

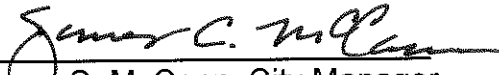
# City of Calistoga

## Staff Report

**TO:** Honorable Mayor and City Council  
**FROM:** Charlene Gallina, Planning and Building Director  
**DATE:** June 2, 2009  
**SUBJECT:** An Ordinance Amending Title 19.02 (Environmental Protection – Growth Management System) of the Calistoga Municipal Code

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**APPROVAL FOR FORWARDING:**

  
James C. McCann, City Manager

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**ISSUE:** The adoption of an Ordinance amending Title 19, Environmental Protection specifically, Chapter 19.02 Growth Management System of the Calistoga Municipal Code to clarify, streamline and improve program implementation.

**RECOMMENDATION:** Adopt Ordinance No. 660.

**BACKGROUND/DISCUSSION:** On May 19, 2009, the City Council held a public hearing to consider an amendment to the City's Growth Management System. Following staff's presentation, public comment and Council discussion, the Council took action to introduce an Ordinance for an amendment to Title 19.02 (Environmental Protection – Growth Management System) of the Calistoga Municipal Code. This Ordinance has been scheduled for adoption tonight.

**FISCAL IMPACT:** The adoption of this Ordinance will create no direct fiscal impacts.

**ATTACHMENT:**

1. Ordinance No. 660

ORDINANCE NO. 660

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

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

13  
14       **WHEREAS**, upon completion of the fifth cycle of the Growth Management  
15 Allocation process in November 2008, the Planning Commission and City  
16 Council determined that there was a need to revisit the City's Growth  
17 Management System to provide more flexibility in the regulations and to explore  
18 options on providing development incentives to encourage applicants to bring in  
19 projects that address City needs;

20  
21       **WHEREAS**, the Planning Commission considered the proposed revisions  
22 to the City's Growth Management System at its regular meeting on April 22, 2009  
23 and May 13, 2009 and adopted Resolution PC 2009-08 forwarding a  
24 recommendation of approval for this amendment by the City Council;

25  
26       **WHEREAS**, a public notice of the City Council public hearing of May 19,  
27 2009 for an amendment to the City's Growth Management System was published  
28 in the local newspaper and made available on the City's website;

29  
30       **WHEREAS**, the City Council proposes an ordinance to amend Chapter  
31 19.02 (Growth Management System) to clarify, streamline, and improve program  
32 implementation;

33  
34       **WHEREAS**, this action continues to implement the growth management  
35 policies as adopted in the City of Calistoga's General Plan. Furthermore, such  
36 policies were assessed in a previously adopted Environmental Impact Report  
37 (EIR) for the General Plan;

38



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

94 **19.02.020 Objectives.**

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

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

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

147 **19.02.030 Definitions.**

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

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

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

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

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

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

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

173 "Competitive evaluation" shall mean the process of reviewing and  
174 awarding allocations for development based on predetermined  
175 development objectives.

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

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

185 "Housing, above moderate-income" shall mean a residential unit intended  
186 for a household whose income exceeds 120 percent of the median  
187 household income for the County with adjustments based on household  
188 size.

189 "Housing, low-income" shall mean a residential unit intended for a  
190 household whose income is between 51 percent and 80 percent of the  
191 median household income for the County with adjustments based on  
192 household size.

193 "Housing, moderate-income" shall mean a residential unit intended for a  
194 household whose income is between 81 percent and 120 percent of the  
195 median household income for the County with adjustments based on  
196 household size.

197 "Housing, very low-income" shall mean a residential unit intended for a  
198 household whose income does not exceed 50 percent of the median  
199 household income for the County with adjustments based on household  
200 size.

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

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

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

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

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

217 **19.02.040 General provisions.**

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

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

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

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

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

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

270 **19.02.050 Exceptions.**

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

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



- 299 wastewater production of the original development, as defined in  
300 the City's Standardized Use Table or established baseline  
301 allocation, as applicable. This exception does not apply to parcels  
302 that do not have a history of residential or nonresidential  
303 development.
- 304 E. Dwellings which are replaced, including mobile homes on an  
305 approved mobile home site, and additions, alterations, remodeling  
306 and repair to existing dwellings; provided, that there is no net  
307 increase in the number of units.
- 308 F. Development projects for which the City has entered into a  
309 development agreement with the project proponent may be exempt  
310 from provisions of this chapter; however, any residential component  
311 of such projects shall be subject to the 1.35 percent growth rate in  
312 this chapter.
- 313 G. Replacement, repair, remodeling, minor additions or alterations to  
314 existing nonresidential structures; provided, that the net increase in  
315 gross floor area does not exceed 10 percent and there is no  
316 significant change in use.
- 317 H. Public facilities sponsored by the City of Calistoga or the Calistoga  
318 Joint Unified School District.
- 319 I. Projects sponsored by public and non-profit organizations which  
320 provide medical, dental, social services, and the like for the  
321 residents of Calistoga. (Ord. 624 § 1, 2005; Ord. 620 § 1, 2005;  
322 Ord. 616 § 1, 2004).
- 323 J. Construction of single family residential development located on  
324 existing residential lots of record. Such units shall be counted  
325 towards the five-year cycle 1.35 percent growth rate in this chapter.
- 326 K. Minor residential subdivisions (3 or fewer lots in total; not more than  
327 two newly created lots) located within the Rural, Rural Hillside, Low,  
328 Medium, and High Density General Plan Land Use Designations.  
329 Such units shall be counted towards the five-year cycle 1.35  
330 percent growth rate in this chapter.
- 331 L. Intensification of existing uses, a mixed use, a change of use, or  
332 additions to existing structures resulting in an increase in floor area  
333 not more than ten percent (10%). Such allocations shall be granted  
334 by the Planning & Building Director in small increments and shall be  
335 counted towards the applicable annual cycle, and limited to a  
336 cumulative total of two (2) acre feet of water in a calendar year.

337 **19.02.060 Allocation procedures.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

508 **19.02.070 General development objectives for awarding**

509 **allocations.**

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

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

549 **19.02.080 Carryover of unused allocations.**

- 550 A. Any unused allocations, or allocations which expire as provided in  
551 CMC 19.02.060(l), shall be carried over to the following annual  
552 allocation; provided, that the carried-over allocations do not result in  
553 a population growth rate of more than 1.35 percent or a  
554 nonresidential water distribution exceeding the quantity specified in  
555 Chapter 13.16 CMC in any five-year cycle.  
556 B. Unallocated residential units in one year that are carried over to a  
557 subsequent year shall first be available to residential developments  
558 including lower-income housing beyond that typically required by  
559 local ordinance, and secondly to residential developments including  
560 moderate-income housing and mixed-use projects, as provided in  
561 the process of establishing preferences in CMC 19.02.070. (Ord.  
562 624 § 1, 2005; Ord. 616 § 1, 2004).  
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568 **SECTION THREE:**

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

574 **SECTION FOUR:**

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

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**THIS ORDINANCE** was introduced with the first reading waived at the City of Calistoga City Council meeting of **19<sup>th</sup> day of May, 2009** and was passed and adopted at a regular meeting of the Calistoga City Council on **2<sup>nd</sup> day of June, 2009**, by the following vote:

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**AYES:**

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**NOES:**

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**ABSENT:**

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**ABSTAIN:**

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**JACK GINGLES, Mayor**

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**ATTEST:**

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**SUSAN SNEDDON, City Clerk**

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