

# City of Calistoga

## Staff Report

**TO:** Honorable Mayor and City Council

**FROM:** Kenneth G. MacNab, Senior Planner

**VIA:** Charlene Gallina, Director of Planning & Building

**DATE:** January 18, 2011

**SUBJECT:** Zoning Ordinance Amendment (ZO 2010-02) – Interim Provisions Addressing Regulatory Barriers to Economic Development

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**APPROVAL FOR FORWARDING:**

  
 Richard D. Spitler, City Manager

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 2 **ISSUE:** Consideration of an interim text amendment to the Calistoga Municipal Code,  
 3 initiated by the City of Calistoga, amending Title17 (Zoning) to reduce regulatory  
 4 barriers to economic development.

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 6 **RECOMMENDATION:** Adopt Ordinance No. 673 as submitted.

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 8 **BACKGROUND:** On December 21, 2010, the City Council held a public hearing to  
 9 consider a recommendation to adopt an interim Ordinance that would reduce regulatory  
 10 barriers to economic development. The City Council made a number of procedural  
 11 suggestions and directed that the Ordinance be modified to clarify the provision  
 12 addressing fee deferrals (e.g., identify the type of fees eligible for deferral and note the  
 13 possibility of penalties for late payments or non-payment of deferred fees). At the  
 14 conclusion of deliberations, the City Council introduced and waived the first reading of  
 15 the Ordinance. The Ordinance presented for adoption tonight includes these  
 16 modifications.

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 18 **FISCAL IMPACT:** The adoption of this Ordinance will create no direct fiscal impacts.

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 20 **ATTACHMENT:**

- 21  
 22 1. Ordinance No. 673

ORDINANCE NO. 673

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA ADDING TITLE 17.12, ECONOMIC DEVELOPMENT MEASURES TO THE MUNICIPAL CODE

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4 The City Council of the City of Calistoga does hereby ordain as follows:  
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6 **SECTION ONE:**  
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8 **WHEREAS**, the State of California and the local economy of Calistoga are currently  
9 experiencing an economic recession leading to a dearth in development activity and new  
10 business starts within the City of Calistoga; and  
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12 **WHEREAS**, the City has an interest in promoting beneficial development and local  
13 job growth through the adoption of certain economic development measures that will  
14 reduce barriers to development and new business start-up during the economic downturn;  
15 and  
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17 **WHEREAS**, this Ordinance contains specific measures targeted at stimulating  
18 building and business development and job growth and shall act as an overlay to the  
19 existing provisions of the Calistoga Municipal Code to take precedence over any existing  
20 provisions of the Calistoga Municipal Code in the event of any inconsistency, for the  
21 duration of the ordinance, and  
22

23 **WHEREAS**, the City Council finds that the City's Zoning Ordinance and Zoning Map  
24 were adopted by Ordinance No. 460 on February 5, 1991; and  
25

26 **WHEREAS**, the Planning Commission considered the proposed economic  
27 development measures and implementing Municipal Code amendment at its regular  
28 meeting on December 8, 2010. Prior to taking action on the application, the Planning  
29 Commission received written and oral reports by the staff, and received public testimony;  
30 and  
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32 **WHEREAS**, the Planning Commission held a duly noticed public hearing on this  
33 Zoning Ordinance Text Amendment on December 8, 2010, and adopted Resolution PC  
34 2010-18 forwarding a recommendation of an approval of this Ordinance by the City  
35 Council; and  
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37 **WHEREAS**, the City Council of the City of Calistoga has reviewed and considered  
38 this text amendment at its regular meeting on December 21, 2010, and January 18, 2011,  
39 as one of its items of business, noticed in accordance with Government Code Section  
40 65090, this Ordinance to be adopted in accordance with Code Section 65850, to include  
41 the written and oral staff report, proposed findings and comments received from the general  
42 public and interested agencies and parties; and  
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91 C. Project entitlements approved in 2011, excepting projects for which a  
92 Development Agreement is entered into with the City, shall be valid for a three year period  
93 and may be extended for an additional one-year period.

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95 D. Any and all project approvals granted within the calendar year 2008, 2009 or  
96 2010, may be granted reactivation by the Planning and Building Director, in his/her  
97 discretion. The property owner/applicant must request reactivation by submittal of an  
98 application and payment of application fee. The application for reactivation will be reviewed  
99 to determine consistency with the City's 2003 General Plan and any General Plan  
100 amendments in effect at the time of application for reactivation, as well as current City  
101 goals, policies and standards. A request for reactivation may be administratively approved  
102 by the Planning and Building Director, subject to the following:

- 103  
104 1. The project is determined to be consistent with the General Plan and meets  
105 the requirements of applicable zoning regulations (unless specific exceptions  
106 were granted as part of the original approval).  
107  
108 2. Written notice of the request for reactivation of an expired approval is mailed  
109 to all property owners within 300 feet of the subject property. Such notice  
110 shall be given not less than 10 days before the date the application is  
111 scheduled for a decision by the Planning and Building Director.  
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113 3. No substantial concerns are raised by surrounding property owners or are  
114 identified by the Planning and Building Director. If substantial concerns are  
115 identified, the request for reactivation shall be scheduled for consideration at  
116 a Public Hearing before the Planning Commission and/or City Council in  
117 accordance with Section 17.02.200 of the Calistoga Municipal Code.  
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119 Any reactivated project must comply with current building codes.

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121 E. The time limit for maintaining a legal nonconforming status is hereby  
122 extended from six months to 24 months, which will allow for a longer period of vacancy  
123 between uses.  
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125 17.12.030 Off-Street Parking Deficiencies.

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127 Provision of additional off-street parking spaces and/or payment of in-lieu parking  
128 fees by businesses moving into an existing commercial space shall not be required if the  
129 deficiency is no more than 10 spaces or no more than 25% of the total required number of  
130 parking spaces, whichever is greater.  
131

132 17.12.040 Payment of Development Impact Fees.

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134 The time for collection of Development Impact fees is hereby changed from the time  
135 a building permit or business license is issued to issuance of a Certificate of Occupancy or

136 as part of an approved payment plan, excepting payment of school impact fees and other  
137 fees not within the jurisdiction of the City. Interest charges and penalties for non-payment  
138 or late payments may be included as part of the approved payment plan. Additional  
139 alternatives for payment of development impact fees may be identified as part of a pending  
140 update to the City's impact fees. Any alternative options for payment of impact fees  
141 developed subsequent to the adoption of this ordinance may also be considered.

142  
143 For the purposes of this Chapter, "Development Impact fees" are defined to include  
144 development-related fees adopted by the City Council to offset the impacts of development  
145 on the community. Examples of such fees include water and wastewater connection fees,  
146 public safety impact fees, quality of life fees, school impact fees and in-lieu housing impact  
147 fees. "Development Impact fees" do not include entitlement application processing fees or  
148 costs associated with on- or -off site improvements that have been required as a condition  
149 of project approval.

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151 **SECTION THREE:**

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153 This Ordinance shall be in effect for a period of three (3) years from the effective  
154 date of this Ordinance, after which time this Ordinance shall automatically expire and  
155 terminate and shall be of no further force and effect, unless otherwise amended or  
156 extended by Council action.

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158 **SECTION FOUR:**

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

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164 **SECTION FIVE:**

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

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170 **THIS ORDINANCE** was introduced with the first reading waived at the City of  
171 Calistoga City of Council meeting of the 21<sup>st</sup> day of December, 2010, and was passed and  
172 adopted at a regular meeting of the Calistoga City Council on the 18<sup>th</sup> day of January,  
173 2011, by the following vote:

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175 **AYES:**  
176 **NOES:**  
177 **ABSENT/ABSTAIN:**

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**JACK GINGLES, Mayor**

179 **ATTEST:**

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182 **SUSAN SNEDDON, City Clerk**