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CITY OF ST. HELENA

PROPOSED AMENDED RESOLUTION NO. 2005-98

APPROVING A LOCAL PREFERENCE POLICY  
FOR AFFORDABLE HOUSING

RECITALS

A. Policy 6A-1 of the 2002 St. Helena Housing Element states that the City of St. Helena shall “Support a jobs/housing balance by encouraging housing that provides for St. Helena’s workforce”.

B. City residents have questioned whether the City can give or require priority to local residents and workers for occupancy in affordable housing units.

C. Adoption of a local preference policy is required to be supported by findings that the policy is non-discriminatory and consistent with the Fair Housing Act and that a legitimate governmental purpose exists. The City Council desires to adopt a local preference policy in accordance with the Housing Element and based upon the findings set forth herein.

D. Since the original adoption of this Resolution in 2005, circumstances have occurred in which tenants residing in affordable housing units in St. Helena have been displaced because of living conditions in their units that the unit owners did not promptly remedy despite notice to the owners of health, safety, and other Code violations by the City. Some of the displaced tenants were households with children enrolled in schools within the St. Helena Unified School District.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows

1. Findings. The City Council hereby makes the following findings:

(a) Municipalities located within Napa County are facing a jobs housing imbalance. The tourist and service industries continue to grow providing job opportunities at the same time as housing costs have increased significantly, making much of the housing in the Napa Valley unaffordable to the workers in the community. In addition to the lack of housing affordable to a large segment of the workforce in the County, the County also faces the adverse consequences of workers commuting to jobs within the County on roads designed for more limited traffic. The lack of housing affordable to the workforce in the various municipalities is impacting the ability of revenue generating businesses to attract employees.

(b) In an effort to provide housing opportunities for all segments of the community near job opportunities, the Napa Valley Housing Authority researched the possibility of its member constituencies, including the City of St. Helena, adopting local preference policies for new housing developments that would allow a preference for people working or living in the local jurisdiction in a manner that does not violate fair housing laws and ensures a fair and open selection process. To that end, a demographic study was commissioned by the Napa Valley

Housing Authority that reports on the demographic characteristics of Napa County. That study dated November 3, 2004, was prepared by Keyser Marston Associates Inc. and is entitled “Demographic Information on Napa Residents and Workers,” hereinafter referred to as the Demographic Study. The Demographic Study is incorporated herein by reference. In 2013, City representatives inquired of various affordable housing advocacy groups in an effort to identify any more recent demographic studies of a similar nature, and were advised that nothing more recent was available. Two of those groups, Fair Housing Napa Valley and Latinos Unidos del Valle de Napa y Solano, support this amended Resolution and believe that this amended resolution does not violate fair housing laws but rather promotes the goal of affordable housing for lower income households.

(c) The Demographic Study collected data about residents and workers in the County as a whole and within the various municipalities in the County. Generally, local preference policies are valid if they do not intentionally discriminate against any group protected by the fair housing laws or if they do not have a disparate impact on any group protected by fair housing laws. The Demographic Study indicates that a preference policy for households that live or work within an individual jurisdiction in Napa County will not have a disparate impact on a protected group. As Tables 3 and 4 in the Demographic Study show, the vast majority of workers in each of the municipalities in Napa County reside in the County although a large percentage reside outside of the municipality in which they work. Commute distance is one method of determining the housing market area or the area that applicants for housing will be drawn from. This data demonstrates that the housing market for Napa County is generally located within the County itself, although those jurisdictions on the north and south ends of the County do see more employees from adjacent counties. The housing market, for the City in particular where 83% of its workers reside in Napa County, can reasonably be defined as the County itself

(d) The Demographic Study shows that the demographic profile for the City of St. Helena is very similar to the County of Napa. Table 1 shows that 24% of Napa County residents are under the age of 18 and 25% of St. Helena residents are under the age of 18. Thirty-four percent (34%) of Napa County households have children under the age of 18 and 33% of St. Helena residents have children under the age of 18. Eighteen percent (18%) of Napa County residents are over the age of 62 and 20% of St. Helena residents are over the age of 62.

(e) Table 1 also shows that the race and ethnicity of the populations are similar. Eighty percent (80%) of Napa County residents are white, compared to 82% in St. Helena Twenty-four percent (24%) of County residents identified themselves as Hispanic/Latino and 28% of St. Helena residents identified themselves as Hispanic/Latino. A local preference policy will not have a disparate impact on a protected ethnic group.

(f) Table 4 shows that 23% of the people who work in St. Helena also live in St. Helena. Eighty-three percent (83%) of the workers live within Napa County. A local preference policy for workers currently employed within the geographic boundaries of the St. Helena Unified School District (SHUSD) will help reduce traffic congestion and improve air quality. The policy proposed is designed to achieve a significant governmental purpose of ensuring that housing opportunities are available to the workforce in the City, thus decreasing commuting with all of its attendant detrimental impacts, including environmental degradation and overuse of transportation infrastructure. Additionally, the preference policy ensures that businesses

essential to the City's economy continue to locate in the area by providing housing opportunities for the necessary labor pool. Further, the preference policy will give priority to lower income, long-term households in the City of St. Helena who, because of substandard and/or unsafe living conditions resulting in code enforcement proceedings by the City, have been displaced from their affordable housing located within the City of St. Helena because of the inaction or insufficient action by their landlords to address those living conditions. Long-term residency, i.e., at least 12 consecutive months in the same location, will ensure that no applicant moves into a substandard rental unit, particularly once Code enforcement proceedings have been initiated, with the motive of seeking to gain priority under this policy.

(g) Given the similar demographics of the municipalities within the County, the fact that the housing market can reasonably be defined as the County itself, and the analysis of the demographic data specific to the City of St. Helena, a preference for households that work or live within the City will not have a disparate impact on any protected group by excluding any protected group and will further the above-described governmental purposes served by such a preference.

(h) The displacement of children from their homes during the school year can affect their academic performance and self-esteem. The City and its property owners benefit from improved test scores and higher achievement of students enrolled in the SHUSD. By prioritizing displaced households for available affordable housing in St. Helena, the disruption of academic performance and self-esteem can be lessened.

2. Based upon the foregoing findings, the City of St. Helena adopts the attached Amended Local Preference Policy for the City of St. Helena, to be implemented whenever ownership or rental housing opportunities are made available to eligible income households under the City's affordable housing regulations and policies.

Approved at a Regular Meeting of the St. Helena City Council on \_\_\_\_\_, 2014, by the following vote:

AYES: Councilmembers

NOES:

ABSENT:

APPROVED:

ATTEST:

Ann Nevero  
Mayor

Delia Guijosa  
City Clerk

## AMENDED LOCAL PREFERENCE POLICY FOR CITY OF ST. HELENA

Applicants who live within the City of St. Helena or work within the geographic boundaries of the Helena Unified School District (SHUSD) will have a preference for housing developed pursuant to the City's affordable housing regulations in accordance with the following policy.

### 1. Preference.

Based upon the findings set forth in Amended Resolution No. 2005-98 adopted by the City Council of the City of St. Helena on \_\_\_\_\_, 2014, the City establishes the following priority to be used whenever ownership or rental housing opportunities are made available to eligible income households, unless prohibited by state or federal regulations that apply in connection with financing provided to assist in the acquisition/development/rehabilitation of the units.

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a. First priority is given to eligible long-term households who, because of substandard and/or unsafe living conditions resulting in code enforcement proceedings by the City, have been displaced from their affordable housing located within the St. Helena because of the inaction or insufficient action by their landlords to address those living conditions.

b. Second priority is given to eligible households that have one or more members who work within the SHUSD geographic boundaries.

c. Third priority is given to all other eligible households.

### 2. Residency.

For purposes of the policy, an applicant for the displaced tenant priority will be determined to live in St. Helena if the applicant has lived in St. Helena for twelve consecutive months or longer. The applicant must produce evidence of residency within St. Helena. This evidence can be a copy of a deed, lease, rental agreement, rent receipt, utility bill, driver's license or other documentation that indicates residency.

### 3. Employment.

For purposes of this policy, an applicant will be determined to work in the SHUSD geographic boundaries if the primary place of employment for at least one member of the applicant's household is located in the SHUSD geographic boundaries and if the term of employment served has been twelve consecutive months or longer. If the applicant holds more than one job, the employment in the SHUSD geographic boundaries must be the job providing the greater percentage of income to the applicant. If the applicant does not have a fixed place of employment, such as delivery personnel, repair persons or similar employments, but spends at least 50% of his or her time employed in the SHUSD geographic boundaries, the applicant will be determined to be employed in the SHUSD geographic boundaries.

4. Application.

The developer, the City of St. Helena itself, and/or its agent shall affirmatively market the development to ensure that all applicants, regardless of eligibility for the preference, are aware of the housing opportunity. Applicants shall file complete applications with the Napa Valley Housing Authority (NVHA) by a deadline set by NVHA.

5. Determination of Eligibility.

Applicants who have applied for the local work or live preference shall be notified by NVHA whether their eligibility for the preference has been confirmed. If NVHA determines that an applicant is not eligible for the preference, NVHA shall notify the applicant and allow the applicant no less than five days to present additional evidence verifying the applicant's eligibility for the preference. The applicant can submit the additional evidence in writing or may request a hearing to present the evidence. The additional evidence of eligibility shall be presented to NVHA's administrator of housing programs. The administrator of housing programs can consider any evidence he or she thinks is relevant to determining an applicant's eligibility for the preference. The administrator of housing programs shall make a final determination of the applicant's eligibility for the preference based on all the evidence submitted by the applicant within five days of receiving the evidence. The administrator of housing's decision shall be final.

6. Lottery.

In administering the preference policy, a lottery will be used to select applicants. All applicants participating in the lottery must meet all the income and family composition qualifying criteria for occupancy in the development regardless of the applicant's preference eligibility. An applicant qualifying for the local "work" preference will have three opportunities to have his or her name drawn from the lottery. An applicant qualifying for the local "live" preference will have two opportunities to have his or her name drawn from the lottery. All other applicants will have one opportunity to have their names drawn from the lottery. Preference applicants shall be assigned the most favorable lottery number drawn for the applicant

7. Employer-Built Housing.

If affordable housing is bulk or sponsored by an employer with no government subsidies, fee waivers or other types of public agency monetary assistance, the City Council will consider allowing the employer to set aside some or all of the affordable units for the exclusive occupancy of employees of the employer meeting all the income and family composition qualifying criteria for occupancy in the development, regardless of the foregoing preference policy. The number of units to be set aside and the form of the affordable housing resale or rental restriction agreement shall be determined on a case by case basis.

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CITY OF ST. HELENA

ORDINANCE NO. \_\_\_\_\_

**AMENDING CHAPTER 17.144 OF THE ST. HELENA MUNICIPAL CODE TO REVISE REGULATIONS FOR GRANTING DENSITY BONUSES AND/OR INCENTIVES OR CONCESSIONS FOR THE CONSTRUCTION OF CERTAIN HOUSING PROJECTS AFFORDABLE TO LOWER INCOME, VERY LOW INCOME, SENIOR HOUSEHOLDS AND TO PROVIDE FOR CITY TO GRANT PRIORITY FOR THE PROVISION OF WATER AND SEWER SERVICES TO SUCH DEVELOPMENTS.**

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**The City Council of the City of St. Helena does hereby ordain as follows:**

**SECTION 1:** Findings. The City Council hereby determines that:

A. The State of California has declared that the availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian is a priority of the highest order.

B. The State of California has declared that local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

C. To facilitate housing needs for all economic segments of the community, the state requires cities and counties to adopt a density bonus program for certain affordable housing projects and to adopt a procedure for providing priority water and sewer services to such affordable developments.

D. Section 65915 of the California Government Code requires cities and counties to adopt local legislation to provide density bonuses and/or incentives or concessions for the construction of certain affordable housing projects in order to implement the requirements of state density bonus law.

E. The City has previously adopted a local density bonus program codified as Chapter 17.144 of the St. Helena Municipal Code.

F. Section 65589.7 of the California Government Code requires each public agency or private entity providing water or sewer services to grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households.

G. The City has previously enacted policy HE1.D as part of the 2009-2014 Housing Element of the General Plan to give projects that include affordable housing units priority access to water and sewer resources over other new projects should the capacity of the local water or sewer systems become inadequate to meet the full demand for new connections.



H. As part of its ongoing efforts to encourage the development of housing affordable to all segments of the community, the City has reviewed its density bonus program and water priority policies as they relate to affordable housing development and determined that some minor amendments are needed to fully conform with the applicable provisions of State law.

I. On \_\_\_\_\_, 2014, the Planning Commission held a duly noticed public hearing to consider the proposed amendments to Chapter 17.144. At the conclusion of said hearing, the Planning Commission adopted Resolution No. \_\_\_\_ recommending that the City Council adopt this Ordinance.

J. On \_\_\_\_\_, 2014, the City Council held a duly noticed public hearing to consider this Ordinance.

**SECTION 2.** Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance to amend Chapter 17.144 of the St. Helena Municipal Code is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) (CEQA) because: (i) the Ordinance is not a discretionary program pursuant to Public Resources Code Section 21080(a); (ii) the Ordinance is a ministerial project within the meaning of Public Resources Code Section 21080(b) since the Ordinance simply adopts or amends local regulations required to implement mandatory density bonus and water priority standards imposed by Government Code Sections 65915 and 65589.7, respectively; and (iii) the Ordinance is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Qualified affordable housing development projects that are subject to CEQA are reviewed individually prior to issuance of building permit. Accordingly, the City Council hereby finds that it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment, and the Ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(1), 15061(b)(2), and 15061(b)(3).

**SECTION 3.** Amendment of Chapter 17.144. Chapter 17.144 of Title 17 of the St. Helena Municipal Code is hereby amended to read in its entirety as shown on Exhibit A, attached hereto and incorporated herein by reference.

**SECTION 4:** Severability. The City Council hereby declares every section, paragraph, sentence, cause and phrase is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

**SECTION 5:** Inclusion in the St. Helena Municipal Code. It is the intention of the St. Helena City Council that the text in Exhibit A of this ordinance be made a part of the St. Helena Municipal Code and that the text may be renumbered or relettered and the word "Ordinance" may be changed to "Section," "Chapter," or such other appropriate word or phrase to accomplish this intention.

**SECTION 6: Effective Date.** This ordinance shall take effect and be in force 30 days after its adoption, and a summary of this ordinance shall be published once with the names of the members of the Council voting for and against the ordinance in the St. Helena Star, a newspaper of general circulation published in the city of St. Helena.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the \_\_\_\_ day of \_\_\_\_\_, 2014, and was adopted at a regular meeting of the St. Helena City Council on the \_\_\_\_ day of \_\_\_\_\_, 2014, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Ann Nevero, Mayor

ATTEST:

CITY OF ST. HELENA

\_\_\_\_\_  
Delia Guijosa, City Clerk

I, DELIA GUIJOSA, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2014. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2014 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Delia Guijosa, City Clerk

APPROVED AS TO FORM:

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Thomas B. Brown, City Attorney

## EXHIBIT A

### Amendments to St. Helena Municipal Code Chapter 17.144

#### **Chapter 17.144 AFFORDABLE HOUSING**

##### Sections:

- 17.144.010 Purpose.
- 17.144.020 Definitions.
- 17.144.030 Applicability.
- 17.144.040 Project requirements.
- 17.144.050 Application.
- 17.144.050 Waiver or reduction of development standards.
- 17.144.060 Land donation.
- 17.144.070 Parking.
- 17.144.080 Priority for water and sewer services.

##### **17.144.010 Purpose.**

The purpose of this chapter is to encourage the development of housing affordable to all segments of the community and to provide for incentives to defray the costs of providing affordable housing for very low, low, and moderate income households in the city of St. Helena. In enacting these provisions, the city expressly intends this chapter to satisfy the requirements of: (1) Government Code Section 65915 and the City's Housing Element by specifying how the city shall provide density bonuses and/or incentives or concessions for the construction of certain housing projects affordable to lower income, very low income, senior households, and for condominium and planned development projects, moderate income; and (2) Government Code Section 65589.7 and the City's Housing Element by specifying how the city will grant priority for the provision of water and sewer services to developments that include housing units affordable to lower income households.

##### **17.144.020 Definitions.**

As used in this chapter:

“Concession or incentive” means and includes, but is not limited to, a modification of zoning code requirements such as reductions in lot size, frontage requirements, setbacks, yards, parking, or open space or fencing requirements; height increases; a modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission; waivers, reductions or delay in improvement requirements (e.g., utility undergrounding, sidewalks, right-of-way dedication but not including curb-to-curb street width standards); monetary assistance, reductions or waivers of development fees, or provision of land to the extent that monetary assistance or land is available; approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial or other land uses will reduce the cost of the housing development and if the commercial, office, industrial or other land uses are compatible with the housing project and the existing or planned development in the area in which the housing project will be located.

“Condominium project” is as defined in subdivision (f) of Section 1351 of the Civil Code.

“Density bonus,” except as applied to a condominium project or a senior housing development, means a density increase of at least twenty percent (20%) unless a lesser percentage is elected by the developer, over the otherwise maximum allowable residential density for the site under the applicable zoning district and land use element of the general plan. The amount of the density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in Section 17.144.030. For each one percent increase above ten percent (10%) in the percentage of units affordable to lower income households, the density bonus shall be increased by 1.5 percent up to a maximum of thirty-five percent (35%). For each one percent increase above five percent in the percentage of units affordable to very low income households, the density bonus shall be increased by 2.5 percent up to a maximum of thirty-six percent (36%). All density calculations resulting in fractional units shall be rounded up to the next whole number.

“Density bonus” for a condominium project in which at least ten percent (10%) of total units are reserved for moderate income households, is a density increase of at least five percent, unless a lesser percentage is elected by the developer, over the otherwise maximum allowable residential density for the site under the applicable zoning district and land use element of the general plan.

“Density bonus” for a senior housing development, as defined in Sections 51.3 and 51.12 of the California Civil Code or any successor statutes, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the California Civil Code or any successor statutes, shall be twenty percent (20%) of the number of senior housing units, unless a lesser percentage is elected by the developer.

“Lower income households” is as defined by Section 50079.5 of the Health and Safety Code.

“Moderate income households” is as defined by Section 50093 of the Health and Safety Code.

“Planned development project” is as defined by subdivision (k) of Section 1351 of the Civil Code.

“Qualifying residents” is as defined in Section 51.3 of the Civil Code.

“Very low income households” is as defined by Section 50105 of the Health and Safety Code.

**17.144.030 Applicability.**

An applicant may request a density bonus and concessions or incentives for a residential or residential mixed-use project of five or more units that satisfy one or more of the following criteria:

1. At least ten percent (10%) of total units are designated for lower income households;

2. At least five percent of the total units are designated for very low income households;
3. A senior citizen housing development as defined in Sections 51.3 and 51.12 of the Civil Code;
4. For a condominium project or planned development project only, at least ten percent (10%) of total units are designated for moderate income households.

**17.144.040 Project requirements.**

In addition to satisfying one or more of the criteria in Section 17.144.030 of this chapter, the housing project developer requesting a density bonus and/or incentive or concession shall satisfy the following requirements:

- A. The designated units shall be comparable to the nondesignated units within the project. Location of designated units shall be at the city's discretion.
- B. The developer and/or owner shall enter into an agreement with the city to ensure the continuing affordability of units designated for low and very low income households. Where the city grants a density bonus or concessions or incentives, such agreement shall be for a term of thirty (30) years, or longer should the project financing so require.
- C. The developer and/or owner shall enter into an agreement with the city to ensure that the initial occupant of units in condominium projects and planned development projects directly related to the receipt of the density bonus shall be a person or family of moderate income. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The city council shall adopt a resolution establishing the method for determining how the city will recapture its proportionate share of appreciation which shall then be used within three years for any of the purposes described in subdivision (c) of Section 33334.2 of the Health and Safety Code that promote home ownership.
- D. Units designated for rent by lower income households shall be affordable at rents that do not exceed thirty percent (30%) of sixty percent (60%) of area median income. Units designated for rent by very low income households shall be affordable at rents that do not exceed thirty percent (30%) of fifty percent (50%) of the area median income.
- E. Units designated for purchase by low income or moderate income households shall be affordable according to limits established by the State Department of Housing and Community Development.
- F. The developer and/or property owner shall provide the city a yearly accounting of the total project units occupied and vacant, the total occupied and vacant units designated for low or very low income households, and rents charged.

**17.144.050 Application.**

A. To apply for a density bonus and/or incentives or concessions, the applicant may submit a proposal for specific incentives or concessions and may request a meeting with the city. The preliminary proposal shall provide the following information:

1. Preliminary sketch plan showing the context, location of buildings, and parking;
2. Number, type, and size of the housing units;
3. Any request for waiver of development standards;
4. Information satisfactory to the planning director to enable the city to determine the project cost per unit and whether the waiver or modification of otherwise applicable standards is necessary to: (i) provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code or any successor statute; (ii) provide for rents for the targeted units to be set as specified in subdivision (c) of Government Code section 65589.7 or any successor statute; or (c) otherwise make the housing units economically feasible. Such information may include capital costs, equity investment, debt service, projected revenues, operating expenses, and any other information deemed necessary by the planning director.

B. The city shall, within ninety (90) days of receipt of the preliminary written proposal, notify the developer in writing whether and in what manner the city shall grant a density bonus and incentives or concessions as follows:

<b>Number of Concessions or Incentives</b>	<b>Percentage of Units for Very Low Income</b>	<b>Percentage of Units for Low Income</b>	<b>Percentage of Units for Moderate Income in a Condominium or Planned Development</b>
1	5%	10%	10%
2	10%	20%	20%
3	15%	30%	30%

In addition to the foregoing, any developer who proposes to construct a housing development that conforms to the requirements of this chapter and includes a child care facility that will be located on the premises of, as part of, or adjacent to the project shall also be entitled to either an additional density bonus or an additional concession or incentive in accordance with the provisions of California Government Code section 65915(h) or any successor statute.

C. Alternatively, within ninety (90) days, the city council shall preliminarily find that:

1. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50025.2 of the Health and Safety Code or for rents for the targeted units to be set as specified in Section 17.144.040 of this chapter, or

2. The concession or incentive would have a specific, adverse impact upon public health and safety, or upon the physical environment, or upon real property listed in the California Register of Historical Resources and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. For purposes of this paragraph, "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Such notification shall represent the joint recommendation of city staff charged with implementing this section; provided, however, that the city council, in acting on the project, may modify such recommendation.

D. In accordance with the provisions of California Government Code Section 65915(f) or any successor statute, a developer may elect to accept a lesser percentage of density bonus than the maximum specified in this chapter.

E. In accordance with the provisions of California Government Code Section 65915(f)(5) or any successor statute, the granting of a density bonus pursuant to this chapter shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

F. If the developer does not submit a written preliminary proposal, the developer shall submit a written proposal for specific incentive along with information described in subsection (A)(4) of this section (along with other materials required for application submittal) at the time a formal application is submitted. The decision making body shall either grant the density bonus and at least one additional concession/incentive requested by the developer or make one of the findings, based on substantial evidence, described in subsection (C)(1) or (2) of this section.

G. The developer shall pay any fee(s), as established by resolution of the city council to implement this section, including but not limited to fees to process the request for a density bonus and/or other concessions or incentives; prepare contracts and other documents; and monitor contracts and documents for compliance. Fees shall be paid prior to building permit issuance unless otherwise established by resolution.

H. Affordable units under this section shall be constructed at the same time as the market-rate units. The right to a density bonus or concession under this chapter shall not be transferred to another development. Where a developer proposes to simultaneously develop two or more parcels in the city, nothing in this section shall prohibit the council from using a density bonus and/or concession/incentive granted for one of the parcels on another of the multiple parcels.

#### **17.144.055 Waiver or reduction of development standards.**

In addition to any density bonus and/or concessions or incentives granted pursuant to this chapter, a developer may also request that the city waive or reduce any development standard that has the effect of physically precluding the construction of a development meeting the criteria of this chapter at the densities or with the concessions or incentives permitted pursuant to this



chapter in accordance with the provisions of California Government Code Section 65915(e) or any successor statute.

**17.144.060 Land donation.**

A. When an applicant voluntarily offers to donate land which is of sufficient developable acreage and with appropriate zoning classification to permit construction of units affordable to very low income households in accordance with this section, the applicant shall be entitled to a fifteen percent (15%) increase above the otherwise maximum allowable residential density. For each one percent increase above the minimum land donation described in subsection B of this section, the density bonus shall be increased by one percent, up to a maximum of thirty-five percent (35%).

B. The voluntary donation of land shall comply with the following criteria:

1. The land is transferred no later than the date of approval of the final subdivision map, parcel map, or residential development application.
2. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than ten percent (10%) of the number of residential units of the proposed development. Housing units designated for very low income households pursuant to Chapter 17.146 of this title shall not be included when determining compliance with this section.
3. The transferred land is at least one acre or of sufficient size to permit development of at least forty (40) units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure.
4. The transferred land is within the boundary of the proposed development or, with the approval of the city council, within one-quarter mile of the boundary of the proposed development.

C. The applicant for a tentative subdivision map, parcel map, or other residential development approval wishing to donate land pursuant to Government Code Section 65915(h) shall include in its application for development the following information:

1. The size of the parcel;
2. The amount of developable acreage;
3. A preliminary plan for the development of at least forty (40) units affordable to very low income households on the developable acreage;
4. A description of the public facilities and infrastructure that would serve the units;

5. The name of the public or private entity to which the land will be donated.
- D. The city council shall approve, modify or disapprove the application to donate land in accordance with the requirements of this section and Government Code Section 65915(h).
  - E. Unless the construction of at least forty (40) units affordable to very low income households on the donated land are the subject of a separate development application, the units shall be considered a part of the application for a tentative subdivision map, parcel map, or other residential development for purposes of review under the California Environmental Quality Act and other state and local laws and regulations.

**17.144.070 Parking.**

- A. This section implements the provisions of Government Code Section 65915(p).
- B. If a development is constructed with the vehicular parking ratios described in Government Code Section 65915(p)(1), and the parking ratios are less than otherwise required by the city, the applicant for development shall record a covenant against the property disclosing the difference between the parking ratios that have been used for the development and the city's requirements.

**17.144.080 Priority for water and sewer services.**

In accordance with the provisions of California Government Code Section 65589.7 or any successor statute, the city shall grant priority for the provision of water and sewer services to developments that include housing units affordable to lower income households in accordance with a written policy adopted by resolution of the city council.

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RESOLUTION NO. 2014-\_\_\_

CITY OF ST. HELENA

ESTABLISHING A POLICY AND PROCEDURE FOR GRANTING  
PRIORITY WATER AND SEWER SERVICES TO PROPOSED  
DEVELOPMENTS THAT INCLUDE AFFORDABLE HOUSING UNITS

RECITALS

1. The State of California has declared that the availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian is a priority of the highest order.
2. The State of California has declared that local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.
3. Section 65589.7 of the California Government Code requires each public agency or private entity providing water or sewer services to grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households.
4. The City has previously enacted Policy HE1.D as part of the 2009-2014 Housing Element of the General Plan to give projects that include affordable housing units priority access to water and sewer resources over other new projects should the capacity of the local water or sewer systems become inadequate to meet the full demand for new connections.
5. To further facilitate housing needs for all economic segments of the community, the City Council of the City of St. Helena has adopted Ordinance No. \_\_\_ amending Chapter 17.144 of the St. Helena Municipal Code to encourage the development of affordable housing within the city.
6. Ordinance No. \_\_\_, among other things, adds Section 17.144.080 to Chapter 17.144 to implement Policy HE1.D by requiring the City to grant priority for the provision of water and sewer services to developments that include housing units affordable to lower income households in accordance with a written policy. This resolution is intended to establish that written policy.

RESOLUTION

The City Council of the City of St. Helena, State of California, does hereby resolve, determine, and find as follows:

- A. Incorporation of Recitals. The foregoing Recitals are true and correct and are incorporated herein and form a part of this Resolution.
- B. Compliance with CEQA. The City Council hereby finds that the adoption of this policy is exempt from the California Environmental Quality Act (“CEQA”) because: (i) the Policy is

not a discretionary program pursuant to Public Resources Code Section 21080(a); (ii) the Policy is a ministerial project within the meaning of Public Resources Code Section 21080(b) since the Ordinance simply adopts or amends local regulations required to implement mandatory water priority standards imposed by Government Code Section 65589.7; and (iii) the Policy is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Qualified affordable housing development projects that are subject to CEQA are reviewed individually prior to issuance of building permit, and any impact on water or sewer services would be analyzed at that time. Accordingly, the City Council hereby finds that it can be seen with certainty that there is no possibility the adoption and implementation of this Policy may have a significant effect on the environment, and the Ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(1), 15061(b)(2), and 15061(b)(3).

- C. Adoption of Policy. To comply with Government Code Section 65589.7 and to implement Housing Element Policy HE1.D, the City Council hereby adopts the policy and procedure for prioritizing water and sewer services to low income housing developments, attached hereto as Exhibit "A" and expressly made a part of this resolution by this reference.

Approved at a Regular Meeting of the St. Helena City Council on \_\_\_\_\_, 2014, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

APPROVED:

ATTEST:

\_\_\_\_\_  
Ann Nevero  
Mayor

\_\_\_\_\_  
Delia Guijosa  
City Clerk

## EXHIBIT A

### CITY OF ST. HELENA POLICY RELATED TO PRIORITY OF WATER AND SEWER SERVICE TO LOW-INCOME DEVELOPMENTS

#### **PURPOSE:**

To establish a policy and procedure to grant a priority for the provision of water and sewer services to proposed developments that include housing units affordable to lower income households pursuant to a mandate set forth in California Government Code Section 65589.7 or any successor statute.

#### **POLICY:**

In accordance with Section 17.144.080 of the St. Helena Municipal Code and California Government Code Section 65589.7 or any successor statute, priority for water and sewer services shall be given to proposed developments that include housing affordable to lower income households. Such priority shall be granted in accordance with the procedures set forth in this policy.

#### **PROCEDURES:**

1. Based upon availability of the water supply, as determined by the Director of Public Works pursuant to the City's water service system regulations (Chapter 13.04 of the St. Helena Municipal Code), the Director of Public Works or his/her designee shall ensure that priority for water and sewer services is given to proposed developments that include housing units affordable to lower income households. Notwithstanding the foregoing, this Policy and Procedure shall have no effect on any state or local regulations or restrictions relating to water shortage emergencies.
2. For the purposes of this Policy, "proposed developments that include housing affordable to lower income households" shall mean dwelling units that will be sold or rented to lower income households, as defined in California Health and Safety Code Section 50079.5 or any successor statute, at an affordable housing cost, as defined by California Health and Safety Code Section 50053 or any successor statute.
3. The City shall not deny or condition the approval of an application for services to, or reduce the amount of services applied for by, a proposed development that includes housing units affordable to lower income households, unless the City makes specific written findings that the denial, condition, or reduction is necessary due to the existence of one or more of the following:
  - a. The City: (i) does not have "sufficient water supply" as defined by California Government Code Section 66473.7(a)(2) or any successor statute; or (ii) is operating under a water shortage emergency as defined in California Water Code Section 350 or any successor statute and Chapter 13.04 of the St. Helena Municipal Code; or (iii) does not have sufficient water treatment or distribution capacity to serve the needs of the proposed development, as demonstrated by a written engineering analysis and report..
  - b. The City is subject to a compliance order issued by the State Department of Health Services that prohibits new water connections.

- c. The City does not have sufficient treatment or collection capacity, as demonstrated by a written engineering analysis and report on the condition of the City's sewer treatment or collection works, to service the needs of the proposed development.
- d. The City is under an order issued by a Regional Water Quality Control Board that prohibits new sewer connections.
- e. The developer has failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking service from the City, including, but not limited to: (i) the requirements of local, state, or federal laws and regulations, or (ii) the payment of a fee or charge imposed pursuant to Government Code Section 66013 or any successor statute.

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**Chapter 8.32**  
**RELOCATION SERVICES AND PAYMENTS FOR RESIDENTIAL**  
**TENANT HOUSEHOLDS**

Sections:

- 8.32.010 Findings.
- 8.32.020 Purpose.
- 8.32.030 Definitions.
- 8.32.040 Eligibility for relocation services and assistance.
- 8.32.050 Owner responsibilities.
- 8.32.060 Relocation payment procedures and appeal process.
- 8.32.070 City's involvement in relocation payments.
- 8.32.080 Relocation and other payments.
- 8.32.090 Emergency relocations—Payments.
- 8.32.100 Move-back option.
- 8.32.110 Penalties.
- 8.32.120 Private right of action.
- 8.32.130 Notices

**8.32.010 Findings.**

The city council finds and determines that:

- A. Some rental units and rooms in St. Helena have been found, or will be found, to have severe code violations, which threaten the life and safety of occupants and require the units or rooms to be vacated to allow for extensive repairs.
- B. Such code violations are often caused by deferred maintenance, may breach the landlord's implied warranty of habitability, and sometimes constitute constructive eviction of the tenant household from its residence.
- C. Difficulty of preventing displacement, enforcing health and safety codes, and finding replacement housing and incurring moving-related expenses creates a financial hardship for tenant households, particularly those who are low-income.
- D. The level of services and payments provided in this chapter are similar to those provided to tenant households displaced as a result of government-sponsored rehabilitation programs and are reflective of actual relocation costs likely to be incurred by displaced households.
- E. The difference in payments between tenant households displaced from units and those displaced from rooms is based on differences in actual costs likely to be incurred.
- F. The relocation payment obligations imposed on landlords by this chapter partially mitigate the financial hardships faced by tenant households displaced in order to bring the

property up to housing code and have the additional purpose of encouraging landlords to maintain their residential properties in a habitable condition. (Ord. 12-6 § 1 (part))

### **8.32.020 Purpose.**

The purposes of this chapter are to: (i) prevent displacement where possible; (ii) provide relocation services; (iii) require property owners to make payments to residential tenant households displaced as a result of code enforcement activities in order to alleviate hardships associated with such relocations; (iv) facilitate the correction of code violations; and (v) protect the health, safety and welfare of the residents of St. Helena. (Ord. 12-6 § 1 (part))

### **8.32.030 Definitions.**

“Code enforcement” or “code enforcement activity” shall mean an activity or activities initiated by the city to ascertain the condition of a building and requiring an owner to make necessary repairs to bring the property into compliance with applicable building and housing codes.

“Emergency relocations” shall mean when, in the opinion of the building official, any condition of the building or surrounding property causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of tenant households.

“Household” or “tenant household” shall mean one or more individuals entitled to the occupancy of a rental unit or room who share living expenses.

“Owner” shall mean a person, persons, landlord, corporation, or any entity holding title to a property or agent or assignee.

“Relocation” shall mean the required vacating of a residential unit or room by a tenant household and the moving into another unit or room as a result of repairs required to bring the property into code compliance where such repairs are undertaken because of code enforcement.

“Rental unit” or “unit” shall mean a dwelling containing a separate bathroom, kitchen, and living area which is the place of permanent or customary and usual abode of a household, including a single-family dwelling or a unit in a multifamily or multipurpose dwelling, a unit in a condominium or cooperative housing project.

“Room” shall mean a room in a hotel or boarding house or a rented room in a private dwelling occupied by a tenant who has paid for at least thirty (30) consecutive days of occupancy. (Ord. 12-6 § 1 (part))

### **8.32.040 Eligibility for relocation services and assistance.**

A tenant household may be considered eligible for relocation assistance and payments pursuant to Sections 8.32.060, 8.32.070, 8.32.080, 8.32.090, and 8.32.100 if the city determines that the condition of a building is such that a household cannot safely occupy the unit or room while the unit is being rehabilitated and such condition was not created by the tenant household occupying the unit or room. (Ord. 12-6 § 1 (part)) The owner shall have the burden of establishing that a tenant household is exempt from relocation assistance under this chapter.

### **8.32.050 Owner responsibilities.**

- A. The owner shall make repairs within the time frame required by the city to remedy code violations that the city has determined are necessary to protect the health and safety of the tenants.
- B. Neither the owner nor the city shall require the tenants to relocate as a result of code enforcement or code enforcement activity if the City determines that repairs can be made within a reasonable period of time without unreasonably endangering the health or safety of the tenants.
- C. The owner shall be responsible for providing relocation payments to each tenant household displaced because repairs undertaken to bring the property into code compliance, as determined by the City, cannot be undertaken with the tenant household(s) in place.
- D. The owner shall be responsible for providing such payments directly to the tenant household(s) to be displaced or already displaced.
- E. The owner shall make payments required by this chapter at least ten (10) days in advance of the move to facilitate relocation. When it is uncertain as to when the unit to be rehabilitated will be ready for reoccupancy, advance payment can be a partial payment sufficient to allow relocation of the affected tenant household to take place. The remaining amount owed pursuant to this chapter shall be made in a timely manner in order to prevent hardship to the tenant household.
- F. Relocation payments shall not be required for repairs which are required as a result of any natural disaster or emergency not caused by the owner, including, but not limited to, a fire, earthquake or flood, (Ord. 12-6 § 1 (part))

### **8.32.060 Relocation payment procedures and appeal process.**

- A. The city, in conjunction with available housing assistance and tenant advocacy services, shall assist households displaced by code enforcement activities by providing information, referral, monitoring, and other relocation advisory assistance aimed at facilitating the household's move.
- B. Whenever a building containing a residential rental unit or room or portion thereof is declared to be a substandard or deficient building pursuant to this code, the building official shall also determine whether the repairs necessary to abate the substandard or deficient conditions can be reasonably accomplished without vacation of such building, or portion thereof, by its occupants. In deciding whether to order repairs or require vacation, the city shall give preference to repair of the building without requiring vacation, provided that the city determines the violations are not so extensive or of such a nature that the health and safety of the affected tenant households or the public is substantially and immediately endangered, consistent with the requirements of Health and Safety Code sections 17980 et seq. or any successor statute(s).
- C. Upon a written showing by any affected tenant that displacement would create extreme hardship, the city shall allow a deferral of the effective date of any order(s) of abatement consistent with Health and Safety Code section 17959.4 or any successor statute, except in cases

in which the city determines that the violations are so extensive or of such a nature that the health and safety of the affected tenant households or the public is substantially and immediately endangered, consistent with Health and Safety Code section 17980 et seq. or any successor statute(s), as applicable. The City Manager may create and make available a form to be used by affected tenants to make the written showing required by this section.

D. If the city determines that relocation is necessary in order to bring the property into compliance with applicable code requirements or abatement orders, the owner shall provide written notice to each affected tenant household at least thirty (30) days in advance of the date of required relocation, unless the city orders an abatement that requires relocation in less than thirty (30) days, and in such case, the owner shall provide notice as soon as practicable prior to the effective date of the abatement order. Such notice shall include, but not be limited to, all of the following:

- (1) A summary of the repairs to be undertaken and the estimated duration of the relocation;
- (2) A statement that the tenant household is entitled to relocation benefits under this chapter;
- (3) A statement that the tenant household may appeal the determination to the city and request from the city a hardship deferral of the order to vacate;
- (4) A statement that such appeal and/or request may be made to the city manager; and the address and telephone number of the city manager;
- (5) A copy of this chapter.

The owner shall provide the City a copy of each notice provided under this section.

E. In addition to the notice provided by the owner, when the city issues a notice of abatement to the owner which requires vacation of the unit or building, the city shall provide written notice to affected tenant households either: (i) by posting a copy of the notice or order in a conspicuous place on the affected property and mailing the same by first class mail to each affected residential unit, or (ii) by posting a copy of the order or notice in a conspicuous place on each affected residential unit. The notice required by this subsection shall include, but not be limited to, all of the following:

- (1) The city's address and telephone number;
- (2) A statement that the tenant household may appeal the determination to the city and request from the city a hardship deferral of the order to vacate;
- (3) A statement that such appeal and/or request may be made to the city manager; and the address and telephone number of the city manager; and
- (4) A statement that a lessor (or owner) may not retaliate against a lessee (or tenant household) pursuant to Section 1942.5 of the Civil Code.

Notwithstanding the foregoing, failure of an affected tenant household to receive the notice required by this section shall not invalidate the city's notice of abatement to the owner requiring vacation of the unit or building.

F. The issuance by the building official of a notice of necessity to vacate the building shall not relieve the building owner of his or her obligation to provide any other notice of termination of tenancy imposed or required by any provision of state law or ordinance. Each tenant household which has been served with a notice of necessity to vacate building pursuant to this chapter shall: (i) submit a written request for relocation payment ; (ii) serve a copy of said written request for relocation payment on the owner, together with an estimate of the amount of payments to which the tenant household is entitled pursuant to Section 8.32.080 within twenty (20) days after receipt of such notice; and (iii) retain a copy of the written request for its records. If payment is to be made in more than one installment, the tenant household shall notify the owner of the remaining amount owed. The City Manager may create and make available a form to be used by tenant households under this section.

G. Within ten (10) days after receipt of the tenant's notice referred to in subsection F of this section, the owner shall either make the initial payment of relocation benefits directly to the tenant household or file a written request for an appeal hearing before the city manager or designee describing the reasons for such request with the city manager if the owner wishes to contest the estimated relocation payment amounts or the tenant household's eligibility for relocation payment. The initial payment shall include:

- (1) The dislocation allowance pursuant to section 8.32.080(A)(1) or (B)(1).
- (2) Fixed moving and storage costs pursuant to section 8.32.080(A)(2) or (B)(2).
- (3) The replacement housing payment pursuant to section 8.32.080(A)(3) or (B)(3).

Except in cases where the City determines that the violations are so extensive or of such a nature that the health and safety of the tenant household or the public is substantially and immediately endangered (consistent with Health and Safety Code section 17980 et seq. or any successor statute), the tenant household shall have the right to remain at the rental unit or room until such time as it has received the initial payment of relocation benefits to which it is entitled under this chapter.

Subsequent relocation payments shall be made on a monthly basis thereafter and shall be made at least seven (7) days in advance of when the tenant household's monthly rental payment is due. In lieu of monthly payments, the owner may make lump payments covering specified periods of time.

H. An appeal hearing shall be scheduled before the city manager or designee to consider the issues described in the appeal document within thirty (30) days of the filing of such appeal. The owner and all affected tenants shall be notified by mail of the time and place of the hearing at least ten (10) days before the date of hearing. The city manager or designee shall render a

decision on any such appeal within ten (10) days after the close of the hearing. The decision of the city manager shall be final.

I. Nothing in this section shall in any way preclude or limit any aggrieved party from seeking judicial review after such person has exhausted the administrative remedies provided by this section. However, it shall be conclusively presumed that a litigant has not exhausted his or her administrative remedies as to any issue which is not raised in the administrative proceedings authorized herein. (Ord. 12-6 § 1 (part))

### **8.32.070 City's involvement in relocation payments.**

The city may, in its discretion, make any of the payments required by Section 8.32.080 in situations where the owner is unwilling or unable to pay for relocation costs and the tenant household is required to relocate due to code enforcement activity to bring the building into code compliance. The city shall recover from the owner all costs incurred as a result of making such payments. In order for the city to consider making such payments, a request must be made by the tenant household to the city manager within twenty (20) days from the owner's refusal to make the required payments.

A. In the above cases, the city shall first mail, by certified mail, a written notice to the owner of the owner's obligation under this chapter (i) to provide relocation assistance and payment and (ii) the time limit within which payment is to be made. The notice shall also specify that failure to make required payments may result in the city making such payments on behalf of the owner and the consequences to the owner of the city's action.

B. If within ten (10) days of receipt of said notice the owner continues to refuse to make the necessary payments, the city may make the required relocation payment to the tenant household. The city shall then bill the owner for the amount of payment, plus any administrative and other costs it would not have otherwise incurred. If the owner does not make payment to the city within sixty (60) days, the city shall record a lien on the property from which the tenant household was displaced with the county recorder and provide notice of such lien to the owner and to the county assessor. The lien amounts shall accrue interest at a rate of ten percent (10%) per annum until the lien is discharged. The lien shall be subordinate to all existing special assessment liens previously imposed upon the property and shall be paramount to all other liens except for state, county and municipal taxes and special assessments. (Ord. 12-6 § 1 (part))

### **8.32.080 Relocation and other payments.**

A. Payments for Relocation from Rental Units. Tenant households displaced from rental units in order to bring the property into code compliance shall be eligible for the following payments:

1. A one-time dislocation allowance of five hundred dollars (\$500.00) to help defray incidental relocation expenses.
2. The household's choice of a fixed or actual moving and storage expense payment subject to the following requirements:

- a. If a fixed payment is chosen, a payment of eight hundred dollars (\$800.00) shall be made if both moving and storage of household goods are necessary. If no storage is required, the fixed payment shall be four hundred dollars (\$400.00). No documentation is necessary to receive a fixed payment. In cases of disputes as to whether storage is required, the city shall be asked to make that determination. The city's determination is final.
  - b. Payment for actual documented moving and storage expenses shall include both movement to the replacement unit(s) and movement back to the original unit. Payment shall not exceed the rates established by the California Public Utilities Commission.
3. A replacement housing payment equal to the documented difference between the rent and utilities paid on the unit being rehabilitated and the lesser of:
    - a. Rent and utilities in the replacement unit; or
    - b. An amount equal to ten percent (10%) above the fair market rent guidelines maximum used for the Section 8 Existing Housing Program or its equivalent by bedroom size of the unit being rehabilitated. The rent differential payment shall be made until such time that the unit from which the household was displaced is available for occupancy.
  4. Payment of the required security deposit at the relocation unit, excluding any charges for damages to the relocation unit caused by tenant other than normal wear and tear.
  5. Payment of a daily food allotment of \$25 per person to the extent the relocated tenant household does not have access to cooking facilities during the time it temporarily occupies replacement housing.

B. Payments for Relocation from Rental Rooms. Payments for relocation from rooms shall be as follows:

1. Actual, documented moving and storage costs, not to exceed the rates established by the California Public Utilities Commission.
2. A replacement housing payment equal to the lesser of:
  - a. The documented difference between rent and utilities on the room to be vacated and a replacement dwelling; or
  - b. The fair market rent guidelines maximum for a one-bedroom unit used for the Section 8 Existing Housing Program. The rent differential shall be paid until such time as the room from which the tenant household was displaced is available for occupancy.
3. Payment of the required security deposit at the relocation unit, excluding any charges for damages to the relocation unit caused by tenant other than normal wear and tear.

C. Payment to Multiple Households Occupying a Unit or Room. Payments for displacement from a unit occupied by more than one household shall be divided among the households according to amount of space occupied in the unit. Payments for displacement from a room shall be shared equally among the households. (Ord. 12-6 § 1 (part))

### **8.32.090 Emergency relocations—Payments.**

A. In the event of an emergency relocation, the city may order the immediate relocation of the tenant households without notice or hearing as provided in this chapter. The city shall provide relocation payments and services as provided in this chapter with the owner being responsible for payment pursuant to the procedures set forth in Sections 8.32.070 and 8.32.080. Prior to any emergency relocation, the city shall make reasonable attempts to contact the owner or his, her, or its management agent by telephone or in person to provide notice of the nature, timing, and extent of the emergency relocation, as well as the city's intent to collect the relocation costs and attorney's fees and that such costs and fees may be collected as a special assessment and the property may be sold after three (3) years by the tax collector for unpaid delinquent assessments and that any special assessment for abatement costs and fees may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes pursuant to Section 38773.5 of the California Government Code or any successor statute.

B. When emergency relocation is necessary, it shall be ordered only by the city manager or his or her designee.

C. Notice of the emergency relocation shall be provided to the owner or other responsible parties as soon as practicable. Service of the notice shall be made either by personal delivery to the person to be notified or by deposit in the U.S. Mail to such person to be notified at the address shown upon the last tax roll or as shown upon some other public record pertaining to the matter to which such notice is directed. Service by mail shall be deemed effective at the time of deposit in the post office. The notice shall describe the condition that caused the emergency vacation and imminent and/or immediate danger to the health and safety of the tenant household(s) and/or public that resulted in the emergency vacation as well as the city's intent to collect the relocation costs and attorney's fees as a special assessment against the property subject to collection at the same time and in the same manner as is provided for the collection of ordinary property taxes pursuant to Section 38773.5 of the California Government Code or any successor statute. The notice shall also advise that a hearing to contest the need for the emergency vacation and the amount of the relocation payments may be requested within fifteen (15) days of the notice. If a timely request for a hearing is submitted, it shall be heard within fifteen (15) days of receipt of the request pursuant to the procedures set forth in Section 1.12.170. The decision of the hearing officer may be appealed to the city council pursuant to the terms of Section 1.12.180.

D. The costs and expenses of an emergency vacation shall be made a lien on the property and shall be collected pursuant to the procedure found in Sections 1.12.210 to 1.12.230. (Ord. 12-6 § 1 (part))



### **8.32.100 Move-back option.**

- A. The relocation of a tenant household pursuant to this chapter shall not terminate the tenancy of the relocated household.
- B. A tenant household displaced due to repairs or rehabilitation undertaken to bring a property into code compliance shall have the right to reoccupy the unit or room from which it was displaced as soon as the unit is ready for reoccupancy.
- C. If a tenant household wishes to avail itself of this option, it must inform the owner in writing of its current address at all times during the period of displacement.
- D. As a general rule, owners shall notify a relocated tenant household at least thirty (30) days in advance by registered mail of the availability of the unit or room. If a shorter notice is given and the tenant household indicates that it wishes to move back, the unit or room must be held vacant at no cost to the tenant household for a period of thirty-five (35) days after the mailing of the notice of availability.
- E. Within five (5) days of receipt of notice of availability of the unit or room, a tenant household wishing to move back must personally notify the owner of its intent to reoccupy the rental unit or room. (Ord. 12-6 § 1 (part))
- F. A unit or room shall be deemed to be permanently surrendered and the tenancy terminated when the tenant household provides notice in writing to the owner that it does not intend to reoccupy the unit or room from which it was displaced or does not notify the owner of its intent to reoccupy the unit or room. If the owner has not made relocation payments as required by this chapter and the tenant has not timely notified the landlord of its intent to reoccupy the premises, then it shall be presumed that the surrender of the right of possession of the premises was involuntary, unless the owner has received a written notice from the tenant household permanently surrendering its right to occupy the premises.

### **8.32.110 Penalties.**

In addition to any other penalty or remedy available or imposed by at law or in equity, any person violating any provision or failing to comply with any of the requirements of this chapter shall be deemed guilty of an infraction as set forth in Chapter 1.20. (Ord. 12-6 § 1 (part))

### **8.32.120 Private right of action.**

Any person or organization aggrieved by a violation of any provision of this chapter shall have the right to file an action for injunctive relief and/or damages. Treble damages shall be awarded for willful failure to comply with the payment obligation established by this chapter. (Ord. 12-6 § 1 (part)) The prevailing party in any court action under this chapter shall be entitled to reasonable attorneys fees.

### **8.32.130 Notices**

All notices required by this ordinance shall be provided in English and Spanish.

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JOINT PRESS RELEASE FOR SETTLEMENT OF CALDERON SUIT

EXHIBIT 5 TO SETTLEMENT AGREEMENT

For Immediate Release. October 1, 2014

St. Helena, California.

The parties in a federal fair housing lawsuit, including members of four Latino families, Fair Housing Napa Valley (an agency that provides fair housing counseling and works with community members to ensure equal opportunities in housing), Latinos Unidos del Valle de Napa y Solano (an advocacy group for affordable housing in Napa County), and the City of St. Helena, announced today that settlements have been reached with all of the lawsuit's defendants, including both the City and the landlord who owned the low income housing units where the residents had previously lived. The settlement with the City was approved by the City Council and has now been signed by all parties. Certain additional approvals are required before the settlement is finalized, which the City will consider following an open, public process in the next 30-90 days. Attorneys for both the Plaintiffs and St. Helena City Manager Jennifer Phillips hailed the settlement as a win-win result. According to Ms. Phillips, St. Helena already has the highest percentage of regulated affordable housing units per capita in Napa County. Ms. Phillips stated, "the City looks forward to the creation of more quality, affordable housing for less advantaged families."

The settlement in Calderon vs Barbarino addresses the specific concerns of the four families who were displaced on short notice from their housing on Pope Street in November of 2011, after one of the families and Fair Housing Napa Valley reported the poor living conditions to the City. The City's Code Enforcement officials then conducted an inspection and discovered unsafe and unsanitary living conditions in the families' rental units. Under the settlements, the four families will receive compensation from their former Pope Street landlords, the Barbarino family, and from the City. "These families have lived and worked in St. Helena for years. Their children have grown up here. We are hopeful that this settlement leads to more dialogue within our community to find creative ways to ensure that there is enough affordable, accessible, and decent housing for these families and for all who contribute to the economic and cultural vibrancy of the Napa Valley." said Nicole Collier, Executive Director of Fair Housing of Napa Valley. Attorney Liza Cristol Deman, who represented the four displaced families and Fair Housing of Napa Valley in the lawsuit, agreed. She said, "all sides in this difficult case tried to do the right thing, both for these four families and to help address the need for more affordable housing in St. Helena."

The City had passed an ordinance before the Calderon lawsuit to require landlords to pay the relocation costs of tenants displaced due to safety and other Code violations. Under the settlement the City will soon consider strengthening that ordinance and amending another

ordinance that would give top priority on affordable housing waiting lists to low income residents who were displaced from their rental units because of unsafe or unlivable conditions. City Manager Phillips and Ms. Cristol Deman agreed: “We realized early in this litigation that the parties share a common value of ensuring safe, decent housing for St. Helena residents, and protecting vulnerable tenants from the impacts of sudden displacement from their homes due to unsafe conditions beyond their control.”

The settlement also includes a promise of periodic payments to St. Helena’s pre-existing Affordable Housing Trust Fund, with guarantees that the moneys earmarked from the settlement payments into that Trust Fund will be used exclusively for affordable housing units. Moreover, if fewer than 15 low-income units have been approved by the end of 2021, the City will be required to contribute the moneys toward the development of low-income housing development within the following 12 months.

City Manager Phillips said “St. Helena hopes the settlement will incentivize the actual construction of affordable units; if the City approves private market development of low-income housing units at a certain rate and by certain benchmark dates specified in the settlement agreement, the City will be excused from making some of the earmarked moneys payable into the Trust Fund.” She noted that City residents favor development of smaller, more personalized affordable projects and revitalization site opportunities in residential areas to better weave lower income housing into the fabric of the community.

The Agreement also makes clear that its provisions allow the City to approve the development of more affordable units. Ilene J. Jacobs, one of the Plaintiffs’ lead negotiators, said “this will encourage the growth of much needed affordable housing for workers in the hospitality, winery, and agriculture industries.”

City Manager Phillips said the Settlement Agreement requires the City to consider a number of proposed legislative changes to the St. Helena Municipal Code that make the City even more receptive to both non-profit and for-profit private developers of low income housing. These include provisions addressing a bonus for increased housing density and water priority for low income residential development.

If, after public review, the City Council approves the final amendments, a copy of the executed settlement agreement among the parties will be posted on both the City’s website and on the Fair Housing of Napa Valley website, [www.napafairhousing.org](http://www.napafairhousing.org). The plaintiffs were represented by Liza Cristol Deman and other attorneys at Brancart & Brancart, a firm that specializes in enforcement of fair housing laws, by David Grabill, and by Ilene J. Jacobs at California Rural Legal Assistance, Inc. The City was represented by City Attorney Thomas Brown and Ronald Frank at the firm of Burke, Williams and Sorensen, LLP.

For additional information, please contact:

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City of St. Helena  
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For the Barbarino Family

Attorney Edward J. Rodzewich  
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(510) 457 3440

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**AFFORDABLE HOUSING DEVELOPERS TO BE NOTIFIED:**

Affordable Housing Associates (AHA)  
1250 Addison Street, Ste. G  
Berkeley, CA 94702  
(510) 649-8500  
[www.ahainc.org](http://www.ahainc.org)

Christian Church Homes of No. California  
303 Hegenberger Rd., Ste. 201  
Oakland, CA 94621  
(510) 632-6712  
[www.cchnc.org](http://www.cchnc.org)

BRIDGE Housing  
1 Hawthorne Street, Ste. 400  
San Francisco, CA 94105  
(415) 989-1111  
[www.bridgehousing.com](http://www.bridgehousing.com)

Eden Housing  
409 Jackson Street  
Hayward, CA 94544  
(510) 582-1460  
[www.edenhousing.org](http://www.edenhousing.org)

Burbank Housing Development Corp.  
790 Sonoma Avenue  
Santa Rosa, CA 95404  
(707) 526 9733  
[www.burbankhousing.org](http://www.burbankhousing.org)

Mercy Housing California  
1360 Mission Street, Ste. 300  
San Francisco, CA 94103  
(415) 355-7100  
[www.mercyhousing.org](http://www.mercyhousing.org)

Calistoga Affordable Housing  
1332 Lincoln Street  
Calistoga, CA 94515  
(707) 942-9520  
[www.calistogaaffordablehousing.org](http://www.calistogaaffordablehousing.org)

Napa Valley Community Housing  
Five Financial Plaza, Suite 200  
Napa, CA 94558  
(707) 253-6140  
[www.nvch.org](http://www.nvch.org)

Community Housing Development  
Corporation of North Richmond (CHDC)  
1535 Third Street, #A  
Richmond, CA 94801  
(510) 412-9290  
[www.chdcnr.com](http://www.chdcnr.com)

Mid-Peninsula Housing Coalition  
303 Vintage Park Drive, Suite 250  
Foster City, CA 94404  
(650) 356-2900  
[www.midpen-housing.org](http://www.midpen-housing.org)

EAH Housing  
2169 E. Francisco Blvd., Ste. B  
San Rafael, CA 94901  
(415) 258-1800  
[www.eahhousing.org](http://www.eahhousing.org)

Satellite Housing Inc.  
2526 Martin Luther King Jr. Way  
Berkeley, CA 94704  
(510) 647-0700  
[www.satellitehousing.org](http://www.satellitehousing.org)