

## ORDINANCE NO. 701

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, RESCINDING CALISTOGA MUNICIPAL CODE CHAPTERS 17.06, DESIGN REVIEW, AND CHAPTER 17.34, SINGLE-FAMILY RESIDENTIAL STANDARDS OF TITLE 17, ZONING, AND ADOPTING CHAPTER 17.41, DESIGN REVIEW (ZOA 2014-1)

---

**WHEREAS**, the City Council has adopted residential design guidelines in order to implement the Housing Element of the Calistoga General Plan and to provide property owners, designers and developers with a clear understanding of the City's expectations for new residential development; and

**WHEREAS**, the new design guidelines duplicate many of those contained in Chapter 17.06, Design Review, which therefore needs to be amended to eliminate the duplications; and

**WHEREAS**, the design review requirement needs to be expanded to include all proposed dwelling units, in order to apply the adopted residential design guidelines; and

**WHEREAS**, clarification of the review authority for various types of design review applications is warranted; and

**WHEREAS**, a "Findings" section needs to be added to the Chapter to guide action on a design review application; and

**WHEREAS**, provisions for the approval of time extensions are needed in the Chapter; and

**WHEREAS**, the Chapter should be moved from the beginning of the Zoning Code to a more logical location near related land use entitlement provisions; and

**WHEREAS**, a general clean-up of the Chapter is warranted to delete repealed provisions and reorder sections into a proper sequence; and

**WHEREAS**, the provisions of Zoning Code Chapter 17.34, Single-Family Residential Standards, are longer needed because of the newly-adopted residential design guidelines, as their purposes will be fulfilled by these guidelines; and

**WHEREAS**, the Planning Commission reviewed the proposed amendments at a public hearing at its meeting of March 12, 2014, and during its review, considered the public record, including the staff report, findings, and written materials and testimony presented by the public during the hearing, adopted PC Resolution 2014-9 recommending to the City Council adoption of the proposed Chapter 17.41 and the rescission of existing Chapter 17.06; and

**WHEREAS**, this action 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 the amendments may have a significant effect on the environment.

**WHEREAS**, the City Council of the City of Calistoga reviewed and considered this ordinance at its meeting on April 1, 2014, noticed in accordance with state and local law, and which included the written and oral staff report, proposed findings, 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**

Rescissions. Chapter 17.34, Single-Family Residential Standards, is hereby rescinded and Chapter 17.06, Design Review are hereby rescinded.

**SECTION THREE**

Adoption of Chapter 17.41. Chapter 17.41, Design Review, attached hereto and incorporated herein as Exhibit A, is hereby adopted.

**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 ordinance will have an impact on the environment, it 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 1st day of April, 2014, and was passed and adopted at a regular meeting of the Calistoga City Council on the **15th day of April 2014**, by the following vote:

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



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

**ATTEST:**

  
\_\_\_\_\_  
**Kathy Flanson, Deputy City Clerk**

Exhibit A

**Chapter 17.41  
DESIGN REVIEW**

Sections:

- 17.41.010 Purposes.
- 17.41.020 Applicability and review authority.
- 17.41.030 Application submittal and review.
- 17.41.040 Design Advisory Panel.
- 17.41.050 Findings.
- 17.41.060 Validity and extensions.

**17.41.010 Purposes.**

The purposes of design review are to secure the general purposes of this Title and the Calistoga General Plan, to promote high quality design and a harmonious relationship of buildings, to preserve the unique character and ambiance of Calistoga, to ensure compatibility of new development with existing development, and to promote the preservation of historic structures.

**17.41.020 Applicability and review authority.**

The following items shall be subject to design review approval by the specified reviewing authority.

- A. The following items are subject to review by the Planning and Building Director:
  - 1. Construction in the RR, R-1/R-1-10 and R-2 Zoning Districts of:
    - a. A one-family dwelling unit
    - b. Accessory structures
    - c. Additions and alterations thereto
  - 2. Non-residential structures and properties
    - a. Additions of less than 10% of the gross floor area to an existing structure
    - b. Minor exterior alterations to an existing structure, including awnings, painting, siding, lighting, and murals
    - c. Minor site modifications
  - 3. Signs identified in Section 17.58.060 (A).

The Planning and Building Director may refer any of the above applications to the Planning Commission for action.

- B. The following items are subject to review by the Planning Commission:**
1. Within the RR-H Rural Residential - Hillside District:
    - a. Construction of a one-family dwelling unit
    - b. Construction of a second dwelling unit
    - c. Modifications to an existing structure or alteration of the site that will significantly alter the visual character of the structure as viewed from the public right-of-way.
  2. Construction of two or more dwelling units on a property.
  3. Non-residential structures and properties
    - a. Construction of structures
    - b. Additions of more than 10% of the gross floor area to an existing structure
    - c. Substantial exterior modifications to an existing structure
    - d. Construction of parking lots for three or more spaces.
  4. Alterations to structures listed or eligible for inclusion on a federal, state or local inventory of historic or cultural resources, or to a structure determined by the City to be potentially eligible for listing.
  5. Projects otherwise subject to approval by the Planning Commission, such as use permits that involve construction or development and planned developments. The design review application shall be considered by the Commission simultaneously.
  6. Signs identified in Section 17.58.060 (B).
- C. Design review approval is not required for the following:**
1. Alterations of commercial, industrial and public buildings where the work is in an area not visible from the public right-of-way or accessible to the public, as determined by the Director of Planning and Building.
  2. Construction and building modifications determined by the Director of Planning and Building to raise no substantial design issues in conflict with those outlined in CMC 17.41.010 and 17.41.040. In these instances, the Director may waive the requirement for design review and may ensure compliance with this Title through review of the plans submitted for a building permit.
  3. Second dwelling units approved in accordance with the provisions of Chapter 17.37 CMC.
- D. Appeals of design review actions shall be governed by CMC Chapter 1.20.**

**17.41.030 Application submittal and review.**

- A. An application for design review approval shall be filed in accordance with Section 17.02.120. The application shall be accompanied by the information identified in the Planning and Building Department handout as being required for design review applications.
- B. Within 30 days of receipt of a design review application, the City shall notify the applicant in writing as to whether such application is complete for processing. If the application is determined to be incomplete, the City shall inform the applicant of additional information required or the procedure by which such application can be made complete. Upon receipt of such additional materials, a new 30-day period shall begin during which the City shall determine the completeness of the application. Only a design review application that has been determined to be complete shall be processed pursuant to the requirements of this Title.
- C. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.41.030.
- D. In its review of design review applications, the City shall not design or directly assist in the design of any buildings or projects submitted for approval. The City shall restrict its consideration to a reasonable review of the proposal relative to its compliance with applicable design guidelines, leaving full responsibility for the design to the applicant.
- E. Conceptual design review applications are encouraged for any project that would benefit from early consultation with the Design Advisory Panel and/or the Planning Commission. Recommendations provided in this process are intended to serve as guidance only and shall not be considered an approval of an application.

**17.41.040 Design Advisory Panel.**

- A. Establishment and purpose. There is hereby established a Design Advisory Panel consisting of members who are qualified by experience and training to advise and provide technical assistance to the Director of Planning and Building, the Planning Commission and the City Council in regards to design matters pursuant to this chapter.
- B. Panel Formation.
  - 1. The panel shall be comprised of five members who shall have residency within a 50-mile radius of the City of Calistoga. No member of the City Council, Planning Commission, or City Employee shall serve as a member of the panel. Preference in appointment shall be given to those qualified candidates who reside within the boundaries of the Calistoga Joint Unified School District.
  - 2. Although no certification is required for appointment, individuals shall be experienced or educated in the architecture, landscape architecture, planning, cultural/historic resources, and other design-related fields. A

diversity of members is encouraged from all professions and from a variety of design firms. The panel shall utilize a rotating schedule so that at least three of the five members participate in a panel discussion/deliberation.

3. Terms for the Design Advisory Panel shall be staggered in two-year terms after the initial panel has been appointed. There shall be no limit on the number of terms a person may serve. When a person is appointed to fill out the term of a departing member, that person's term shall end at the time the departing member's term would have ended.
  4. Panel members shall be appointed by the Mayor and confirmed by the City Council. Removal of a member may occur by a majority vote of the City Council.
  5. The Chair of the panel shall be elected by majority vote of the members and shall serve a one-year term.
- C. Panel authority. The panel shall function on an on-call basis and serve as a sounding board and advisory group to identify design issues and ideas for project improvement for the benefit of the project proponent, the Planning and Building Director, the Planning Commission and the City Council. Advice from the panel shall not be a binding action.
- D. Meeting Schedule.
1. The panel shall meet on an as-needed basis as called by the Director of Planning and Building or the Planning Commission.
  2. A public meeting notice (a minimum 72 hours posted in advance) shall specify the time, place and business to be conducted.
  3. All meetings of the panel shall be open to the public.
  4. The Director of Planning and Building shall serve as the secretary to the panel.

**17.41.050 Findings.**

In approving or conditionally approving a design review application, the following findings shall be made that the proposed design:

- A. Is in accord with the General Plan and any applicable planned development.
- B. Is in accord with all applicable provisions of this Title.
- C. Is consistent with any adopted design review guidelines to the extent possible
- D. Will not impair or interfere with the development, use or enjoyment of other property in the vicinity or the area

**17.41.060 Validity and extensions.**

- A. Design review approvals shall remain effective for a one-year period from the date of approval or shall remain valid as long as there is a valid building permit for construction of the approved project or substantial improvements have been made.
- B. Design review granted in conjunction with other entitlements shall remain in effect for the length of the related entitlements.
- C. Extensions of time. The Director may extend the time limit established by Subsection A for a permit or approval to be exercised, subject to the following.
  1. A written request for an extension of time shall be filed with the Planning and Building Department at least 30 days before the expiration of the permit or approval, together with the filing fee required by resolution of the City Council. Expiration of the approval will be stayed until the decision on the extension request if the request is filed 30 days before the original expiration.
  2. The Director may grant a 12-month extension to the expiration date of the original approval
  3. In approving a time extension, the Director shall determine:
    - a. That the applicant has made a good faith effort to exercise the approval. The burden of proof is on the applicant to establish, with substantial evidence beyond the control of the applicant (e.g., demonstration of financial hardship, legal problems with the closure of the sale of the parcel, poor weather conditions in which to complete construction activities, etc.), why the permit or approval should be extended.
    - b. That conditions of the site and in the vicinity are substantially the same as when the approval was originally granted.