

ORDINANCE NO. 717

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA AMENDING THE CALISTOGA MUNICIPAL CODE TO RESCIND AND REPLACE MUNICIPAL CODE CHAPTER 17.44 NONCONFORMING USES (ZOA 2015-6)

WHEREAS, certain residences located in residential, commercial and industrial zoning districts are deemed nonconforming and therefore may have problems obtaining insurance, loans and mortgages; and

WHEREAS, allowing nonconforming residential structures to be replaced if they are destroyed is consistent with the City's desire to maintain its housing stock; and

WHEREAS, the Planning Commission reviewed the proposed Code amendment at a public hearing on September 9, 2015, and after considering the public record, including the staff report and findings, adopted PC Resolution 2015-21 forwarding a recommendation that the City Council approve the proposed Code amendment; and

WHEREAS, the proposed amendment is not subject to the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment.

WHEREAS, the City Council of the City of Calistoga reviewed and considered this ordinance at a public hearing on October 20, 2015, noticed in accordance with state and local law, and which included the written and oral staff report, the Planning Commission's recommendation and comments received from the general public and interested agencies and parties.

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

CMC Chapter 17.44 Nonconforming Uses is hereby rescinded and replaced with the following:

Chapter 17.44

NONCONFORMING USES

Sections:

- 17.44.010 Continuation, alterations and extensions.
- 17.44.020 Discontinuance.
- 17.44.030 Replacement following destruction.
- 17.44.040 Completion of nonconforming structure.
- 17.44.050 Prohibited nonconforming uses.

17.44.010 Continuation, alterations and extensions.

Subject to the provisions of this section, a nonconforming use or structure may be continued and maintained in reasonable repair but shall not be altered or extended, except that:

- A. The extension of a nonconforming use to a portion of a structure that was provided for the nonconforming use at the time the ordinance codified in this title was adopted shall be permitted provided the parking requirements pursuant to CMC Chapter 17.36, Off-Street Parking and Loading, are met.
- B. A structure conforming as to use but nonconforming with respect to height, setback or coverage may be altered or extended if the alteration or extension does not further deviate from the standards of this title.
- C. Any structure or use for which parking facilities do not meet the requirements of CMC Chapter 17.36 shall be considered a nonconforming use. Such nonconforming uses may continue, but no enlargement, expansion or increase in the number of businesses shall be made on the lot or within existing structures unless the entire parking requirements of CMC Chapter 17.36 for the expanded floor area or use intensification are met or an in-lieu parking fee can be applied in accordance with such title.

17.44.020 Discontinuance.

- A. If a nonconforming use is replaced by another use, the new use shall conform to this title.
- B. If a nonconforming use is discontinued for a period of 180 days, all future use shall conform to the current provisions of this title.

17.44.030 Replacement following destruction.

- A. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 60 percent of fair market value as indicated by the records of the County Assessor, a future structure or use on the site shall conform to this title.
- B. Notwithstanding the above, a nonconforming residential structure may be replaced, provided that:
 - 1. The number of dwelling units is not decreased.
 - 2. The replacement structure complies with all applicable development standards, unless a variance is approved.

3. A building permit for the replacement structure shall be applied for within two years of the former structure's destruction and construction shall be diligently pursued.

17.44.040 Completion of nonconforming structure.

Nothing contained in this title shall require any change in the plans, construction, alteration, or designated use of a structure for which a permit has been issued and construction work has commenced prior to the adoption of this title, or any amendment thereto, that caused the structure or use to become nonconforming. However, such structure shall be completed and in use within two years from the time the permit was issued.

17.44.050 Prohibited nonconforming uses.

The following nonconforming uses are prohibited:

- A. A nonconforming use not involving a structure.
- B. A nonconforming use involving a structure having an assessed value of less than \$1,000.

SECTION THREE

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 therefore exempt from CEQA under the general rule.

SECTION FOUR

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 FIVE

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 Council meeting of the **20th day of October, 2015**, and was passed and adopted at a regular meeting of the Calistoga City Council on **November 3, 2015**, by the following vote:

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



Chris Canning, Mayor

ATTEST:



Melissa Velasquez, Deputy City Clerk