

ORDINANCE NO. 713

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING CHAPTER 3.12 OF THE CALISTOGA MUNICIPAL CODE AS IT RELATES TO DOCUMENTARY TRANSFER TAX

WHEREAS, the Board of Supervisors of Napa County recently amended their Documentary Transfer Tax Ordinance in order to achieve equitable treatment of all changes of ownership of real property to reflect the expanded definition of “realty sold” contained in California Constitution Article XIII A as well as the updated provisions of Revenue and Taxation Code Sections 11901 *et seq.* and Section 60 *et seq.*; and

WHEREAS, the Napa County Recorder is designated as the official that administers and collects documentary transfer tax on events that occur within Calistoga’s municipal limits and splits the proceeds; and

WHEREAS, the City Council, following a duly noticed public meeting, considered amending its own Documentary Transfer Tax Ordinance, which is codified in Calistoga Municipal Code Chapter 3.12, in order to make parallel amendments to that of the County in order to ensure that the City and County’s ordinances are synchronized and up to date.

NOW, THEREFORE, THE CALISTOGA CITY COUNCIL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE

Findings. The above recitals are incorporated herein as if set forth herein in full and each is relied upon independently by the City Council for its adoption of this ordinance.

SECTION TWO

Amendments to Chapter 3.12. Chapter 3.12 of the Calistoga Municipal Code shall be amended and codified in the manner set forth in Exhibit A, which is attached hereto and incorporated herein.

SECTION THREE

Environmental Review. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemptions contained in CEQA Guidelines section 15061 (b) (3), because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION FOUR

Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase

thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION FIVE

Effective Date. This Ordinance shall take effect thirty (30) days after its passage and before the expiration of fifteen (15) days after its passage, shall be published in accordance with law, in a newspaper of general circulation published and circulated in the City of Calistoga.

THIS ORDINANCE was introduced with the first reading waived at the City of Calistoga City of Council meeting of the **7th day of July, 2015**, and was passed and adopted at a regular meeting of the Calistoga City Council on the **21st day of July, 2015**, by the following vote:

AYES: Councilmember Kraus and Lopez-Ortega and Mayor Canning
NOES: None
ABSENT: None
ABSTAIN: Vice Mayor Dunsford and Councilmember Barnes



Chris Canning, Mayor

Attest:



Kathy Flamson, City Clerk

Exhibit A:
Amendments to Chapter 3.12

1. Section 3.12.020 (Documentary stamp tax imposed) is hereby amended to read as follows:

It is imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the City shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person(s), by his or her or their direction, when the consideration or value of the interest or property conveyed (in excess of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds \$100.00, a tax at the rate of \$0.275 for each \$500.00 or fractional part thereof. For purposes of this section, realty sold is defined as a change of ownership as set forth in Revenue and Taxation Code Section 60 *et seq.*, with special reference to Sections 64(c) and 64(d).

2. Section 3.12.060 (Conveyances to make effective any plan of reorganization of adjustment – Nonapplicability.) is hereby amended to read as follows:

A. Any tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization of adjustment:

1. Confirmed under the Federal Bankruptcy Act, as amended;
2. Approved in an equity receivership proceeding in a court involving a railroad, as defined in Section 101 of Title 11 of the United States Code, as amended;
3. Approved in an equity receivership proceeding in a court involving a corporation, as defined in Section 101 of Title 11 of the United States Code, as amended; or
4. Whereby a mere change in identity, form or place or organization is effected.

B. Subsection (A) of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

3. Section 3.12.070 is hereby deleted in its entirety and this section shall be reserved for future use.

4. Section 3.12.080 (Conditions for levying tax in cases of partnership transfer or termination) is hereby amended to read as follows:

A. In the case of any realty held by a partnership or other entity treated as a partnership for federal income tax purposes, no levy shall be imposed pursuant

to this chapter by reason of any transfer of an interest in the partnership or otherwise, if both of the following occur:

1. Such partnership (or other entity) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1986; and
2. Such continuing partnership continues to hold the realty concerned.

B. If there is a termination of any partnership or other entity treated as a partnership for federal income tax purposes, within the meaning of Section 708 of the Internal Revenue Code of 1986, for purposes of this part, the partnership or other entity shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

C. Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in subsection (B) of this section, and any transfer pursuant thereto, with respect to the realty held by a partnership or other entity treated as a partnership at the time of the termination. (Ord. 298 § 3, 1973; Ord. 263 § 1, 1968).

D. No levy shall be imposed pursuant to this section by reason of any transfer between an individual or individuals and a legal entity or between legal entities that results solely in a change in method of holding title to the realty and in which proportional ownerships interests in realty, whether represented by stock, membership interest, partnership interest, co-tenancy interest, or otherwise directly or indirectly, remain the same immediately after the transfer.

END OF ORDINANCE