

CITY OF CALISTOGA  
PLANNING COMMISSION  
PC RESOLUTION 2017-XX

1 RECOMMENDING THAT THE CITY COUNCIL AMEND CHAPTER 17.08,  
2 AFFORDABLE HOUSING, OF TITLE 17, ZONING, TO RE-INSTATE THE  
3 INCLUSIONARY HOUSING REQUIREMENT FOR RENTAL HOUSING PROJECTS  
4 (ZOA 2017-4)

5 WHEREAS, in the interest of facilitating the development of housing that is  
6 affordable to lower- and moderate- income households, the City requires residential  
7 ownership projects of 5 or more dwelling units to include affordable units, known as  
8 "inclusionary housing"; and

9 WHEREAS, prior to 2015, the City's inclusionary requirement also applied to  
10 rental housing projects; and

11 WHEREAS, following the *Palmer/Sixth Street Properties L.P. v. City of Los*  
12 *Angeles* decision, which interpreted the limitation on rents charged for inclusionary  
13 apartments to be a form of rent control, the Zoning Code was amended to exempt rental  
14 projects from the inclusionary requirement; and

15 WHEREAS, Assembly Bill No. 1505, which was recently signed by the Governor,  
16 declares the California Legislature's intent to supersede this court decision to the extent  
17 that it conflicts with a local jurisdiction's authority to impose an inclusionary requirement  
18 on rental projects; and

19 WHEREAS, the City continues to have a strong desire to facilitate the  
20 development of affordable housing; and

21 WHEREAS, the Planning Commission reviewed the proposed amendments at a  
22 public hearing on November 8, 2017, and during its review, considered the public  
23 record, including the staff report, findings, and any written materials and testimony  
24 presented by the public during the hearing; and

25 WHEREAS, a comprehensive re-organization of the R Zoning Districts in 2014  
26 (Ordinance 699) inadvertently prescribed a minimum required street side yard for a  
27 reverse corner lot in the R-3 Zoning District of 20 feet instead of the correct 15 feet, and  
28 this error needs to be corrected; and

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

33 NOW, THEREFORE, BE IT RESOLVED by the City of Calistoga Planning  
34 Commission that, based on the above findings, it is recommended that the City Council  
35 amend Calistoga Municipal Code Section 17.08.020 pursuant to the revisions shown in  
36 Exhibit A, attached hereto.

37           NOW, THEREFORE, BE IT FURTHER RESOLVED by the City of Calistoga  
38 Planning Commission that CMC Section 17.19.040(F)(2)(d.) be amended to read as  
39 follows:

40           d. The side yard for a reverse corner lot (CMC 17.38.040, Exhibit A) shall  
41           be not less than 15 feet.

APPROVED AND ADOPTED on November 8, 2017 by the following vote of the  
Calistoga Planning Commission:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Paul Coates, Chair

ATTEST: \_\_\_\_\_  
Lynn Goldberg, Secretary

Exhibit A

**Proposed amendments to CMC Section 17.08.020**

*Additions shown with underlining; deletions shown with ~~strikethrough~~*

**17.08.020 Affordable housing requirements – Residential development.**

A. Purpose. It is the intent of the City to partially offset 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.

42 B. Applicability.

43 1. The provisions of this section shall apply to residential subdivisions of 5 or  
44 more parcels or condominiums, and to rental projects of 5 or more units, with  
45 the exception of the following:

46 4a. Projects that are to be developed pursuant to the terms of a  
47 development agreement or vesting subdivision map executed prior to the  
48 effective date of the ordinance adopting these regulations.

49 2b. Projects that received subdivision map approval prior to the effective  
50 date of the ordinance adopting these regulations.

51 C4. Inclusionary Requirements.

52 1C. Ownership pProjects with between 5 and 19 dwelling units shall meet their  
53 inclusionary housing requirement through the payment of an in-lieu fee, as  
54 provided in subsection (D)(~~54~~)(a) of this section, for each unit in the project.

55 2D. Ownership pProjects with 20 or more dwelling units and rental projects of 5 or  
56 more units shall provide inclusionary housing units as follows:

57 a. At least 20 percent of the project's total dwelling units shall be sold or  
58 rented at prices or rents affordable to moderate-income households and  
59 shall be restricted to their purchase or rental and occupancy by such  
60 households ("inclusionary units").

61 b. Alternatively, at least 10 percent of the project's total dwelling units shall  
62 be sold or rented at prices or rents affordable to low-income households  
63 and shall be restricted to their purchase or rental and occupancy by such  
64 households ("inclusionary units").

65 32. Target Household and Affordability Definitions. For the purposes of this  
66 section:

- 67 a. “Moderate-income household” shall mean a household whose annual  
68 gross income does not exceed 120 percent of median income adjusted  
69 by actual household size for households in the County of Napa,  
70 California, as published from time to time by the State of California.
- 71 b. “Low-income household” shall mean a household whose annual gross  
72 income does not exceed 80 percent of median income adjusted by  
73 actual household size for households in the County of Napa, California,  
74 as published from time to time by the State of California.
- 75 c. A unit is “affordable” if it meets the requirements for affordable housing  
76 costs for moderate-income or low-income households, as applicable,  
77 established by Health and Safety Code Section 50052.5 and regulations  
78 adopted by the California Department of Housing and Community  
79 Development (California Code of Regulations Title 25,  
80 Sections 6910 through 6924) determining affordability of residential  
81 housing units based upon family size and income levels. Housing costs  
82 shall include homeowner association fees, if applicable.

83 43. Fractional Units. In determining the number of inclusionary units required,  
84 fractional units that may result from the application of these requirements  
85 shall be satisfied by one of the two following methods, at the discretion of the  
86 applicant:

- 87 a. Fractional numbers of inclusionary units may be “rounded up” to the  
88 nearest whole integer and treated as a whole inclusionary unit.
- 89 b. Payment of a portion of the in-lieu fee allowed pursuant to subsection  
90 (D)(~~54~~)(a) of this section in an amount equivalent to the remaining  
91 fractional portion of the inclusionary unit requirement.

92 54. Alternatives. Upon a finding by the Planning Commission or City Council, as  
93 appropriate, that the on-site provision construction of the required inclusionary  
94 units is not feasible or appropriate, the applicant shall meet the inclusionary  
95 requirement through one or more of the following alternatives:

- 96 a. In-Lieu Fee Payment.
  - 97 i. The inclusionary housing requirement may be satisfied through the  
98 payment of an affordable housing in-lieu fee for each unit in the  
99 project.
  - 100 ii. The amount of the in-lieu fee shall be set by resolution of the City  
101 Council and may be periodically updated to reflect changing  
102 housing conditions within the community, including the actual costs  
103 of providing affordable housing.
  - 104 iii. In-lieu fees shall be deposited by the City into the Affordable  
105 Housing Fund.
  - 106 iv. In-lieu fees shall be payable at the time of building permit issuance.

- 107           b.    In-Lieu Land Dedication.
- 108           i.    The inclusionary housing requirement may be satisfied by an  
109           irrevocable offer of land dedication within the City limits that would  
110           accommodate the construction of at least the number of  
111           inclusionary units required for the project. Identification of the land  
112           to be dedicated shall be accomplished prior to approval of the  
113           discretionary permit for the residential development project.
- 114           ii.   In addition to any other findings required by the Calistoga Municipal  
115           Code, any project approval for an in-lieu land dedication shall  
116           include a finding that the land to be dedicated is not subject to liens,  
117           is served or proposed to be served by municipal services, including  
118           water, sewer, roads, electricity, telephone and other similar  
119           customary services, and contains no unusual planning or  
120           development constraints.
- 121           iii.  In-lieu land shall be dedicated to the City or for-profit or non-profit  
122           affordable housing developer. The City Council may approve,  
123           conditionally approve or reject such offer of dedication. If the City  
124           Council rejects such offer of dedication, the applicant or developer  
125           shall be required to meet the inclusionary housing requirement by  
126           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  
130           resultant linked project sites shall be reviewed concurrently by the  
131           City. Inclusionary housing units not built on the site of the proposed  
132           original project shall be constructed simultaneously with market-  
133           rate dwellings constructed on the original site unless alternative  
134           arrangements are approved as part of the project approval.
- 135           ii.   Where inclusionary units are approved off-site, such units do not  
136           count as affordable units for the purposes of the receiving site  
137           qualifying for a density bonus.
- 138           d.    Equivalent methods that meet the intent of the housing element as  
139           deemed acceptable by the final decision-making body for the project.
- 140    DE. 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  
142    to fulfill its obligation.
- 143    EF. 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  
148 based on extenuating circumstances is adopted as part of project approval.
  - 149 2. Inclusionary units shall be distributed throughout the residential project site to  
150 the fullest extent practicable.
  - 151 3. Rental housing that is subject to the same affordable housing restrictions may  
152 be used to fulfill an ownership project's inclusionary requirement.
  - 153 4. For those residential development projects that are required to provide 10 or  
154 more inclusionary units, at least 10 percent of the inclusionary units shall  
155 have three or more bedrooms. Fractional units shall be rounded down to a  
156 whole unit.
  - 157 5. The size (i.e., square footage) and amenities of inclusionary units may be  
158 reduced from the overall size and quality of the market-rate units, ~~except that~~  
159 ~~the owners of such units shall have access to all common amenities available~~  
160 ~~to other 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  
162 units 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  
165 and compatible with the total project design in terms of appearance, materials  
166 and finished quality, as determined through the design review process.
  - 167 8. Residents of inclusionary units shall have the same ~~not be denied~~ access to  
168 common open spaces and/or recreational amenities as residents of non-  
169 inclusionary units.
  - 170 9. Accessory ~~Second~~ dwelling units shall not be counted toward inclusionary  
171 housing requirements.
- 172 FG. Affordable Housing Plan. An affordable housing plan shall be submitted as part of  
173 the first approval of any residential project subject to this chapter and shall be  
174 processed, reviewed, and approved, conditionally approved or denied concurrently  
175 with all other applications required for the residential project. The affordable  
176 housing plan shall include the following, as applicable:
- 177 1. Number, unit types, numbers of bedrooms, locations, sizes, design and  
178 tentative sales prices or rents of the project's inclusionary units.
  - 179 2. Construction schedule and phasing of inclusionary units in relation to  
180 unrestricted units.
  - 181 3. Any requested alternative pursuant to subsection (CD)(54) of this section,  
182 including information as to why the project's inclusionary requirement cannot  
183 be met on site.

184 4. Such additional information as may be required by the Planning and Building  
185 Director to ensure conformance of the project with this chapter.

186 GH. Affordable Housing Agreement. Concurrent with recordation of the final map for the  
187 residential project, an affordable housing agreement (or memorandum thereof)  
188 between the developer and the City shall be recorded against the property  
189 included in the project.

190 1. The affordable housing agreement shall be binding on all future owners and  
191 successors in interest.

192 2. The affordable housing agreement and other required agreements shall be  
193 prepared by the City at the developer's expense.

194 3. The affordable housing agreement shall include, but not be limited to, the  
195 following:

196 a. The total number of affordable units.

197 b. The location, unit size (square feet), and number of bedrooms of the  
198 affordable units.

199 c. A description of the household income group(s) to be targeted for  
200 purchase of the inclusionary units, and the standards for determining the  
201 corresponding affordable sales price(s) or rents.

202 d. The term of affordability.

203 e. A schedule for completion of the affordable units and phasing of  
204 development in relation to construction of unrestricted units.

205 f. A description of remedies for breach of the agreement by either party  
206 (the City may identify qualified purchasers as third party beneficiaries  
207 under the agreement).

208 g. Conditions governing the initial sale and resale, or rental, of affordable  
209 units to eligible households to ensure continued compliance with the  
210 restrictions of this chapter; and a condition requiring disclosure by the  
211 developer to the buyer of affordable units of the existence of the deed  
212 restrictions affecting the resale of the property.

213 h. Conditions providing the City or its designee an option to subsequently  
214 buy any of the affordable ownership units for the purposes of providing  
215 affordable housing.

216 i. If an off-site alternative is approved pursuant to subsection (D)(4)(c) oif  
217 this section, provisions to ensure that the affordable housing is provided  
218 off site. Additional restrictions or agreements may be required to be  
219 recorded against the off-site property.

220 j. Other provisions needed to ensure implementation and compliance with  
221 this chapter, to ensure continued affordability of the units, and to comply  
222 with State or Federal law.

- 223 H. City Assistance. The City may assist a developer in meeting their inclusionary  
224 housing obligation through subsidies, design flexibility and/or other means, when  
225 deemed appropriate and feasible by the City Council.
  
- 226 I. Monitoring of Inclusionary Units. Inclusionary units shall be monitored by the City  
227 or its designee to ensure that they are continuously occupied, or in the case of  
228 ownership units, owner-occupied, by an income-qualified household.