

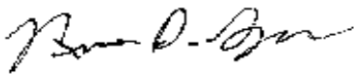
City of Calistoga

Staff Report

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TO: Honorable Mayor and City Council
FROM: Lynn Goldberg, Planning and Building Director
DATE: February 17, 2015
SUBJECT: **Municipal Code Amendment to Implement the 2014 Housing Element and State Law (ZOA 2014-3)**

APPROVAL FOR FORWARDING



Richard D. Spitler, City Manager

1 **ISSUE:** Consideration of a Municipal Code Amendment rescinding and replacing
2 Calistoga Municipal Code Chapter 17.08, Affordable Housing

3 **RECOMMENDATIONS:** Following a public hearing, introduce the ordinance and waive
4 its first reading

5 **BACKGROUND**

6 Amendments related to Housing Element Update

7 CMC Chapter 17.08, Affordable Housing, includes various requirements targeted at
8 increasing the supply of affordable housing in Calistoga. The 2014 Housing Element
9 Update identified amendments that are needed in the following areas.

- 10 • Inclusionary housing program

11 The cost of land and its relatively limited availability within the City create market
12 conditions that make it difficult for the private sector to produce housing that is
13 affordable to moderate- and lower-income households. In the interest of facilitating
14 development of housing that is affordable at these income levels, the City requires
15 certain residential projects to include affordable housing units, known as “inclusionary
16 housing.”

17 Under the Zoning Code’s current inclusionary housing requirement (Attachment 2),
18 residential development projects consisting of five or more units must restrict 20% of the
19 units in the project to a cost affordable to moderate- or lower-income households.
20 Alternatives to the 20% on-site inclusionary requirement, such as payment of in-lieu
21 fees, dedication of land or other equivalent action that would provide a comparable or
22 superior benefit to the on-site requirement, may be considered by the City Council.

23 Developers enter into an agreement with the City before the issuance of a building
24 permit or the approval of a final map, if the project involves a division of land, which sets
25 forth the provisions of affordability for the project.

26 In the past, agreements have imposed the following requirements on inclusionary units:

- 27 • Buyer conveys second deed of trust to City for difference between fair market
28 value and affordable price
- 29 • Buyer pays 5% interest rate on second deed of trust to City for 10 years
30 (payment is deferred)
- 31 • Second deed of trust due and payable at time of resale
- 32 • City has option to purchase inclusionary unit

33 The inclusionary unit restrictions have no termination date, meaning that they remain
34 affordable to qualifying households during the lifetime of the unit. However, owners are
35 given credit upon re-sale for capital improvements they have made to the property.

36 Housing Element Action A2.3-1 identifies the need to update the inclusionary housing
37 requirement to limit its applicability to ownership projects, in light of recent court
38 decisions that have interpreted the limitation on rents charged for inclusionary
39 apartments as a form of rent control.

40 The Element also recommends re-evaluating the feasibility of providing inclusionary
41 units in smaller projects. For example, in a five-unit single-family project, prices for the
42 four non-inclusionary units would be likely be increased to “close the gap” between the
43 market-rate and affordable prices. For a large-lot subdivision with few parcels, this gap
44 could be substantial. Spreading the inclusionary housing subsidy over a larger number
45 of units (e.g., 20 units) would reduce the financial impacts on the purchasers of the non-
46 inclusionary units.

47 Amendments related to state law

48 State law (Govt. Code 65915, et seq) requires the City to approve a density bonus (i.e.,
49 an increase over the maximum number of units otherwise allowed by the General Plan)
50 and other incentives or concessions to housing projects that contain at least one of the
51 following:

- 52 - At least 5% of the housing units are restricted to very low-income residents.
- 53 - At least 10% of the housing units are restricted to lower-income residents.
- 54 - At least 10% of the housing units in a for-sale common interest development are
55 restricted to moderate-income residents.
- 56 - The project donates at least one acre of land to the city or county for very low-
57 income units, and the land has the appropriate general plan designation, zoning,
58 permits and approvals, and access to public facilities needed for such housing.
- 59 - The project is a senior citizen housing development (no affordable units
60 required).
- 61 - The project is a mobilehome park age-restricted to senior citizens (no affordable
62 units required).

63 The amount of the density bonus required for affordable housing is set on a sliding
 64 scale, based upon the percentage of affordable units at each income level.

65 A concession or incentive is defined as:

- 66 - A reduction in site development standards or a modification of zoning code or
 67 architectural design requirements, such as a reduction in setback or minimum
 68 square footage requirements; or
- 69 - Approval of mixed use zoning; or
- 70 - Other regulatory incentives or concessions that actually result in identifiable and
 71 financially sufficient cost reductions.

72 Additional details about the State’s requirements can be found in Attachment 3.

73 While the City would be obligated to approve a density bonus and other incentives upon
 74 request for a qualifying project, the Zoning Code does not currently include a process
 75 for approving them. Therefore, Housing Element Action A2.1-1 calls for the adoption of
 76 such procedures.

77 **PROPOSED AMENDMENTS**

78 Inclusionary housing requirements

79 As shown in the following table and revised CMC Section 17.08.020, the inclusionary
 80 housing program is proposed to be revised to:

- 81 • Remove its applicability to rental housing projects, per recent court decisions
- 82 • Allow projects of 5 to 19 units to pay an in-lieu fee for each project unit that is
 83 deposited in the Affordable Housing Fund.
- 84 • Reduce a project’s inclusionary obligation to 10% (from 20%) if the units are
 85 targeted to low-income households in order to promote “deeper” affordability.

Provision	Existing	Proposed
Applicability	All projects of ≥5 units	All projects of ≥5 ownership units
Provision of inclusionary units	All applicable projects provide inclusionary units on site	<ul style="list-style-type: none"> • Projects of ≥20 units provide inclusionary units on site • Projects of 5-19 units pay in-lieu fee for each project unit
Alternatives to on-site provision (subject to Council approval)	<ul style="list-style-type: none"> • Land dedication • In-lieu fee • Alternatives that provide a comparable or superior benefit to the City's affordable housing supply 	Same
Target households	Low- or Moderate-Income	Same
Percentage of inclusionary units	20% of project units	<ul style="list-style-type: none"> • 10% of project units if targeted to Low Income • 20% of project units if targeted to Moderate Income

86 Chapter 17.08 is also proposed to be expanded to:

- 87 • Define “affordability”
- 88 • Add detailed provisions for alternatives to providing on-site inclusionary units
- 89 • Allow the City Council to waive or reduce a project’s inclusionary housing obligation
90 based on economic hardship or other factors that make it infeasible for the project to
91 fulfill its obligation
- 92 • Add inclusionary dwelling unit standards allowing for smaller units and lots, and
93 fewer amenities, but requiring similar appearance to market-rate units
- 94 • Clarify that inclusionary units may be included in density bonus calculations in order
95 to potentially off-set the cost of providing such units
- 96 • Prohibit the designation of second dwelling units as inclusionary units
- 97 • Require the submission of an affordable housing plan by the developer with the
98 project application
- 99 • Require the recordation of an affordable housing agreement for each project subject
100 to the inclusionary housing requirement
- 101 • Allow for City assistance to the developer in meeting a project’s inclusionary housing
102 obligation

103 Density bonus and other affordable housing incentives

104 Proposed Section 17.08.030, Affordable Housing Incentives, would add procedures for
105 reviewing and approving applications for density bonuses and other incentives to
106 promote affordable and special needs housing in Calistoga.

107 The proposed procedures are primarily guided by state law and are frequently revised.
108 Therefore, the relevant sections of the Government Code are simply referred to, rather
109 than replicated in the section.

110 Affordable housing requirements - nonresidential development

111 Proposed Section 17.08.040 is a renumbering of existing Section 17.08.025, which was
112 recently adopted by the City Council to implement the nonresidential development
113 housing linkage fee study’s recommendations. No changes are proposed to this section.

114 Affordable Housing Fund

115 Proposed Section 17.08.050 is a revision of existing Section 17.08.040. It is proposed
116 that the “Housing Trust Fund” be renamed “Affordable Housing Fund” in order to more
117 clearly identify its purpose. Delegation of the Fund’s administration to the Napa Valley
118 Housing Authority is proposed to be deleted, as City staff is qualified to administer the
119 Fund.

120 **ENVIRONMENTAL REVIEW:** The proposed Code amendment are exempt from the
121 California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA
122 Guidelines, the “general rule” exemption, because it can be seen with certainty that
123 there is no possibility that the action in question may have a significant effect on the
124 environment.

125 **PLANNING COMMISSION REVIEW:** The Planning Commission considered the
126 proposed Code amendment at a public hearing on January 14, 2015, and adopted PC
127 Resolution 2015-1 recommending its approval to the Council (Attachment 4).

128 **CONSISTENCY WITH COUNCIL GOALS AND OBJECTIVES:** The proposed
129 amendment would help to fulfill the following of the City Council's goals and objectives
130 for Fiscal Year 2014-15:

131 *Goal 7 Address the community's housing needs.*

132 *Obj. 2 Expand housing opportunities, including workforce housing.*

133 **FISCAL IMPACT:** The proposed regulations allow for the payment of an in-lieu
134 affordable housing fee that would be deposited in the Affordable Housing Fund to be
135 used for the provision and preservation of affordable housing. The in-lieu fee amount
136 will be scheduled for consideration by the Council on a future agenda.

ATTACHMENTS

1. Draft ordinance
2. Existing Chapter 17.08, Affordable Housing
3. Excerpt from *Maximizing Density Through Affordability*
4. Excerpt from Planning Commission Minutes