

**CITY OF CALISTOGA
PLANNING COMMISSION
PC RESOLUTION 2015-__**

**RECOMMENDING THAT THE CITY COUNCIL AMEND CALISTOGA MUNICIPAL
CODE TITLE 17, ZONING, BY RESCINDING AND REPLACING CHAPTER 17.08,
AFFORDABLE HOUSING (ZOA 2014-3)**

1 WHEREAS, Calistoga Municipal Code (CMC) Chapter 17.08, Affordable
2 Housing, includes various provisions targeted at increasing the supply of affordable
3 housing in Calistoga; and

4 WHEREAS, the 2014 Housing Element Update identified amendments that are
5 needed to the Chapter's inclusionary housing requirements in light of recent court
6 decisions; and

7 WHEREAS, the Update also recommends re-evaluating the feasibility of
8 providing inclusionary units in smaller projects; and

9 WHEREAS, incentives are needed to encourage the provision of inclusionary
10 units targeted to low-income households; and

11 WHEREAS, administrative procedures are needed for the review and approval of
12 applications for density bonuses and other incentives per state law to promote
13 affordable and special needs housing in Calistoga; and

14 WHEREAS, the Planning Commission reviewed the proposed amendments at a
15 public hearing on January 14, 2015, and during its review, considered the public record,
16 including the staff report, findings, and any written materials and testimony presented by
17 the public during the hearing; and

18 WHEREAS, the Planning Commission has determined that the proposed
19 amendments are not subject to the California Environmental Quality Act (CEQA) under
20 Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that
21 there is no possibility that they may have a significant effect on the environment.

22 NOW, THEREFORE, BE IT RESOLVED by the City of Calistoga Planning
23 Commission that, based on the above findings, it is recommended that the City Council
24 rescind Chapter 17.08, Affordable Housing, and replace it with the Chapter 17.08 shown
25 in Exhibit A attached hereto and incorporated herein.

26 APPROVED AND ADOPTED on January 14, 2015 by the following vote of the
27 Calistoga Planning Commission:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jeff Manfredi, Chair

ATTEST: _____
Lynn Goldberg, Secretary to the Planning Commission

Exhibit A

Chapter 17.08

AFFORDABLE HOUSING

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Sections:

- 17.08.010 Purpose.
- 17.08.020 Affordable housing requirements - residential development.
- 17.08.030 Affordable housing incentives.
- 17.08.040 Affordable housing requirements - nonresidential development.
- 17.08.050 Calistoga Housing Trust Fund.

17.08.010 Purpose.

The City recognizes the importance of working towards a balance of jobs and housing in the community, promoting housing affordable to low- and moderate-income households and addressing the special housing needs of such groups as seniors, farmworkers and the disabled. Because of the high cost of land and financing, the private market has difficulty addressing these needs. Therefore, the City establishes the following regulations and incentives, along with the Affordable Housing Fund to promote the development of affordable and special needs housing in Calistoga.

17.08.020 Affordable housing requirements - residential development.

- A. Purpose. It is the intent of the City to partially off-set the impacts of market-rate residential development on the potential development of affordable housing in the community because the development of market-rate housing reduces the inventory of developable sites within the city limits and increases the demand for services that generally employ lower-wage workers. Therefore, market-rate projects shall support the development of affordable housing by meeting the requirements of this section.
- B. Applicability. The provisions of this section shall apply to residential subdivisions of five or more parcels or condominiums, with the exception of the following:
 - 1. Projects that are to be developed pursuant to the terms of a development agreement or vesting subdivision map executed prior to the effective date of the ordinance adopting these regulations.
 - 2. Projects that received subdivision map approval prior to the effective date of the ordinance adopting these regulations.
- C. Projects with between five (5) and nineteen (19) dwelling units shall meet their inclusionary housing requirement through the payment of an in-lieu fee, as provided in Section (D)(4)(a), for each unit in the project.
- D. Projects with twenty (20) or more dwelling units shall provide inclusionary housing units as follows:

- 64 1. Inclusionary requirement
- 65 a. At least twenty (20) percent of the project's total dwelling units shall be sold at
66 prices affordable to moderate-income households and shall be restricted to
67 their purchase and occupancy by such households ("inclusionary units").
- 68 b. Alternatively, at least ten (10) percent of the project's total dwelling units shall
69 be sold at prices affordable to low-income households and shall be restricted
70 to their purchase and occupancy by such households ("inclusionary units")
- 71 2. Target household and affordability definitions. For the purposes of this Section:
- 72 a. "Moderate-income household" shall mean a household whose annual gross
73 income does not exceed 120 percent of median income adjusted by actual
74 household size for households in the County of Napa, California, as published
75 from time to time by the State of California.
- 76 b. "Low-income household" shall mean a household whose annual gross income
77 does not exceed 80 percent of median income adjusted by actual household
78 size for households in the County of Napa, California, as published from time
79 to time by the State of California.
- 80 c. A unit is "affordable" if it meets the requirements for affordable housing costs
81 for moderate-income or low-income households, as applicable, established by
82 Health and Safety Code Section 50052.5 and regulations adopted by the
83 California Department of Housing and Community Development (California
84 Code of Regulations Title 25, Sections 6910 through 6924) determining
85 affordability of residential housing units based upon family size and income
86 levels. Housing costs shall include homeowner association fees, if applicable.
- 87 3. In determining the number of inclusionary units required, fractional units that may
88 result from the application of these requirements shall be satisfied by one of the
89 two following methods, at the discretion of the applicant:
- 90 a. Fractional numbers of inclusionary units may be "rounded up" to the nearest
91 whole integer and treated as a whole inclusionary unit.
- 92 b. Payment of a portion of the in-lieu fee allowed pursuant to subsection (4)(a)
93 below in an amount equivalent to the remaining fractional portion of the
94 inclusionary unit requirement.
- 95 4. Alternatives. Upon a finding by the Planning Commission or City Council, as
96 appropriate, that the on-site construction of the required inclusionary units is not
97 feasible or appropriate, the applicant shall meet the inclusionary requirement
98 through one or more of the following alternatives:
- 99 a. In-lieu fee payment
- 100 i. The inclusionary housing requirement may be satisfied through the
101 payment of an affordable housing in-lieu fee for each unit in the project.
- 102 ii. The amount of the in-lieu fee shall be set by resolution of the City Council
103 and may be periodically updated to reflect changing housing conditions

104 within the community, including the actual costs of providing affordable
105 housing.

106 iii. In-lieu fees shall be deposited by the City into the Affordable Housing
107 Fund.

108 iv. In-lieu fees shall be payable at the time of building permit issuance.

109 b. In-lieu land dedication

110 i. The inclusionary housing requirement may be satisfied by an irrevocable
111 offer of land dedication within the city limits that would accommodate the
112 construction of at least the number of inclusionary units required for the
113 project. Identification of the land to be dedicated shall be accomplished
114 prior to approval of the discretionary permit for the residential development
115 project.

116 ii. In addition to any other findings required by the Calistoga Municipal Code,
117 any project approval for an in-lieu land dedication shall include a finding
118 that the land to be dedicated is not subject to liens, is served or proposed
119 to be served by municipal services, including water, sewer, roads,
120 electricity, telephone and other similar customary services, and contains
121 no unusual planning or development constraints.

122 iii. In-lieu land shall be dedicated to the City or for-profit or non-profit
123 affordable housing developer. The City Council may approve, conditionally
124 approve or reject such offer of dedication. If the City Council rejects such
125 offer of dedication, the applicant or developer shall be required to meet the
126 inclusionary housing requirement by other means set forth in this section.

127 c. Off-site inclusionary units

128 i. Some or all of the inclusionary units required for a project may be
129 constructed on another site or sites within the city limits. The resultant
130 linked project sites shall be reviewed concurrently by the City. Inclusionary
131 housing units not built on the site of the proposed original project shall be
132 constructed simultaneously with market-rate dwellings constructed on the
133 original site unless alternative arrangements are approved as part of the
134 project approval.

135 ii. Where inclusionary units are approved off-site, such units do not count as
136 affordable units for the purposes of the receiving site qualifying for a
137 density bonus.

138 d. Equivalent methods that meet the intent of the Housing Element as deemed
139 acceptable by the final decision-making body for the project.

140 E. The City Council may waive or reduce a project's inclusionary housing obligation
141 based on economic hardship or other factors that make it infeasible for the project to
142 fulfill its obligation.

143 F. Inclusionary dwelling unit standards. In addition to other development standards
144 and requirements set forth in this Title, the following standards shall apply to
145 inclusionary units:

- 146 1. Required inclusionary units shall be constructed concurrently with the
147 construction of a project's market-rate units unless an alternative schedule based
148 on extenuating circumstances is adopted as part of project approval.
- 149 2. Inclusionary units shall be distributed throughout the residential project site to the
150 fullest extent practicable.
- 151 3. Rental housing that is subject to the same affordable housing restrictions may be
152 used to fulfill a project's inclusionary requirement.
- 153 4. For those residential development projects that are required to provide 10 or
154 more inclusionary units, at least ten (10) percent of the inclusionary units shall
155 have three or more bedrooms. Fractional units shall be rounded down to a whole
156 unit.
- 157 5. The size (i.e., square footage) and amenities of inclusionary units may be
158 reduced from the overall quality of the market-rate units, except that the owners
159 of such units shall have access to all common amenities available to other
160 property owners within the project, such as recreational facilities.
- 161 6. The lot size of inclusionary units may be smaller than that of the market-rate units
162 in a subdivision, subject to compliance with the applicable zoning district
163 development regulations.
- 164 7. The exterior design of the inclusionary units shall be reasonably consistent and
165 compatible with the total project design in terms of appearance, materials and
166 finished quality, as determined through the design review process.
- 167 8. Residents of inclusionary units shall not be denied access to common open
168 spaces or recreational amenities.
- 169 9. Second dwelling units shall not be counted toward inclusionary housing
170 requirements.

171 G. Affordable housing plan. An affordable housing plan shall be submitted as part of
172 the first approval of any residential project subject to this Chapter and shall be
173 processed, reviewed, and approved, conditionally approved or denied concurrently
174 with all other applications required for the residential project. The affordable housing
175 plan shall include the following, as applicable:

- 176 1. Number, unit types, numbers of bedrooms, locations, sizes, design and tentative
177 sales prices of the project's inclusionary units.
- 178 2. Construction schedule and phasing of inclusionary units in relation to unrestricted
179 units.
- 180 3. Any requested alternative pursuant to Section (D)(4), including information as to
181 why the project's inclusionary requirement cannot be met on-site.

- 182 4. Such additional information as may be required by the Planning and Building
183 Director to ensure conformance of the project with this Chapter.
- 184 H. Affordable housing agreement. Concurrent with recordation of the final map for the
185 residential project, an affordable housing agreement (or memorandum thereof)
186 between the developer and the City shall be recorded against the property included
187 in the project.
- 188 1. The affordable housing agreement shall be binding on all future owners and
189 successors in interest.
- 190 2. The affordable housing agreement and other required agreements shall be
191 prepared by the City at the developer's expense.
- 192 3. The affordable housing agreement shall include, but not be limited to, the
193 following:
- 194 a. The total number of affordable units.
- 195 b. The location, unit size (square feet), and number of bedrooms of the
196 affordable units.
- 197 c. A description of the household income group(s) to be targeted for purchase of
198 the inclusionary units, and the standards for determining the corresponding
199 affordable sales price(s).
- 200 d. The term of affordability.
- 201 e. A schedule for completion of the affordable units and phasing of development
202 in relation to construction of unrestricted units.
- 203 f. A description of remedies for breach of the agreement by either party (the
204 City may identify qualified purchasers as third party beneficiaries under the
205 agreement).
- 206 g. Conditions governing the initial sale and resale of affordable units to eligible
207 households to ensure continued compliance with the restrictions of this
208 Chapter; and a condition requiring disclosure by the developer to the buyer of
209 affordable units of the existence of the deed restrictions affecting the resale of
210 the property.
- 211 h. Conditions providing the City or its designee an option to subsequently buy
212 any of the affordable units for the purposes of providing affordable housing.
- 213 i. If an off-site alternative is approved pursuant to subsection (D)(4)(c),
214 provisions to ensure that the affordable housing is provided off-site. Additional
215 restrictions or agreements may be required to be recorded against the off-site
216 property.
- 217 j. Other provisions needed to ensure implementation and compliance with this
218 Chapter, to ensure continued affordability of the units, and to comply with
219 state or federal law.

220 I. City assistance. The City may assist a developer in meeting their inclusionary
221 housing obligation through subsidies, design flexibility and/or other means, when
222 deemed appropriate and feasible by the City Council.

223 J. Monitoring of inclusionary units. Inclusionary units shall be monitored by the City or
224 its designee to ensure that they are continuously owner-occupied by an income-
225 qualified household.

226 **17.08.030 Affordable housing incentives.**

227 A. This section is intended to implement state law regarding the granting of density
228 bonuses and other incentives to promote the construction of affordable and special
229 needs housing within Calistoga.

230 B. Regulatory concessions and incentives

231 1. When a project meets any of the criteria specified in Government Code Section
232 65915, the developer may request a density bonus and one or more concessions
233 or incentives as defined in, and subject to the requirements of Government Code
234 Section 65915. Any inclusionary units provided in accordance with CMC
235 17.08.020 shall be included when determining whether a project qualifies for an
236 affordable housing density bonus.

237 2. Neither this subsection nor state law limits or requires the provision of direct
238 financial incentives from the City for a qualifying project, including the provision of
239 publicly-owned land by the City or the waiver of City fees or dedication
240 requirements.

241 3. In addition to those concessions and incentives provided by state law:

242 a. The City may grant an additional density bonus.

243 b. The City Council may grant financial incentives or concessions that result in
244 identifiable cost reductions needed to make a qualifying project economically
245 feasible, such as City subsidies for infrastructure improvements or
246 development fees, and/or City sponsorship of mortgage bond financing.

247 C. Application for and review of density bonuses, concessions and incentives

248 1. An application for a density bonus and any additional concession(s) or
249 incentive(s) shall be filed with the application for the related residential
250 development project and shall include the following information:

251 a. The provisions of Government Code Section 65915 under which the density
252 bonus is sought and the size of the density bonus requested, expressed as a
253 percentage of the maximum number of units allowed by the zoning district
254 and General Plan land use designation within which the project is located.

255 b. Identification of the requested regulatory concession(s) or incentive(s).

256 c. Specific information and data concerning the proposed development which
257 establishes that the regulatory concession(s) or incentive(s) sought by the
258 applicant is/are necessary to make the affordable housing units economically
259 feasible.

- 260 d. Evidence of consultation with the City Manager regarding any proposed
261 concession or incentive requiring expenditure of City funds or provision of
262 publicly-owned land.
- 263 e. An offer to enter into a contractual agreement to guarantee the reservation of
264 the affordable units.

265 2. Planning Commission review

- 266 a. The Planning Commission shall hold a public hearing on an application for a
267 density bonus and any additional concession(s) or incentive(s). Such hearing
268 shall be held concurrently with any other entitlements for the proposed
269 housing development that require City approval. At the public hearing, the
270 Planning Commission shall review the application, statements and plans
271 submitted therewith and shall receive pertinent evidence concerning the
272 application.
- 273 b. The Planning Commission shall, by resolution, approve or conditionally
274 approve an application for a density bonus and any additional concession(s)
275 or incentive(s), or recommend approval or conditional approval to the City
276 Council, as appropriate, unless, on the basis of the application and the
277 evidence submitted, the Commission makes written findings of fact
278 establishing either of the following:
 - 279 i. The concession or incentive is not required in order to provide for
280 affordable housing costs, as defined in Health and Safety Code Section
281 50052.5, or for rents for the targeted units to be set as specified in
282 Government Code Section 65915.
 - 283 ii. The concession or incentive would have a specific adverse impact, as
284 defined in Government Code Section 65589.5(d)(2), upon public health
285 and safety, the physical environment or any real property that is listed in
286 the California Register of Historical Resources; for which there is no
287 feasible method to satisfactorily mitigate or avoid the specific adverse
288 impact without rendering the development unaffordable to targeted
289 households.
- 290 c. The Planning Commission shall have the authority, as part of its review and
291 decision process, to waive or modify development and zoning standards that
292 would otherwise inhibit the utilization of the density bonus on specific sites,
293 including but not limited to such items as minimum lot size and side yard
294 setbacks, and maximum lot coverage and building height.
- 295 d. In the case of a requested concession or incentive involving the expenditure
296 of City funds, the provision of publicly-owned land, the approval of mixed-use
297 zoning, or modifications to Public Works requirements, the Planning
298 Commission shall make a recommendation to the City Council as to whether
299 such concession or incentive should be approved as requested, modified in a
300 manner consistent with this section and applicable state law, or denied.

- 302 3. City Council review
- 303 a. Following a recommendation by the Planning Commission, the City Council
304 shall hold a public hearing on an application that requests a concession or
305 incentive involving the expenditure of City funds, the provision of publicly-
306 owned land, the approval of mixed-use zoning, or modifications to Public
307 Works requirements. Such hearing shall be held concurrently with any other
308 entitlements for the proposed housing development that require City Council
309 approval.
- 310 b. The City Council may approve, conditionally approve, or deny such an
311 application by resolution, provided that a resolution denying the application
312 shall include one or both of the findings required by CMC 17.08.030 (C)(2)(b).
- 313 D. Contractual agreements and reservation of units. The developer of a housing
314 development for which a density bonus, concession(s) and/or incentive(s) are
315 granted shall enter into a development agreement pursuant to Government Code
316 Section 65865 et seq. or other recorded contractual agreement satisfactory to the
317 City which guarantees that the targeted units will be provided by the developer and
318 will remain available to the targeted persons or households for the applicable period
319 deemed appropriate by the City Council in conformance with state law. The
320 agreement shall identify the means by which such continued availability will be
321 secured and the procedures under which the targeted units will be rented and/or
322 sold during such period, and may contain other terms and provisions, not
323 inconsistent with Government Code Section 65915, that the City may require.
- 324 **17.08.040 Affordable housing requirements - nonresidential development.**
- 325 A. Housing linkage fee. All new construction or additions to gross floor area greater
326 than 10 percent shall contribute a housing linkage fee to help address the
327 “affordability gap” between the cost of housing and what many workers employed by
328 new nonresidential development are able to pay.
- 329 B. Calculation and payment of linkage fees. Linkage fees shall be calculated and paid
330 in the same manner as provided in CMC Section 3.28.050. Linkage fees shall be
331 assessed in the amount established by resolution of the City Council.
- 332 C. Exemptions, credits and adjustments. Exemptions, credits and adjustments may be
333 made to linkage fees shall be in the same manner as provided in CMC Section
334 3.28.060.
- 335 D. Refund of development impact fees. Linkage fees may be refunded in the same
336 manner as provided in CMC Section 3.28.070.
- 337 E. Annual findings and reporting. The City Council shall make the annual findings and
338 the City’s Administrative Services Department shall annually report on the linkage
339 fees in the same manner as provided in CMC Section 3.28.080.
- 340 F. Fee monitoring and update. The City shall annually monitor the linkage fee and
341 conduct a comprehensive review in the same manner as provided in CMC Section
342 3.28.090.

343 G. Use of linkage fee revenue. Linkage fee revenue shall be deposited in the Calistoga
344 Affordable Housing Fund.

345 **17.08.050 Affordable Housing Fund.**

346 A. There is hereby established the City of Calistoga Affordable Housing Fund (“Housing
347 Fund”). Separate accounts within the fund may be created from time to time as
348 deemed appropriate to further the purposes of the Housing Fund.

349 B. Monies deposited into the Housing Fund shall be used to construct and preserve
350 housing affordable to very low-, low- and moderate-income households.

351 C. The programs and distribution of monies within the Housing Fund shall be reviewed
352 annually by the Council.