ORDINANCE NO. 660

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING CHAPTER 19.02 (GROWTH MANAGEMENT SYSTEM) OF THE CALISTOGA MUNICIPAL CODE TO CLARIFY, STREAMLINE AND IMPROVE PROGRAM IMPLEMENTATION

WHEREAS, the City Council adopted on January 4, 2005 Ordinance No. 616 which established Chapter 19.02 Growth Management System of the Calistoga Municipal Code to replace references to growth management based on domestic water and wastewater treatment capacity deficiencies as provided in Chapter 13.16 Resource Management System (RMS), with a new strategy based on population growth and community infrastructure;

WHEREAS, on September 6, 2005, the City Council of the City of Calistoga adopted Ordinance #624 amending Chapter 19.02 Growth Management System of Calistoga Municipal Code to clarify and improve program implementation;

WHEREAS, upon completion of the fifth cycle of the Growth Management Allocation process in November 2008, the Planning Commission and City Council determined that there was a need to revisit the City's Growth Management System to provide more flexibility in the regulations and to explore options on providing development incentives to encourage applicants to bring in projects that address City needs;

WHEREAS, the Planning Commission considered the proposed revisions to the City's Growth Management System at its regular meeting on April 22, 2009 and May 13, 2009 and adopted Resolution PC 2009-08 forwarding a recommendation of approval for this amendment by the City Council;

WHEREAS, a public notice of the City Council public hearing of May 19, 2009 for an amendment to the City's Growth Management System was published in the local newspaper and made available on the City's website;

WHEREAS, the City Council proposes an ordinance to amend Chapter 19.02 (Growth Management System) to clarify, streamline, and improve program implementation;

WHEREAS, this action continues to implement the growth management policies as adopted in the City of Calistoga's General Plan. Furthermore, such policies were assessed in a previously adopted Environmental Impact Report (EIR) for the General Plan;

WHEREAS, this action has been reviewed pursuant to the California Environmental Quality Act (CEQA) and determined that this activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment, and where it can be seen with certainty that there is no possibility that the action being contemplated, adoption of amendments to the Growth Management Ordinance, will have any impact on the environment [Section 15061 (b)(3)]; and

WHEREAS, the City Council has reviewed and considered this amendment at its regular meetings on May 19, 2009 and June 2, 2009, considered as one of its items of business, this Ordinance to be adopted in accordance with Government Code Section 65090, this Ordinance to be adopted in accordance with Government Code Section 65850, to include the written and oral staff report, proposed findings and comments received from the general public and interested agencies and parties.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Calistoga that:

SECTION ONE:

Based on the above findings, the City Council of the City of Calistoga adopts this Ordinance to amend Chapter 19.02 Growth Management System of the Calistoga Municipal Code to clarify, streamline and improve program implementation.

SECTION TWO:

Chapter 19.02
GROWTH MANAGEMENT SYSTEM

Sections:

19.02.010 Purpose.
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19.02.070 General development objectives for awarding allocations.
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19.02.010 Purpose.

It is the purpose and intent of this chapter to provide for the public health, safety and general welfare by: (1) ensuring that development remains

within the limits established by the City's General Plan; (2) encouraging growth that is properly matched with essential public facilities and services; and (3) preserving the unique small-town character of the community which is vital to protecting the existing quality of life and strengthening the local economy and tax base. This chapter provides a mechanism for the City to select development proposals based on a set of specific development objectives including, but not limited to, housing that is affordable to families with lower and moderate incomes, infill development or redevelopment over development at the City's edges, and mixed-use development. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

19.02.020 Objectives.

Protection of the public health, safety and general welfare requires the City establishes a growth management system to accomplish the following:

A. Facilitate and implement the City's General Plan, including the goals and policies contained in the land use, housing, community identity, open space, economic development, conservation and infrastructure elements, which cannot be accomplished by zoning ordinances alone;

B. Provide a reasonable and understandable mechanism to phase growth over the term of the General Plan at a pace that does not exceed the City's ability to provide the resources, services and facilities necessary to accommodate its existing residents and businesses; avoids large fluctuations in the rate of population and employment growth; and maintains compliance with the City's share of the region-wide housing need to minimize exposure to legal challenges, provide access to funding to secure affordable housing development, and ensure vital State subventions are protected into the future;

C. Regulate new residential growth in accordance with the population growth rate established in the General Plan;

D. Regulate the pace of new nonresidential growth in accordance with the goals and objectives established in the General Plan;

E. Give preference to lower-income housing development by encouraging developers to include subsidized housing in their projects beyond the minimum amount required by local ordinance or to provide equitable financial assistance to the community to accomplish this goal;

F. Give preference to moderate-income housing development by encouraging developers to pursue residential developments which through deed restrictions or other provisions will ensure their long-term availability to households of moderate incomes;

G. Promote infill development over new development at the edges of town;

H. Integrate new growth into existing developed areas which

encourages reinvestment in the maintenance and rehabilitation of older residential neighborhoods or established commercial areas, expansion of existing uses, enhances efficient use of municipal services by avoiding unnecessary extensions, and promotes housing near employment centers which tends to be more affordable to a broader economic segment of the community;

I. Reduce dependency on the automobile by providing a mix of housing types in pedestrian-oriented neighborhoods located near City parks, commercial retail uses and services, and public transit;

J. Provide a balance of residential and nonresidential growth to ensure the community's unique quality of life and economic well-being; and

K. Recognize Federal and State preemptions on residential development, such as for second dwelling units, and establish a process for providing resources to residential units with existing prior City commitments and where substantial investments in the implementation of infrastructure are already in place. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

19.02.030 Definitions.

"Abandoned allocation" shall mean an allocation awarded to an applicant which has exceeded 12 months without the development receiving the required discretionary and nondiscretionary permits to construct the project, or which has exceeded 24 months if an extension has been authorized under the provisions of this chapter.

"Affordable housing" shall mean a residential unit or units intended for households whose income is within the very low-, low- and moderate-income categories.

"Allocation" shall mean the amount of development (the number of new lots or dwelling units, new commercial square feet of building space) and the water and wastewater resources necessary to support such development assigned to a project or projects and authorized by the City to proceed through the permit review process.

"Allocation process" shall mean the procedures established for requesting, awarding and using allocations for residential and nonresidential development projects.

"Annual allocation" shall mean the total number of new residential units and total acre-feet of water for distribution to nonresidential development that are available for allocation in a single calendar year.

"Application expiration period" shall mean the date on which the City closes the period for receiving applications for residential and nonresidential allocations.

"Combined average allocation" shall mean the total number of residential units or total acre-feet of water for distribution to nonresidential development estimated to be available for allocation in a five-year cycle.

"Competitive evaluation" shall mean the process of reviewing and awarding allocations for development based on predetermined development objectives.

"Five-year cycle" shall mean the fixed five-year period within which allocations are made and monitored to ensure that targeted population growth rate and water distributions for nonresidential development are not exceeded.

"Floor area, gross" shall mean that the total horizontal area in square feet of all floors measured from the exterior walls of a building, but not including the area of unroofed inner courts or shaft enclosures. (Note: This definition is a little more specific than the definition provided in the zoning ordinance. It accounts for interior mezzanines.)

"Housing, above moderate-income" shall mean a residential unit intended for a household whose income exceeds 120 percent of the median household income for the County with adjustments based on household size.

"Housing, low-income" shall mean a residential unit intended for a household whose income is between 51 percent and 80 percent of the median household income for the County with adjustments based on household size.

"Housing, moderate-income" shall mean a residential unit intended for a household whose income is between 81 percent and 120 percent of the median household income for the County with adjustments based on household size.

"Housing, very low-income" shall mean a residential unit intended for a household whose income does not exceed 50 percent of the median household income for the County with adjustments based on household size.

"Lower-income housing" shall mean a residential unit or units intended for households whose income is within the very low- and low-income ranges.

"Mixed use" shall mean the combination of uses such as office, retail, commercial, and institutional with residential uses in a single building or on a project site.

"Permit review process" shall mean all discretionary and ministerial approval required by the City, County, State and/or Federal agencies required at the time of application completeness.

"Residential development" shall mean a development proposal for a dwelling or multiple dwellings, or for a subdivision that will result in the construction, creation or placement of one or more new dwellings or residential lots of record in the City, and which shall require approval of an allocation provided through the allocation process.

"Residential unit" shall mean a residential housing unit or a residential lot of record proposed to be created through the division of land. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

19.02.040 General provisions.

A. The provisions contained in this chapter shall apply to all development in the City, unless otherwise exempt by this title or by State law. No development shall be authorized by the City to proceed through the permit review process until the development has received an allocation.

B. Applications for allocations shall be made to the Planning and Building Department on forms provided by the City. Applications shall be accompanied by the following information, where applicable:

1. A project narrative describing the proposed development plan or intensification of use at an existing facility, including: quantification of the number, size, type and nature of any proposed residential dwelling units and/or quantification of the proposed intensification of use or total amount of new nonresidential square footage by type of use; proposed sales price for new homes or rental rate for rental units; any sales price or rental rate restrictions proposed to be established; the extent in which the project would be consistent with the character of the neighborhood; an estimate of projected water usage and wastewater production by type of use based upon the City's Standardized Use Table; and a clear description of the allocations being requested in terms of residential units and/or amount of nonresidential water and wastewater capacity. A statement and sufficient detail regarding steps proposed by the proposed project to conserve or utilize resources efficiently.
2. A preliminary site plan, including a vicinity map which illustrates the relationship of the proposed development with the surrounding area and showing the extent, location, and type of existing and proposed uses on the site, any proposed demolition of structures, and the nature and extent of open space, parking and other similar facilities. A set of preliminary architectural building elevation drawings for all new proposed buildings.
3. A description of all project phasing, including an illustration

on the site plan of which improvements will be phased and over what period of time.

4. A development schedule showing the anticipated date of submittal of all requests for discretionary permits, design review, environmental assessment, subdivision maps, building permits, or other similar requests.
5. Such other information as may be required by the Planning and Building Department as outlined on the "Materials Required for Filing a Growth Management Allocation Application" form.
6. Each application for an allocation, other than those specifically exempted by CMC 19.02.050, shall be accompanied by a processing fee as established by City Council resolution. Such fees shall not be refundable once processing of the application begins. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

19.02.050 Exceptions.

The following development is exempt from this chapter and shall be authorized to proceed through the permit review process without an allocation:

A. Second dwelling units, as provided in Government Code Section 65852.2. Such units shall be counted towards the five-year cycle 1.35 percent growth rate in this chapter.

B. Residential development submitted as part of an approved permit or subdivision authorized by the City on or before January 1, 2004, and which is intended for lower-income households as defined by this chapter. For dwellings located within a multiple-lot subdivision, only those dwellings that qualify and are secured as affordable to lower-income households shall be exempt from the residential growth management system. The remaining dwellings shall be required to receive an allocation prior to proceeding through the permit review process.

C. Dwellings or nonresidential structures which have received final design review, if required, and which have previously received a building permit prior to the effective date of the ordinance codified in this chapter which has not expired under the terms of the uniform codes adopted in this title.

D. Dwellings or nonresidential structures on existing parcels of record which have paid water and wastewater connection fees prior to the effective date of the ordinance codified in this chapter and are paying water meter service charges and/or a wastewater capacity allocation charge to maintain a water and/or wastewater allocation. In such instances, the parcel shall have a history of residential or nonresidential development in the past, and the proposed new development shall not exceed the water consumption and

wastewater production of the original development, as defined in the City's Standardized Use Table or established baseline allocation, as applicable. This exception does not apply to parcels that do not have a history of residential or nonresidential development.

E. Dwellings which are replaced, including mobile homes on an approved mobile home site, and additions, alterations, remodeling and repair to existing dwellings; provided, that there is no net increase in the number of units.

F. Development projects for which the City has entered into a development agreement with the project proponent may be exempt from provisions of this chapter; however, any residential component of such projects shall be subject to the 1.35 percent growth rate in this chapter.

G. Replacement, repair, remodeling, minor additions or alterations to existing nonresidential structures; provided, that the net increase in gross floor area does not exceed 10 percent and there is no significant change in use.

H. Public facilities sponsored by the City of Calistoga or the Calistoga Joint Unified School District.

I. Projects sponsored by public and non-profit organizations which provide medical, dental, social services, and the like for the residents of Calistoga. (Ord. 624 § 1, 2005; Ord. 620 § 1, 2005; Ord. 616 § 1, 2004).

J. Construction of single family residential development located on existing residential lots of record. Such units shall be counted towards the five-year cycle 1.35 percent growth rate in this chapter.

K. Minor residential subdivisions (3 or fewer lots in total; not more than two newly created lots) located within the Rural, Rural Hillside, Low, Medium, and High Density General Plan Land Use Designations. Such units shall be counted towards the five-year cycle 1.35 percent growth rate in this chapter.

L. Intensification of existing uses, a mixed use, a change of use, or additions to existing structures resulting in an increase in floor area not more than ten percent (10%). Such allocations shall be granted by the Planning & Building Director in small increments and shall be counted towards the applicable annual cycle, and limited to a cumulative total of two (2) acre feet of water in a calendar year.

19.02.060 Allocation procedures.

A. In July of each year, except for the initial year of application of this chapter, the Planning and Building Director shall prepare and distribute a written report, which estimates the number of residential units and acre-feet of water for nonresidential uses that are available for allocation by the City for the upcoming calendar year. The report shall also estimate combined average residential and

nonresidential allocations available for distribution within the five-year cycle, pursuant to the following formulas:

Annual Residential Allocation = Population x 1.35 percent/Household Size

"Population" is based upon the most recent available estimates provided by the State Department of Finance.

"Household Size" reflects the average number of persons per household, as provided by the State Department of Finance.

Where the "Annual Residential Allocation" is a fraction, this amount shall be rounded down to the nearest whole number. Final assessment of population generation will be based upon information provided by the U.S. Census Bureau (H33. Population by Units in Structure by Tenure).

Annual Nonresidential Allocation = Water Supply x Percentage Distribution for Nonresidential Uses

"Water Supply" is the total amount of water (in acre-feet) available to serve Calistoga in the calendar year.

"Percentage Distribution" is the percentage of water supply to be designated for nonresidential uses as specified in Chapter 13.16 CMC.

B. Following the Planning and Building Director's report provided in subsection (A) of this section, the City Manager shall prepare and distribute a written report to the City Council assessing community conditions, including the adequacy of existing services and facilities, availability of resources and current development and growth trends. In conjunction with this report the Public Works Director shall provide information on current water use by all land uses, the quantity of unallocated water including the quantity and total percentage of overall system losses and emergency reserves, the quantity of wastewater which is being treated, and the permitted treatment capacity of the wastewater treatment plant taking into consideration the ability to properly dispose the treated effluent. The report shall also include a determination on whether there is sufficient capacity to serve projected allocations for the upcoming year and for the five-year cycle. Allocations shall not be made by the City where there is inadequate water or wastewater treatment capacity.

The City Manager's report shall present the Planning Commission's annual recommendation to the City Council regarding the proposed development objectives for the upcoming year. The City Manager's

report may recommend that certain development objectives be adopted by City Council.

C. Within 30 days from receipt of the City Manager's report, and not later than September 15th of each year, the City Council, by resolution, shall confirm the number of residential units and amount of water for nonresidential use available for allocation and establish a list of development objectives for residential and nonresidential development by order of priority for the upcoming year. The list may or may not include the general development objectives identified in CMC 19.02.070(A) and (B), and shall be consistent with goals and policies in the City's General Plan. The list shall be used by the City to evaluate applications for allocations in the event that the number of allocations requested in a given year exceeds the number of allocations that are available for that year.

D. Unless otherwise provided in this chapter, the allocation confirmed in subsection (C) of this section, as having adequate water and wastewater treatment capacity to serve the development, shall represent the amount of residential and nonresidential development that may receive allocations in a calendar year.

E. Where there is no allocation available for distribution by the City, a resolution shall be adopted by the City suspending the allocation procedures contained in this chapter until the following calendar year.

F. Annual allocations may be increased, as approved by City Council resolution; provided, that the combined average residential allocations do not result in a population growth rate of more than 1.35 percent or nonresidential water distribution exceeding the percentage specified in Chapter 13.16 CMC as calculated over the fixed five-year cycle, commencing on January 1, 2005.

G. Except as otherwise provided in this chapter, no development may be determined to be complete or will be approved until the development has received an allocation pursuant to the following procedures:

1. Not later than November 30th of each year, the City shall conduct a competitive evaluation of applications for annual residential or nonresidential allocations, if such have been determined to be available, and shall award allocations by resolution. The competitive evaluation shall begin with an open enrollment period in which applications for allocations shall be submitted. The enrollment period shall be noticed in a local newspaper of general circulation and shall be open for a period of no less than 30 days.

2. Applications for annual allocations shall be submitted to the Planning and Building Department before the close of regular business hours on the last day of open enrollment period. Applications shall be accompanied by the required

submittal materials and fee, as provided in CMC 19.02.040.

3. No application for development shall be processed by the City unless the land use proposed is determined by the Planning and Building Department to be consistent with the General Plan's Land Use Designation as reflected on the current Land Use Map (Figure LU-4) and the City's Zoning District as reflected on the current Zoning District Map. (Note: Any required General Plan amendment or rezoning will need to be secured prior to requesting allocations).
4. Applications which are not in conformity with the adopted General Plan Land Use Designation and Zoning District on the date of submittal, or require an amendment to the adopted General Plan or Zoning Ordinance, excluding applications on property designated as Planned Development in the General Plan and Zoning Ordinance, and which are not consistent with key General Plan goals, objectives and policies shall not be eligible for an allocation.
5. Upon the close of the period by which applications for allocations may be accepted, the Planning and Building Department shall review each application for completeness. Applications determined to be incomplete after the close of the application period will not be recommended by staff to receive an allocation.
6. All applications received shall be evaluated by the City Council and awarded allocations in accordance with the preferences established in CMC 19.02.070.
7. Applications for projects exceeding available annual allocations may be awarded allocations from the combined average allocation identified under subsection (F) of this section; provided, that the allocation does not result in a population growth rate of more than 1.35 percent or a nonresidential water distribution exceeding the percentage specified in Chapter 13.16 CMC as calculated over the fixed five-year cycle.
8. Applicants who are not awarded an allotment shall be sent notice of such decision within 10 days after the decision. Such notice shall inform the applicant of the decision and the right to reapply for an allocation in the next application period. Such applicants will not be subject to filing fees provided the same application is resubmitted.
9 Applications for the construction of residential units sponsored by a nonprofit housing organization that fulfill the City's remaining regional housing need in the very-low, low- and moderate income housing categories as defined by the General Plan may be submitted at any time during the year for consideration of an allocation reservation for the next

allocation period.

H. Once a development has received an allocation, all required discretionary and nondiscretionary approvals and permits necessary to commence construction or in the case of a subdivision recordation of a final subdivision map or final parcel map must be obtained within 12 months of the date of allocation. With respect to subdivisions, the following additional provisions shall apply:

1. All necessary permits for construction on the lots of record shall be obtained and construction commenced on all lots of record within three (3) years of the recordation of the final map.
2. Thirty (30) percent of the required water and wastewater connection fee shall be paid for all of the lots of record within eighteen (18) months of the recordation of the final map.
3. If at the end of the three (3) year period, the processing of permits for construction has not been obtained and construction commenced, the water and wastewater connection fee paid to the City shall be forfeited.
4. Relief from the three (3) year timeframe set forth in this section may be granted by the City Council.

I. Failure to receive the necessary permits to commence construction, or in the case of a subdivision to receive approval and recordation of a final subdivision map or final parcel map, shall deem the allocation expired. A one-time extension may be authorized by the Planning and Building Director, for a period of up to 12 months; provided, that the applicant is actively seeking permit approval. No allocation shall extend for a period of over 24 months without the allocation being deemed expired.

J. Allocations shall be nontransferable by the applicant from one parcel to another. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

19.02.070 General development objectives for awarding allocations.

A. Preference for residential allocations shall generally be given to projects that include one or more of the following:

- Construction of deed restricted residential units that the majority of units go towards the goal of fulfilling the City's remaining regional housing need in the very-low, low- and/or moderate-income housing categories as defined by the General Plan.
- Construction of residential units that will be available to households of moderate-income as defined by the General Plan.
- Construction of residential units that are proposed as part of a mixed-use development project.
- Construction of residential units on vacant, underdeveloped or redeveloped land with necessary public infrastructure in place.

B. Preference for nonresidential allocations shall generally be given to projects that include one or more of the following:
   - Construction of a structure that includes nonresidential uses as part of a mixed-use development project.
   - Intensification or expansion of existing uses greater than ten percent (10%) in floor area or new construction on vacant, underdeveloped or redeveloped land with necessary public infrastructure in place.
   - Public or quasi-public uses (e.g., schools, churches, community facilities, etc.)

C. Preference for residential and/or non-residential allocations shall generally be given to those projects that further the City's Local Climate Action Program greenhouse gas emission reduction measures and policies at the time the City's program is in place, including but not limited to, Build It Green and/or LEED Certification Programs.

D. Residential and/or nonresidential development objectives and priorities for awarding allocations may be adjusted annually by the City Council resolution in response to changing conditions within the City in accordance with the procedures set forth in CMC 19.02.060(B) and (C). In January of each year, the Planning Commission may recommend to the City Council, depending on conditions at the time, which general development objectives identified above should be or not be included in annual development objectives for the upcoming allocation to commence in July. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

19.02.080 Carryover of unused allocations.

A. Any unused allocations, or allocations which expire as provided in CMC 19.02.060(I), shall be carried over to the following annual allocation; provided, that the carried-over allocations do not result in a population growth rate of more than 1.35 percent or a nonresidential water distribution exceeding the quantity specified in Chapter 13.16 CMC in any five-year cycle.

B. Unallocated residential units in one year that are carried over to a subsequent year shall first be available to residential developments including lower-income housing beyond that typically required by local ordinance, and secondly to residential developments including moderate-income housing and mixed-use projects, as provided in the process of establishing preferences in CMC 19.02.070. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

SECTION THREE:

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

SECTION FOUR:

THIS ORDINANCE shall take effect thirty (30) days after its passage and before 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 Council meeting of **19th day of May, 2009** and was passed and adopted at a regular meeting of the Calistoga City Council on **2nd day of June, 2009**, by the following vote:

AYES:	**Mayor Gingles, Vice Mayor Dunsford, Councilmembers Garcia, Kraus and Slusser**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

JACK GINGLES, Mayor

ATTEST:

SUSAN SNEDDON, City Clerk