

**CITY OF CALISTOGA
PLANNING COMMISSION
RESOLUTION PC 2009-08**

**A RESOLUTION FORWARDING A RECOMMENDATION TO THE CITY COUNCIL
FOR THE ADOPTION OF AN ORDINANCE AMENDING TITLE 19,
ENVIRONMENTAL PROTECTION, SPECIFICALLY CHAPTER 19.02 GROWTH
MANAGEMENT SYSTEM OF THE CALISTOGA MUNICIPAL CODE TO FURTHER
CLARIFY, STREAMLINE AND IMPROVE PROGRAM IMPLEMENTATION**

1
2 **WHEREAS**, on January 4, 2005, the City Council adopted Ordinance #616,
3 which established Chapter 19.02 Growth Management System of the Municipal Code
4 applicable to development in all zoning districts;

5
6 **WHEREAS**, on September 6, 2005, the City Council of the City of Calistoga
7 adopted Ordinance #624 amending Chapter 19.02 Growth Management System of
8 Calistoga Municipal Code to clarify and improve program implementation;

9
10 **WHEREAS**, upon completion of the fifth cycle of the Growth Management
11 Allocation process, the Planning Commission has determined that there is a need to
12 revisit the City's Growth Management System to provide more flexibility in the
13 regulations and to explore options on providing development incentives to encourage
14 applicants to bring in projects that address City needs;

15
16 **WHEREAS**, the Planning Commission considered the proposed revisions to the
17 City's Growth Management System at its regular meeting on April 22, 2009 and May 13,
18 2009. Prior to taking action on the proposed revisions, the Planning Commission
19 received written and oral reports by the staff, and received public testimony;

20
21 **WHEREAS**, the Planning Commission finds that this action continues to
22 implement the growth management policies as adopted in the City of Calistoga's
23 General Plan. Furthermore, such policies were assessed in a previously adopted
24 Environmental Impact Report (EIR) for the General Plan; and

25
26 **WHEREAS**, the Planning Commission finds that this action has been reviewed
27 pursuant to the California Environmental Quality Act (CEQA) and determined that this
28 activity is covered by the general rule that CEQA applies only to projects, which have
29 the potential for causing a significant effect on the environment, and where it can be
30 seen with certainty that there is no possibility that the action being contemplated,
31 adoption of amendments to the Growth Management Ordinance, will have any impact
32 on the environment [Section 15061 (b)(3)].

33
34 **NOW, THEREFORE, BE IT RESOLVED** by the City of Calistoga Planning
35 Commission that, based on the above findings, the proposed amendment pertaining to
36 Title 19 Environmental Protection, specifically Chapter 19.02 Growth Management

37 System, as described in Exhibit A, is forwarded to the City Council with a
38 recommendation of adoption.

39
40 **PASSED, APPROVED, AND ADOPTED** on May 13, 2009, by the following vote
41 of the Calistoga Planning Commission:

42
43 **AYES:**
44 **NOES:**
45 **ABSENT/ABSTAIN:**

46
47

Jeff Manfredi, Chair

48
49 **ATTEST:**

50 **Kathleen Guill**
51 **Secretary to the Planning Commission**

CITY OF CALISTOGA

STAFF REPORT

TO: CHAIRMAN MANFREDI AND MEMBERS OF THE
PLANNING COMMISSION

FROM: CHARLENE GALLINA, PLANNING & BUILDING
DIRECTOR

MEETING DATE: APRIL 22, 2009

SUBJECT: MUNICIPAL CODE AMENDMENT (CMC 2009-01) -
GROWTH MANAGEMENT SYSTEM PROGRAM
AMENDMENTS

1
2 **REQUEST:**

3
4 **CMC 2009-01.** Consideration of a Municipal Code Amendment initiated by the
5 City of Calistoga for a text amendment to Title 19, Environmental Protection
6 specifically, Chapter 19.02 Growth Management System of the Calistoga
7 Municipal Code to clarify and improve program implementation. No further
8 environmental review is required in accordance with Section 15061(b)(3) of the
9 CEQA Guidelines.

10
11 **BACKGROUND:**

12
13 On January 4, 2005, the City Council adopted Ordinance #616, which
14 established Chapter 19.02 Growth Management System of the Municipal Code
15 applicable to development in all zoning districts. On September 6, 2005, the City
16 Council of the City of Calistoga adopted Ordinance #624 amending Chapter
17 19.02 Growth Management System of Calistoga Municipal Code to clarify and
18 improve program implementation.

19
20 During the Special Joint Meeting of the City Council and Planning Commission,
21 as well as, the processing of the 2009 Growth Management Allocation cycle, the
22 City Council and the Planning Commission included in their deliberations a
23 discussion on the need to revisit the City's Growth Management System Program
24 to provide more flexibility in the regulations and to explore options on providing
25 development incentives to encourage applicants to bring in projects that address
26 City needs. Based upon these discussions, the following suggestions were
27 provided:
28

- 29 • There should be a requirement for an overall revision of the Growth
30 Management System program no later than the end of this year to incorporate
31 lessons learned;
- 32 • There should be an examination on the possible suspension of all or portions
33 of the Growth Management System program until development demands
34 exceed resource supply (e.g., water/wastewater capacity and the 1.35%
35 annual population growth);
- 36 • Consideration of development incentives for affordable housing, including a
37 reduction in development impact fees;
- 38 • Consideration that allocations have a two year term instead of a single year;
39 and
- 40 • Consideration in authorizing staff to administratively grant minor allocations to
41 prevent unnecessary delays for small projects.

42
43 Given these suggestions, staff informed the Council and Commission that
44 recommendations on a text amendment to the Growth Management System
45 program would be brought forward after the awarding of the 2009 allocations.
46 Adopted Meeting Minute Excerpts for the June 25, 2008 City Council-Planning
47 Commission Joint Session and the July 9, 2008 Planning Commission Meeting
48 have been attached for Commission review. (Refer to Attachments 3 & 4)

49
50 **STAFF DISCUSSION:**

51
52 Attachment 2 presents staff's recommendations on proposed amendments to the
53 City's Growth Management System. At this time, staff is not recommending to
54 suspend all or portions of the Growth Management System program until
55 development demands exceed resource supply, but instead staff is
56 recommending additional exceptions to allow for a limited amount of water
57 allocations to facilitate small business start-ups and to allow the construction of
58 single family units on existing lots of record and the processing of minor
59 residential subdivisions of 3 or fewer lots. (Refer to Section 19.02.050) It should
60 be noted that the granting of non-residential allocations would be limited to small
61 increments restricted to two (2) acre feet of water per calendar year and would
62 be administered by the Planning & Building Director. Such allocations would also
63 be counted towards the eight (8) acre feet annual restriction. With respect to
64 residential allocations, the generated population for these units would be counted
65 towards the five-year cycle 1.35% growth rate. Furthermore, it is staff's intent
66 that all administratively granted allocations would be reported annually to the
67 Planning Commission and City Council.

68
69 In addition, staff is recommending several modifications to the standard General
70 Development Objectives to model these objectives based upon previously
71 adopted City Council General Development Objectives and to delete those
72 objectives that have been provided under the "Exception" provisions (Refer to

73 Section 19.02.070). Furthermore, staff is recommending a change to the
74 General Development Objective that addresses the preference for affordable
75 housing in order to require that the housing units dedicated to very-low, low-
76 and/or moderate-income be "deed restricted" and to add the words "...the
77 majority of units..." to allow those project proposals that may want to provide a
78 mix of market and deed restricted affordable units under this preference. Other
79 minor changes included have been recommended to clarify the intent of the
80 proposed regulation.

81
82 With regards to providing additional development incentives (e.g., reduction in
83 fees) for affordable housing, staff is recommending that this effort be addressed
84 as part of our Housing Element Update process. Lastly, staff is not
85 recommending any changes at this time to the single year timeframe for permit
86 processing. It is staff's opinion that project proponents in making an allocation
87 application should be project ready and have the ability to submit a formal
88 application within a reasonable time after the granting of an allocation. If
89 additional time is needed due to market conditions or an anticipated sale of
90 property, then the option to request the processing of a development agreement
91 is available to the applicant. Given staff's recommendation to include additional
92 exceptions as discussed above, staff is confident that an amendment to the
93 processing timelines for securing an allocation are not warranted at this time.

94
95 **ENVIRONMENTAL REVIEW:**

96
97 This action has been reviewed pursuant to the California Environmental Quality
98 Act (CEQA) and determined that this activity is covered by the general rule that
99 CEQA applies only to projects, which have the potential for causing a significant
100 effect on the environment, and where it can be seen with certainty that there is
101 no possibility that the action being contemplated, a change in review procedures
102 for the processing of Growth Management Allocations, will have any impact on
103 the environment (Section 15061(b)(3)).

104
105 **RECOMMENDATION:**

106
107 Staff recommends Planning Commission discussion and recommendation to the
108 City Council on the adoption of an Ordinance amending Title 19, Environmental
109 Protection specifically, Chapter 19.02 Growth Management System of the
110 Calistoga Municipal Code to further clarify, streamline and improve program
111 implementation.

112
113 **SUGGESTED MOTION:**

114
115 I move that the Planning Commission adopt Resolution PC 2009-08
116 recommending to the City Council adoption of an Ordinance amending Title 19,

117 Environmental Protection specifically, Chapter 19.02 Growth Management
118 System of the Calistoga Municipal Code to further clarify, streamline and improve
119 program implementation.

120

121 **ATTACHMENTS**

- 122 1. PC Resolution 2009-08
- 123 2. Exhibit A - Proposed Amendments
- 124 3. Excerpt of Special Joint Meeting of the City Council-Planning Commission
125 Minutes of August 5, 2008
- 126 4. Excerpt of Planning Commission Meeting Minutes of July 9, 2008
- 127 5. Chapter 19.02 Growth Management System

CITY OF CALISTOGA
PLANNING COMMISSION
RESOLUTION PC 2009-08

A RESOLUTION FORWARDING A RECOMMENDATION TO THE CITY COUNCIL FOR THE ADOPTION OF AN ORDINANCE AMENDING TITLE 19, ENVIRONMENTAL PROTECTION, SPECIFICALLY CHAPTER 19.02 GROWTH MANAGEMENT SYSTEM OF THE CALISTOGA MUNICIPAL CODE TO FURTHER CLARIFY, STREAMLINE AND IMPROVE PROGRAM IMPLEMENTATION

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46

47

Jeff Manfredi, Chair

48

49

ATTEST: _____

50

Kathleen Guill

51

Secretary to the Planning Commission

EXHIBIT A

PROPOSED AMENDMENTS

Chapter 19.02

GROWTH MANAGEMENT SYSTEM

Sections:

- 1 **19.02.010** **Purpose.**
- 2
- 3 **19.02.020** **Objectives.**
- 4
- 5 **19.02.030** **Definitions.**
- 6
- 7 **19.02.040** **General provisions.**
- 8
- 9 **19.02.050** **Exceptions.**
- 10 **19.02.060** **Allocation procedures.**
- 11
- 12 **19.02.070** **General development objectives for awarding**
- 13 **allocations.**
- 14
- 15 **19.02.080** **Carryover of unused allocations.**

19.02.010 **Purpose.**

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

19.02.020 **Objectives.**

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

- A. Facilitate and implement the City's General Plan, including the goals and policies contained in the land use, housing, community identity, open space, economic development, conservation and infrastructure elements, which cannot be accomplished by zoning ordinances alone;

- 34 B. Provide a reasonable and understandable mechanism to phase
35 growth over the term of the General Plan at a pace that does not
36 exceed the City's ability to provide the resources, services and
37 facilities necessary to accommodate its existing residents and
38 businesses; avoids large fluctuations in the rate of population and
39 employment growth; and maintains compliance with the City's
40 share of the region-wide housing need to minimize exposure to
41 legal challenges, provide access to funding to secure affordable
42 housing development, and ensure vital State subventions are
43 protected into the future;
- 44 C. Regulate new residential growth in accordance with the population
45 growth rate established in the General Plan;
- 46 D. Regulate the pace of new nonresidential growth in accordance with
47 the goals and objectives established in the General Plan;
- 48 E. Give preference to lower-income housing development by
49 encouraging developers to include subsidized housing in their
50 projects beyond the minimum amount required by local ordinance
51 or to provide equitable financial assistance to the community to
52 accomplish this goal;
- 53 F. Give preference to moderate-income housing development by
54 encouraging developers to pursue residential developments which
55 through deed restrictions or other provisions will ensure their long-
56 term availability to households of moderate incomes;
- 57 G. Promote infill development over new development at the edges of
58 town;
- 59 H. Integrate new growth into existing developed areas which
60 encourages reinvestment in the maintenance and rehabilitation of
61 older residential neighborhoods or established commercial areas,
62 expansion of existing uses, enhances efficient use of municipal
63 services by avoiding unnecessary extensions, and promotes
64 housing near employment centers which tends to be more
65 affordable to a broader economic segment of the community;
- 66 I. Reduce dependency on the automobile by providing a mix of
67 housing types in pedestrian-oriented neighborhoods located near
68 City parks, commercial retail uses and services, and public transit;
- 69 J. Provide a balance of residential and nonresidential growth to
70 ensure the community's unique quality of life and economic well-
71 being; and
- 72 K. Recognize Federal and State preemptions on residential
73 development, such as for second dwelling units, and establish a
74 process for providing resources to residential units with existing
75 prior City commitments and where substantial investments in the
76 implementation of infrastructure are already in place. (Ord. 624 § 1,
77 2005; Ord. 616 § 1, 2004).

78 **19.02.030 Definitions.**

79 "Abandoned allocation" shall mean an allocation awarded to an applicant
80 which has exceeded 12 months without the development receiving the
81 required discretionary and nondiscretionary permits to construct the
82 project, or which has exceeded 24 months if an extension has been
83 authorized under the provisions of this chapter.

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

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

92 "Allocation process" shall mean the procedures established for requesting,
93 awarding and using allocations for residential and nonresidential
94 development projects.

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

98 "Application expiration period" shall mean the date on which the City
99 closes the period for receiving applications for residential and
100 nonresidential allocations.

101 "Combined average allocation" shall mean the total number of residential
102 units or total acre-feet of water for distribution to nonresidential
103 development estimated to be available for allocation in a five-year cycle.

104 "Competitive evaluation" shall mean the process of reviewing and
105 awarding allocations for development based on predetermined
106 development objectives.

107 "Five-year cycle" shall mean the fixed five-year period within which
108 allocations are made and monitored to ensure that targeted population
109 growth rate and water distributions for nonresidential development are not
110 exceeded.

111 "Floor area, gross" shall mean that the total horizontal area in square feet
112 of all floors measured from the exterior walls of a building, but not
113 including the area of unroofed inner courts or shaft enclosures. (Note: This
114 definition is a little more specific than the definition provided in the zoning
115 ordinance. It accounts for interior mezzanines.)

116 "Housing, above moderate-income" shall mean a residential unit intended
117 for a household whose income exceeds 120 percent of the median
118 household income for the County with adjustments based on household
119 size.

120 "Housing, low-income" shall mean a residential unit intended for a
121 household whose income is between 51 percent and 80 percent of the
122 median household income for the County with adjustments based on
123 household size.

124 "Housing, moderate-income" shall mean a residential unit intended for a
125 household whose income is between 81 percent and 120 percent of the
126 median household income for the County with adjustments based on
127 household size.

128 "Housing, very low-income" shall mean a residential unit intended for a
129 household whose income does not exceed 50 percent of the median
130 household income for the County with adjustments based on household
131 size.

132 "Lower-income housing" shall mean a residential unit or units intended for
133 households whose income is within the very low- and low-income ranges.

134 "Mixed use" shall mean the combination of uses such as office, retail,
135 commercial, and institutional with residential uses in a single building or on
136 a project site.

137 "Permit review process" shall mean all discretionary and ministerial
138 approval required by the City, County, State and/or Federal agencies
139 required at the time of application completeness.

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

145 "Residential unit" shall mean a residential housing unit or a residential lot
146 of record proposed to be created through the division of land. (Ord. 624 §
147 1, 2005; Ord. 616 § 1, 2004).

148 **19.02.040 General provisions.**

149 A. The provisions contained in this chapter shall apply to all
150 development in the City, unless otherwise exempt by this title or by
151 State law. No development shall be authorized by the City to
152 proceed through the permit review process until the development
153 has received an allocation.

154 B. Applications for allocations shall be made to the Planning and

- 155 Building Department on forms provided by the City. Applications
156 shall be accompanied by the following information, where
157 applicable:
- 158 1. A project narrative describing the proposed development
159 plan or intensification of use at an existing facility, including:
160 quantification of the number, size, type and nature of any
161 proposed residential dwelling units and/or quantification of
162 the proposed intensification of use or total amount of new
163 nonresidential square footage by type of use; proposed
164 sales price for new homes or rental rate for rental units; any
165 sales price or rental rate restrictions proposed to be
166 established; the extent in which the project would be
167 consistent with the character of the neighborhood; an
168 estimate of projected water usage and wastewater
169 production by type of use based upon the City's
170 Standardized Use Table; and a clear description of the
171 allocations being requested in terms of residential units
172 and/or amount of nonresidential water and wastewater
173 capacity. A statement and sufficient detail regarding steps
174 proposed by the proposed project to conserve or utilize
175 resources efficiently.
 - 176 2. A preliminary site plan, including a vicinity map which
177 illustrates the relationship of the proposed development with
178 the surrounding area and showing the extent, location, and
179 type of existing and proposed uses on the site, any proposed
180 demolition of structures, and the nature and extent of open
181 space, parking and other similar facilities. A set of
182 preliminary architectural building elevation drawings for all
183 new proposed buildings.
 - 184 3. A description of all project phasing, including an illustration
185 on the site plan of which improvements will be phased and
186 over what period of time.
 - 187 4. A development schedule showing the anticipated date of
188 submittal of all requests for discretionary permits, design
189 review, environmental assessment, subdivision maps,
190 building permits, or other similar requests.
 - 191 5. Such other information as may be required by the Planning
192 and Building Department as outlined on the "Materials
193 Required for Filing a Growth Management Allocation
194 Application" form.
 - 195 6. Each application for an allocation, other than those
196 specifically exempted by CMC 19.02.050, shall be
197 accompanied by a processing fee as established by City
198 Council resolution. Such fees shall not be refundable once
199 processing of the application begins. (Ord. 624 § 1, 2005;

200 Ord. 616 § 1, 2004).

201 **19.02.050 Exceptions.**

202 The following development is exempt from this chapter and shall be
203 authorized to proceed through the permit review process without an
204 allocation:

- 205 A. Second dwelling units, as provided in Government Code Section
206 65852.2. Such units shall be counted towards the five-year cycle
207 1.35 percent growth rate in this chapter.
- 208 B. Residential development submitted as part of an approved permit
209 or subdivision authorized by the City on or before January 1, 2004,
210 and which is intended for lower-income households as defined by
211 this chapter. For dwellings located within a multiple-lot subdivision,
212 only those dwellings that qualify and are secured as affordable to
213 lower-income households shall be exempt from the residential
214 growth management system. The remaining dwellings shall be
215 required to receive an allocation prior to proceeding through the
216 permit review process.
- 217 C. Dwellings or nonresidential structures which have received final
218 design review, if required, and which have previously received a
219 building permit prior to the effective date of the ordinance codified
220 in this chapter which has not expired under the terms of the uniform
221 codes adopted in this title.
- 222 D. Dwellings or nonresidential structures on existing parcels of record
223 which have paid water and wastewater connection fees prior to the
224 effective date of the ordinance codified in this chapter and are
225 paying water meter service charges and/or a wastewater capacity
226 allocation charge to maintain a water and/or wastewater allocation.
227 In such instances, the parcel shall have a history of residential or
228 nonresidential development in the past, and the proposed new
229 development shall not exceed the water consumption and
230 wastewater production of the original development, as defined in
231 the City's Standardized Use Table or established baseline
232 allocation, as applicable. This exception does not apply to parcels
233 that do not have a history of residential or nonresidential
234 development.
- 235 E. Dwellings which are replaced, including mobile homes on an
236 approved mobile home site, and additions, alterations, remodeling
237 and repair to existing dwellings; provided, that there is no net
238 increase in the number of units.
- 239 F. Development projects for which the City has entered into a
240 development agreement with the project proponent may be exempt
241 from provisions of this chapter; however, any residential component
242 of such projects shall be subject to the 1.35 percent growth rate in
243 this chapter.

- 244 G. Replacement, repair, remodeling, minor additions or alterations to
245 existing nonresidential structures; provided, that the net increase in
246 gross floor area does not exceed 10 percent and there is no
247 significant change in use.
- 248 H. Public facilities sponsored by the City of Calistoga or the Calistoga
249 Joint Unified School District.
- 250 I. Projects sponsored by public and non-profit organizations which
251 provide medical, dental, social services, and the like for the
252 residents of Calistoga. (Ord. 624 § 1, 2005; Ord. 620 § 1, 2005;
253 Ord. 616 § 1, 2004).
- 254 J. Construction of single family residential development located on
255 existing residential lots of record. Such units shall be counted
256 towards the five-year cycle 1.35 percent growth rate in this chapter.
- 257 K. Minor residential subdivisions (3 or fewer lots) located within the
258 Rural, Rural Hillside, Low, Medium, and High Density General Plan
259 Land Use Designations. Such units shall be counted towards the
260 five-year cycle 1.35 percent growth rate in this chapter.
- 261 L. Intensification of existing uses, a mixed use, a change of use, or
262 additions to existing structures resulting in an increase in floor area
263 not more than ten percent (10%). Such allocations shall be granted
264 by the Planning & Building Director in small increments and shall be
265 counted towards the applicable annual cycle, and limited to a
266 cumulative total of two (2) acre feet of water in a calendar year.

267 **19.02.060 Allocation procedures.**

- 268 A. In July of each year, except for the initial year of application of this
269 chapter, the Planning and Building Director shall prepare and
270 distribute a written report, which estimates the number of residential
271 units and acre-feet of water for nonresidential uses that are
272 available for allocation by the City for the upcoming calendar year.
273 The report shall also estimate combined average residential and
274 nonresidential allocations available for distribution within the five-
275 year cycle, pursuant to the following formulas:

276 Annual Residential Allocation = Population x 1.35
277 percent/Household Size

278 "Population" is based upon the most recent available
279 estimates provided by the State Department of
280 Finance.

281 "Household Size" reflects the average number of persons
282 per household, as provided by the State Department
283 of Finance.

284 Where the "Annual Residential Allocation" is a fraction, this amount
285 shall be rounded down to the nearest whole number. Final

286 assessment of population generation will be based upon
287 information provided by the U.S. Census Bureau (H33. Population
288 by Units in Structure by Tenure).

289 Annual Nonresidential Allocation = Water Supply x Percentage
290 Distribution for Nonresidential Uses

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

293 "Percentage Distribution" is the percentage of water supply
294 to be designated for nonresidential uses as specified
295 in Chapter 13.16 CMC.

296 B. Following the Planning and Building Director's report provided in
297 subsection (A) of this section, the City Manager shall prepare and
298 distribute a written report to the City Council assessing community
299 conditions, including the adequacy of existing services and
300 facilities, availability of resources and current development and
301 growth trends. In conjunction with this report the Public Works
302 Director shall provide information on current water use by all land
303 uses, the quantity of unallocated water including the quantity and
304 total percentage of overall system losses and emergency reserves,
305 the quantity of wastewater which is being treated, and the permitted
306 treatment capacity of the wastewater treatment plant taking into
307 consideration the ability to properly dispose the treated effluent.
308 The report shall also include a determination on whether there is
309 sufficient capacity to serve projected allocations for the upcoming
310 year and for the five-year cycle. Allocations shall not be made by
311 the City where there is inadequate water or wastewater treatment
312 capacity.

313 The City Manager's report shall present the Planning Commission's
314 annual recommendation to the City Council regarding the proposed
315 development objectives for the upcoming year. The City Manager's
316 report may recommend that certain development objectives be
317 adopted by City Council.

318 C. Within 30 days from receipt of the City Manager's report, and not
319 later than September 15th of each year, the City Council, by
320 resolution, shall confirm the number of residential units and amount
321 of water for nonresidential use available for allocation and establish
322 a list of development objectives for residential and nonresidential
323 development by order of priority for the upcoming year. The list may
324 or may not include the general development objectives identified in
325 CMC 19.02.070(A) and (B), and shall be consistent with goals and
326 policies in the City's General Plan. The list shall be used by the City
327 to evaluate applications for allocations in the event that the number
328 of allocations requested in a given year exceeds the number of

- 329 allocations that are available for that year.
330
331 D. Unless otherwise provided in this chapter, the allocation confirmed
332 in subsection (C) of this section, as having adequate water and
333 wastewater treatment capacity to serve the development, shall
334 represent the amount of residential and nonresidential development
335 that may receive allocations in a calendar year.
336 E. Where there is no allocation available for distribution by the City, a
337 resolution shall be adopted by the City suspending the allocation
338 procedures contained in this chapter until the following calendar
339 year.
340 F. Annual allocations may be increased, as approved by City Council
341 resolution; provided, that the combined average residential
342 allocations do not result in a population growth rate of more than
343 1.35 percent or nonresidential water distribution exceeding the
344 percentage specified in Chapter 13.16 CMC as calculated over the
345 fixed five-year cycle, commencing on January 1, 2005.
346 G. Except as otherwise provided in this chapter, no development may
347 be determined to be complete or will be approved until the
348 development has received an allocation pursuant to the following
349 procedures:
350 1. Not later than November 30th of each year, the City shall
351 conduct a competitive evaluation of applications for annual
352 residential or nonresidential allocations, if such have been
353 determined to be available, and shall award allocations by
354 resolution. The competitive evaluation shall begin with an
355 open enrollment period in which applications for allocations
356 shall be submitted. The enrollment period shall be noticed in
357 a local newspaper of general circulation and shall be open
358 for a period of no less than 30 days.
359 2. Applications for annual allocations shall be submitted to the
360 Planning and Building Department before the close of
361 regular business hours on the last day of open enrollment
362 period. Applications shall be accompanied by the required
363 submittal materials and fee, as provided in CMC 19.02.040.
364 3. No application for development shall be processed by the
365 City unless the land use proposed is determined by the
366 Planning and Building Department to be consistent with the
367 General Plan's Land Use Designation as reflected on the
368 current Land Use Map (Figure LU-4) and the City's Zoning
369 District as reflected on the current Zoning District Map.
370 (Note: Any required General Plan amendment or rezoning
371 will need to be secured prior to requesting allocations).
372 4. Applications which are not in conformity with the adopted
373 General Plan Land Use Designation and Zoning District on
the date of submittal, or require an amendment to the

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- adopted General Plan or Zoning Ordinance, excluding applications on property designated as Planned Development in the General Plan and Zoning Ordinance, and which are not consistent with key General Plan goals, objectives and policies shall not be eligible for an allocation.
5. Upon the close of the period by which applications for allocations may be accepted, the Planning and Building Department shall review each application for completeness. Applications determined to be incomplete after the close of the application period will not be recommended by staff to receive an allocation.
 6. All applications received shall be evaluated by the City Council and awarded allocations in accordance with the preferences established in CMC 19.02.070.
 7. Applications for projects exceeding available annual allocations may be awarded allocations from the combined average allocation identified under subsection (F) of this section; provided, that the allocation does not result in a population growth rate of more than 1.35 percent or a nonresidential water distribution exceeding the percentage specified in Chapter 13.16 CMC as calculated over the fixed five-year cycle.
 8. Applicants who are not awarded an allotment shall be sent notice of such decision within 10 days after the decision. Such notice shall inform the applicant of the decision and the right to reapply for an allocation in the next application period. Such applicants will not be subject to filing fees provided the same application is resubmitted.
 9. Applications for the construction of residential units sponsored by a nonprofit housing organization that fulfill the City's remaining regional housing need in the very-low, low- and moderate income housing categories as defined by the General Plan may be submitted at any time during the year for consideration of an allocation reservation for the next allocation period.
- H. Once a development has received an allocation, all required discretionary and nondiscretionary approvals and permits necessary to commence construction or in the case of a subdivision recordation of a final subdivision map or final parcel map must be obtained within 12 months of the date of allocation.
- I. Failure to receive the necessary permits to commence construction, or in the case of a subdivision to receive approval and recordation of a final subdivision map or final parcel map, shall deem the allocation expired. A one-time extension may be authorized by the Planning and Building Director, for a period of up to 12 months;

419 provided, that the applicant is actively seeking permit approval. No
420 allocation shall extend for a period of over 24 months without the
421 allocation being deemed expired.
422 J. Allocations shall be nontransferable by the applicant from one
423 parcel to another. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

424 **19.02.070 General development objectives for awarding**
425 **allocations.**

426 A. Preference for residential allocations shall generally be given to
427 projects that include one or more of the following:

- 428 • ~~Construction of residential units that fulfill the City's remaining~~
429 ~~regional housing need in the very low, low and moderate-~~
430 ~~income housing categories as defined by the General Plan.~~
- 431 • Construction of deed restricted residential units that the majority
432 of units go towards the goal of fulfilling the City's remaining
433 regional housing need in the very-low, low- and/or moderate-
434 income housing categories as defined by the General Plan.
- 435 • Construction of residential units that will be available to
436 households of moderate-income as defined by the General
437 Plan.
- 438 • Construction of residential units that are proposed as part of a
439 mixed-use development project.
- 440 • Construction of residential units on vacant, underdeveloped or
441 redeveloped land with necessary public infrastructure in place.

442 B. Preference for nonresidential allocations shall generally be given to
443 projects that include one or more of the following:

- 444 • ~~Intensification of existing uses or the construction of new~~
445 ~~structures for occupancy by a local serving retail or commercial~~
446 ~~business.~~
- 447 • Construction of a structure that includes nonresidential uses as
448 part of a mixed-use development project.
- 449 • Intensification or expansion of existing uses greater than ten
450 percent (10%) in floor area or new construction on vacant,
451 underdeveloped or redeveloped land located within the
452 downtown commercial (DC) zoning district with necessary public
453 infrastructure in place.
- 454 • Public or quasi-public uses (e.g., schools, churches, community
455 facilities, etc.)

456 C. Residential and/or nonresidential development objectives and
457 priorities for awarding allocations may be adjusted annually by the
458 City Council resolution in response to changing conditions within
459 the City in accordance with the procedures set forth in CMC
460 19.02.060(B) and (C). In January of each year, the Planning
461 Commission may recommend to the City Council, depending on
462 conditions at the time, which general development objectives

463 identified above should be or not be included in annual
464 development objectives for the upcoming allocation to commence
465 in July. (Ord. 624 § 1, 2005; Ord. 616 § 1, 2004).

466 **19.02.080 Carryover of unused allocations.**

- 467 A. Any unused allocations, or allocations which expire as provided in
468 CMC 19.02.060(l), shall be carried over to the following annual
469 allocation; provided, that the carried-over allocations do not result in
470 a population growth rate of more than 1.35 percent or a
471 nonresidential water distribution exceeding the quantity specified in
472 Chapter 13.16 CMC in any five-year cycle.
- 473 B. Unallocated residential units in one year that are carried over to a
474 subsequent year shall first be available to residential developments
475 including lower-income housing beyond that typically required by
476 local ordinance, and secondly to residential developments including
477 moderate-income housing and mixed-use projects, as provided in
478 the process of establishing preferences in CMC 19.02.070. (Ord.
479 624 § 1, 2005; Ord. 616 § 1, 2004).