

## ORDINANCE NO. 729

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA AMENDING TITLE 17, ZONING, TO REVISE THE REGULATIONS FOR ACCESSORY DWELLING UNITS (ZOA 2017-1)

**WHEREAS**, on January 1, 2017, revisions to Govt. Code Section 65852.2 became effective that are intended to reduce barriers, streamline approval and expand capacity to accommodate the development statewide of accessory dwelling units (ADUs); and

**WHEREAS**, amendments to Calistoga Municipal Code Title 17, Zoning, are necessary in order to maintain consistency with state law; and

**WHEREAS**, the City of Calistoga desires to provide additional incentives beyond those required by state law to encourage the provision of ADUs; and

**WHEREAS**, the Planning Commission considered the proposed amendments included herein at a public hearing on January 25, 2017, and unanimously adopted PC Resolution 2017-1 recommending their approval to the Council.

**NOW, THEREFORE, THE CALISTOGA CITY COUNCIL DOES HEREBY ORDAIN AS FOLLOWS:**

#### **SECTION ONE**

**Findings.** The above recitals are incorporated herein as if set forth herein in full and each is relied upon independently by the City Council for its adoption of this ordinance.

#### **SECTION TWO**

1. CMC Subsection 17.04.025 is amended as follows:

*Repealed by Ord. 706:* “Accessory dwelling unit” means a dwelling unit located on the same parcel as a one-family dwelling that provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. The accessory dwelling unit may be attached to the one-family dwelling or detached. “Accessory dwelling unit” includes an efficiency unit as defined by Health and Safety Code Section 17958.1.

2. CMC Subsection 17.04.625, Second dwelling unit, is deleted.

3. The term “second dwelling unit” is replaced with “accessory dwelling unit” in the following CMC subsections:

17.14.020(A)(2)

17.16.020(A)(2)

17.18.020(A)(2)

4. The term “second dwelling unit” is replaced with “accessory dwelling unit” in CMC Subsection 17.15.030(B)(2) and moved to Subsection 17.15.030(A)(3). Subsection 17.15.030(B) is renumbered accordingly.

5. The term “second dwelling unit” is replaced with “accessory dwelling unit” in CMC Subsection 17.24.130(B)(2) and moved to Subsection 17.24.130(A)(4). Subsection 17.24.130(B) is renumbered accordingly.
6. The term “second dwelling unit” is replaced with “accessory dwelling unit” in CMC Subsection 17.24.420(B)(2) and moved to Subsection 17.24.420(A)(5). Subsection 17.24.420(B) is renumbered accordingly.

### **SECTION THREE**

CMC Subsection 17.41.020(B)(1)(b) is deleted and the subsection is renumbered accordingly.

### **SECTION FOUR**

CMC Chapter 17.37, Second Dwelling Units, is repealed in its entirety and replaced with the following.

#### Chapter 17.37 ACCESSORY DWELLING UNITS

##### 17.37.010 Purpose

It is the purpose of this chapter to provide for accessory dwelling units as a form of potentially-affordable housing without substantially changing the physical or architectural character of the neighborhood in which they are located, and without impinging upon the privacy of surrounding neighbors. To ensure the public health, safety and general welfare of the community, this chapter establishes criteria to ensure that these units will conform to certain development standards. In accordance with Government Code Section 65852.2, this chapter shall not be considered in the application of any local ordinance, policy or program to limit residential growth, and does not propose to preclude the creation of accessory dwelling units or serve as the basis for denial of a building permit.

##### 17.37.020 General provisions

The following standards shall apply to accessory dwelling units:

- A. One accessory dwelling unit is permitted on a lot that is developed with one one-family dwelling.
- B. An accessory dwelling unit may not be sold separately from the primary dwelling unit and no subdivision of land or air rights is authorized by this chapter.
- C. An accessory dwelling unit may be rented or leased, provided that it is rented or leased for periods of 30 consecutive days or more.
- D. Utilities
  1. The utility services for a newly-constructed accessory dwelling unit that is detached from the primary unit, including water, sewer and electricity, shall be separately metered from the primary dwelling unit.
  2. A new or separate utility connection is not required if an accessory dwelling unit is created within the existing space of the one-family residence or an

accessory structure, and no related connection fee or capacity charge shall be assessed.

- E. The floor area of an accessory dwelling unit may not exceed 750 square feet.
- F. The floor area of an accessory dwelling unit created through an addition to the primary unit may not exceed 50 percent of the primary unit's existing living area.
- G. An accessory dwelling unit may not have more than one bedroom.
- H. Setbacks

An accessory dwelling unit shall comply with the same setback and height requirements as for the primary unit, except as follows:

- 1. A detached accessory dwelling unit not more than 15 feet in height may maintain a 10-foot rear yard setback.
- 2. No additional setback shall be required for an accessory dwelling unit that is created through the conversion of an existing accessory structure.
- 3. A five-foot setback from the side and rear lot lines shall be provided for an accessory dwelling unit that is constructed above an existing garage.
- I. The maximum coverage of a lot as provided in the applicable zoning district may be exceeded as provided by CMC 17.38.050 in order to accommodate an accessory dwelling unit.
- J. Parking is not required to be provided for an accessory dwelling unit.
- K. When parking for the primary unit required by Chapter 17.36 is displaced in conjunction with the construction of an accessory dwelling unit or is converted to an accessory dwelling unit, the required replacement spaces for the primary unit may be located in any configuration on the lot, including, but not limited to, in a tandem arrangement. However, such replacement spaces may not be located in any required yard, except in accordance with CMC 17.36.070.
- L. Fire sprinklers shall not be required for an accessory dwelling unit if they are not required for the primary unit.
- M. An accessory dwelling unit created within the existing space of a one-family residence or accessory structure shall have independent exterior access from the existing residence, and side and rear setbacks that are sufficient for fire safety.

#### 17.37.030 Design standards

The following design standards apply to accessory dwelling units that are not created within the existing space of the primary dwelling unit or an accessory structure.

- A. The accessory dwelling unit shall be compatible with the design of the primary dwelling unit.

- B. The window and door openings of an accessory dwelling unit shall be designed applying methods that will minimize privacy intrusion for dwellings on adjacent properties.
- C. The design of the accessory dwelling unit shall minimize impacts on neighboring properties' scenic views of ridge lines and hilltop areas.

#### 17.37.040 Nonconforming accessory dwelling units

Accessory dwelling units legally constructed prior to adoption of the provisions contained in this title shall be considered nonconforming and subject to the provisions of CMC Chapter 17.44 pertaining to nonconforming uses and structures. Accessory dwelling units that were created without approval under applicable laws in place at the time of construction shall be subject to enforcement.

### **SECTION FIVE**

CMC Section 17.36.130 Parking requirements – Residential uses, is repealed in its entirety and replaced with the following:

Off-street parking for residential uses shall be as follows:

- A. One-family dwellings, multifamily dwellings and duplexes: two spaces per dwelling
- B. Bed and breakfast inns and facilities: two spaces for the owner or resident manager, plus one parking space for each rental room
- C. Mobile home parks: two spaces per dwelling plus one guest space for each five units, evenly distributed within the mobile home park

### **SECTION SIX**

Environmental Review. This action has been reviewed in accordance with the California Environmental Quality Act, CEQA Guidelines Section 15061(b)(3), the “general rule” exemption. The City has determined that because it can be seen with certainty that there is no possibility that the proposed amendments will have an impact on the environment, this ordinance is exempt from CEQA under the general rule.

### **SECTION SEVEN**

Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

**SECTION EIGHT**

Effective Date. 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 **21st day of February, 2017**, and was passed and adopted at a regular meeting of the Calistoga City Council on the **7<sup>th</sup> day of March, 2017**, by the following vote:

**AYES:** Councilmember Kraus, Vice Mayor Dunsford, Councilmembers Barnes and Lopez-Ortega and Mayor Canning  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

  
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**Chris Canning, Mayor**

**ATTEST:**

  
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**Kathy Flanson, City Clerk**

