

ORDINANCE NO. 667

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA AMENDING CHAPTERS 17.35, BED AND BREAKFAST INN AND FACILITIES, 17.58 AND OTHER PROVISIONS OF THE ZONING ORDINANCE PERTAINING TO BED AND BREAKFAST USES.

The City Council of the City of Calistoga does hereby ordain as follows:

**SECTION ONE:**

**WHEREAS**, General Plan Implementation Measure A1, on Page H-93 of the Housing Element, requires that the Bed and Breakfast Ordinance be amended such that through the use permit process a finding is made that no net loss of housing results from a bed and breakfast development; and

**WHEREAS**, the Economic Development Element, Policy 3 of the General Plan specifically encourages upgrades of existing bed and breakfast inns to meet the changing demands of customers and to strengthen business vitality; and

**WHEREAS**, on April 20, 2009 the Calistoga Chamber of Commerce submitted a letter requesting planning staff to review the current bed and breakfast regulations; and

**WHEREAS**, on May 27, 2009 the Planning Commission conducted a study session to discuss and provide direction to staff regarding whether or not to pursue an update to the City's bed and breakfast regulations and other regulations pertaining to such use, as called for in the General Plan and as suggested by the Chamber of Commerce; and

**WHEREAS**, the Planning Commission at its regular meeting of September 23, 2009 considered the proposed revisions to the Zoning Ordinance and prior to taking action on the application, the Planning Commission received written and oral reports by the staff; and

**WHEREAS**, subsequent to a duly noticed public hearing the Planning Commission adopted Resolutions PC 2009-26 recommendation to the City Council for the adoption of an Ordinance amending Chapters 17.35, *Bed and Breakfast Inn and Facilities*, 17.58, *Signs and Advertising Regulations*, and 17.36, *Off-street Parking and Loading* of the Municipal Code pertaining to bed and breakfast uses; and

**WHEREAS**, on October 20, 2009 the City considered the Planning Commission's recommendations at their regularly scheduled meeting and upon close of the public hearing, the City Council recommended that the zoning ordinance amendments be referred back to the Planning Commission for reconsideration; and

**WHEREAS**, during the Planning Commission meeting of December 9, 2009, a Subcommittee comprised of two Planning Commissioners was established to develop a revised Ordinance to address the City Council's concerns; and

**WHEREAS**, on April 14, 2010 the Planning Commission reconsidered the proposed revisions to the City's bed and breakfast regulations and other regulations pertaining to such use and considered the recommendations of the Planning Commission Subcommittee. Prior to taking action on the proposed revisions, the Planning Commission received written and oral reports by the staff, and received public testimony; and

**WHEREAS**, based upon new discoveries the Planning Commission found it appropriate to rescind Resolution PC 2009-26 containing their previous recommendations and adopted Resolutions PC 2010-05 recommendation to the City Council for the adoption of an Ordinance amending Chapters 17.35, *Bed and Breakfast Inn* and other Chapters of the Zoning Ordinance pertaining to bed and breakfast uses finding that the revisions are necessary and proper for maintaining a positive growth in the visitor accommodation climate in the community and are consistent with the policy direction contained in the General Plan; and

**WHEREAS**, a public notice of the City Council public hearing of May 4, 2010 for this Zoning Ordinance Text Amendment was published in the local newspaper and made available on the City's website; and

**WHEREAS**, the City Council of the City of Calistoga has reviewed and considered the applicant's request and the Planning Commission's recommendation at its regular meeting on May 4, 2010 and May 18, 2010 as one of its items of business, noticed in accordance with Government Code Section 65090, this Ordinance to be adopted in accordance with Code Section 65850, to include the written and oral staff report, proposed findings and comments received from the general public and interested agencies and parties; and

**WHEREAS**, the City Council finds the proposed revisions to the City's review procedures for bed and breakfast developments are necessary and proper for maintaining a positive growth in the visitor accommodation climate in the community and are consistent with the policy direction contained in the General Plan; and

**WHEREAS**, the City Council finds that the proposed revisions will not limit the City's ability to offset and/or mitigate the loss of housing through the required use permit findings; and

**WHEREAS**, the City Council has been determined this action to not be subject to the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines.

**SECTION TWO:**

Chapter 17.35, *Bed and Breakfast Inns and Facilities* of the Calistoga Municipal Code shall be amended as follows:

**Chapter 17.35**

**BED AND BREAKFAST INNS AND FACILITIES**

**Sections:**

- |           |                      |
|-----------|----------------------|
| 17.35.010 | Purpose.             |
| 17.35.020 | General regulations. |
| 17.35.030 | Use permit required. |
| 17.35.040 | Permit regulations.  |

**17.35.010 Purpose.**

- A. It is the purpose of this chapter to establish regulations for the location, use, character, parking, signing and processing of applications for bed and breakfast inns and facilities in residential zones within the City.
- B. Proposed conversions in residential zones to B and B facilities which would eliminate an existing rental unit or units shall not be permitted, unless otherwise provided herein. This admonition pertains to, inter alia, units which contain independent cooking and bathroom facilities.
- C. It is further the purpose of these regulations to encourage the restoration of historic structures. An example of an historic structure is one which is listed by Federal, State and/or recognized Napa County agencies as having architectural or historic significance.
- D. It is further the purpose of these regulations to provide for bed and breakfast facilities which are accessory to and secondary to the primary residential use of land in residentially zoned areas, unless otherwise provided herein. The terms "accessory" and "secondary" mean that the establishment of bed and breakfast facilities in residential zones shall not exceed 49 percent of the use of the land and/or building area on and in which the facilities are to be located. (Ord. 421 § 2, 1987; Ord. 416 § 2, 1986; Ord. 396 § 2, 1984; Ord. 390 § 2, 1983).

**17.35.020 General regulations.**

- A. For the purposes of this title and Chapter 13.18 CMC (Rates, Billing, Payment and Charges), B and B facilities located in residential zoning districts shall be considered commercial uses.
- B. The establishment of bed and breakfast inns and facilities shall be harmonious with the character of the neighborhood and zone in which they are to be located.
- C. Adequate and surplus off-street parking is of primary concern in the establishment of bed and breakfast inns and facilities. The requirements and development standards for parking as established in Chapter 17.36 CMC shall apply to all B and B facilities, unless otherwise provided herein.
- D. Any facility operating contrary to the terms of this provision shall be subject to immediate closure and permit revocation.
- E. No facility shall be operated without a current business license.
- F. Operation of any B and B facility on a permanent basis shall be by the resident property owner(s) or resident manager. No off-site management shall be permitted, unless otherwise provided herein.
- G. No meals may be served after noon or to persons who are not paying guests, except for those persons who are nonpaying personal guests of the occupying owner-manager of the B and B inn or facility. Occasional special events which involve meals shall be approved by the Director of Planning and Building.
- H. All facilities shall be inspected periodically by the Planning and Building Department for conformance with use permit conditions and the regulations established in this title. Inspection reports shall be forwarded to the Planning Commission for informational purposes, as necessary.

**17.35.030 Use permit required.**

All bed and breakfast inns and facilities shall require a use permit subject to the provisions of Chapter 17.40 CMC.

**17.35.040 Permit regulations.**

- A. All applications for a bed and breakfast facility shall be on forms provided by the Planning and Building Department and accompanied by the appropriate fee as established by Council resolution.
- B. Bed and breakfast inns and facilities shall be permitted only where an occupying owner or resident manager maintains his or her primary place of residence on-site. The bed and breakfast inn and facility shall be operated as an accessory use to the owner's/manager's residence. No mix of rental units and B and B units on a single property shall be permitted.
- C. Bed and breakfast inns and facilities shall be limited by spacing and to the number of rental rooms or units by zones as follows:
  - 1. Spacing. R-R, RR-H, R-1, R-1-10, R-2 and R-3 zones: not more than one bed and breakfast facility per each side of a City block or one facility per each 500 feet where conventional blocks are not present.
  - 2. Number of Units.
    - a. R-R, RR-H, R-1, R-1-10, and R-2 zones: not more than two units or rooms;
    - b. R-3 zone: not more than three units or rooms.
  - 3. Maximum. The maximum number of bed and breakfast rental units may be increased in the R-R, RR-H, R-1, R-1-10, R-2 and R-3 zones, subject to a major use permit, when the special circumstances as stated below exist. In no case shall such increase permit the total number of units to exceed six bed and breakfast rental units. Special circumstances to be considered shall include, but not be limited to, the following:
    - a. Proximity to a State highway or major arterial as indicated in the General Plan circulation element; and
    - b. The historical character and/or significance of the structure(s) in which the units are to be located; and
    - c. The character of the proposed site relative to its surroundings; and
    - d. The nature of ingress and egress; and
    - e. The adequacy of the number and location of off-street parking spaces and maneuvering areas; and
    - f. Provision of rooms accessible to the developmentally disabled.
  - 4. Exception. The Planning Commission may authorize an exception to Sections 17.35.040(B), (C) & (D) and 17.36.130(c) parking requirements of this Title, subject to a major use permit, when the special circumstances as stated above and below exist.
    - a. A bed and breakfast inn and facility or other visitor accommodation located on the property was authorized by the City on or before January 1, 2010; and
    - b. The property is located within an R-1-10 zone; and
    - c. The property is established with no more than 10 rental units; and
    - d. Minimum lot size of 10,000 square feet. The Planning Commission, in considering all of the above special circumstances, shall establish

written findings to support approval of bed and breakfast rental unit increases.

- D. Signs identifying bed and breakfast inns and facilities shall comply with the provisions of Chapter 17.58 CMC.
- E. All approved use permits for bed and breakfast inns and facilities shall include a condition requiring conversion of all existing water fixtures by installation of conservation devices.
  - 1. Excepting therefrom, upon Planning Commission approval, authentic historic fixtures. (Ord. 626 § 1, 2006).
- F. To obtain a use permit, a finding shall be made that the proposed bed and breakfast inn and facility would not result in a net loss of housing.

### **SECTION THREE:**

Section 17.14.020(B)(10) in Chapter 17.14, *R-R Rural Residential District* of the Calistoga Municipal Code shall be added and read in its entirety as follows:

- 10. Bed and breakfast inns and facilities, in accordance with Chapter 17.35 CMC;

### **SECTION FOUR:**

Section 17.16.020 in Chapter 17.16, *R-1 Single-Family Residential District* of the Calistoga Municipal Code shall be added and read in its entirety as follows:

#### **17.16.020 Uses allowed.**

Uses allowed in a R-1 and R1-10 district are as follows:

- A. Uses Allowed without Use Permit.
  - 1. Single-family dwellings;
  - 2. Second dwelling units in accordance with Chapter 17.37 CMC;
  - 3. Home occupations in accordance with Chapter 17.21 CMC;
  - 4. Uses determined by the Planning Commission to be similar in nature, as provided by the procedures in Chapter 17.02 CMC.
- B. Uses Requiring Use Permits.
  - 1. Repealed by Ord. 599;
  - 2. Bed and breakfast inns and facilities, in accordance with Chapter 17.35 CMC;
  - 3. Churches, public or private schools;
  - 4. Public buildings, public utility substation, parking lots;
  - 5. Temporary subdivision sales offices in conjunction with an approved subdivision;
  - 6. Private recreational facilities for which a membership charge may be made but which are not open to the general public;
  - 7. Geothermal activity (exploration, development, and use);
  - 8. Similar uses determined by the Planning Commission to be similar in nature as provided for according to the procedures in Chapter 17.02 CMC.
- C. Allowed Accessory Uses. Accessory buildings and uses, whose use is clearly

incidental and subordinate to the main use, including a garage, storage shed or similar structure; provided, that no accessory building or use shall be constructed or established prior to the construction of a main building, or on a lot separate from the main building.

D. Prohibited Uses. Uses not specified in subsections (A) through (C) of this section are prohibited.

#### **SECTION FIVE:**

Section 17.18.020(B) in Chapter 17.18, *R-2 Single-Family Residential District* of the Calistoga Municipal Code shall be amended and read in its entirety as follows:

B. Uses Requiring Use Permits.

1. Repealed by Ord. 599;
2. Bed and breakfast inns and facilities with greater than two units, in accordance with Chapter 17.35 CMC;
3. Child care nurseries;
4. Churches, public or private schools;
5. Public buildings, public utility substations;
6. Parking lots within 500 feet of C-DD zone;
7. Mobile home parks;
8. Private recreational facilities for which a membership charge may be made, but which are not open to the general public;
9. Geothermal activity (exploration, development and use);
10. Uses determined by the Planning Commission to be similar in nature as provided for according to the procedures in Chapter 17.02 CMC.

#### **SECTION SIX:**

Section 17.19.020(B) in Chapter 17.19, *R-3 Residential/Professional Office District* of the Calistoga Municipal Code shall be amended and read in its entirety as follows:

B. Uses Requiring Use Permits.

1. Two separate one-family structures;
2. Multiple-family dwelling units;
3. Bed and breakfast inns and facilities with greater than two units, in accordance with Chapter 17.35 CMC;
4. Child care services;
5. Churches, public or private schools;
6. Public buildings, public utility substations,
7. Parking lots within 500 feet of a C-DD zone;
8. Professional offices, clinics and health care facilities;
9. Geothermal activity (exploration, development and use);
10. Similar uses determined by the Planning Commission to be similar in nature as provided for according to the procedures in Chapter 17.02 CMC.

**SECTION SEVEN:**

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

**SECTION EIGHT:**

**THIS ORDINANCE** shall take effect thirty (30) days after its passage and before the 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.

**THIS ORDINANCE** was introduced with the first reading waived at the City of Calistoga City of Council meeting of the **4th day of May 2010** and was passed and adopted at a regular meeting of the Calistoga City Council on the **18th day of May, 2010** by the following vote:

**AYES:** Mayor Gingles, Vice Mayor Dunsford, Councilmembers Garcia, Kraus and Slusser

**NOES:** None

**ABSTAIN/ABSENT:** None

**ATTEST:**

  
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**SUSAN SNEDDON, City Clerk**

  
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**JACK GINGLES, Mayor**

