

**CITY OF CALISTOGA
PLANNING COMMISSION
PC RESOLUTION 2015-21**

1 **RECOMMENDING THAT THE CITY COUNCIL RESCIND AND REPLACE**
2 **MUNICIPAL CODE CHAPTER 17.44 NONCONFORMING USES (ZOA 2015-6)**

3 WHEREAS, many residences located in commercial and industrial zoning
4 districts are deemed nonconforming and therefore may have problems obtaining
5 insurance, loans and mortgages; and

6 WHEREAS, allowing nonconforming residential structures to be replaced if they
7 are involuntarily destroyed is consistent with the City's desire to maintain its housing
8 stock; and

9 WHEREAS, the Planning Commission reviewed the proposed amendments to
10 Chapter 17.44 at a public hearing on September 9, 2015, and during its review,
11 considered the public record, including the staff report, findings, and any written
12 materials and testimony presented by the public during the hearing; and

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

17 NOW, THEREFORE, BE IT RESOLVED by the City of Calistoga Planning
18 Commission that, based on the above findings, it is recommended that the City Council
19 rescind Chapter 17.44 of the Calistoga Municipal Code and replace it with the following:

20 *Chapter 17.44*

21 **NONCONFORMING USES**

22 *Sections:*

23 *17.44.010 Continuation, alterations and extensions.*

24 *17.44.020 Discontinuance.*

25 *17.44.030 Replacement following destruction.*

26 *17.44.040 Completion of nonconforming structure.*

27 *17.44.050 Prohibited nonconforming uses.*

28 *17.44.010 Continuation, alterations and extensions.*

29 *Subject to the provisions of this section, a nonconforming use or structure*
30 *may be continued and maintained in reasonable repair but shall not be*
31 *altered or extended, except that:*

- 32 A. *The extension of a nonconforming use to a portion of a structure*
33 *that was provided for the nonconforming use at the time the*
34 *ordinance codified in this title was adopted shall be permitted*
35 *provided the parking requirements pursuant to CMC Chapter 17.36,*
36 *Off-Street Parking and Loading, are met.*

37 B. *A structure conforming as to use but nonconforming with respect to*
38 *height, setback or coverage may be altered or extended if the*
39 *alteration or extension does not further deviate from the standards*
40 *of this title.*

41 C. *Any structure or use for which parking facilities do not meet the*
42 *requirements of CMC Chapter 17.36 shall be considered a*
43 *nonconforming use. Such nonconforming uses may continue, but*
44 *no enlargement, expansion or increase in the number of*
45 *businesses shall be made on the lot or within existing structures*
46 *unless the entire parking requirements of CMC Chapter 17.36 for*
47 *the expanded floor area or use intensification are met or an in-lieu*
48 *parking fee can be applied in accordance with such title.*

49 17.44.020 *Discontinuance.*

50 A. *If a nonconforming use is replaced by another use, the new use*
51 *shall conform to this title.*

52 B. *If a nonconforming use is discontinued for a period of 180 days, all*
53 *future use shall conform to the current provisions of this title.*

54 17.44.030 *Replacement following destruction.*

55 A. *If a nonconforming structure or a structure containing a*
56 *nonconforming use is destroyed by any cause to an extent*
57 *exceeding 60 percent of fair market value as indicated by the*
58 *records of the County Assessor, a future structure or use on the*
59 *site shall conform to this title.*

60 B. *Notwithstanding the above, a nonconforming residential structure*
61 *may be replaced, provided that:*

62 1. *The number of dwelling units is not decreased.*

63 2. *The replacement structure complies with all applicable*
64 *development standards, unless a variance is approved.*

65 3. *A building permit for the replacement structure shall be*
66 *applied for within one year of the former structure's*
67 *destruction and construction shall be diligently pursued.*

68 17.44.040 *Completion of nonconforming structure.*

69 *Nothing contained in this title shall require any change in the plans,*
70 *construction, alteration, or designated use of a structure for which a permit*
71 *has been issued and construction work has commenced prior to the*
72 *adoption of this title, or any amendment thereto, that caused the structure*
73 *or use to become nonconforming. However, such structure shall be*
74 *completed and in use within two years from the time the permit was*
75 *issued.*

- 76 *17.44.050 Prohibited nonconforming uses.*
77 *The following nonconforming uses are prohibited:*
78 *A. A nonconforming use not involving a structure*
79 *B. A nonconforming use involving a structure having an assessed*
80 *value of less than \$1,000.*

81 APPROVED AND ADOPTED on September 9, 2015 by the following vote of the
82 Calistoga Planning Commission:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jeff Manfredi, Chair

ATTEST: _____
Lynn Goldberg, Secretary