

ORDINANCE NO. 2009-12

**APPROVING ZONING ORDINANCE AMENDMENT ZOA 08-001
MAKING MINOR REVISIONS TO CHAPTERS 19.05, 19.10, 19.11,
19.14, 19.29, 19.33, 19.40, AND 19.42 OF THE ZONING ORDINANCE,
RELATED TO CHILD CARE REGULATIONS**

WHEREAS, pursuant to Section 65850 of the State Planning and Zoning Law, the City of American Canyon adopted a Zoning Ordinance in 1996 to implement the General Plan and regulate the use of land, buildings and structures, the size and use of lots; the intensity of land uses; and to establish other requirements to provide a clear and concise guide for the physical development of the City and to protect and promote the public health, safety, peace, comfort, convenience, aesthetics, prosperity, and general welfare; and

WHEREAS, Zoning Ordinance Chapter 19.48 provides that the City Council may amend the Zoning Ordinance after the amendment is referred to the Planning Commission for review and recommendation to the City Council; and

WHEREAS, minor revisions are proposed to the Zoning Ordinance to meet changed state requirements for childcare facilities and to clarify the regulations; and

WHEREAS, pursuant to the California Environmental Quality Act, the proposed Zoning Ordinance Amendment is exempt per CEQA Guidelines Section 15274, Statutory Exemption for Family Day Care Homes; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on the proposed Zoning Ordinance Amendment on August 28, 2008 and May 28, 2009, and unanimously recommended approval of the amendment to the City Council; and

WHEREAS, a duly-noticed public hearing on the proposed Zoning Ordinance Amendment was held by the City Council on February 17, 2009 and July 21, 2009, at which time all those in attendance were given the opportunity to speak; and

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

NOW, THEREFORE, BE IT ORDAINED, that the City Council of the City of American Canyon does hereby approve and adopt the Zoning Ordinance Amendment attached as Exhibit A, based on the following:

SECTION 1: The Recitals set forth above are true and accurate and incorporated herein by this reference.

SECTION 2: Findings. The City Council finds, based on the following evidence and as required by Zoning Ordinance Section 19.48.040 C, that:

1. The amendments are consistent with the goals and policies of the General Plan.
The proposed amendments make minor corrections that are consistent with the goals and policies of the General Plan, including Policy 1.23.5 allowing childcare facilities provided they are compatible with adjacent uses.
2. The amendments are 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 protect and promote the public health, safety, peace, comfort, convenience, aesthetics, prosperity, and general welfare. The amendments are minor corrections intended to clarify regulations and ensure consistency of development with the General Plan.

SECTION 3: Municipal Code Amendments. The City Council amends Title 19 of the American Canyon Municipal Code ("Municipal Code") to revise and add specific language to various chapters to read as stated in Exhibit A, attached.

SECTION 4: Effective Date. A summary of this Ordinance shall be published once in the Vallejo Times Herald, a newspaper of general circulation serving the City of American Canyon, within fifteen (15) days after its passage and shall become effective thirty (30) days after the date of its adoption.

SECTION 3: 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.

**City Council
Ordinance 2009-12**

EXHIBIT A

**Text Amendments for:
ZONING ORDINANCE AMENDMENT ZOA 08-001
Related to Child Care Regulations**

[Note: Only those sections of each chapter containing amendments are included below.]

Chapter 19.05: Use Classifications

19.05.080 Public and Quasi-Public Classifications.

Public and quasi-public use types include utility, educational, cultural, medical, protective, governmental and other uses which are strongly vested with public or social importance.

Day Care Center: A facility, other than family child care homes, providing care, supervision, and protection of children or senior citizens on a less than 24-hour basis.

19.05.100 Accessory Classifications.

Accessory uses are uses that are incidental to the principal permitted or conditionally-permitted use or structure on a site and are customarily found on the same lot.

Family Child Care Home, Large: The provision of care, protection and supervision, in the provider's own home, for up to 14 children on a less than 24-hour basis.

Family Child Care Home, Small: The provision of care, protection and supervision, in the provider's own home, for eight or fewer children on a less than 24-hour basis.

Chapter 19.10: Residential Districts

19.10.040 Permitted Uses:

Table 19.10.040 of this chapter sets forth the permitted and conditionally permitted uses for each Residential District. A "P" designates a permitted use. A "C" indicates a conditionally permitted use subject to approval of a Use Permit by the Planning

Commission. An "M" indicates a minor use permit is required pursuant to Chapter 19.42. If no letter is found opposite a particular use, it is not permitted in that District.

**Table 19.10.040
Permitted and Conditionally Permitted Uses
Residential Districts**

Use Classifications	Zoning Districts					Related Provisions
	RE	RR	RS	RM	RH	
Public and Quasi-Public Uses						
Day Care Center	M	M	M	M	M	GP Policy 1.23.5
Accessory Uses						
Family Child Care Home, Large	P	P	P	-	-	Chapter 19.33
Family Child Care Home, Small	P	P	P	P	P	

**Chapter 19.11
Community Commercial and Neighborhood Commercial Districts**

19.11.040 Permitted Uses.

Table 1 of this Chapter sets forth the permitted and conditionally permitted uses for each Commercial District. A "P" designates a permitted use. A "C" indicates a conditionally permitted use subject to approval of a Use Permit by the Planning Commission. An "M" indicates a minor use permit is required pursuant to Chapter 19.42. If no letter is found opposite a particular use, it is not permitted in that District.

**Table 1
Permitted and Conditionally-Permitted Uses in CN and CC Districts**

Use Classification	Zoning District		Related Provisions
	CN	CC	
Public and Quasi-Public Uses			
Day Care Center	M	P	

**Chapter 19.14
Industrial Districts**

19.14.050 Permitted Uses.

Table 19.14.050 of this Chapter sets forth the permitted and conditionally permitted uses for each Industrial District. A "P" designates a permitted use. A "C" indicates a conditionally-permitted use subject to approval of a Use Permit by the Planning Commission. An "M" indicates a minor use permit is required pursuant to Chapter 19.42. If no letter is found opposite a particular use, it is not permitted in that District.

**Table 1
Permitted and Conditionally-Permitted Uses for Industrial Districts**

Use Classification	Zoning District		Related Provisions
	LI	GI	
Public and Quasi-Public Uses			
Day Care Center	M	M	

Chapter 19.29 Home Occupations

19.29.020 Definition.

As used in this chapter, a "home occupation" is an accessory use of a dwelling for employment and/or business purposes that is incidental to and subordinate to the use of the dwelling unit as a residence, and that is so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. Large Family Child Care Homes are exempt from this definition.

Chapter 19.33 Large Family Child Care Homes

19.33.010 Purpose.

The purpose for establishing these operational standards is to allow the establishment and operation of large family child care homes consistent with state law, while

maintaining the residential character of neighborhoods and promoting compatibility with adjacent residences.

19.33.020 Limitations.

Large family child care homes may care for up to fourteen (14) children if the following conditions are met:

- A. The operator of a family child care home obtains and maintains a State license throughout the operation of the child care home. The operator shall annually provide the Community Development Department with a copy of the state receipt for payment of annual fees.
- B. The licensee obtains a permit in accordance with Section 19.33.040, below.

19.33.030 Operational Standards.

Large family child care homes shall be operated in accordance with the following standards:

- A. Large family child care homes shall arrange staggered times for clients to drop off and pick up children.
- B. Any side or rear yard areas intended for child care use shall be surrounded by a solid fence or wall with a minimum height of six feet.
- C. Outdoor recreational equipment and play areas shall be set back a minimum of five feet from perimeter property lines.

19.33.040 Large Family Child Care Homes Permit

A ministerial permit from the Community Development Department shall be required prior to commencing a large family childcare operation, in accordance with the following:

- A. An application for a Large Family Child Care Home permit shall be filed with the Community Development Department on forms provided by the department, accompanied by the applicable fee, and a current copy of the state license.
- B. The application shall contain a written list of the purpose, limitations, and standards listed in this Chapter, and the operator shall sign an agreement to operate the childcare home consistent with these requirements.
- C. Within 5 calendar days after filing the application, the Community Development Director or designee shall approve or deny the permit, based on the ability and agreement of the applicant to meet the purpose, limitations, and standards of this ordinance.
- D. Any Large Family Child Care Home Permit may be suspended or revoked by the Community Development Director if and when it is determined that the operation is being conducted:
 - a. in violation of any city, state, or federal code, ordinance, or regulation;

- b. to the detriment of the public's health, safety, or welfare;
 - c. inconsistently with the purpose, limitations, and standards of this chapter.
- E. No Large Family Child Care Home Permit shall be transferred or assigned to another location or person.
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**Chapter 19.40
Review and Approval Procedures**

19.40.020 Community Development Director Approvals.

- A. Authority.
- 2. The following may be approved following a public hearing by the Community Development Director, as specified elsewhere in this Title:
 - a. Minor Variations, pursuant to Chapter 19.44.
 - b. Minor Modifications, pursuant to Chapter 19.45.
 - c. Conditional Fence Permits, pursuant to Chapter 19.10.
 - d. Classifications of Use, pursuant to Chapter 19.05.
 - e. Minor Use Permits, pursuant to Chapter 19.42.
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**Chapter 19.42
Conditional Use Permits**

19.42.010 Purpose.

The purpose of this Chapter is to establish procedures and general standards for the review and approval of conditional use permits and minor conditional use permits (referred to as "minor use permits" in this chapter and elsewhere in this Title) required by various sections of this Title, including uses listed in the zoning district chapters as a use permitted subject to the securing of a conditional use permit, or minor use permit.

19.42.020 Review and Approval Procedures.

- A. Application.
- 1. Applications for conditional use permits and minor use permits shall be filed with the Community Development Department. Submittals shall include a completed application form, along with related information and filing fees established by the City.

2. If other approvals are necessary, an application for a conditional use permit or minor use permit may be filed and processed concurrently with the related entitlement request(s), and shall be acted upon simultaneously by the Planning Commission.
3. Following the denial or revocation of a conditional use permit or minor use permit application, no application for such permit for the same or substantially the same use and design, or use of the same or substantially the same site shall be filed within one year from the date of denial or revocation.

B. Approval Authority.

1. The Community Development Director may approve minor use permits for those uses designated "M" in this title. Applications for such permits shall be reviewed in accordance with Chapter 19.40.020 Review and Approval Procedures, Community Development Director Approvals.
2. The Planning Commission may approve conditional use permits for those uses designated "C" in this title. Applications for such permits shall be reviewed in accordance with Chapter 19.40.030, Review and Approval Procedures, Planning Commission Approvals.

C. Terms and Conditions. Any minor use permit or conditional use permit may include such terms and conditions deemed appropriate or necessary by the decision-making authority to make the findings required by Subsection D in this section. If no terms or conditions are specified, the use permit shall be considered unconditional and valid for an indefinite period, unless the use is abandoned.

D. Required Findings. The decision-making authority may approve or conditionally-approve an application for a minor use permit or conditional use permit if it makes all of the following findings:

1. The proposed use is consistent with the policies and programs of the General Plan and any applicable master or specific plan.
2. The proposed use is consistent with the purpose(s) and standards of the applicable zoning district(s).
3. The project site is physically suitable for the type and intensity of land use being proposed.
4. The proposed use will not be a nuisance or materially detrimental to the general health, safety, and welfare of the public or to property and residents in the vicinity.
5. The site for the proposed use has adequate access, and meets parking and circulation standards and criteria.
6. There are adequate provisions for water and sanitary services, and other public utilities to ensure that the proposed use would not be detrimental to public health and safety.

Strikeout/Underline Version

Zoning Ordinance Amendment ZOA 08-001: amending Childcare Regulations

Chapter 19.05: Use Classifications

19.05.080 Public and Quasi-Public Classifications.

Public and quasi-public use types include utility, educational, cultural, medical, protective, governmental and other uses which are strongly vested with public or social importance.

Day Care Center A facility, other than ~~day-family child~~ day-family child care homes, providing care, supervision, and protection of children or senior citizens on a less than 24-hour basis.

19.05.100 Accessory Classifications.

Accessory uses are uses that are incidental to the principal permitted or conditionally-permitted use or structure on a site and are customarily found on the same lot.

Day Family Child Care Home, Large The provision of care, protection and supervision, in the provider's own home, for ~~7 up to 12~~ up to 14 children, ~~inclusive, including children under the age of 10 years who reside at the home,~~ on a less than 24-hour basis.

Day Family Child Care Home, Small The provision of care, protection and supervision, in the provider's own home, for ~~six-eight~~ six or fewer children, ~~inclusive, including children under the age of 10 years who reside at the home,~~ on a less than 24-hour basis.

Chapter 19.10

Residential Districts

19.10.040 Permitted Uses.

Table 1 of this Chapter sets forth the permitted and conditionally permitted uses for each Residential District. A "P" designates a permitted uses. A "C" indicates a conditionally permitted use subject to approval of a Use Permit by the Planning

Commission. An "M" indicates a minor use permit is required pursuant to Chapter 19.42. If no letter is found opposite a particular use, it is not permitted in that District.

**Table 19.10.040
Permitted and Conditionally Permitted Uses
Residential Districts**

Use Classifications	Zoning Districts					Related Provisions
	RE	RR	RS	RM	RH	
Public and Quasi-Public Uses						
Day Care Center	<u>MG</u>	<u>MG</u>	<u>MG</u>	<u>MG</u>	<u>MG</u>	GP Policy 1.23.5
Accessory Uses						
Day-Family Child Care Home, Large	<u>P</u>	P	P	-	-	Chapter 19.33
Day Family Child Care Home, Small	P	P	P	P	P	

Chapter 19.11

Community Commercial and Neighborhood Commercial Districts

19.11.040 Permitted Uses.

Table 1 of this Chapter sets forth the permitted and conditionally permitted uses for each Commercial District. A "P" designates a permitted use. A "C" indicates a conditionally permitted use subject to approval of a Use Permit by the Planning Commission. An "M" indicates a minor use permit is required pursuant to Chapter 19.42. If no letter is found opposite a particular use, it is not permitted in that District.

Table 1

Permitted and Conditionally-Permitted Uses in CN and CC Districts

Use Classification	Zoning District		Related Provisions
	CN	CC	
Public and Quasi-Public Uses			
Day Care Center	<u>MG</u>	P	

**Chapter 19.14
Industrial Districts**

19.14.050 Permitted Uses.

Table 1 of this Chapter sets forth the permitted and conditionally permitted uses for each Industrial District. A "P" designates a permitted uses. A "C" indicates a conditionally-permitted uses subject to approval of a Use Permit by the Planning Commission. An "M" indicates a minor use permit is required pursuant to Chapter 19.42. If no letter is found opposite a particular use, it is not permitted in that District.

**Table 1
Permitted and Conditionally-Permitted Uses
For Industrial Districts**

Use Classification	Zoning District		Related Provisions
	LI	GI	
Public and Quasi-Public Uses			
Day Care Center	<u>MC</u>	<u>MC</u>	

Chapter 19.29 Home Occupations

19.29.020 Definition.

As used in this chapter, a "home occupation" is an accessory use of a dwelling for employment and/or business purposes that is incidental to and subordinate to the use of the dwelling unit as a residence, and that is so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. Large Family Child Care Homes are exempt from this definition.

Chapter 19.33
Large Family Day Care Homes

Sections:

- 19.33.010 Purpose
- 19.33.020 Limitations
- 19.33.030 ~~Location and Operational Standards~~
- 19.33.040 ~~Home Occupation Permit Exemption~~ Large Family Child Care Homes Permit

19.33.010 Purpose.

The purpose for establishing these location and operational standards is to allow the establishment and operation of large family day care homes, consistent with state law, while maintaining the residential character of neighborhoods and promote compatibility with adjacent homes.

19.33.020 Limitations.

~~In accordance with state law,~~ Large family day care homes may care for up to 14 children if ~~all of~~ the following conditions are met:

- A. ~~At least two of the children are at least six years of age;~~ The operator of a family child care home obtains and maintains a State license throughout the operation of the child care home. The operator shall annually provide the Community Development Department with a copy of the state receipt for payment of annual fees.
- B. ~~No more than three infants are cared for during any time when more than twelve children are being cared for;~~ The licensee obtains a permit in accordance with Section 19.33.040, below.
- C. ~~The licensee notifies all parents of children at the home that the facility is caring for two additional school-age children and that there may be up to fourteen children in the home at one time;~~
- D. ~~The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.~~

19.33.030 ~~Location and Operational Standards.~~

Large family child care homes shall be ~~located and~~ operated in accordance with the following standards:

- D. Large family child care homes shall arrange staggered times for clients to drop off and pick up children.
- E. Any side or rear yard areas intended for child care use shall be surrounded by a solid fence or wall with a minimum height of six feet.

- F. Outdoor recreation equipment over eight feet in height and play areas shall be set back a minimum of five feet from perimeter property lines.

19.33.040 ~~Home Occupation Permits~~ Large Family Child Care Homes Permit.

A home occupation permit shall be required for all large family day care homes per Chapter 19.29, Home Occupations. A ministerial permit from the Community Development Department shall be required prior to commencing a large family childcare operation, in accordance with the following:

- A. An application for a Large Family Child Care Home permit shall be filed with the Community Development Department on forms provided by the department, accompanied by the applicable fee, and a current copy of the state license.
- B. The application shall contain a written list of the purpose, limitations, and standards listed in this Chapter, and the operator shall sign an agreement to operate the childcare home consistent with these requirements.
- C. Within 5 calendar days after filing the application, the Community Development Director or designee shall approve or deny the permit, based on the ability and agreement of the applicant to meet the purpose, limitations, and standards of this ordinance.
- D. Any Large Family Child Care Home Permit may be suspended or revoked by the Community Development Director if and when it is determined that the operation is being conducted:
- a. in violation of any city, state, or federal code, ordinance, or regulation;
 - b. to the detriment of the public's health, safety, or welfare;
 - c. inconsistently with the purpose, limitations, and standards of this chapter.
- E. No Large Family Child Care Home Permit shall be transferred or assigned to another location or person.
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Chapter 19.40
Review and Approval Procedures

19.40.020 Planning Community Development Director Approvals.

A. Authority

2. The following may be approved following a public hearing by the Planning Community Development Director, as specified elsewhere in this Title:

- a. Minor Variations, pursuant to Chapter 19.44.
- b. Minor Modifications, pursuant to Chapter 19.45.
- c. Conditional Fence Permits, pursuant to Chapter 19.10.
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- e. Minor Use Permits, pursuant to Chapter 19.42.

Chapter 19.42
Conditional Use Permits

19.42.010 Purpose.

The purpose of this Chapter is to establish procedures and general standards for the review and approval of conditional use permits and minor conditional use permits (referred to as "minor use permits" in this chapter and elsewhere in this Title) required by various sections of this Title, including uses listed in the zoning district chapters as a use permitted subject to the securing of a conditional use permit, or minor use permit.

19.42.020 Review and Approval Procedures.

A. Application.

1. Applications for conditional use permits and minor use permits shall be filed with the Planning Community Development Department. Submittals shall include a completed application form, along with related information and filing fees established by the City.
2. If other approvals are necessary, an application for a conditional use permit may be filed and processed concurrently with the related entitlement request(s), and shall be acted upon simultaneously by the Planning Commission.
3. Following the denial or revocation of a conditional use permit application, no application for such permit for the same or substantially the same use

and design, or use of the same or substantially the same site shall be filed within one year from the date of denial or revocation.

B. Approval Authority.

1. The Community Development Director may approve minor use permits for those uses designated "M" in this title. Applications for such permits shall be reviewed in accordance with Chapter 19.40.020 Review and Approval Procedures, Community Development Director Approvals.

2. The Planning Commission may approve conditional use permits for those uses designated "C" in this title. Applications for such permits shall be reviewed in accordance with Chapter 19.40, Review and Approval Procedures.

C. Terms and Conditions. Any minor use permit or conditional use permit may include such terms and conditions deemed appropriate or necessary by the decision-making authority to make the findings required by Subsection D of this section. If no terms or conditions are specified, the use permit shall be considered unconditional and valid for an indefinite period, unless the use is abandoned.

D. Required Findings. The decision-making authority may approve or conditionally-approve an application for a conditional use permit or minor use permit if it makes all of the following findings:

1. The proposed use is consistent with the policies and programs of the General Plan and any applicable master or specific plan.
2. The proposed use is consistent with the purpose(s) and standards of the applicable zoning district(s).
3. The project site is physically suitable for the type and intensity of land use being proposed.
4. The proposed use will not be a nuisance or materially detrimental to the general health, safety, and welfare of the public or to property and residents in the vicinity.
5. The site for the proposed use has adequate access, and meets parking and circulation standards and criteria.
6. There are adequate provisions for water and sanitary services, and other public utilities to ensure that the proposed use would not be detrimental to public health and safety.

SECTION 4: The Ordinance attached as Exhibit A was introduced and read at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 21st day of July, 2009, by a vote of 5-0, and was passed and adopted at a regular meeting of the City Council of the City of American Canyon held on the 4th day of August, 2009.

AYES: Councilmembers Bennett, West, Vice Mayor Callison, and Mayor Garcia

NOES: None

ABSTAIN: None

ABSENT: Councilmember Coffey



Leon Garcia, Mayor

ATTEST:

APPROVED AS TO FORM:



Sherry M. Kelly
Interim City Clerk



William Ross
City Attorney

Effective September 3, 2009