Liquor Liability.
- C. A copy of the indemnification, policy or a certificate of insurance along with all necessary endorsements along with a separate endorsement page naming the City of Calistoga, including its electives and appointive boards, commissioners, officers, agents and employees, as additionally insured for the duration of the scheduled event must be filed with the City with the special event application pursuant to Section 5.18.035 of this chapter.

5.18.100 Fees

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

5.18.110 Appeals

Any decision on a special event permit pursuant to the provisions of this chapter may be appealed to the City Manager and/or the City Council pursuant to CMC Chapter 1.20 Appeals.

5.18.120 Interfering with Special Events

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

5.18.130 Violation Penalties

Persons who violate any provisions of this chapter or who otherwise fail to comply with any of the requirements herein shall be subject to penalties as prescribed in CMC Chapter 1.08 General Penalty.

357 **SECTION THREE:**

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359 Section 3.30.030 in Chapter 3.30, Film Permits for Motion Picture and Television
360 Production of the Calistoga Municipal Code shall be amended and read in its entirety as
361 follows:

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363 **3.30.030 Permit required.**

364 It is unlawful to conduct a filming activity as defined in CMC 3.30.020(A) without first
365 obtaining a film permit from the City pursuant to the procedures set forth in CMC 5.18,
366 Special Events. (Ord. 454, 1990).

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368 **SECTION FOUR:**

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370 Section 17.40.050 in Chapter 17.40, Use Permits of the Calistoga Municipal Code
371 shall be amended and read in its entirety as follows:

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373 **17.40.050 Action – Administrative use permits.**

374
375 A. Administrative use permits shall be required for uses that are limited in scope or of a
376 temporary nature. An administrative use permit shall be required for the following uses:

- 377
378 ~~1. Artisans, arts and crafts display and sales;~~
379 ~~2. Car shows, antique and specialty;~~
380 3.1. Holiday or other seasonal events and sales lots for a duration of 7 or more
381 consecutive days, such as Christmas trees, pumpkin patches and the like;
382 ~~4. Farmer's markets;~~
383 ~~5. Festivals, exhibits and special events;~~
384 6.2. Outdoor bicycle rentals in conjunction with an established retail sales operation;
385 3. Outdoor dining in conjunction with an established restaurant operation;
386 4. Live entertainment, outdoor with nonamplified instruments in conjunction with an
387 established business operation.
388 5. Other temporary uses conducted on private property and not subject to
389 provisions provided in CMC 5.18, Special Events, as determined by the Director
390 of Planning and Building.

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392 **SECTION FIVE:**

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394 If any section or portion of this ordinance is for any reason held to be invalid and/or
395 unconstitutional by a court of competent jurisdiction, such decision shall not affect the
396 validity of the remaining portions of this ordinance.

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398 **SECTION SIX:**

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400 **THIS ORDINANCE** shall take effect thirty (30) days after its passage and before the
401 expiration of fifteen (15) days after its passage, shall be published in accordance with law,
402 in a newspaper of general circulation published and circulated in the City of Calistoga.

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THIS ORDINANCE was introduced with the first reading waived at the City of Calistoga City of Council meeting of the _____ day of _____, 2011, and was passed and adopted at a regular meeting of the Calistoga City Council on the ____ day of _____, 2011, by the following vote:

AYES:

NOES:

ABSENT/ABSTAIN:

JACK GINGLES, Mayor

ATTEST:

SUSAN SNEDDON, City Clerk