



STAFF REPORT

TO: CLAYTON CITY COUNCIL

FROM: Kraig Chalem, Senior Planner

DATE: April 21, 2026

SUBJECT: Adoption of Ordinance 503 Amending The Clayton Municipal Code Subsection 17.36.079 To Chapter 17.36 (General Regulations) Of Title 17 (Zoning) To Add Specific Language Allowing Certain Affordable Housing By-Right And Defining By-Right

RECOMMENDATION

City Council held a public hearing April 7th, 2026, waived first reading and introduced Ordinance No. 503, amending the Clayton Municipal Code Section 17.36.079 to Chapter 17.36 of Title 17 to state that developments Identified to accommodate the Regional Housing Needs Allocation shortfall and meeting affordable housing requires pursuant to Government Code section 65583.2(c), (h), and (i), are allowed by right and defining by right.

Staff recommends that the Council waive the second reading and adopt Ordinance 503.

BACKGROUND

On January 17, 2023, the Clayton City Council adopted the Housing Element Update (HEU) for the 6th Housing Cycle. At its January 16, 2024, meeting, the City Council adopted amendments to Clayton Municipal Code Title 17 (Zoning) to implement certain adopted Housing Element policies.

Since that time the City has been in ongoing communication with the State Housing and Community Development Agency (HCD). Which has resulted in two previous amendments supporting multifamily housing where at least 20% of the units are deed-restricted affordable units (including junior accessory dwelling units); and any multifamily housing that complies with all objective development and design standards are allowed by right. Staff had thought that all issues had been resolved and followed up by submitting these amendments to HCD for certification.

DISCUSSION

As noted above, HCD has requested additional amendments to the City's municipal code regarding entitlements, per Government Code section 65583.2(c), (h), and (i), sites which are identified to accommodate a shortfall of lower income housing per program D2 of the housing

element and shall allow residential use where at least twenty percent of the units are affordable to lower income households; minimum densities and residential requirements shall prevail over other allowed uses in the district; and, the term, “by-right” will be defined in the municipal code.

The ordinance as introduced to the City Council amends the Clayton Municipal Code Chapter 17.36 (General Requirements) of Title 17 (Zoning), Section 17.36.079 in the following way:

- per Government Code section 65583.2(c), (h), and (i) the Clayton Municipal Code reflects sites identified to accommodate a shortfall for the lower income housing identified in program D2 of the housing element be allowed where at least twenty percent of the units are affordable to lower income households; and,
- per Government Code section 65583.2(c), (h), and (i) minimum densities, and residential requirements shall prevail over regulations and allowed uses of the zoning district; and,
- the term “by-right” shall mean that the City's review of the project may not require a discretionary local government review or approval that would constitute a “project” under the California Environmental Quality Act as defined in Government Code Section 65583.2.

Precise language is provided in Attachment-A to effectuate the proposed changes.

CEQA

In accordance with the California Environmental Quality Act and the State CEQA Guidelines Section 15061(b)(3), which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The Zoning amendment as summarized above is within the scope of a non-project action.

FISCAL IMPACT

There are no immediate fiscal impacts associated with the project.

ATTACHMENTS

[ATT A - Ordinance No. 503 Amending Title 17.pdf](#)