

## ORDINANCE NO. 706

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA AMENDING CALISTOGA MUNICIPAL CODE PROVISIONS RELATED TO SECOND DWELLING UNITS (ZOA 2014-4)

---

**WHEREAS**, the City of Calistoga desires to encourage the construction of second dwelling units as an efficient means of increasing the city's affordable housing stock; and

**WHEREAS**, the City encourages their construction through certain incentives but very few second units have been constructed in the City; and

**WHEREAS**, Calistoga Municipal Code CMC Chapter 17.37, Second Dwelling Units, contains a number of regulations that do not appear to be warranted and therefore unnecessarily constrain the development of second units, as well as redundant and unnecessary provisions and wording; and

**WHEREAS**, Housing Element Action 1.2-2 calls for the consideration of amendments to the Zoning Code's regulations to minimize the constraints on the construction of second dwelling units; and

**WHEREAS**, CMC Chapter 17.04, Definitions, contains several definitions related to second dwelling units that are unnecessary and cause confusion; and

**WHEREAS**, the Planning Commission reviewed the proposed Code amendments at a public hearing on November 26, 2014, and after considering the public record, including the staff report and findings, adopted PC Resolution 2014-30 forwarding a recommendation that the City Council approve the amendments included in this ordinance, including rescinding and replacing CMC Chapter 17.37, Second Dwelling Units, and deleting certain definitions from CMC Chapter 17.04, Definitions; and

**WHEREAS**, the City Council of the City of Calistoga reviewed and considered this ordinance at a public hearing on January 6, 2014, 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CMC Chapter 17.37, Second Dwelling Units, is hereby rescinded and replaced in its entirety as follows:

### **Chapter 17.37 SECOND DWELLING UNITS**

**Sections:**

- 17.37.010 Purpose.
- 17.37.020 Permit requirements.
- 17.37.030 General provisions.
- 17.37.040 Design standards.
- 17.37.050 Nonconforming second dwelling units.

**17.37.010 Purpose.**

It is the purpose of this chapter to provide for second 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 second dwelling units or serve as the basis for denial of a building permit.

**17.37.020 Permit requirements.**

- A. Permits required. Second dwelling units shall be approved by one of the following methods, as appropriate.
  - 1. Design review approval by the Planning Director shall be required in all areas within the city whose zoning allows second dwelling units as a permitted use.
  - 2. A use permit approved by the Planning Commission shall be required in all areas within the city whose zoning allows second dwelling units with a use permit.
- B. The Planning and Building Director or the Planning Commission shall approve the design review or use permit application for a second dwelling unit if all of the requirements of CMC 17.37.050 and 17.37.060 have been satisfied.

**17.37.030 General provisions.**

The following standards shall apply to second dwelling units.

- A. One second dwelling unit is permitted on a lot.

- B. A second dwelling unit shall not be sold separately from the primary dwelling unit and no subdivision of land or air rights is authorized by this Chapter.
- C. A second dwelling unit may be rented or leased, provided that it is rented or leased for periods of 30 consecutive days or more.
- D. Where a second unit is detached from the primary unit, the utility services, including water, sewer and electricity, shall be separately metered from the primary dwelling.
- E. The floor area of the second dwelling unit shall not be less than 300 square feet or exceed 750 square feet.
- F. A second dwelling unit may not have more than one bedroom.
- G. A detached second dwelling unit or a second dwelling unit attached to a primary dwelling unit shall comply with the same setback and height requirements as for principal buildings, except that a detached second dwelling unit not more than 15 feet in height may maintain a 10-foot rear yard setback.
- H. 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 a second dwelling unit.

**17.37.040 Design standards.**

The following design standards apply to second dwelling units.

- A. The second dwelling unit shall be compatible with the design of the primary dwelling.
- B. The window and door openings of a second dwelling unit shall be designed applying methods that will minimize privacy intrusion for dwellings on adjacent properties.
- C. Second dwelling units shall minimize impacts on neighboring properties' scenic views of ridge lines and hilltop areas.

**17.37.050 Nonconforming second dwelling units.**

Second 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. Second dwelling units that were created without approval under applicable laws in place at the time of construction shall be subject to enforcement.

**SECTION THREE**

The following definitions are hereby deleted from CMC Chapter 17.04, Definitions:

Section 17.04.025 Accessory dwelling unit,  
Section 17.04.025 Granny unit, and  
Section 17.04.626 Second dwelling unit permit

#### **SECTION FOUR**

**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 FIVE**


**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 SIX**

**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 **6th day of January, 2015**, and was passed and adopted at a regular meeting of the Calistoga City Council **on the 20th day of January, 2015**, by the following vote:

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

  
\_\_\_\_\_  
Chris Canning, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Kathy Flamson, City Clerk