

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA,
COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING CHAPTER 19.02
(GROWTH MANAGEMENT SYSTEM) OF THE CALISTOGA MUNICIPAL
CODE TO CLARIFY, STREAMLINE AND IMPROVE PROGRAM
IMPLEMENTATION

1
2
3 **WHEREAS**, the City Council adopted on January 4, 2005 Ordinance No.
4 616 which established Chapter 19.02 Growth Management System of the
5 Calistoga Municipal Code to replace references to growth management based on
6 domestic water and wastewater treatment capacity deficiencies as provided in
7 Chapter 13.16 Resource Management System (RMS), with a new strategy based
8 on population growth and community infrastructure;

9
10 **WHEREAS**, on September 6, 2005, the City Council of the City of
11 Calistoga adopted Ordinance #624 amending Chapter 19.02 Growth
12 Management System of Calistoga Municipal Code to clarify and improve program
13 implementation;

14
15 **WHEREAS**, upon completion of the fifth cycle of the Growth Management
16 Allocation process in November 2008, the Planning Commission and City
17 Council determined that there was a need to revisit the City's Growth
18 Management System to provide more flexibility in the regulations and to explore
19 options on providing development incentives to encourage applicants to bring in
20 projects that address City needs;

21
22 **WHEREAS**, the Planning Commission considered the proposed revisions
23 to the City's Growth Management System at its regular meeting on April 22, 2009
24 and May 13, 2009 and adopted Resolution PC 2009-08 forwarding a
25 recommendation of approval for this amendment by the City Council;

26
27 **WHEREAS**, a public notice of the City Council public hearing of May 19,
28 2009 for an amendment to the City's Growth Management System was published
29 in the local newspaper and made available on the City's website;

30
31 **WHEREAS**, the City Council proposes an ordinance to amend Chapter
32 19.02 (Growth Management System) to clarify, streamline, and improve program
33 implementation;

34
35 **WHEREAS**, this action continues to implement the growth management
36 policies as adopted in the City of Calistoga's General Plan. Furthermore, such
37 policies were assessed in a previously adopted Environmental Impact Report
38 (EIR) for the General Plan;

40 **WHEREAS**, this action has been reviewed pursuant to the California
 41 Environmental Quality Act (CEQA) and determined that this activity is covered by
 42 the general rule that CEQA applies only to projects, which have the potential for
 43 causing a significant effect on the environment, and where it can be seen with
 44 certainty that there is no possibility that the action being contemplated, adoption
 45 of amendments to the Growth Management Ordinance, will have any impact on
 46 the environment [Section 15061 (b)(3)]; and

47
 48 **WHEREAS**, the City Council has reviewed and considered this
 49 amendment at its regular meetings on _____, 2009 and _____,
 50 2009, considered as one of its items of business, this Ordinance to be adopted in
 51 accordance with Government Code Section 65090, this Ordinance to be adopted
 52 in accordance with Government Code Section 65850, to include the written and
 53 oral staff report, proposed findings and comments received from the general
 54 public and interested agencies and parties.

55
 56 **NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of
 57 Calistoga that:

58
 59 **SECTION ONE:**

60
 61 Based on the above findings, the City Council of the City of Calistoga
 62 adopts this Ordinance to amend Chapter 19.02 Growth Management System of
 63 the Calistoga Municipal Code to clarify, streamline and improve program
 64 implementation.

65
 66 **SECTION TWO:**

67
 68 **Chapter 19.02**
 69 **GROWTH MANAGEMENT SYSTEM**

70
 71 **Sections:**

- 72 **19.02.010 Purpose.**
- 73 **19.02.020 Objectives.**
- 74 **19.02.030 Definitions.**
- 75 **19.02.040 General provisions.**
- 76 **19.02.050 Exceptions.**
- 77 **19.02.060 Allocation procedures.**
- 78 **19.02.070 General development objectives for awarding**
 79 **allocations.**
- 80 **19.02.080 Carryover of unused allocations.**

81
 82 **19.02.010 Purpose.**

83 It is the purpose and intent of this chapter to provide for the public health,
 84 safety and general welfare by: (1) ensuring that development remains

85 within the limits established by the City's General Plan; (2) encouraging
86 growth that is properly matched with essential public facilities and
87 services; and (3) preserving the unique small-town character of the
88 community which is vital to protecting the existing quality of life and
89 strengthening the local economy and tax base. This chapter provides a
90 mechanism for the City to select development proposals based on a set of
91 specific development objectives including, but not limited to, housing that
92 is affordable to families with lower and moderate incomes, infill
93 development or redevelopment over development at the City's edges, and
94 mixed-use development. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

95 **19.02.020 Objectives.**

96 Protection of the public health, safety and general welfare requires the
97 City establishes a growth management system to accomplish the
98 following:

- 99 A. Facilitate and implement the City's General Plan, including the
100 goals and policies contained in the land use, housing, community
101 identity, open space, economic development, conservation and
102 infrastructure elements, which cannot be accomplished by zoning
103 ordinances alone;
- 104 B. Provide a reasonable and understandable mechanism to phase
105 growth over the term of the General Plan at a pace that does not
106 exceed the City's ability to provide the resources, services and
107 facilities necessary to accommodate its existing residents and
108 businesses; avoids large fluctuations in the rate of population and
109 employment growth; and maintains compliance with the City's
110 share of the region-wide housing need to minimize exposure to
111 legal challenges, provide access to funding to secure affordable
112 housing development, and ensure vital State subventions are
113 protected into the future;
- 114 C. Regulate new residential growth in accordance with the population
115 growth rate established in the General Plan;
- 116 D. Regulate the pace of new nonresidential growth in accordance with
117 the goals and objectives established in the General Plan;
- 118 E. Give preference to lower-income housing development by
119 encouraging developers to include subsidized housing in their
120 projects beyond the minimum amount required by local ordinance
121 or to provide equitable financial assistance to the community to
122 accomplish this goal;
- 123 F. Give preference to moderate-income housing development by
124 encouraging developers to pursue residential developments which
125 through deed restrictions or other provisions will ensure their long-
126 term availability to households of moderate incomes;
- 127 G. Promote infill development over new development at the edges of
128 town;
- 129 H. Integrate new growth into existing developed areas which

- 130 encourages reinvestment in the maintenance and rehabilitation of
131 older residential neighborhoods or established commercial areas,
132 expansion of existing uses, enhances efficient use of municipal
133 services by avoiding unnecessary extensions, and promotes
134 housing near employment centers which tends to be more
135 affordable to a broader economic segment of the community;
- 136 I. Reduce dependency on the automobile by providing a mix of
137 housing types in pedestrian-oriented neighborhoods located near
138 City parks, commercial retail uses and services, and public transit;
- 139 J. Provide a balance of residential and nonresidential growth to
140 ensure the community's unique quality of life and economic well-
141 being; and
- 142 K. Recognize Federal and State preemptions on residential
143 development, such as for second dwelling units, and establish a
144 process for providing resources to residential units with existing
145 prior City commitments and where substantial investments in the
146 implementation of infrastructure are already in place. (Ord. 624 § 1,
147 2005; Ord. 616 § 1, 2004).

148 **19.02.030 Definitions.**

149 "Abandoned allocation" shall mean an allocation awarded to an applicant
150 which has exceeded 12 months without the development receiving the
151 required discretionary and nondiscretionary permits to construct the
152 project, or which has exceeded 24 months if an extension has been
153 authorized under the provisions of this chapter.

154 "Affordable housing" shall mean a residential unit or units intended for
155 households whose income is within the very low-, low- and moderate-
156 income categories.

157 "Allocation" shall mean the amount of development (the number of new
158 lots or dwelling units, new commercial square feet of building space) and
159 the water and wastewater resources necessary to support such
160 development assigned to a project or projects and authorized by the City
161 to proceed through the permit review process.

162 "Allocation process" shall mean the procedures established for requesting,
163 awarding and using allocations for residential and nonresidential
164 development projects.

165 "Annual allocation" shall mean the total number of new residential units
166 and total acre-feet of water for distribution to nonresidential development
167 that are available for allocation in a single calendar year.

168 "Application expiration period" shall mean the date on which the City
169 closes the period for receiving applications for residential and
170 nonresidential allocations.

- 171 "Combined average allocation" shall mean the total number of residential
172 units or total acre-feet of water for distribution to nonresidential
173 development estimated to be available for allocation in a five-year cycle.
- 174 "Competitive evaluation" shall mean the process of reviewing and
175 awarding allocations for development based on predetermined
176 development objectives.
- 177 "Five-year cycle" shall mean the fixed five-year period within which
178 allocations are made and monitored to ensure that targeted population
179 growth rate and water distributions for nonresidential development are not
180 exceeded.
- 181 "Floor area, gross" shall mean that the total horizontal area in square feet
182 of all floors measured from the exterior walls of a building, but not
183 including the area of unroofed inner courts or shaft enclosures. (Note: This
184 definition is a little more specific than the definition provided in the zoning
185 ordinance. It accounts for interior mezzanines.)
- 186 "Housing, above moderate-income" shall mean a residential unit intended
187 for a household whose income exceeds 120 percent of the median
188 household income for the County with adjustments based on household
189 size.
- 190 "Housing, low-income" shall mean a residential unit intended for a
191 household whose income is between 51 percent and 80 percent of the
192 median household income for the County with adjustments based on
193 household size.
- 194 "Housing, moderate-income" shall mean a residential unit intended for a
195 household whose income is between 81 percent and 120 percent of the
196 median household income for the County with adjustments based on
197 household size.
- 198 "Housing, very low-income" shall mean a residential unit intended for a
199 household whose income does not exceed 50 percent of the median
200 household income for the County with adjustments based on household
201 size.
- 202 "Lower-income housing" shall mean a residential unit or units intended for
203 households whose income is within the very low- and low-income ranges.
- 204 "Mixed use" shall mean the combination of uses such as office, retail,
205 commercial, and institutional with residential uses in a single building or on
206 a project site.
- 207 "Permit review process" shall mean all discretionary and ministerial
208 approval required by the City, County, State and/or Federal agencies
209 required at the time of application completeness.

210 "Residential development" shall mean a development proposal for a
211 dwelling or multiple dwellings, or for a subdivision that will result in the
212 construction, creation or placement of one or more new dwellings or
213 residential lots of record in the City, and which shall require approval of an
214 allocation provided through the allocation process.

215 "Residential unit" shall mean a residential housing unit or a residential lot
216 of record proposed to be created through the division of land. (Ord. 624 §
217 1, 2005; Ord. 616 § 1, 2004).

218 **19.02.040 General provisions.**

219 A. The provisions contained in this chapter shall apply to all
220 development in the City, unless otherwise exempt by this title or by
221 State law. No development shall be authorized by the City to
222 proceed through the permit review process until the development
223 has received an allocation.

224 B. Applications for allocations shall be made to the Planning and
225 Building Department on forms provided by the City. Applications
226 shall be accompanied by the following information, where
227 applicable:

228 1. A project narrative describing the proposed development
229 plan or intensification of use at an existing facility, including:
230 quantification of the number, size, type and nature of any
231 proposed residential dwelling units and/or quantification of
232 the proposed intensification of use or total amount of new
233 nonresidential square footage by type of use; proposed
234 sales price for new homes or rental rate for rental units; any
235 sales price or rental rate restrictions proposed to be
236 established; the extent in which the project would be
237 consistent with the character of the neighborhood; an
238 estimate of projected water usage and wastewater
239 production by type of use based upon the City's
240 Standardized Use Table; and a clear description of the
241 allocations being requested in terms of residential units
242 and/or amount of nonresidential water and wastewater
243 capacity. A statement and sufficient detail regarding steps
244 proposed by the proposed project to conserve or utilize
245 resources efficiently.

246 2. A preliminary site plan, including a vicinity map which
247 illustrates the relationship of the proposed development with
248 the surrounding area and showing the extent, location, and
249 type of existing and proposed uses on the site, any proposed
250 demolition of structures, and the nature and extent of open
251 space, parking and other similar facilities. A set of
252 preliminary architectural building elevation drawings for all
253 new proposed buildings.

254 3. A description of all project phasing, including an illustration

- 255 on the site plan of which improvements will be phased and
256 over what period of time.
- 257 4. A development schedule showing the anticipated date of
258 submittal of all requests for discretionary permits, design
259 review, environmental assessment, subdivision maps,
260 building permits, or other similar requests.
- 261 5. Such other information as may be required by the Planning
262 and Building Department as outlined on the "Materials
263 Required for Filing a Growth Management Allocation
264 Application" form.
- 265 6. Each application for an allocation, other than those
266 specifically exempted by CMC 19.02.050, shall be
267 accompanied by a processing fee as established by City
268 Council resolution. Such fees shall not be refundable once
269 processing of the application begins. (Ord. 624 § 1, 2005;
270 Ord. 616 § 1, 2004).

271 **19.02.050 Exceptions.**

272 The following development is exempt from this chapter and shall be
273 authorized to proceed through the permit review process without an
274 allocation:

- 275 A. Second dwelling units, as provided in Government Code Section
276 65852.2. Such units shall be counted towards the five-year cycle
277 1.35 percent growth rate in this chapter.
- 278 B. Residential development submitted as part of an approved permit
279 or subdivision authorized by the City on or before January 1, 2004,
280 and which is intended for lower-income households as defined by
281 this chapter. For dwellings located within a multiple-lot subdivision,
282 only those dwellings that qualify and are secured as affordable to
283 lower-income households shall be exempt from the residential
284 growth management system. The remaining dwellings shall be
285 required to receive an allocation prior to proceeding through the
286 permit review process.
- 287 C. Dwellings or nonresidential structures which have received final
288 design review, if required, and which have previously received a
289 building permit prior to the effective date of the ordinance codified
290 in this chapter which has not expired under the terms of the uniform
291 codes adopted in this title.
- 292 D. Dwellings or nonresidential structures on existing parcels of record
293 which have paid water and wastewater connection fees prior to the
294 effective date of the ordinance codified in this chapter and are
295 paying water meter service charges and/or a wastewater capacity
296 allocation charge to maintain a water and/or wastewater allocation.
297 In such instances, the parcel shall have a history of residential or
298 nonresidential development in the past, and the proposed new
299 development shall not exceed the water consumption and

300 wastewater production of the original development, as defined in
301 the City's Standardized Use Table or established baseline
302 allocation, as applicable. This exception does not apply to parcels
303 that do not have a history of residential or nonresidential
304 development.

305 E. Dwellings which are replaced, including mobile homes on an
306 approved mobile home site, and additions, alterations, remodeling
307 and repair to existing dwellings; provided, that there is no net
308 increase in the number of units.

309 F. Development projects for which the City has entered into a
310 development agreement with the project proponent may be exempt
311 from provisions of this chapter; however, any residential component
312 of such projects shall be subject to the 1.35 percent growth rate in
313 this chapter.

314 G. Replacement, repair, remodeling, minor additions or alterations to
315 existing nonresidential structures; provided, that the net increase in
316 gross floor area does not exceed 10 percent and there is no
317 significant change in use.

318 H. Public facilities sponsored by the City of Calistoga or the Calistoga
319 Joint Unified School District.

320 I. Projects sponsored by public and non-profit organizations which
321 provide medical, dental, social services, and the like for the
322 residents of Calistoga. (Ord. 624 § 1, 2005; Ord. 620 § 1, 2005;
323 Ord. 616 § 1, 2004).

324 J. Construction of single family residential development located on
325 existing residential lots of record. Such units shall be counted
326 towards the five-year cycle 1.35 percent growth rate in this chapter.

327 K. Minor residential subdivisions (3 or fewer lots in total; not more than
328 two newly created lots) located within the Rural, Rural Hillside, Low,
329 Medium, and High Density General Plan Land Use Designations.
330 Such units shall be counted towards the five-year cycle 1.35
331 percent growth rate in this chapter.

332 L. Intensification of existing uses, a mixed use, a change of use, or
333 additions to existing structures resulting in an increase in floor area
334 not more than ten percent (10%). Such allocations shall be granted
335 by the Planning & Building Director in small increments and shall be
336 counted towards the applicable annual cycle, and limited to a
337 cumulative total of two (2) acre feet of water in a calendar year.

338 **19.02.060 Allocation procedures.**

339 A. In July of each year, except for the initial year of application of this
340 chapter, the Planning and Building Director shall prepare and
341 distribute a written report, which estimates the number of residential
342 units and acre-feet of water for nonresidential uses that are
343 available for allocation by the City for the upcoming calendar year.
344 The report shall also estimate combined average residential and

345 nonresidential allocations available for distribution within the five-
346 year cycle, pursuant to the following formulas:

347 Annual Residential Allocation = Population x 1.35
348 percent/Household Size

349 "Population" is based upon the most recent available
350 estimates provided by the State Department of
351 Finance.

352 "Household Size" reflects the average number of persons
353 per household, as provided by the State Department
354 of Finance.

355 Where the "Annual Residential Allocation" is a fraction, this amount
356 shall be rounded down to the nearest whole number. Final
357 assessment of population generation will be based upon
358 information provided by the U.S. Census Bureau (H33. Population
359 by Units in Structure by Tenure).

360 Annual Nonresidential Allocation = Water Supply x Percentage
361 Distribution for Nonresidential Uses

362 "Water Supply" is the total amount of water (in acre-feet)
363 available to serve Calistoga in the calendar year.

364 "Percentage Distribution" is the percentage of water supply
365 to be designated for nonresidential uses as specified
366 in Chapter 13.16 CMC.

367 B. Following the Planning and Building Director's report provided in
368 subsection (A) of this section, the City Manager shall prepare and
369 distribute a written report to the City Council assessing community
370 conditions, including the adequacy of existing services and
371 facilities, availability of resources and current development and
372 growth trends. In conjunction with this report the Public Works
373 Director shall provide information on current water use by all land
374 uses, the quantity of unallocated water including the quantity and
375 total percentage of overall system losses and emergency reserves,
376 the quantity of wastewater which is being treated, and the permitted
377 treatment capacity of the wastewater treatment plant taking into
378 consideration the ability to properly dispose the treated effluent.
379 The report shall also include a determination on whether there is
380 sufficient capacity to serve projected allocations for the upcoming
381 year and for the five-year cycle. Allocations shall not be made by
382 the City where there is inadequate water or wastewater treatment
383 capacity.

384 The City Manager's report shall present the Planning Commission's
385 annual recommendation to the City Council regarding the proposed
386 development objectives for the upcoming year. The City Manager's

- 387 report may recommend that certain development objectives be
388 adopted by City Council.
- 389 C. Within 30 days from receipt of the City Manager's report, and not
390 later than September 15th of each year, the City Council, by
391 resolution, shall confirm the number of residential units and amount
392 of water for nonresidential use available for allocation and establish
393 a list of development objectives for residential and nonresidential
394 development by order of priority for the upcoming year. The list may
395 or may not include the general development objectives identified in
396 CMC 19.02.070(A) and (B), and shall be consistent with goals and
397 policies in the City's General Plan. The list shall be used by the City
398 to evaluate applications for allocations in the event that the number
399 of allocations requested in a given year exceeds the number of
400 allocations that are available for that year.
- 401 D. Unless otherwise provided in this chapter, the allocation confirmed
402 in subsection (C) of this section, as having adequate water and
403 wastewater treatment capacity to serve the development, shall
404 represent the amount of residential and nonresidential development
405 that may receive allocations in a calendar year.
- 406 E. Where there is no allocation available for distribution by the City, a
407 resolution shall be adopted by the City suspending the allocation
408 procedures contained in this chapter until the following calendar
409 year.
- 410 F. Annual allocations may be increased, as approved by City Council
411 resolution; provided, that the combined average residential
412 allocations do not result in a population growth rate of more than
413 1.35 percent or nonresidential water distribution exceeding the
414 percentage specified in Chapter 13.16 CMC as calculated over the
415 fixed five-year cycle, commencing on January 1, 2005.
- 416 G. Except as otherwise provided in this chapter, no development may
417 be determined to be complete or will be approved until the
418 development has received an allocation pursuant to the following
419 procedures:
- 420 1. Not later than November 30th of each year, the City shall
421 conduct a competitive evaluation of applications for annual
422 residential or nonresidential allocations, if such have been
423 determined to be available, and shall award allocations by
424 resolution. The competitive evaluation shall begin with an
425 open enrollment period in which applications for allocations
426 shall be submitted. The enrollment period shall be noticed in
427 a local newspaper of general circulation and shall be open
428 for a period of no less than 30 days.
 - 429 2. Applications for annual allocations shall be submitted to the
430 Planning and Building Department before the close of
431 regular business hours on the last day of open enrollment
432 period. Applications shall be accompanied by the required

- 433 submittal materials and fee, as provided in CMC 19.02.040.
434 3. No application for development shall be processed by the
435 City unless the land use proposed is determined by the
436 Planning and Building Department to be consistent with the
437 General Plan's Land Use Designation as reflected on the
438 current Land Use Map (Figure LU-4) and the City's Zoning
439 District as reflected on the current Zoning District Map.
440 (Note: Any required General Plan amendment or rezoning
441 will need to be secured prior to requesting allocations).
442 4. Applications which are not in conformity with the adopted
443 General Plan Land Use Designation and Zoning District on
444 the date of submittal, or require an amendment to the
445 adopted General Plan or Zoning Ordinance, excluding
446 applications on property designated as Planned
447 Development in the General Plan and Zoning Ordinance,
448 and which are not consistent with key General Plan goals,
449 objectives and policies shall not be eligible for an allocation.
450 5. Upon the close of the period by which applications for
451 allocations may be accepted, the Planning and Building
452 Department shall review each application for completeness.
453 Applications determined to be incomplete after the close of
454 the application period will not be recommended by staff to
455 receive an allocation.
456 6. All applications received shall be evaluated by the City
457 Council and awarded allocations in accordance with the
458 preferences established in CMC 19.02.070.
459 7. Applications for projects exceeding available annual
460 allocations may be awarded allocations from the combined
461 average allocation identified under subsection (F) of this
462 section; provided, that the allocation does not result in a
463 population growth rate of more than 1.35 percent or a
464 nonresidential water distribution exceeding the percentage
465 specified in Chapter 13.16 CMC as calculated over the fixed
466 five-year cycle.
467 8. Applicants who are not awarded an allotment shall be sent
468 notice of such decision within 10 days after the decision.
469 Such notice shall inform the applicant of the decision and the
470 right to reapply for an allocation in the next application
471 period. Such applicants will not be subject to filing fees
472 provided the same application is resubmitted.
473 9. Applications for the construction of residential units
474 sponsored by a nonprofit housing organization that fulfill the
475 City's remaining regional housing need in the very-low, low-
476 and moderate income housing categories as defined by the
477 General Plan may be submitted at any time during the year
478 for consideration of an allocation reservation for the next

- 479 allocation period.
480 H. Once a development has received an allocation, all required
481 discretionary and nondiscretionary approvals and permits
482 necessary to commence construction or in the case of a subdivision
483 recordation of a final subdivision map or final parcel map must be
484 obtained within 12 months of the date of allocation.
485 1. In the case of a recorded subdivision, the processing of
486 permits for a development proposal shall occur within three
487 (3) years in order to maintain the allocation that was granted
488 by the City Council.
489 2. Within eighteen (18) months of the three (3) year period, the
490 subdivider shall remit to the City thirty (30) percent of the
491 required water and wastewater connection fee in order to
492 maintain the allocation that was granted by the City Council.
493 3. If at the end of the three (3) year period, the processing of
494 permits for a development proposal has not occur the water
495 and wastewater connection fee paid to the City shall be
496 forfeited.
497 4. Relief from the three (3) year timeframe set forth in this
498 section may be granted by the City Council.
499 I. Failure to receive the necessary permits to commence construction,
500 or in the case of a subdivision to receive approval and recordation
501 of a final subdivision map or final parcel map, shall deem the
502 allocation expired. A one-time extension may be authorized by the
503 Planning and Building Director, for a period of up to 12 months;
504 provided, that the applicant is actively seeking permit approval. No
505 allocation shall extend for a period of over 24 months without the
506 allocation being deemed expired.
507 J. Allocations shall be nontransferable by the applicant from one
508 parcel to another. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

509 **19.02.070 General development objectives for awarding**
510 **allocations.**

- 511 A. Preference for residential allocations shall generally be given to
512 projects that include one or more of the following:
513 ~~• Construction of residential units that fulfill the City's remaining~~
514 ~~regional housing need in the very low, low and moderate-~~
515 ~~income housing categories as defined by the General Plan.~~
516 • Construction of deed restricted residential units that the majority
517 of units go towards the goal of fulfilling the City's remaining
518 regional housing need in the very-low, low- and/or moderate-
519 income housing categories as defined by the General Plan.
520 • Construction of residential units that will be available to
521 households of moderate-income as defined by the General
522 Plan.
523 • Construction of residential units that are proposed as part of a

- 524 mixed-use development project.
- 525 • Construction of residential units on vacant, underdeveloped or
- 526 redeveloped land with necessary public infrastructure in place.
- 527 B. Preference for nonresidential allocations shall generally be given to
- 528 projects that include one or more of the following:
- 529 ~~• Intensification of existing uses or the construction of new~~
- 530 ~~structures for occupancy by a local-serving retail or commercial~~
- 531 ~~business.~~
- 532 • Construction of a structure that includes nonresidential uses as
- 533 part of a mixed-use development project.
- 534 • Intensification or expansion of existing uses greater than ten
- 535 percent (10%) in floor area or new construction on vacant,
- 536 underdeveloped or redeveloped land ~~located within the~~
- 537 ~~downtown commercial (DC) zoning district~~ with necessary public
- 538 infrastructure in place.
- 539 • Public or quasi-public uses (e.g., schools, churches, community
- 540 facilities, etc.)
- 541 C. Preference for residential and/or non-residential allocations shall
- 542 generally be given to those projects that further the City's Local
- 543 Climate Action Program greenhouse gas emission reduction
- 544 measures and policies at the time the City's program is in place,
- 545 including but not limited to, Build It Green and/or LEED Certification
- 546 Programs.
- 547 D. Residential and/or nonresidential development objectives and
- 548 priorities for awarding allocations may be adjusted annually by the
- 549 City Council resolution in response to changing conditions within
- 550 the City in accordance with the procedures set forth in CMC
- 551 19.02.060(B) and (C). In January of each year, the Planning
- 552 Commission may recommend to the City Council, depending on
- 553 conditions at the time, which general development objectives
- 554 identified above should be or not be included in annual
- 555 development objectives for the upcoming allocation to commence
- 556 in July. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

557 **19.02.080 Carryover of unused allocations.**

- 558 A. Any unused allocations, or allocations which expire as provided in
- 559 CMC 19.02.060(I), shall be carried over to the following annual
- 560 allocation; provided, that the carried-over allocations do not result in
- 561 a population growth rate of more than 1.35 percent or a
- 562 nonresidential water distribution exceeding the quantity specified in
- 563 Chapter 13.16 CMC in any five-year cycle.
- 564 B. Unallocated residential units in one year that are carried over to a
- 565 subsequent year shall first be available to residential developments
- 566 including lower-income housing beyond that typically required by
- 567 local ordinance, and secondly to residential developments including
- 568 moderate-income housing and mixed-use projects, as provided in

569 the process of establishing preferences in CMC 19.02.070. (Ord.
570 624 § 1, 2005; Ord. 616 § 1, 2004).

571
572 **SECTION THREE:**

573
574 If any section or portion of this ordinance is for any reason held to be
575 invalid and or unconstitutional by a court or competent jurisdiction, such decision
576 shall not affect the validity of the remaining portions of this ordinance.

577
578
579 **SECTION FOUR:**

580
581 **THIS ORDINANCE** shall take effect thirty (30) days after its passage and
582 before expiration of fifteen (15) days after its passage, shall be published in
583 accordance with law in a newspaper of general circulation published and
584 circulated in the City of Calistoga.

585
586 **THIS ORDINANCE** was introduced with the first reading waived at the
587 City of Calistoga City Council meeting of ____ **day of** _____ **2009** and was
588 passed and adopted at a regular meeting of the Calistoga City Council on
589 ____ **day of** _____ **2009**, by the following vote:

- 590
591 **AYES:**
592 **NOES:**
593 **ABSENT:**
594 **ABSTAIN:**

595
596
597

JACK GINGLES, Mayor

598
599 **ATTEST:**
600
601
602

SUSAN SNEDDON, City Clerk
603
604