

CITY OF CALISTOGA  
PLANNING COMMISSION  
RESOLUTION PC 2013-XX

A RESOLUTION OF THE CITY OF CALISTOGA PLANNING COMMISSION  
RECOMMENDING TO THE CITY COUNCIL APPROVAL OF TEXT AMENDMENTS  
TO THE CALISTOGA MUNICIPAL CODE ADDING MUNICIPAL CODE CHAPTER  
17.60, REQUESTS FOR REASONABLE ACCOMMODATION, RELATING TO  
REQUESTS FOR REASONABLE ACCOMMODATION IN THE APPLICATION OF  
THE CITY'S LAND REGULATIONS

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1  
2       **WHEREAS**, the federal Fair Housing Amendments Act of 1988 and the California  
3 Fair Employment and Housing Act prohibit discrimination in housing against individuals  
4 with disabilities and require that cities take affirmative action to eliminate regulations  
5 and practices that deny housing opportunities to individuals with disabilities; and  
6

7       **WHEREAS**, fair housing laws require that cities provide individuals with  
8 disabilities (or their representatives, or developers of housing for people with disabilities)  
9 flexibility in the application of land use and zoning regulations; and  
10

11       **WHEREAS**, Government Code Section 65583 requires that the Housing Element  
12 address and, where appropriate and legally possible, remove governmental constraints  
13 to the maintenance, improvement and development of housing for persons with  
14 disabilities; and  
15

16       **WHEREAS**, the following provisions of the Housing Element of the City of  
17 Calistoga's General Plan reflect the City's intent to prevent housing discrimination and  
18 remove constraints to housing for individuals with disabilities:  
19

20       GOAL H-7: Prevent housing discrimination on the basis of race, color, sex,  
21 religion, age, ancestry, marital status, children or disability.  
22

23       OBJECTIVE H-7.1: Provide housing opportunities for all persons, regardless  
24 of race, religion, sex, marital status, ancestry, national origin, disability or  
25 color.  
26

27       POLICY P1: The City shall actively support provision of fair and equal  
28 housing opportunities for all Calistogans.  
29

30       ACTION A7: Amend the Calistoga Municipal Code to create a  
31 procedure wherein persons with disabilities seeking equal access  
32 to housing may request reasonable accommodation in the  
33 application of zoning laws and other land use regulations, policies  
34 and procedures;

35 and  
36

37           **WHEREAS**, staff prepared an ordinance containing the necessary Municipal  
38 Code amendments for implementing a procedure wherein persons with disabilities  
39 seeking equal access to housing may request reasonable accommodation in the  
40 application of zoning laws and other land use regulations, policies and procedures; and

41  
42           **WHEREAS**, the Planning Commission reviewed the proposed reasonable  
43 accommodation ordinance at a public hearing at its meeting of March 27, 2013. During  
44 its review, the Planning Commission considered the public record, including the staff  
45 report, findings, and written materials and testimony presented by the public during the  
46 hearing; and

47  
48           **WHEREAS**, the Planning Commission has determined that this action is not  
49 subject to the California Environmental Quality Act (CEQA) under Section 15061(b)(3)  
50 of the CEQA Guidelines because it can be seen with certainty that there is no possibility  
51 that the activity in question may have a significant effect on the environment.

52  
53           **NOW, THEREFORE, BE IT RESOLVED** by the City of Calistoga Planning  
54 Commission that, based on the above findings and the findings set forth in the proposed  
55 ordinance attached hereto and incorporated herein as Exhibit A, it is recommended the  
56 City Council adopt the attached ordinance establishing a procedure wherein persons  
57 with disabilities seeking equal access to housing may request reasonable  
58 accommodation in the application of zoning laws and other land use regulations within  
59 the City of Calistoga.

60  
61           **PASSED, APPROVED, AND ADOPTED** on March 27, 2013, by the following  
62 vote of the Calistoga Planning Commission:

63  
64           AYES:  
65           NOES:  
66           ABSENT:  
67           ABSTAIN:

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71           \_\_\_\_\_  
72           Jeff Manfredi, Chairman

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74  
75           **ATTEST:** \_\_\_\_\_  
76                   Lynn Goldberg  
77                   Secretary to the Planning Commission

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA ADDING MUNICIPAL CODE CHAPTER 17.60, REQUESTS FOR REASONABLE ACCOMMODATION, RELATING TO REQUESTS FOR REASONABLE ACCOMMODATION IN THE APPLICATION OF THE CITY'S LAND USE REGULATIONS**

1  
2  
3       **WHEREAS**, the federal Fair Housing Amendments Act of 1988 and the California Fair  
4 Employment and Housing Act prohibit discrimination in housing against individuals with  
5 disabilities and require that cities take affirmative action to eliminate regulations and practices  
6 that deny housing opportunities to individuals with disabilities; and  
7

8       **WHEREAS**, fair housing laws require that cities provide individuals with disabilities (or  
9 their representatives, or developers of housing for people with disabilities) flexibility in the  
10 application of land use and zoning regulations; and  
11

12       **WHEREAS**, Government Code Section 65583 requires that the Housing Element  
13 address and, where appropriate and legally possible, remove governmental constraints to the  
14 maintenance, improvement and development of housing for persons with disabilities; and  
15

16       **WHEREAS**, the following provisions of the Housing Element of the City of Calistoga's  
17 General Plan reflect the City's intent to prevent housing discrimination and remove constraints  
18 to housing for individuals with disabilities:  
19

20       GOAL H-7: Prevent housing discrimination on the basis of race, color, sex, religion, age,  
21 ancestry, marital status, children or disability.  
22

23       OBJECTIVE H-7.1: Provide housing opportunities for all persons, regardless of  
24 race, religion, sex, marital status, ancestry, national origin, disability or color.  
25

26       POLICY P1: The City shall actively support provision of fair and equal housing  
27 opportunities for all Calistogans.  
28

29       ACTION A7: Amend the Calistoga Municipal Code to create a procedure  
30 wherein persons with disabilities seeking equal access to housing may  
31 request reasonable accommodation in the application of zoning laws and  
32 other land use regulations, policies and procedures;  
33

34 and  
35

36       **WHEREAS**, staff has prepared an ordinance containing the necessary Municipal Code  
37 amendments for implementing a procedure wherein persons with disabilities seeking equal  
38 access to housing may request reasonable accommodation in the application of zoning laws  
39 and other land use regulations, policies and procedures; and  
40

41 **WHEREAS**, the Planning Commission held a duly noticed public hearing on the  
 42 ordinance on March 27, 2013, and adopted Resolution PC 2013-XX forwarding a  
 43 recommendation that the City Council approve the ordinance. Prior to taking action on the  
 44 resolution, the Planning Commission received written and oral reports from staff and received  
 45 public testimony; and  
 46

47 **WHEREAS**, the City Council of the City of Calistoga has reviewed and considered this  
 48 ordinance at regular meetings on \_\_\_\_\_, 2013 and \_\_\_\_\_, 2013, noticed in  
 49 accordance with state and local law, and which included the written and oral staff report,  
 50 proposed findings and comments received from the general public and interested agencies and  
 51 parties; and  
 52

53 **WHEREAS**, this action has been determined to be exempt from the California  
 54 Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines.  
 55

56 **NOW, THEREFORE, THE CALISTOGA CITY COUNCIL DOES HEREBY ORDAIN AS**  
 57 **FOLLOWS:**  
 58

59 **SECTION ONE**  
 60

61 Findings. The above recitals are incorporated herein as if set forth herein in full and  
 62 each is relied upon independently by the City Council for its adoption of this ordinance.  
 63

64 **SECTION TWO**  
 65

66 A **new** Chapter entitled "Requests for Reasonable Accommodation" is hereby added to  
 67 Title 17 (Zoning) of the Calistoga Municipal Code to read and provide as follows:  
 68

69 "Chapter 17.60

70 Requests for Reasonable Accommodation

- 71  
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- 73 17.60.010 Purpose.
  - 74 17.60.020 Definitions.
  - 75 17.60.030 Requesting reasonable accommodation.
  - 76 17.60.040 Application requirements.
  - 77 17.60.050 Review authority.
  - 78 17.60.060 Review procedure.
  - 79 17.60.070 Findings and decision.
  - 80 17.60.080 Appeal of determination.
  - 81
  - 82 17.60.10 Purpose.
  - 83

84 The purpose of this chapter is to provide a procedure for persons with disabilities  
 85 seeking equal access to housing to request reasonable accommodation in the  
 86 application of the City's zoning laws and other land use regulations, policies and  
 87 procedures. This chapter is based on the requirements of the Federal Fair Housing Act  
 88 and the California Fair Employment and Housing Act (Fair Housing Laws) and  
 89 implements the Housing Element of the Calistoga General Plan.  
 90

91 17.60.020 Definitions.

92 For purposes of this chapter, the following definitions apply:

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94  
95 "Disabled person" shall mean a person who has a medical, physical or mental condition  
96 that limits a major life activity, as those terms are defined in California Government Code  
97 Section 12926, anyone who is regarded as having such a condition or anyone who has a  
98 record of having such a condition. It includes a person or persons, or an authorized  
99 representative of a disabled person. The term *disabled person*, does not include a  
100 person who is currently using illegal substances, unless he or she has a separate  
101 disability. (42 U.S.C. 3602(h)).

102  
103 "Fair housing laws" shall mean: (1) the federal Fair Housing Act (42 U.S.C. § 3601 et.  
104 seq.); and (2) the California Fair Employment and Housing Act (Government Code §  
105 12955 et. seq.), including amendments thereto.

106  
107 "Reasonable accommodation" shall mean providing disabled persons flexibility in the  
108 application of land use and zoning regulations and procedures when necessary to  
109 eliminate barriers to housing opportunities. *Reasonable accommodation* does not  
110 include an accommodation that would: (1) impose an undue financial or administrative  
111 burden on the City; or (2) require a fundamental alteration in the nature of the City's land  
112 use and zoning program.

113  
114 17.60.030 Requesting reasonable accommodation.

115  
116 A. A request for reasonable accommodation may be made by any disabled person  
117 when the application of a zoning law or other land use regulation, policy or practice acts  
118 as a barrier to fair housing opportunities.

119  
120 B. A request for reasonable accommodation may include a modification or  
121 exception to the rules, standards and practices for the siting, development and use of  
122 housing or housing- related facilities that would eliminate regulatory barriers and provide  
123 a disabled person equal opportunity to housing of their choice.

124  
125 D. If an applicant needs assistance in making the request, the Planning and Building  
126 Department will endeavor to provide the assistance necessary to ensure that the  
127 process is available to the applicant.

128  
129 17.60.040 Application requirements.

130  
131 A. Application. A request for reasonable accommodation shall be submitted on an  
132 application form provided by the Planning and Building Department, or in the form of a  
133 letter to the Planning and Building Director, and shall contain the following information:

- 134  
135 1. The applicant's name, address and telephone number;
- 136  
137 2. Address of the property for which the request is being made;
- 138  
139 3. The name and address of the property owner and, if the property owner is  
140 not the applicant, the owner's written consent to the application;

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4. The current actual use of the property;
  5. The basis for the claim that the individual is considered disabled under Fair Housing Laws;
  6. The Zoning Code provision, regulation or policy from which reasonable accommodation is being requested;
  7. The type of accommodation sought;
  8. A statement of the reason(s) the reasonable accommodation is necessary to make the specific property accessible to the individual; and
  9. Other supportive information deemed necessary by the Planning and Building Department to facilitate proper consideration of the request consistent with Fair Housing Laws.

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B. Review with other land use applications. If the project for which the reasonable accommodation is being requested also requires some other discretionary land use approval by the City, the applicant shall file the information required by Subsection A together for concurrent review with the application for discretionary approval.

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C. Fee. The fee for an application for reasonable accommodation shall be the same as for a minor conditional use permit, as established by resolution of the City Council.

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17.60.050 Review authority.

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A. Planning and Building Director. A request for reasonable accommodation shall be reviewed by the Planning and Building Director (Director), or his/her designee if no approval is required for any discretionary land use application other than the request for reasonable accommodation.

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B. Other review authority. A request for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing the discretionary land use application.

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17.60.060 Review procedure.

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A. Director review. The Director, or his/her designee, shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section 17.60.070 (Findings and Decision). No notice or public hearing is required for consideration of reasonable accommodation requests by the Director or his/her designee.

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B. Other review authority. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the authority responsible for reviewing the discretionary land use application. The written determination to grant or deny the request for reasonable accommodation shall be made in accordance with Section 17.60.070 (Findings and Decision). Requests for reasonable accommodation

191 shall require notice and a public hearing, as applicable, in accordance with the  
192 requirements for the underlying discretionary land use application.

193  
194 17.60.070 Findings and decision.

195  
196 A. Findings. The written decision to grant or deny a request for reasonable  
197 accommodation will be consistent with Fair Housing Laws and shall be based on  
198 consideration of the following findings, all of which shall be required for approval:

199  
200 1. The housing, which is the subject of the request, will be used by a  
201 disabled person under Fair Housing Laws;

202  
203 2. The request for reasonable accommodation is necessary to make specific  
204 housing available to a disabled person under Fair Housing Laws;

205  
206 3. The requested reasonable accommodation will not impose an undue  
207 financial or administrative burden on the City;

208  
209 4. The requested reasonable accommodation will not require a fundamental  
210 alteration in the nature of a City program or law, including but not limited to land  
211 use and zoning; and

212  
213 5. The requested reasonable accommodation will not result in a direct threat  
214 to the public health or safety of other individuals or substantial physical damage  
215 to the property of others.

216  
217 B. Conditions of Approval. In granting a request for reasonable accommodation,  
218 the reviewing authority may impose any conditions of approval deemed reasonable and  
219 necessary to ensure that the reasonable accommodation will comply with the findings  
220 required by Subsection A, including without limitation, conditions that require alternative  
221 reasonable accommodations that provide an equivalent level of benefit.

222  
223 C. Other requirements. An approved request for reasonable accommodation is  
224 subject to the applicant's compliance with all other applicable zoning regulations. A  
225 modification approved under this chapter is considered a personal accommodation for  
226 the individual applicant and does not run with the land.

227  
228 17.60.080 Appeal of determination.

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230 A determination by the reviewing authority to grant or deny a request for reasonable  
231 accommodation may be appealed pursuant to procedures set forth in Chapter 1.20  
232 (Appeals) of this Code."

233  
234 **SECTION THREE**

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236 Environmental Review. This action has been reviewed in accordance with the California  
237 Environmental Quality Act, CEQA Guidelines Section 15061(b)(3), the "general rule" exemption,  
238 which states that where it can be seen with certainty that there is no possibility that the activity  
239 in question may have a significant effect on the environment, the activity is exempt from CEQA.  
240 The City has determined that the activity in question, Municipal Code amendments establishing

241 a procedure for persons with disabilities seeking equal access to housing to request reasonable  
242 accommodation in the application of land use regulations, will not have an impact on the  
243 environment and therefore is exempt from CEQA under the general rule.

244

245 **SECTION FOUR**

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247 Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or  
248 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or  
249 invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the  
250 validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City  
251 Council hereby declares that it would have passed each section, subsection, subdivision,  
252 paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more  
253 subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared  
254 unconstitutional, or invalid, or ineffective.

255

256 **SECTION FIVE**

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258 Effective Date.

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

263

264 **THIS ORDINANCE** was introduced with the first reading waived at the City of Calistoga  
265 City of Council meeting of the \_\_\_\_ day of \_\_\_\_\_, 2013, and was passed and adopted at  
266 a regular meeting of the Calistoga City Council on the \_\_\_\_ day of \_\_\_\_\_, 2013, by the  
267 following vote:

268

269 **AYES:**

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270 **NOES:**

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271 **ABSENT:**

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272 **ABSTAIN:**

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\_\_\_\_\_  
**Chris Canning, Mayor**

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276 **ATTEST:**

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\_\_\_\_\_  
**Amanda Davis, Deputy City Clerk**

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