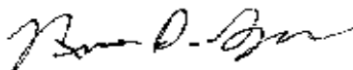


City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: Lynn Goldberg, Planning and Building Director
DATE: January 6, 2015
SUBJECT: **Municipal Code Amendments Related to Second Dwelling Units (ZOA 2014-4)**

APPROVAL FOR FORWARDING



Richard D. Spittler, City Manager

1 **ISSUES:** Consider 1) amending Calistoga Municipal Code provisions related to second
 2 dwelling units, and 2) directing staff to evaluate the current water and wastewater
 3 connection charges for second units.

4 **RECOMMENDATIONS**

- 5 1. Following a public hearing, introduce the ordinance (Attachment 1) and waive its first
 6 reading.
 7 2. Direct staff to evaluate the appropriateness of current water and wastewater
 8 connection charges for second units.

9 **BACKGROUND:** Second dwelling units¹ are an efficient means of increasing the city's
 10 housing stock because they are developed on lots that already have a primary
 11 residential unit. When rented, they are often offered at rates affordable to low- and
 12 moderate-income households, thereby increasing the city's affordable housing stock in
 13 a manner that distributes affordable units throughout the city, rather than concentrating
 14 them in a few areas. They can also provide housing for a family member who needs
 15 support with daily activities but prefers to live semi-independently.

16 The development and design of second units are currently regulated by CMC Chapter
 17 17.37, Second Dwelling Units (see Attachment 4). Very few have been constructed in
 18 the city even though a growth management allocation is not required for a second
 19 dwelling unit on an existing lot of record.

¹ An independent living unit that is subordinate to the main dwelling on a lot, often referred to as a "granny unit"

20 A number of development standards could constrain their development, such as the
21 following:

- 22 • *A second dwelling unit must be attached to the primary unit if located on a*
23 *parcel of less than 6,000 square feet.*
- 24 • *If the second dwelling unit is attached to the existing primary dwelling unit,*
25 *and if both the secondary dwelling unit and the existing primary dwelling*
26 *unit have an entrance at the front, both units shall be served by a common*
27 *entrance.*
- 28 • *The property owner shall occupy the primary dwelling or second dwelling.*
- 29 • *A second dwelling unit shall not be located on a property that is served by*
30 *a street that has a level of service (LOS) D or worse.*
- 31 • *A new second dwelling unit shall not result in a change to the LOS of the*
32 *street serving the property.*
- 33 • *Trash and recycling areas for use by the second dwelling unit occupant*
34 *shall be located on the property screened from public view.*
- 35 • *No fence, screens, walls, hedges or other similar means may be used to*
36 *visually separate a second dwelling unit from the primary dwelling unit.*

37 The Housing Element includes the following provisions to encourage the development
38 of second units by amending the Zoning Code's current regulations.

- 39 *Objective H-1.2 Make effective use of residential development sites.*
- 40 *Policy 1.2-2 Promote the development of second dwelling units on*
41 *lots with single-family residences.*
- 42 *Action 1.2-2 Consider amendments to the Zoning Code's regulations*
43 *for second residential units, such as deleting the*
44 *requirement that the owner of a property with both a*
45 *primary and second dwelling unit occupy one of them,*
46 *and the reduction of development impact fees.*

47 **PROPOSED AMENDMENTS:** The primary proposed amendments to the Code's
48 second unit regulations are summarized below.

- 49 1. Consistent with Action 1.2-2, the proposed amendments would delete all of the
50 standards listed above because they do not appear to be warranted and therefore
51 unnecessarily constrain the development of second units.
 - 52 • Many jurisdictions initially imposed a requirement that the property owner live in
53 one of the property's two units out of concern that renters would need monitoring
54 to minimize neighborhood disturbances. This has proved not to be the case and
55 this requirement has been rescinded in many communities.
 - 56 • Determining a street's existing level of service would require a traffic study,
57 although a second unit would add only a nominal number of vehicle trips.
 - 58 • The trash and recycling for primary dwelling units is not required to be screened
59 and there is no apparent reason that a second unit's be screened.

- 60 • Instead of prohibiting the visual separation of a second unit from the property's
61 primary unit, screening would be desirable to provide privacy for both units.
- 62 Chapter 17.37 also contains redundant and unnecessary provisions and wording
63 that is proposed to be deleted.
- 64 2. The proposed amendments would allow second units not exceeding 15 feet in height
65 to be located within 10 feet of the rear property line, rather than having to comply
66 with the 20-foot setback required for the primary unit.
- 67 3. The Zoning Code Section² currently allows the maximum lot coverage in the R-1
68 Zoning District to be increased from 30 percent to 35 percent (with administrative
69 approval) and to 37 percent (with written notice to property owners within 300 feet
70 and administrative approval) to accommodate accessory structures under certain
71 circumstances. It is proposed to extend this provision to second units to facilitate
72 their development.
- 73 4. Zoning Code Chapter 17.04, Definitions, contains a definition for "second dwelling
74 unit." Two other definitions should be deleted because they are unnecessary and
75 cause confusion, including "Accessory dwelling unit" (Section 17.04.025) and
76 "Granny unit" (Section 17.04.025). Furthermore, the definition for "Second dwelling
77 unit permit" (Section 17.04.626) should be deleted because the revised regulations
78 allow for the approval of second units through design review, rather than a second
79 dwelling unit permit.

80 Existing provisions intended to minimize privacy intrusion and impacts on neighboring
81 properties' scenic views would be retained.

82 **ENVIRONMENTAL REVIEW:** The proposed amendments are exempt from the
83 California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA
84 Guidelines, the "general rule" exemption, because it can be seen with certainty that
85 there is no possibility that the action in question may have a significant effect on the
86 environment.

87 **PLANNING COMMISSION REVIEW:** The Commission considered the proposed Code
88 amendments at a public hearing on November 26, 2014, and recommended their
89 approval to the Council (see Attachments 2 and 3).

90 **CONSISTENCY WITH COUNCIL PRIORITY PROJECTS:** The proposed amendments
91 would partially fulfill Goal 7, Priority Project No. 5 of the City Council's adopted goals,
92 objectives and priority projects for Fiscal Year 2014-15:

93 *Identify and remove impediments to development of second dwelling*
94 *("granny") units that are within the City's authority.*

² 17.38.050 (G.)

95 **FISCAL IMPACT:** The proposed amendments could result in a greater number of
96 design review and building permit applications for second units, with the payment of
97 related processing and development impact fees.

98 Based on feedback received by staff from potential developers of second units. one of
99 the greatest impediments to their development are the water and wastewater
100 connection fees charged to building permits. Second units are charged the same
101 connection fees as multi-family units (based on estimates of 0.382 annual acre-feet of
102 water and 0.213 annual acre-feet of wastewater) even though they are limited to 750
103 square feet. Although they are somewhat lower than single-family fees, the charges still
104 total \$35,498.45, only \$2,762.27 less per unit.

105 Recent water and wastewater demand studies prepared by the Reed Group, Inc.
106 determined that in Healdsburg and Santa Rosa, second dwellings units have actual
107 demands of 0.165 annual acre-feet of water and 0.146 annual acre-feet of wastewater,
108 which are significantly lower than Calistoga's figures. St. Helena had a higher level at
109 0.206 annual acre-feet of water, perhaps due to the age of their 2004 study (additional
110 water conservation regulations were subsequently adopted).

111 The Council may wish to direct the Public Works Department to review these studies
112 and recommend to the Council whether the application of lower use figures when
113 calculating connection charges for second units is appropriate.

ATTACHMENTS

1. Draft ordinance
2. PC Resolution 2014-30
3. Excerpt from Planning Commission Minutes of November 26, 2014
4. Existing Chapter 17.37, Second Dwelling Units

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA AMENDING CALISTOGA MUNICIPAL CODE PROVISIONS RELATED TO SECOND DWELLING UNITS (ZOA 2014-4)

1 **WHEREAS**, the City of Calistoga desires to encourage the construction of
2 second dwelling units as an efficient means of increasing the city's affordable housing
3 stock; and

4 **WHEREAS**, the City encourages their construction through certain incentives but
5 very few second units have been constructed in the City; and

6 **WHEREAS**, Calistoga Municipal Code CMC Chapter 17.37, Second Dwelling
7 Units, contains a number of regulations that do not appear to be warranted and
8 therefore unnecessarily constrain the development of second units, as well as
9 redundant and unnecessary provisions and wording; and

10 **WHEREAS**, Housing Element Action 1.2-2 calls for the consideration of
11 amendments to the Zoning Code's regulations to minimize the constraints on the
12 construction of second dwelling units; and

13 **WHEREAS**, CMC Chapter 17.04, Definitions, contains several definitions related
14 to second dwelling units that are unnecessary and cause confusion; and

15 **WHEREAS**, the Planning Commission reviewed the proposed Code
16 amendments at a public hearing on November 26, 2014, and after considering the
17 public record, including the staff report and findings, adopted PC Resolution 2014-30
18 forwarding a recommendation that the City Council approve the amendments included
19 in this ordinance, including rescinding and replacing CMC Chapter 17.37, Second
20 Dwelling Units, and deleting certain definitions from CMC Chapter 17.04, Definitions;
21 and

22 **WHEREAS**, the City Council of the City of Calistoga reviewed and considered
23 this ordinance at a public hearing on January 6, 2014, noticed in accordance with state
24 and local law, and which included the written and oral staff report, the Planning
25 Commission's recommendation and comments received from the general public and
26 interested agencies and parties.

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

29 **SECTION ONE**

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

34 **SECTION TWO**

35 CMC Chapter 17.37, Second Dwelling Units, is hereby rescinded and replaced in
36 its entirety as follows:

37 **Chapter 17.37**
38 **SECOND DWELLING UNITS**

39 Sections:

- 40 17.37.010 Purpose.
41 17.37.020 Permit requirements.
42 17.37.030 General provisions.
43 17.37.040 Design standards.
44 17.37.050 Nonconforming second dwelling units.

45 **17.37.010 Purpose.**

46 It is the purpose of this chapter to provide for second dwelling units as an
47 form of potential affordable housing without substantially changing the
48 physical or architectural character of the neighborhood in which they are
49 located, and without impinging upon the privacy of surrounding neighbors.
50 To ensure the public health, safety and general welfare of the community,
51 this chapter establishes criteria to ensure that these units will conform to
52 certain development standards. In accordance with Government Code
53 Section 65852.2, this chapter shall not be considered in the application of
54 any local ordinance, policy or program to limit residential growth, and does
55 not propose to preclude the creation of second dwelling units or serve as
56 the basis for denial of a building permit.

57 **17.37.020 Permit requirements.**

58 A. Permits required. Second dwelling units shall be approved by one of
59 the following methods, as appropriate.

- 60 1. Design review approval by the Planning Director shall be required
61 in all areas within the city whose zoning allows second dwelling
62 units as a permitted use.
63 2. A use permit approved by the Planning Commission shall be
64 required in all areas within the city whose zoning allows second
65 dwelling units with a use permit.

66 B. The Planning and Building Director or the Planning Commission shall
67 approve the design review or use permit application for a second
68 dwelling unit if all of the requirements of CMC 17.37.050 and
69 17.37.060 have been satisfied.

70 **17.37.030 General provisions.**

71 The following standards shall apply to second dwelling units.

72 A. One second dwelling unit is permitted on a lot.

- 73 B. A second dwelling unit shall not be sold separately from the primary
74 dwelling unit and no subdivision of land or air rights is authorized by
75 this Chapter.
- 76 C. A second dwelling unit may be rented or leased, provided that it is
77 rented or leased for periods of 30 consecutive days or more.
- 78 D. Where a second unit is detached from the primary unit, the utility
79 services, including water, sewer and electricity, shall be separately
80 metered from the primary dwelling.
- 81 E. The floor area of the second dwelling unit shall not be less than 300
82 square feet or exceed 750 square feet.
- 83 F. A second dwelling unit may not have more than one bedroom.
- 84 G. A detached second dwelling unit or a second dwelling unit attached to
85 a primary dwelling unit shall comply with the same setback and height
86 requirements as for principal buildings, except that a detached second
87 dwelling unit not more than 15 feet in height may maintain a 10-foot
88 rear yard setback.
- 89 H. The maximum coverage of a lot as provided in the applicable zoning
90 district may be exceeded as provided by CMC 17.38.050 in order to
91 accommodate a second dwelling unit.

92 **17.37.040 Design standards.**

93 The following design standards apply to second dwelling units.

- 94 A. The second dwelling unit shall be compatible with the design of the
95 primary dwelling.
- 96 B. The window and door openings of a second dwelling unit shall be
97 designed applying methods that will minimize privacy intrusion for
98 dwellings on adjacent properties.
- 99 C. Second dwelling units shall minimize impacts on neighboring
100 properties' scenic views of ridge lines and hilltop areas.

101 **17.37.050 Nonconforming second dwelling units.**

102 Second dwelling units legally constructed prior to adoption of the
103 provisions contained in this Title shall be considered nonconforming and
104 subject to the provisions of CMC Chapter 17.44 pertaining to
105 nonconforming uses and structures. Second dwelling units that were
106 created without approval under applicable laws in place at the time of
107 construction shall be subject to enforcement.

108 **SECTION THREE**

109 The following definitions are hereby deleted from CMC Chapter 17.04,
110 Definitions:

111 Section 17.04.025 Accessory dwelling unit,
112 Section 17.04.025 Granny unit, and
113 Section 17.04.626 Second dwelling unit permit

114 **SECTION FOUR**

115 Environmental Review. This action has been reviewed in accordance with the
116 California Environmental Quality Act, CEQA Guidelines Section 15061(b)(3), the
117 “general rule” exemption. The City has determined that because it can be seen with
118 certainty that there is no possibility that the proposed amendments will have an impact
119 on the environment, this ordinance is therefore exempt from CEQA under the general
120 rule.

121 **SECTION FIVE**

122 Severability. If any section, subsection, subdivision, paragraph, sentence,
123 clause, or phrase in this ordinance or any part thereof is for any reason held to be
124 unconstitutional or invalid or ineffective by any court of competent jurisdiction, such
125 decision shall not affect the validity or effectiveness of the remaining portions of this
126 ordinance or any part thereof. The City Council hereby declares that it would have
127 passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase
128 thereof irrespective of the fact that any one or more subsections, subdivisions,
129 paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or
130 ineffective.

131 **SECTION SIX**

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

136 THIS ORDINANCE was introduced with the first reading waived at the City of
137 Calistoga City of Council meeting of the **6th day of January, 2015**, and was passed
138 and adopted at a regular meeting of the Calistoga City Council **on the ___ day of _____,**
139 **2015**, by the following vote:

140 **AYES:**
141 **NOES:**
142 **ABSENT:**
143 **ABSTAIN:**

144 _____
145 **Chris Canning, Mayor**

146 **ATTEST:**

147 _____
148 _____
149 **Kathy Flamson, City Clerk**