

**Town of Yountville**  
**Ordinance Number 22-508**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YOUNTVILLE ADDING  
CHAPTER 8.26 TO TITLE 8 OF THE YOUNTVILLE MUNICIPAL CODE REGARDING  
EXPRESSIVE ACTIVITIES AND EXPRESSIVE EVENTS**

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**Now, therefore, the Town Council of the Town of Yountville does ordain as follows:**

SECTION 1. CODE ADDITION: Chapter 8.26 of Title 8 of the Yountville Municipal Code is hereby added to read as follows:

**Chapter 8.26 –EXPRESSIVE ACTIVITY AND EXPRESSIVE EVENTS**

**8.26.10 Expressive Activity and Expressive Events**

- A. The purpose of this chapter is to regulate expressive activities and expressive events in the Town as distinct from solicitation, other special events, and encroachments, to allow the free and safe flow of pedestrian and vehicular traffic, and to protect First Amendment rights. It is the intent of this chapter to respect the rights of free expression guaranteed by the California and United States Constitutions; to constitute reasonable, content-neutral, time, place and manner restrictions; and to impose the smallest burden on expressive activity necessary to accomplish the objectives of this chapter. This chapter shall be construed in light of this intent. A further purpose of this chapter is to promote the Town's interest in regulating competing uses of public fora, in regulating the streets to protect the safety, comfort, and convenience of the public, and in ensuring adequate public safety and other Town services.
- B. It is the legal responsibility of the Town to ensure the free and safe passage of pedestrians and vehicles on the public right-of-way, to ensure free access to public areas, to otherwise regulate and control the time, place and manner of activities that would otherwise threaten the public health, safety, and welfare, while also encouraging the exercise of rights under the United States Constitution and/or Article 1, Section 2 of the California Constitution.
- C. As used in this chapter, "expressive activity(ies)" shall mean conduct, the sole or principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of opinion, views, or ideas. Expressive activity includes, but is not limited to, public oratory and the distribution of literature.
- D. As used in this chapter, "expressive event(s)" shall mean any special event organized or conducted solely or primarily for the purpose of engaging in speech protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution.

- E. As used in this chapter, “spontaneous event” shall mean any expressive activity and/or expressive event for which preplanning was/is not possible.
- F. As used in this chapter, “Town Manager” shall mean the Town Manager or his or her designee.
- G. Persons engaged in expressive activities and/or expressive events are not subject to Yountville Municipal Code Chapters 5.20 (Peddlers and Solicitors), 8.24 (Special Events), 12.04 (Street and Sidewalk Excavations and Encroachments), or other provisions of this code in conflict with this chapter.
- H. The Town Manager may issue rules and regulations regarding the time, place, and manner of persons engaging in expressive activities and expressive events. These rules and regulations must be posted in a public place and may not be enforced otherwise.
- I. The Town Manager may impose reasonable conditions on any permit issued under this chapter.
- J. Unless a permit is not required under this chapter, it is unlawful and a violation of this chapter for any person to organize, hold, manage, conduct, aid, participate in, form, start or carry on, any expressive activity or expressive event unless there has first been obtained from the Town Manager a permit to do so. The permit shall be carried by a person heading or leading the expressive activity or expressive event.

#### **8.26.20 Expressive Activities and Expressive Events Requiring a Permit**

- A. A permit shall be required if the proposed expressive activity or expressive event may impede, obstruct, impair, or interfere with the free use of any public street, highway, alley, sidewalk, or other public right-of-way, or with ingress or egress to the same.
- B. A permit shall be required if the proposed expressive activity or expressive event is likely to have, or planned to have, twenty (20) or more persons in attendance.

#### **8.26.30 Expressive Activities and Expressive Events Not Requiring a Permit**

- A. A permit is not required for an expressive activity or expressive event not meeting the requirements in Section 8.26.020.
- B. A permit is not required for a spontaneous event.

#### **8.26.40 Application for Expressive Activities and Expressive Events**

- A. **Application.** Any person desiring to conduct or manage an expressive activity or expressive event for which a permit is required under this chapter shall file with the Town Manager a verified application, on a form furnished by the Town Manager, setting forth the following information:

1. The name of the person or organization wishing to conduct the expressive activity or expressive event;
2. If the expressive activity or expressive event is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and the name of the authorized and responsible head of such organization;
3. The name, address and telephone number of the person who will be the expressive activity or expressive event chair and will be responsible for its conduct;
4. The name, address and telephone number of the person or organization to whom the permit is desired to be issued;
5. The location of the expressive activity or expressive event including, but not limited to, areas to be utilized in connection therewith;
6. The manner in which public property will be utilized;
7. The nature of the expressive activity or expressive event;
8. The date(s) of which the expressive activity or expressive event will be conducted;
9. If applicable, the route to be traveled, the starting point and the termination point;
10. The approximate number of persons, vehicles, and other things that will constitute or attend the expressive activity or expressive event;
11. The hour when the expressive activity or expressive event will start and terminate;
12. A description of any temporary structure(s);
13. A description of the intended parking facilities.

**B. Time for Submitting Application.** An initial application for an expressive activity or expressive event shall be submitted at least five business days prior to the planned date of the activity or event and no more than one year prior to the date thereof, except that applications must be submitted at least seven business days prior to the planned date of the activity or event if:

1. The expressive activity or expressive event is likely to be, or planned to be, in, upon, or along any portion of any Town street, sidewalk, alley, or other public right-of-way; or

The expressive activity or expressive event is likely to have, or planned to have,

twenty (20) or more persons in attendance.

- C. **Application Processing Fee.** The Town Council may establish by resolution an application processing fee, which shall be paid by applicants under this chapter. The Town Manager may waive the application processing fee based on a showing of economic hardship and for reasons unrelated to the content or viewpoint associated with the expressive activity or expressive event.
- D. **Refundable Deposit Required.** As a permit condition, an applicant shall be required to provide a refundable security deposit in an amount set by the Town Manager and sufficient to ensure recovery of Town costs and resources, including, but not limited to, staff time in preparing for and monitoring the expressive activity or expressive event and cleaning and restoring Town property necessitated thereby. An applicant who fails to abide by permit conditions may be subject to loss of security deposit. The Town shall prepare an invoice outlining expenses incurred and refund (or charge) the applicant the balance remaining (or owed). If an applicant owes the Town additional reimbursement, such reimbursement shall be made within thirty (30) days of receipt of invoice. Applicants with outstanding balances owed to the Town shall not be granted further permits until all balances owed are resolved.
- E. **Meeting.** After submitting an application, the applicant shall schedule at least one meeting with the Town Manager, either in person or via telephone, to coordinate with the Town on the conduct of the activity or event and to review the requirements for processing the application.
- F. **Time for Action on Application.** A final decision regarding the authorization of the activity or event shall be made within three (3) business days of the Town Manager's receipt of a complete application.
- G. **Notice of Decision.** Applicants shall be notified of the Town Manager's decision within one (1) business day after the decision is made.
- H. **Basis for Decision.** In determining whether to authorize an expressive activity or expressive event, or any terms or conditions imposed thereon, the Town Manager shall not, under any circumstances, consider the message of the activity or event, the content of speech, the identity or associational relationships of the applicant, or make any assumptions or predictions as to reaction of the public to the content of speech or message conveyed by the activity or event.

#### **8.26.50 Permit—Issuance.**

The Town Manager shall issue a permit under this chapter if, from consideration of the application and such other information as may be obtained, he or she finds that:

- A. The conduct of the expressive activity or expressive event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its location;
- B. The conduct of the expressive activity or expressive event is not reasonably likely

to cause injury to persons or property;

- C. If held on public grounds, the expressive activity or expressive event is not held for the sole purpose of advertising any product, goods, wares, merchandise, or event and is not designed to be held for private profit.

#### **8.26.60 Permit—Revocation**

The Town Manager shall have the authority to revoke a permit for any of the following reasons:

- A. An applicant knowingly provided false, misleading, or fraudulent information;
- B. The Town Manager receives new information after a permit has been approved that materially changes the activity or event; or
- C. A violation of the conditions or standards for issuance of the permit has occurred, provided the applicant has first been provided reasonable notice and an opportunity to cure the violation.

SECTION 2. CEQA: This Ordinance is exempt from CEQA under 14 CCR section 15061, subdivision (b)(3) known as the 'common sense exemption' because CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 3. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE: This Ordinance shall take effect 30 days after final adoption.

SECTION 5. CERTIFICATION: The Town Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Within 15 days from the date of passage of this ordinance, the Town Clerk shall post a copy of the ordinance in accordance with California Government Code in at least three public places in the Town.

INTRODUCED by the Town Council at a regular meeting held on the 21st day of June 2022.

PASSED AND ADOPTED by the Town Council at a regular meeting held on the 19th day of June 2022, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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John F. Dunbar, Mayor

ATTEST:

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Eddy Gomez  
Town Clerk

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Gary B. Bell  
Town Attorney

I, Eddy Gomez, TOWN CLERK of the Town of Yountville, California, do hereby certify that the foregoing was regularly introduced and placed upon its first reading at a regular meeting of the Town Council on the 21<sup>st</sup> day of June 2022. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the Town Council on the 19<sup>th</sup> day of July 2022 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Eddy Gomez, Town Clerk