

## ORDINANCE NO. 685

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA AMENDING MUNICIPAL CODE CHAPTERS 17.04 (DEFINITIONS), 17.16 (R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT), 17.18 (R-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT), 17.19 (R-3 RESIDENTIAL/PROFESSIONAL OFFICE DISTRICT) TO IDENTIFY AGRICULTURAL EMPLOYEE, TRANSITIONAL AND SUPPORTIVE HOUSING AS PERMITTED USES; AMENDING CHAPTER 17.22 (COMMERCIAL LAND USE DISTRICTS) TO IDENTIFY EMERGENCY SHELTERS AS A PERMITTED USE; AND AMENDING CHAPTER 19.02 (GROWTH MANAGEMENT SYSTEM) TO REMOVE POTENTIAL CONSTRAINTS TO THE DEVELOPMENT OF HOUSING AND PRIORITIZE DEVELOPMENT OF LOWER-INCOME AND SPECIAL NEEDS HOUSING**

---

**WHEREAS**, the City of Calistoga is required by State law to prepare and adopt a General Plan for the long-term physical growth and development of the City; and

**WHEREAS**, the Housing Element is one of seven State mandated elements to be included in the General Plan; and

**WHEREAS**, the City Council approved a work program to update the 2003 Housing Element on January 20, 2009; and

**WHEREAS**, staff, under the guidance of the City Council-appointed Housing Element Update Advisory Committee, prepared an update to the Housing Element in accordance with the requirements of state Housing Element law; and

**WHEREAS**, the City Council adopted the update to the Housing Element at its regular meeting on March 15, 2011; and

**WHEREAS**, the adopted update of the Housing Element was reviewed by the State Department of Housing and Community Development (HCD) and found to be in legal compliance with the requirements of state Housing Element law on May 10, 2011; and

**WHEREAS**, the adopted update of the Housing Element contains a schedule of program actions that are necessary for implementation of the updated Housing Element; and

**WHEREAS**, staff has identified a number of program actions that by law, statutory requirement or suggestion by HCD should be completed within one year of adoption of the updated Housing Element; and

**WHEREAS**, staff has prepared an ordinance containing the necessary Municipal Code amendments for implementing priority program actions contained in the updated Housing Element; and

**WHEREAS**, the Planning Commission considered the proposed ordinance at its regularly scheduled meeting on June 13, 2012. Prior to taking action on the application, the Planning Commission received written and oral reports by the staff, and received public testimony; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on the ordinance on June 13, 2012, and adopted Resolution PC 2012-17 forwarding a recommendation that the City Council approve the ordinance; and

**WHEREAS**, the City Council of the City of Calistoga has reviewed and considered this ordinance at regular meetings on August 7<sup>th</sup>, 2012 and August 21<sup>st</sup>, 2012, noticed in accordance with state and local law, and which included the written and oral staff report, proposed findings and comments received from the general public and interested agencies and parties; and

**WHEREAS**, this action has been determined to not be subject to the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines.

**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:**

**New Section 17.04.227** entitled "Emergency shelter" is hereby added to Chapter 17.04 (Definitions) of Title 17 (Zoning) of the Calistoga Municipal Code to read and provide as follows:

"Section 17.04.227 Emergency shelter.

"Emergency shelter" shall mean housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. (Ord. 685, § 2, 2012)."

**SECTION THREE:**

**New Section 17.04.371** entitled "Housing, agricultural employee" is hereby added to Chapter 17.04 (Definitions) of Title 17 (Zoning) of the Calistoga Municipal Code to read and provide as follows:

"Section 17.04.371 Housing, agricultural employee.

"Agricultural employee housing" shall mean residential housing whose occupancy is restricted to persons who are employed in, raising or harvesting any agricultural commodities. All occupants of the housing unit(s) must be agricultural employees. The housing shall be provided by someone other than an agricultural employer, as defined in Section 1140.4 of the Labor Code. Agricultural employee housing is not a business run for profit; it does not differ in any way from a traditional dwelling." (Ord. 685, § 3, 2012)."

**SECTION FOUR:**

**New Section 17.04.372** entitled "Housing, supportive" is hereby added to Chapter 17.04 (Definitions) of Title 17 (Zoning) of the Calistoga Municipal Code to read and provide as follows:

"Section 17.04.372 Housing, supportive.

"Supportive housing" shall mean housing with no limit on length of stay and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. (Ord. 685, § 4, 2012)."

#### **SECTION FIVE:**

**New** Section 17.04.373 entitled "Housing, transitional" is hereby added to Chapter 17.04 (Definitions) of Title 17 (Zoning) of the Calistoga Municipal Code to read and provide as follows:

"Section 17.04.373 Housing, transitional.

"Transitional housing" shall mean a building or buildings configured as rental housing, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. (Ord. 685, § 5, 2012)."

#### **SECTION SIX:**

Section 17.16.020.A entitled "Uses Allowed without Use Permit" of Chapter 17.16 (R-1 Single-Family Residential District) of Title 17 (Zoning) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

"A. Uses Allowed without Use Permit.

1. Single-family dwellings;
2. Second dwelling units in accordance with Chapter 17.37 CMC;
3. Home occupations in accordance with Chapter 17.21 CMC;
4. Agricultural employee housing as defined in Chapter 17.04 CMC;
5. Supportive housing as defined in Chapter 17.04 CMC;
6. Transitional housing as defined in Chapter 17.04 CMC;
7. Uses determined by the Planning Commission to be similar in nature, as provided by the procedures in Chapter 17.02 CMC. (Ord. 685, § 6, 2012)."

#### **SECTION SEVEN:**

Section 17.18.020.A entitled "Uses Allowed without Use Permit" of Chapter 17.18 (R-2 Multiple-Family Residential District) of Title 17 (Zoning) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

"A. Uses Allowed without Use Permit.

1. Single-family dwellings;
2. Second dwelling units in accordance with Chapter 17.37 CMC;
3. Duplexes and triplexes;
4. Home occupations in accordance with Chapter 17.21 CMC;
5. Supportive housing as defined in Chapter 17.04 CMC, not to exceed three units in size;
6. Transitional housing as defined in Chapter 17.04 CMC, not to exceed three units in size;
7. Uses determined by the Planning Commission to be similar in nature, as provided by the procedures in Chapter 17.02 CMC. (Ord. 685, § 7, 2012)."

**SECTION EIGHT:**

Section 17.19.020.A entitled "Uses Allowed without Use Permit" of Chapter 17.19 (R-3 Residential/Professional Office District) of Title 17 (Zoning) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

"A. Uses Allowed without Use Permit.

1. One-family dwellings, duplexes, triplexes;
2. Home occupations in accordance with Chapter 17.21 CMC;
3. Second dwelling units in accordance with Chapter 17.37 CMC;
4. Supportive housing as defined in Chapter 17.04 CMC, not to exceed three units in size;
5. Transitional housing as defined in Chapter 17.04 CMC, not to exceed three units in size;
6. Uses determined by the Planning Commission to be similar in nature, as provided by the procedures in Chapter 17.02 CMC. (Ord. 685, § 8, 2012)."

**SECTION NINE:**

Section 17.19.020.B entitled "Uses Requiring Use Permits" of Chapter 17.19 (R-3 Residential/Professional Office District) of Title 17 (Zoning) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

"B. Uses Requiring Use Permits.

1. Two separate one-family structures;

2. Multiple-family dwelling units;
3. Bed and breakfast inns and facilities with greater than two units, in accordance with Chapter 17.35 CMC;
4. Child care services;
5. Churches, public or private schools;
6. Public buildings;
7. Parking lots within 500 feet of a DC-DD or CC-DD zone;
8. Professional offices, clinics and health care facilities;
9. Geothermal activity (exploration, development and use)
10. Supportive housing as defined in Chapter 17.04 CMC, four or more units in size;
11. Transitional housing as defined in Chapter 17.04 CMC, four or more units in size;
12. Uses determined by the Planning Commission to be similar in nature, as provided by the procedures in Chapter 17.02 CMC. (Ord. 685, § 9, 2012)."

**SECTION TEN:**

Section 17.22.060.A entitled "Community commercial (CC) district – Allowed, conditionally permitted and prohibited uses" of Chapter 17.22 (Commercial Land Use Districts) of Title 17 (Zoning) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

"A. The following uses are allowed in the CC district and shall only require an administrative use permit when located in an entry corridor as defined in the 2003 General Plan Update. When an administrative use permit is required, the administrative use permit shall be processed in the same manner as provided in CMC 17.22.040(A)(9)(b).

1. Resident-serving retail and service uses including, but not limited to: grocery stores; fruit and vegetable markets; bicycle sales and repair shops; bicycle rentals and tours; furniture sales; audio-video stores; florists; frame shops; clothing and apparel businesses; health clubs; dry cleaning, not including processing plants; laundromats; tailors; shoe repair; retail sales and repair of household goods and appliances; and hobby and craft shops;
2. Newsstands and bookstores;
3. Personal service establishments, such as spas, beauty salons, and barbershops;

4. Business and professional offices, such as for accountants, lawyers, architects, engineers, realtors, and financial advisors;
5. Medical or dental clinics;
6. Banks and financial institutions, without drive-up facilities;
7. Veterinary clinics, without boarding facilities;
8. Dance studios and schools;
9. Art galleries;
10. Emergency Shelters as defined in Chapter 17.04 CMC, subject to the following development standards:
  - a. No more than 20 beds shall be permitted by right in the CC zoning district.
  - b. Temporary shelter may be made available to residents for no more than 180 days in any 12 month period.
  - c. A client intake/waiting area shall be provided at a minimum of 10 square-feet per bed provided at the facility, with a minimum of 100 square-feet. Said intake/waiting area shall be in a location not adjacent to the public right-of-way. If located at the exterior of a building, the intake/waiting area shall be visually separated from public view by a minimum of six (6) foot tall landscape screen or a minimum six (6) foot tall decorative wall, and shall provide consideration for shade/rain provisions.
  - d. Adequate external lighting shall be provided for security purposes
  - e. Security personnel shall be provided during the hours that the emergency shelter is in operation.
  - f. At least one facility manager shall be on-site at all hours that the facility is open. Additional support staff shall be provided, as necessary, to ensure that at least one staff member is provided in all segregated sleeping areas, as appropriate.
11. Uses determined by the Planning Commission to be similar in nature, as provided for according to the procedures in Chapter 17.02 CMC. (Ord. 685, § 10, 2012)."

**SECTION ELEVEN:**

Section 19.02.060.C entitled "Allocation procedures" of Chapter 19.02 (Growth Management System) of Title 19 (Environmental Protection) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

- "C. Within 30 days from receipt of the City Manager's report, and not later than September 15th of each year, the City Council, by resolution, shall confirm the number of residential units and amount of water for nonresidential use available for allocation and establish a list of development objectives for residential and nonresidential development by order of priority for the upcoming year. The list may or may not include the general development objectives identified in CMC 19.02.070(A) and (B), and shall be consistent with goals and policies in the City's General Plan. The list shall be used by the City to evaluate applications for allocations in the event that the number of allocations requested in a given year exceeds the number of allocations that are available for that year. When the availability of annual allocations for residential units is less than what would normally be allowed for accommodating a population growth rate of 1.35%, priority in awarding allocations for residential units shall be given to lower income housing projects and to special needs housing projects. (Ord. 685, § 11, 2012)."

#### **SECTION TWELVE:**

Section 19.02.060.F entitled "Allocation procedures" of Chapter 19.02 (Growth Management System) of Title 19 (Environmental Protection) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

- "F. Annual allocations may be increased by drawing from unused annual allocations in previous, current or future five-year cycles, as approved by City Council resolution, provided that the combined average residential allocations do not result in a population growth rate of more than 1.35% or a non-residential water distribution exceeding the quantity specified in Chapter 13.16 CMC for the five-year cycle(s) from which the allocations are drawn from. (Ord. 685, § 12, 2012)."

#### **SECTION THIRTEEN:**

Section 19.02.060.H entitled "Allocation procedures" of Chapter 19.02 (Growth Management System) of Title 19 (Environmental Protection) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

- "H. Once a development has received an allocation, all required discretionary and nondiscretionary approvals and permits necessary to commence construction must be obtained within 24 months of the date of allocation. In the case of a subdivision, recordation of a final subdivision map or final parcel map must be completed within 36 months of the date of allocation. With respect to subdivisions, the following additional provisions shall apply:
1. All necessary permits for construction on the lots of record shall be obtained and construction commenced on all lots of record within three years of the recordation of the final map.

2. Thirty percent of the required water and wastewater connection fee shall be paid for all of the lots of record within 18 months of the recordation of the final map.
3. If at the end of the three-year period, the processing of permits for construction has not been obtained and construction commenced, the water and wastewater connection fee paid to the City shall be forfeited.
4. Relief from the three-year timeframe set forth in this section may be granted by the City Council. (Ord. 685, § 13, 2012)."

**SECTION FOURTEEN:**

Section 19.02.060.I entitled "Allocation procedures" of Chapter 19.02 (Growth Management System) of Title 19 (Environmental Protection) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

- "I. Failure to receive the necessary permits to commence construction, or in the case of a subdivision to receive approval and recordation of a final subdivision map or final parcel map, shall deem the allocation expired. The Planning and Building Director may authorize two extensions, each for a period of up to 12 months; provided, that the applicant is actively seeking permit approval or when warranted by extenuating circumstances. (Ord. 685, § 14, 2012)."

**SECTION FIFTEEN:**

Section 19.02.060.G.7 entitled "Allocation procedures" of Chapter 19.02 (Growth Management System) of Title 19 (Environmental Protection) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

- "7. Applications for projects exceeding available annual allocations may be awarded allocations from the combined average annual allocation identified under subsection (F) of this section; provided, that the allocations do not result in a population growth rate of more than 1.35% or a non-residential water distribution exceeding the quantity specified in Chapter 13.16 CMC for the five-year cycle(s) from which the allocations are being drawn. (Ord. 685, § 15, 2012)."

**SECTION SIXTEEN:**

Section 19.02.070.A entitled "General development objectives for awarding allocations" of Chapter 19.02 (Growth Management System) of Title 19 (Environmental Protection) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

- "A. Preference for residential allocations shall generally be given to projects that include one or more of the following:



1. Construction of deed restricted residential units that the majority of units go towards the goal of fulfilling the City's remaining regional housing need in the very low-, low- and/or moderate-income housing categories as defined by the General Plan.
2. Construction of residential units that will be available to households of moderate income as defined by the General Plan.
3. Construction of residential units that are proposed as part of a mixed-use development project.
4. Construction of residential units on vacant, underdeveloped or redeveloped land with necessary public infrastructure in place.
5. Construction of residential units that will be available to special need housing groups or population as defined by the General Plan. (Ord. 685, § 16, 2012)."

#### **SECTION SEVENTEEN:**

Section 19.02.080(A) entitled "Carryover of unused allocations" of Chapter 19.02 (Growth Management System) of Title 19 (Environmental Protection) of the Calistoga Municipal Code is hereby amended to read and provide as follows:

- "A. Any unused allocations, or allocations which expire as provided in CMC 19.02.060(I), shall be carried over for future annual allocations either within or between five-year cycles, provided that the carried-over allocations do not result in a population growth rate of more than 1.35% or a non-residential water distribution exceeding the quantity specified in Chapter 13.16 CMC for the five-year cycle(s) from which the allocations are being carried over from. (Ord. 685, § 17, 2012)."

#### **SECTION EIGHTEEN:**

Environmental Clearance.

This action has been reviewed in accordance with the California Environmental Quality Act. CEQA Guidelines Section 15061(b)(3), the "general rule" exemption, states that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City has determined that the activity in question, Municipal Code amendments implementing adopted housing programs, will not have any impact on the environment and therefore is exempt from CEQA under the general rule.

#### **SECTION NINETEEN:**

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 TWENTY:**

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.

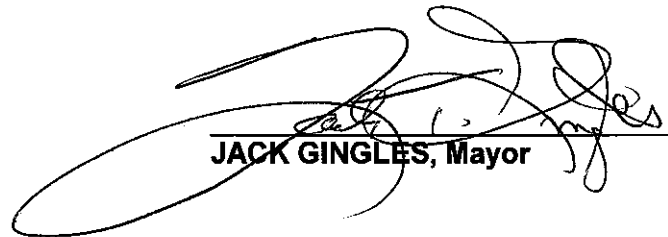
**THIS ORDINANCE** was introduced with the first reading waived at the City of Calistoga City of Council meeting of the 7<sup>th</sup> day of August, 2012, and was passed and adopted at a regular meeting of the Calistoga City Council on the 21<sup>st</sup> day of August, 2012, by the following vote:

**AYES: Councilmembers Kraus, Slusser, and Canning, Vice Mayor Dunsford and Mayor Gingles**

**NOES: None.**


**ABSENT: None.**

**ABSTAIN: None.**



**JACK GINGLES, Mayor**

**ATTEST:**



**AMANDA DAVIS, Deputy City Clerk**