

ORDINANCE NO. 705

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING PROVISIONS OF CHAPTER 17.08 (AFFORDABLE HOUSING) OF THE CALISTOGA MUNICIPAL CODE RELATING TO THE NONRESIDENTIAL DEVELOPMENT HOUSING LINKAGE FEE PROVISIONS (MCA 2014-5)

WHEREAS, as new employment-generating development continues to occur in the City, additional affordable housing will be required to house a portion of the new lower wage workforce. The cost to construct new housing units is higher than can be supported by the rents that many workers will be able to pay. The difference between costs and affordable rent levels is considered an “affordability gap”; and

WHEREAS, the costs allocated to new nonresidential development through this linkage fee reflect this affordability gap that needs to be filled in order to provide very low-, low-, median- and moderate-income housing for additional workforce demanded by nonresidential development; and

WHEREAS, the updating and collection of the housing linkage fee would meet numerous objectives and policies, and fulfill multiple actions of the Housing Element of the Calistoga General Plan, and

WHEREAS, it is to the benefit of the public health, safety and welfare of all parties that the housing linkage fee be collected to help provide this needed housing; and

WHEREAS, the nexus for the nonresidential development housing linkage fee is based on the Nonresidential Development Housing Linkage Fee Nexus Study (“Study”) dated September 10, 2014, prepared by Economic & Planning Systems, Inc., consistent with the most recent relevant case law and the principles of AB 1600 (the Mitigation Fee Act) and Government Code Section 66000 et seq; and

WHEREAS, for at least fourteen (14) days prior to the public hearing, a copy of the Study was available for public review at the Office of the City Clerk; and

WHEREAS, the facts and evidence presented in the Study establish that there exists a reasonable relationship between the need for affordable housing and the impacts of the types of new nonresidential development and redevelopment for which a corresponding fee is charged, and that a reasonable relationship also exists between the fee’s use and the type of new development and redevelopment for which the fee is charged; and

WHEREAS, in establishing the nonresidential development housing linkage fee, the City Council accepts the Study as an accurate document and finds the fees to be consistent with state law (California Government Code Section 66000 et seq.); and

WHEREAS, the City Council held public study sessions on July 29, 2014 and September 23, 2014 on the proposed nonresidential development housing linkage fee; and

WHEREAS, the City Council of the City of Calistoga reviewed and considered this ordinance at a public hearing on November 18, 2014, noticed in accordance with state and local law, and which included the written and oral staff report, and comments received from the general public and interested parties.

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

SECTION ONE

Findings.

- A. 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.
- B. The Council further finds and determines that the Study complies with California Government Code 66001 by establishing the basis for imposition of fees on new development. In particular, the Study:
 - 1. Identifies the purpose of the fee;
 - 2. Identifies the use to which the fee will be put;
 - 3. Shows a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
 - 4. Shows a reasonable relationship between the demand for the affordable housing and the type of development project on which the fee is imposed; and
 - 5. Shows a reasonable relationship between the amount of the fee and the cost of the public benefit attributable to the development on which the fee is imposed.

SECTION TWO

Existing Title 17, Section 17.080.020, Applicable Projects, is hereby renamed Residential Projects.

SECTION THREE

Existing Title 17, Sections 17.080.020(B), Commercial and Industrial Projects, 17.080.020(C), Exempt Projects, and 17.08.030(B) are hereby repealed in their entirety.

SECTION FOUR

A new Section 17.08.025, Nonresidential Projects, is hereby added to Title 17, Chapter 17.08, Affordable Housing, and shall be codified and read as follows:

17.08.025 Nonresidential projects.

- A. Housing linkage fee. All new construction or additions to gross floor area greater than 10 percent shall contribute a housing linkage fee to help address the "affordability gap" between the cost of housing and what many workers employed by new nonresidential development are able to pay.

- B. Calculation and payment of linkage fees. Linkage fees shall be calculated and paid in the same manner as provided in CMC Section 3.28.050. Linkage fees shall be assessed in the amount established by resolution of the City Council.
- C. Exemptions, credits and adjustments. Exemptions, credits and adjustments may be made to linkage fees shall be in the same manner as provided in CMC Section 3.28.060.
- D. Refund of development impact fees. Linkage fees may be refunded in the same manner as provided in CMC Section 3.28.070.
- E. Annual findings and reporting. The City Council shall make the annual findings and the City's Administrative Services Department shall annually report on the linkage fees in the same manner as provided in CMC Section 3.28.080.
- F. Fee monitoring and update. The City shall annually monitor the linkage fee and conduct a comprehensive review in the same manner as provided in CMC Section 3.28.090.
- G. Use of linkage fee revenue. Linkage fee revenue shall be deposited in the Calistoga Housing Trust Fund.

SECTION FIVE

Environmental Review. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemptions contained in CEQA Guidelines section 15273 (a) (4), because it constitutes the establishment of charges for the purpose of obtaining funds for affordable housing, and CEQA Guidelines section 15061 (b) (3), because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION SIX

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 SEVEN

Judicial Action to Challenge this Ordinance. Any judicial action or proceeding to attack, review, set aside, void or annul this Ordinance shall be brought within 120 days of the date of adoption of this Ordinance.

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 **18th day of November, 2014**, and was passed and adopted at a regular meeting of the Calistoga City Council on the **2nd day of December, 2014**, by the following vote:

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



Chris Canning, Mayor



Kathy Flamson, City Clerk