



**City of American Canyon
ORDINANCE 2009- 06**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AMERICAN CANYON ADOPTING AMENDMENTS TO
MUNICIPAL CODE CHAPTER 19.34 ENTITLED "CONVERSIONS
OF SENIOR HOUSING TO NON-SENIOR HOUSING" (SECTIONS
19.34 ET SEQ.)**

WHEREAS, the City of American Canyon ("City") General Plan includes policies and goals to maintain the character of residential neighborhoods and to address the needs of special needs groups, such as seniors. The City is committed through the General Plan Housing Element policies to preserving the City's existing affordable housing stock and for maintaining housing for special needs groups, such as seniors. (General Plan, Housing Element); and

WHEREAS, there is a short supply of rental housing in the City; and

WHEREAS, the lack of affordable housing options in the City and the County of Napa continues to create a serious problem for senior citizens living in the City; and

WHEREAS, one of the few affordable housing options left to senior citizens exist in mobilehome parks that permit exclusive residence by those individuals over the age of 55 years; and

WHEREAS, at least one mobilehome park within the City has recently announced an intention to convert from a "seniors only" mobilehome park to a park allowing residents of all ages, thereby reducing the number of affordable housing units available to those over the age of 55; and

WHEREAS, such a conversion may unduly burden and irreparably harm senior citizens within the community and reduce the number of existing affordable units; and

WHEREAS, the City Council previously has adopted Ordinance No. 2006-05, effective September 7, 2006 (the "Mobilehome Conversion of Use Ordinance") dealing with the conversion of use of mobilehome parks within the City to assure the continued availability of affordable housing to residents of existing mobilehome parks and to individuals over the age of 55 years and should a mobilehome park be converted to a different use, that monetary and non-monetary assistance is provided to qualified tenants of mobilehome parks; and

WHEREAS, in accordance with the provisions of Government Code section 65858, the City Council adopted Ordinances 2008-3 and 2008-11, effective October 7, 2008, as interim urgency ordinances placing a moratorium on the conversion of any

mobilehome park currently existing in the City from a park occupied primarily or exclusively by senior residents to a mobilehome park allowing residents of all ages (the "Moratorium") to assure the continued availability of affordable housing to residents of existing mobilehome parks and to individuals over the age of 55 years; and

WHEREAS, the Moratorium is scheduled to expire on August 22, 2009; and

WHEREAS, the City Council has determined that a new ordinance is necessary to protect the public health, safety and welfare of the citizens of the City particularly those tenants or residents who are over 55 years of age in mobilehome parks within the special needs group, City and the City's consideration of this issue is an ongoing matter that requires this new ordinance; and

WHEREAS, certain senior restricted communities are faced with the threat of converting those facilities to non-senior which would allow residents of any age to reside in that community. Such conversions to non-age restricted housing would result in the loss of existing predominantly senior only housing and is detrimental to the senior citizens of the community. Conversion to non age-restricted communities typically results in increases in rental payments for seniors. Such increases are difficult, if not impossible, for seniors to afford who are often on fixed incomes. Additionally, conversions to non-senior housing results in a steady loss of existing senior only housing available within the City. This loss of affordable senior housing in the City creates an immediate threat to the health, safety and welfare of the seniors in the City; and

WHEREAS, based on the foregoing and other substantial evidence in the record, the continued conversion of senior only housing to non age-restricted housing presents an immediate threat to, and a specific, adverse impact upon, the public health, safety and welfare of the community in that conversion applications have not included necessary environmental review to determine the new project's impacts on the environment; and

WHEREAS, housing facilities originally established for seniors only typically receive certain concessions and incentives because senior only housing facilities create less impact on the environment, such as reduced impacts related to traffic, parking, noise, water supply, and school demand; and

WHEREAS, the 2000 Census demonstrates that a senior citizen occupied housing unit will likely have fewer residents in the unit than if the unit housed only non-seniors; and

WHEREAS, those same statistics demonstrate that roughly 38% of households occupied by seniors are occupied by an individual who lives alone, whereas only 18.7% of non-senior households are occupied by an individual who lives alone, and therefore seniors are twice more likely to live alone than are non-seniors; and

WHEREAS, Table 26 of the California Travel Trends and Demographics Study Final Report that was issued to the Department of Transportation, Division of Transportation Planning, Office of State Planning on December 2002 demonstrates that if a person is a senior citizen, that person is likely to make substantially fewer trips than if the person was not a senior; and

WHEREAS, that study found that individuals aged 55-59, 65-69, and 75-79 make 87.5%, 78.6%, and 64.5% less daily trips than those aged 40 to 44; and

WHEREAS, those statistics demonstrate that an individual who is 40-44 makes 14.2%, 27.2% and 55.8%, more trips, respectively, than does an individual who is in the age category of 55-59, 65-69, or 75-79; and

WHEREAS, the environmental impacts resulting from a conversion of senior housing to non-senior housing include increased traffic, noise, and parking requirements. Further, conversion to a non-senior facility may require street and road improvements to adequately handle the increased traffic. Non-senior facilities also require more parking and open space than senior restricted developments. Currently, these environmental impacts are not being thoroughly analyzed if a senior housing project converts to a non-senior housing project resulting in potential environmental damage as well as immediate harm to the public health, safety and welfare. Senior only projects which convert to non-senior projects should be required to bring the project up to the City's building, design, zoning and public works standards applicable to non-senior projects and comply with additional mitigation measures required by the California Environmental Quality Act (CEQA) after appropriate environmental review; and

WHEREAS, senior projects which convert to non-senior projects are also required to pay increased school impact fees. However, current senior projects which would convert would not pay these fees as required by State law. Thus, this ordinance is necessary to require that any conversion to non-senior housing must pay the increased school impact fees; and

WHEREAS, if a senior facility converts to a non-senior housing facility, such conversion can create economic and environmental impacts which will require mitigation; and

WHEREAS, the City desires to require that all senior facilities that convert to non-senior facilities must obtain a conversion permit after going through a thorough environmental review process in order to fully mitigate the economic and environmental impacts caused by the conversion; and

WHEREAS, the Zone Change is exempt from the California Environmental Quality Act (CEQA) per Section 15305 which applies to minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density; and

WHEREAS, on March 19, 2009, the City of American Canyon Planning Commission unanimously recommended City Council approval of the proposed ordinance; and

WHEREAS, a duly-noticed public hearing was held by the City of American Canyon City Council on April 21, 2009 at which time all those in attendance were given the opportunity to speak on the proposal; and

WHEREAS, the City Council considered all of the written and oral testimony presented at the public hearing in making its decision.

NOW THEREFORE, the City Council of the City of American Canyon, California, does hereby ordain as follows:

SECTION 1. The City Council finds and determines the following:

(a) The Recitals set forth above are true and accurate and incorporated herein by this reference.

(b) The unregulated conversion of senior housing to non-senior housing will result in harmful environmental effects, the loss of existing quality senior housing within the City and non-payment of increased school impact fees. These effects present an immediate threat to, and a specific adverse impact upon, the public health, safety and welfare and the ability to provide safe and decent housing opportunities to senior citizens.

(c) This immediate threat to, and specific adverse impacts upon, the public health, safety and welfare that would result from allowing the unregulated conversion of senior housing to non-senior housing justifies the adoption of an ordinance.

(d) This ordinance is necessary to mitigate the unregulated effects of conversion of senior housing to non-senior housing, the shrinking inventory of existing quality senior and affordable housing, the increased environmental effects of non-senior housing and to prevent inconsistency with the General Plan and Zoning Ordinance. No feasible alternative is available to satisfactorily mitigate or avoid these specific adverse impacts as well or better with a less burdensome effect than the adoption of the proposed ordinance.

SECTION 2: Findings

1. A. Find, based on the following evidence and as required by Zoning Ordinance Section 19.48.040 C, that:
 - a. The amendments are consistent with the goals and policies of the General Plan.

The proposed amendments are consistent with the goals and policies of the General Plan to mitigate environmental impacts and encourage retention of housing opportunities for Senior Citizens.

- b. The amendment is consistent with the purposes of the Zoning Ordinance, as set forth in Chapter 19.01, Authority, Purposes, and Effects of the Zoning Ordinance.

The amendments are consistent with the purpose of the Zoning Ordinance to provide a clear and concise guide for the physical development of the City, establish clear, understandable and applicable land use regulations consistent with the City's police powers, and foster a harmonious and workable relationship among land uses.

SECTION 3. Compliance with California Environmental Quality Act

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15305 which applies to minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density.

SECTION 4. Municipal Code Amendments

The City Council hereby amends Title 19 of the American Canyon Municipal Code ("Municipal Code") to add a new Chapter 19.34, entitled "Conversions of Senior Housing to Non-senior Housing" is hereby recommended to read as follows:

"Chapter 19.34 CONVERSIONS OF SENIOR HOUSING TO NON-SENIOR HOUSING

19.34.010 Purpose.

The purpose of this chapter is to establish necessary and appropriate policies related to conversion of Senior Housing projects to non Senior Housing projects.

19.34.020 Findings.

(a) California's Unruh Civil Rights Act (Civil Code § 51.1 *et seq.*) expressly allows private parties to establish housing for senior citizens and the Federal Fair Housing Act (42 U.S.C. § 3601 *et seq.*) expressly allows for "housing for older persons."

(b) State law encourages "senior citizen housing developments." Specifically, Government Code section 65915 requires cities to provide "senior citizen housing developments" density bonuses for development of such facilities and provide lower parking standards. Therefore, by law, "senior only" housing facilities may receive concessions and incentives that non-senior facilities do not receive.

(c) On average, senior citizens make less impact on the environment than do non-seniors. Occupancy rates for seniors are significantly less than non-senior occupancy rates. Seniors make substantially fewer trips than non-seniors. Seniors drive fewer vehicles, and therefore require fewer parking spaces per housing unit than do non-seniors. Municipal Code section 19.34 acknowledges these facts when it applies a lower parking requirement for certain senior housing facilities than would have otherwise applied.

(d) Because, on average, senior citizens occupy few persons per dwelling unit than non-senior citizen residents, seniors use substantially less water per household than non-seniors. Therefore, if there is no discretionary process to administer changes from senior to non-senior mobilehome parks, the City's zero water footprint policy will not be applied to such land use changes. This will further jeopardize the City's ability to supply water to its residents in accordance with the fee structure adopted by the City Council.

(e) Based on the foregoing, newly created or authorized non-senior facilities have a greater impact on the environment than do existing senior facilities. Therefore, the City determines that all conversions, as defined in this Article, are "projects" within the meaning of Public Resources Code section 21065.

(f) Government Code section 65595 *et seq.* permit all of the following developments to pay lower developer fees to schools: developments which qualify as "senior citizen housing", "multilevel facility for the elderly" or as a "residential care facility for the elderly", and manufactured homes and mobilehomes in certain communities limited to older persons.

(g) Government Code sections 65595.1 and 65595.2 demonstrate that cities should often disallow these senior housing uses from converting to non-senior housing uses until the full amount of school fees that would have otherwise been required to be paid were, in fact, paid.

(h) If a previously approved facility obtained concessions or incentives because it indicated that it would qualify and operate as a senior housing project but subsequently lost its qualifying status, the development facility should mitigate the impacts on the community, including but not limited to offsetting the concessions and incentives previously received.

(i) If the City applied reduced public park dedications for senior restricted developments, or lowered fees for vehicular parking, transportation, and/or schooling because the project originally qualified as a senior housing project and then that project later converted to non-senior housing, the public would be harmed to the extent that the converted project did not provide the full amount of mitigation that would have been otherwise required. If a conversion occurs, the City should require that all impacts from the conversion are mitigated.

19.34.030 Definitions.

The following terms shall have the following meanings for the purposes of this Article:

(a) "Concessions or incentives" means any concession or incentive issued or awarded to a project by the City by virtue of the project qualifying as a senior housing project. Concessions and incentives shall include, but are not limited to: (1) utilization of the lesser parking standards described in Municipal Code Chapter 19.21 or similar ordinance; (2) receipt of a density bonus, incentive, or lower parking requirements consistent with Government Code section 65915(b)(3); (3) any preference received on account of qualifying as "housing for older persons" under federal law, having been "designed to meet the physical and social needs of senior citizens" under state law, or qualifying as a "senior citizen housing development" as defined under Civil Code sections 51.3 or 51.11, or similar authority; (4) any development which received any benefit pursuant to section 65995 *et seq.* [relating to lowered developer fees to fund school construction]; or (5) any other reduction in design or development standards, financial assistance, or other development related concession or incentive that the project received from the City on account of the project intending to become, or for actually becoming a senior housing project.

(b) "Convert" or "Conversion" means changing from existing senior housing or a senior housing project to a housing project that could not qualify as a senior housing project.

(c) "Director" shall mean the City of American Canyon Director of Community Development.

(d) "Senior citizen" shall mean any individual who is fifty-five (55) years or older.

(e) "Senior housing project" means any project qualifying as senior housing under state or federal law that, at the time of initial City approval, received a concession or incentive.

19.34.040 Duty to Obtain Conversion Permit.

No senior housing project shall convert to a non-senior housing project unless the project first obtains a conversion permit pursuant to this Article, and consistent with the procedures outlined in Municipal Code section 19.34 *et seq.*

19.34.050 Procedure to Obtain a Conversion Permit.

Consistent with Municipal Code sections 19.34 *et seq.*, the Planning Commission shall conduct a public hearing on all complete applications for conversion permits. The Planning Commission shall issue a conversion permit if it makes findings consistent with the following:

(a) The proposed use of the property as something other than a senior housing project is in accord with the objectives of this chapter and the purposes of the zone in which the project site is located.

(b) The new use and operation is consistent with the General Plan.

(c) The project will comply with all parking requirements of Municipal Code Chapter 19.21 which apply to non-senior facilities. If the City, however, in its sole and reasonable discretion determines that requiring parking spaces pursuant to this subsection would be detrimental to the public welfare, the applicant shall instead provide reasonable alternative parking accommodations. As part of the City's determination of whether the public welfare would be harmed, the City shall consider the ability of the applicant to provide additional parking without unreasonably degrading the appearance of the real property surrounding the structure.

(d) The applicant has paid or is required to pay as a condition of granting the conversion permit all required fees, including those required by Government Code sections 65995 *et seq.* and Education Code section 17620 relating to developer fees paid to school districts, and the City has received any authorization required to have been filed by the Napa Valley Unified School District pursuant to Government Code section 65595.1, or any other section.

(e) All required notices were given, including those required by Government Code section 65995.2 relating to school impact fees for mobilehome conversions, and Civil Code section 798.25 relating to 6 month notice of changes of regulations of mobilehome parks.

(f) The applicant has complied with all actions required by the California Environmental Quality Act (Public Resources Code § 21000 *et seq.*) including any duty to assess impact on the environment and resulting mitigation. These mitigation measures will address identified impacts to traffic, public transportation, noise, parking space, and vehicle parking and such other impacts as are identified by appropriate environmental review.

19.34.060 Conversion Permit Applications.

(a) New applications. An application for a conversion permit shall be filed with the Director or the Director's designee by the property owner or an authorized agent on a form(s) prescribed by the Director, and shall include information and/or maps which are deemed by the Director to be necessary to enable the approving authority to make the required findings. The Director or the Director's designee shall make available, in writing, a listing of the information and/or maps which are required to be submitted. Concurrent applications may be filed and processed.

19.34.070 Application fees and refunds.

(a) An application fee for a conversion permit shall accompany the application submittal requirements which are filed with the Director. The fee(s) shall cover the

costs of processing the applications in accordance with a schedule adopted from time to time by City Council resolution.

(b) Application fee refunds shall be authorized by the Director for applications that are withdrawn upon written request and proof of payment by the applicant, in accordance with a refund schedule adopted from time to time by City Council resolution.

(c) Portions of application fees paid to another jurisdiction or agency for services to be rendered in connection with the application shall not be refunded by the city. Nothing contained in this section shall prohibit another jurisdiction or agency from refunding fees directly to the applicant. If fees have been paid out to another jurisdiction or agency, the administrative fee related to coordinating the review of applications by other jurisdictions or agencies is non-refundable.

19.34.080 Investigation.

The Director shall investigate and prepare a written report on all applications. Copies of the report shall be provided to the approving authority and the applicant at least three calendar days prior to a hearing on the application.

19.34.090 Hearing and notice procedure required.

(a) Responsible parties. The Director, in the case of the Planning Commission and City Clerk, in the case of the City Council, shall set the time and place of the required public hearings. The hearing body, i.e., the Planning Commission or City Council, may change the time or place of their hearing, or may continue their hearing from time to time.

(b) Public hearing notice. Notice of public hearings shall be given in accordance with Title 7 of the California Government Code, as amended, except as indicated below:

(1) For applications that have adjacent parcels which are five acres or larger, the notification radius shall be 1,000 feet up to a maximum of 25 lots, whichever is greater.

(2) For applications that the Director deems to have greater effect than the normal 300-foot radius, the Director may increase the notification radius to 1,000 feet or other appropriate distance.

19.34.100 Review of applications and approving authority.

(a) Planning Commission. The Planning Commission shall be responsible for the review and approval of conversion permits.

(b) City Council. The City Council shall be responsible for the review and approval of conversion permits only upon appeal by an interested party when an appeal is filed in accordance with section Sec. 19.34.120.

19.34.110 Findings required.

No conversion permit shall be issued unless all the findings required by Section 19.34.020 were made.

19.34.120 Appeals.

An appeal of a Planning Commission decision may be made by an interested party to the City Council. The appeal shall be filed within ten (10) calendar days of the commission decision by filing a letter of appeal with the Director on forms furnished by the Director. The appeal shall be accompanied by the fee established by the City Council.

The Director shall schedule the appeal for a hearing before the City Council within thirty (30) calendar days. Notice of the hearing on the appeal shall be given in the manner and time provided in this Chapter not less than 10 days before such hearing to each person entitled to notice of the preceding decision.

The City Council may affirm, modify, attach additional conditions to the decision which was appealed, or reverse any Planning Commission decision, making findings required by this Article and/or state law. The decision of the City Council shall be final.

19.34.130 New application following a denial.

An application for a conversion permit on the same property or substantially the same property following the same request, shall not be accepted within one (1) calendar year of the date of denial.

19.34.140 Expiration and time extensions.

A conversion permit approval shall expire twenty-four (24) months after final approval unless:

- (a) The new use has commenced, or
- (b) Where improvements are required, applicable permits were issued, and construction has commenced, or
- (c) An application for a time extension is filed prior to the expiration of the permit and the Planning Commission granted the application. If an application for extension is filed prior to the expiration of the permit, one additional year may be granted by the Planning Commission.

19.34.150 Modifications and/or revisions.

Modifications or revisions to an approved application shall require re-application and shall conform to all of the submittal requirements and fees in effect at the time of

application. Only the approving authority shall approve modifications or revisions to approved applications and only after the hearings required in this chapter.

19.34.160 Applications to shall run with the land.

Approved conversion permit applications shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the application. All conditions of the application shall continue to apply to the new owner.

19.34.170 Suspension and/or revocation.

Suspension for violation. Upon violation of any applicable provision of this article, or, if the application was granted subject to conditions, upon failure to comply with conditions, the application shall automatically be suspended. The approving authority shall, within forty (40) calendar days of the suspension of the conversion permit, hold a hearing in accordance with the requirements of section 19.4".

SECTION 5: Severability

The City Council hereby declares that if any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

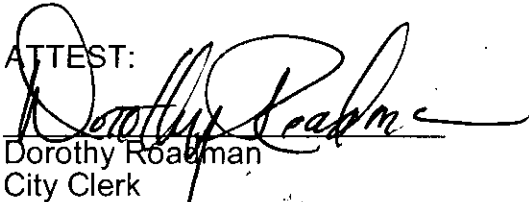
PASSED AND ADOPTED by the City Council of the City of American Canyon at a regular meeting on May 5, 2009, by the following vote:

AYES: Garcia, Callison, Bennett, Coffey, West
NOES: None
ABSTAIN: None
ABSENT: None

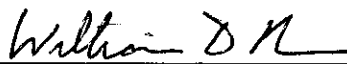


Leon Garcia, Mayor

ATTEST:


Dorothy Roadman
City Clerk

APPROVED AS TO FORM:


William Ross
City Attorney