

City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: Lynn Goldberg, Planning and Building Director
DATE: February 21, 2017
SUBJECT: Zoning Code Amendments Related to Accessory Dwelling Units (ZOA 2017-1)

APPROVAL FOR FORWARDING



Dylan Feik, City Manager

1 **ISSUE:** Consideration of Zoning Code amendments to revise regulations regarding
2 secondary/accessory dwelling units

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

5 **BACKGROUND:** State law requires the City to allow the development of an
6 independent living unit that is subordinate to the main dwelling on a lot that is zoned for
7 one-family dwellings. Calistoga Municipal Code Title 17, Zoning, allows “second
8 dwelling units” as a permitted use in the Rural Residential, One-Family Residential and
9 Two-Family Residential Zoning Districts. They are currently allowed by use permit in the
10 Rural Residential-Hillside Zoning District.

11 CMC Chapter 17.37, Second Dwelling Units (Attachment 2), prescribes permit
12 requirements, general provisions and design standards for second dwelling units that
13 conformed to prior state law. These regulations require one parking space for a second
14 dwelling unit, a minimum unit size of 300 square feet and a maximum size of 750
15 square feet.

16 Recent state legislation¹ that took effect on January 1, 2017 is intended to further
17 reduce barriers, streamline approval and expand capacity to accommodate the
18 development statewide of the newly re-named “accessory dwelling units”.

19 Accessory dwelling units may be created on a lot with an existing one-family dwelling
20 unit in two primary ways:

- 21 • New construction:
 - 22 - The construction of a structure that is separate from an existing one-family
23 dwelling unit
 - 24 - The construction of an addition to an existing one-family dwelling
- 25 • Conversion of existing space:
 - 26 - The conversion of an existing accessory structure, such as a free-standing
27 garage or pool house
 - 28 - The conversion of a portion of an existing one-family dwelling

29 On December 6, 2016, the City Council directed staff to initiate Zoning Code
30 amendments required by state law, as well as eliminate the current minimum ADU size
31 in order to promote the creation of smaller units such as “tiny houses.” (The Building
32 Code would be used instead to determine the legally-acceptable minimum.)

33 It was also the Council’s consensus to eliminate the parking requirement for all ADUs,
34 including those developed through new construction, because these ADUs are unlikely
35 to be constructed in areas with limited on-street parking (such as the downtown) due to
36 regulatory constraints such as minimum setbacks and maximum lot coverage.

37 The Council agreed with staff’s recommendation to not increase the maximum ADU size
38 above the current 750 square feet and/or one bedroom in order to limit potential impacts
39 on utilities, public services and parking.

40 **DISCUSSION**: In addition to eliminating the minimum ADU size and the parking
41 requirement for all ADUs, the following Zoning Code amendments are proposed to bring
42 the Municipal Code into compliance with the new state law.

- 43 • Change all Zoning Code references from “second dwelling unit” to “accessory
44 dwelling unit.”
- 45 • Delete the use permit requirement for ADUs in the RR-H Zoning District. (State
46 law now requires that all ADUs be approved ministerially without a discretionary
47 review process.)
- 48 • Add the following general provisions to Chapter 17.37:
 - 49 - The floor area of an accessory dwelling unit created through an addition to
50 the primary unit may not exceed 50 percent of the primary unit’s existing living
51 area.

¹ SB 1069 and AB 2299, codified in Govt. Code Section 65852.2 (in part)

- 52 - No setback shall be required for an existing garage that is converted to an
53 ADU.
- 54 - A setback of no more than five feet from the side and rear lot lines shall be
55 required for an ADU that is constructed above a garage.
- 56 • Modify Chapter 17.36, Off-Street Parking and Loading to allow a tandem parking
57 arrangement where parking required for the existing dwelling has been displaced
58 by the creation of an ADU (such as through a garage conversion).

59 The ADU design standards contained in Chapter 17.37 will continue to be applied
60 during the building permit application review process in order to ensure that they are
61 compatible with the design of the primary dwelling unit, minimize privacy intrusion for
62 dwellings on adjacent properties, and minimize impacts on neighboring properties'
63 scenic views of ridge lines and hilltop areas.

64 **PLANNING COMMISSION REVIEW:** The Planning Commission considered the
65 proposed Code amendments at a public hearing on January 25, 2017, and unanimously
66 adopted PC Resolution 2017-1 recommending their approval to the Council.

67 **CONSISTENCY WITH COUNCIL GOALS AND OBJECTIVES:** Promoting the
68 development of ADUs would be in conformance with Goal 7, Objective 2 of the City
69 Council's goals and objectives for Fiscal Year 2016-17, which calls for expanding
70 housing opportunities, including workforce housing.

71 **ENVIRONMENTAL REVIEW:** The proposed Zoning Code amendments have been
72 reviewed in accordance with the California Environmental Quality Act and the City has
73 determined that CEQA Guidelines Section 15061(b)(3), the "general rule" exemption,
74 applies because it can be seen with certainty that there is no possibility that the
75 amendments may have a significant effect on the environment. Therefore, the proposed
76 action is exempt from CEQA.

77 **FISCAL IMPACTS:** The water and wastewater operating enterprise funds will receive
78 less revenue due to the ADU connection fee exemptions dictated by the new state law.

ATTACHMENTS

1. Draft Ordinance 729
2. Tracked changes to existing CMC Chapter 17.37, Second Dwelling Units
3. Existing CMC Chapter 17.37, Second Dwelling Units
4. Govt. Code Section 65852.2

ORDINANCE NO. 729

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA AMENDING TITLE 17, ZONING, TO REVISE THE REGULATIONS FOR ACCESSORY DWELLING UNITS (ZOA 2017-1)

1 **WHEREAS**, on January 1, 2017, revisions to Govt. Code Section 65852.2
2 became effective that are intended to reduce barriers, streamline approval and expand
3 capacity to accommodate the development statewide of accessory dwelling units
4 (ADUs); and

5 **WHEREAS**, amendments to Calistoga Municipal Code Title 17, Zoning, are
6 necessary in order to maintain consistency with state law; and

7 **WHEREAS**, the City of Calistoga desires to provide additional incentives beyond
8 those required by state law to encourage the provision of ADUs; and

9 **WHEREAS**, the Planning Commission considered the proposed amendments
10 included herein at a public hearing on January 25, 2017, and unanimously adopted PC
11 Resolution 2017-1 recommending their approval to the Council.

12 **NOW, THEREFORE, THE CALISTOGA CITY COUNCIL DOES HEREBY**
13 **ORDAIN AS FOLLOWS:**

14 **SECTION ONE**

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

18 **SECTION TWO**

19 1. CMC Subsection 17.04.025 is amended as follows:

20 ~~Repealed by Ord. 706: "Accessory dwelling unit" means a dwelling unit located on~~
21 ~~the same parcel as a one-family dwelling that provides complete independent living~~
22 ~~facilities for one or more persons, including permanent provisions for living, sleeping,~~
23 ~~eating, cooking, and sanitation. The accessory dwelling unit may be attached to the~~
24 ~~one-family dwelling or detached. "Accessory dwelling unit" includes an efficiency unit~~
25 ~~as defined by Health and Safety Code Section 17958.1.~~

26 2. CMC Subsection 17.04.625, Second dwelling unit, is deleted.

27 3. The term "second dwelling unit" is replaced with "accessory dwelling unit" in the
28 following CMC subsections:

29 17.14.020(A)(2)

30 17.16.020(A)(2)

31 17.18.020(A)(2)

32 4. The term "second dwelling unit" is replaced with "accessory dwelling unit" in CMC
33 Subsection 17.15.030(B)(2) and moved to Subsection 17.15.030(A)(3). Subsection
34 17.15.030(B) is renumbered accordingly.

- 35 5. The term “second dwelling unit” is replaced with “accessory dwelling unit” in CMC
36 Subsection 17.24.130(B)(2) and moved to Subsection 17.24.130(A)(4). Subsection
37 17.24.130(B) is renumbered accordingly.
- 38 6. The term “second dwelling unit” is replaced with “accessory dwelling unit” in CMC
39 Subsection 17.24.420(B)(2) and moved to Subsection 17.24.420(A)(5). Subsection
40 17.24.420(B) is renumbered accordingly.

41 **SECTION THREE**

42 CMC Subsection 17.41.020(B)(1)(b) is deleted and the subsection is renumbered
43 accordingly.

44 **SECTION FOUR**

45 CMC Chapter 17.37, Second Dwelling Units, is repealed in its entirety and replaced
46 with the following.

47 Chapter 17.37 ACCESSORY DWELLING UNITS

48 17.37.010 Purpose

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

59 17.37.020 General provisions

60 The following standards shall apply to accessory dwelling units:

- 61 A. One accessory dwelling unit is permitted on a lot that is developed with one one-
62 family dwelling.
- 63 B. An accessory dwelling unit may not be sold separately from the primary dwelling
64 unit and no subdivision of land or air rights is authorized by this chapter.
- 65 C. An accessory dwelling unit may be rented or leased, provided that it is rented or
66 leased for periods of 30 consecutive days or more.
- 67 D. Utilities
- 68 1. The utility services for a newly-constructed accessory dwelling unit that is
69 detached from the primary unit, including water, sewer and electricity, shall be
70 separately metered from the primary dwelling unit.
- 71 2. A new or separate utility connection is not required if an accessory dwelling
72 unit is created within the existing space of the one-family residence or an

73 accessory structure, and no related connection fee or capacity charge shall
74 be assessed.

75 E. The floor area of an accessory dwelling unit may not exceed 750 square feet.

76 F. The floor area of an accessory dwelling unit created through an addition to the
77 primary unit may not exceed 50 percent of the primary unit's existing living area.

78 G. An accessory dwelling unit may not have more than one bedroom.

79 H. Setbacks

80 An accessory dwelling unit shall comply with the same setback and height
81 requirements as for the primary unit, except as follows:

82 1. A detached accessory dwelling unit not more than 15 feet in height may
83 maintain a 10-foot rear yard setback.

84 2. No additional setback shall be required for an accessory dwelling unit that is
85 created through the conversion of an existing accessory structure.

86 3. A five-foot setback from the side and rear lot lines shall be provided for an
87 accessory dwelling unit that is constructed above an existing garage.

88 I. The maximum coverage of a lot as provided in the applicable zoning district may
89 be exceeded as provided by CMC 17.38.050 in order to accommodate an
90 accessory dwelling unit.

91 J. Parking is not required to be provided for an accessory dwelling unit.

92 K. When parking for the primary unit required by Chapter 17.36 is displaced in
93 conjunction with the construction of an accessory dwelling unit or is converted to
94 an accessory dwelling unit, the required replacement spaces for the primary unit
95 may be located in any configuration on the lot, including, but not limited to, in a
96 tandem arrangement. However, such replacement spaces may not be located in
97 any required yard, except in accordance with CMC 17.36.070.

98 L. Fire sprinklers shall not be required for an accessory dwelling unit if they are not
99 required for the primary unit.

100 M. An accessory dwelling unit created within the existing space of a one-family
101 residence or accessory structure shall have independent exterior access from the
102 existing residence, and side and rear setbacks that are sufficient for fire safety.

103 17.37.030 Design standards

104 The following design standards apply to accessory dwelling units that are not
105 created within the existing space of the primary dwelling unit or an accessory
106 structure.

107 A. The accessory dwelling unit shall be compatible with the design of the primary
108 dwelling unit.

109 B. The window and door openings of an accessory dwelling unit shall be designed
110 applying methods that will minimize privacy intrusion for dwellings on adjacent
111 properties.

112 C. The design of the accessory dwelling unit shall minimize impacts on neighboring
113 properties' scenic views of ridge lines and hilltop areas.

114 17.37.040 Nonconforming accessory dwelling units

115 Accessory dwelling units legally constructed prior to adoption of the provisions
116 contained in this title shall be considered nonconforming and subject to the
117 provisions of CMC Chapter 17.44 pertaining to nonconforming uses and structures.
118 Accessory dwelling units that were created without approval under applicable laws
119 in place at the time of construction shall be subject to enforcement.

120 **SECTION FIVE**

121 CMC Section 17.36.130 Parking requirements – Residential uses, is repealed in its
122 entirety and replaced with the following:

123 Off-street parking for residential uses shall be as follows:

124 A. One-family dwellings, multifamily dwellings and duplexes: two spaces per
125 dwelling

126 B. Bed and breakfast inns and facilities: two spaces for the owner or resident
127 manager, plus one parking space for each rental room

128 C. Mobile home parks: two spaces per dwelling plus one guest space for each five
129 units, evenly distributed within the mobile home park

130 **SECTION SIX**

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

136 **SECTION SEVEN**

137 Severability. If any section, subsection, subdivision, paragraph, sentence,
138 clause, or phrase in this ordinance or any part thereof is for any reason held to be
139 unconstitutional or invalid or ineffective by any court of competent jurisdiction, such
140 decision shall not affect the validity or effectiveness of the remaining portions of this
141 ordinance or any part thereof. The City Council hereby declares that it would have
142 passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase
143 thereof irrespective of the fact that any one or more subsections, subdivisions,
144 paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or
145 ineffective.

147 **SECTION EIGHT**

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

152 THIS ORDINANCE was introduced with the first reading waived at the City of
153 Calistoga City of Council meeting of the **21st day of February, 2017**, and was passed
154 and adopted at a regular meeting of the Calistoga City Council on the **__ day of __,**
155 **2017**, by the following vote:

156 **AYES:**
157 **NOES:**
158 **ABSENT:**
159 **ABSTAIN:**

160 _____
161 **Chris Canning, Mayor**

162 **ATTEST:**

163
164 _____
165 **Kathy Flamson, City Clerk**