

ORDINANCE NO. 2010-01

AN URGENCY ORDINANCE OF THE CITY OF AMERICAN CANYON, CALIFORNIA, AMENDING TITLE 19, DIVISION 2, CHAPTER 19.18 OF THE CITY OF AMERICAN CANYON MUNICIPAL CODE, TO CREATE A SENIOR MOBILE HOME OVERLAY COTERMINOUS WITH THE EXISTING MHP OVERLAY ZONE TO LIMIT THE CONVERSION OF ANY MOBILE HOME PARK CURRENTLY EXISTING IN THE MHP OVERLAY ZONE FROM A PARK OCCUPIED PRIMARILY BY RESIDENTS AGE FIFTY-FIVE (55) OR OLDER (SENIOR RESIDENTS) TO A MOBILE HOME PARK ALLOWING RESIDENTS OF ALL AGES.

WHEREAS, this Ordinance is adopted as an urgency ordinance pursuant to Government Code Section 36937, with not less than four-fifths (4/5th) of the City Council concurring herein; and,

WHEREAS, this Ordinance must take effect immediately as an urgency ordinance to preserve the public peace, health and safety; and,

WHEREAS, the City of American Canyon (“City”) has a significant population of senior residents age 55 and older; and,

WHEREAS, the City General Plan Housing Element Policy 2.16.3 identifies senior housing as a special housing need to be met by implementing certain programs; and,

WHEREAS, the City intends to preserve mobile home units in its existing senior-only mobile home parks as housing that is generally affordable; and,

WHEREAS, conversion of the existing mobile home parks within the City from housing for older persons to family housing may unduly burden and irreparably harm senior residents within the community by reducing the number of mobile homes available to seniors, which homes are generally more affordable than traditional housing. Such conversion would also be inconsistent with the City’s General Plan and its implementing policies meant to preserve affordable housing, including senior housing and would threaten the public peace, health, and safety; and,

WHEREAS, Staff has verified that within the existing mobile home parks that are zoned MHP, and which will become subject to the amendment to the current Senior Mobile Home Park overlay zoning, the leases require that every unit in each park be occupied by at least one person who is age 55 or older, and therefore, have operated and continue to operate as “housing for older persons;” and,

WHEREAS, The Federal Fair Housing Act, California Fair Employment and Housing Act, and California Mobile Home Park Residency law permit local regulation of mobile home park housing to provide “housing for older persons” to include housing that is restricted to occupancy of at least 80 percent (80%) of units by at least one person who is age 55 or older. Further, the California Unruh Civil Rights Act (California Civil Code §51 *et seq.*) allows establishment of

mobile home housing that is age-restricted where such restrictions are consistent with the Federal Fair Housing Act and its subsequent amendments and existing implementing regulations; and,

WHEREAS, this Ordinance codifies the City’s intent to provide “housing for older persons,” consistent with the Housing for Older Persons Act amendments to the Federal Fair Housing Act, 42 U.S.C. §3607(b) and the provisions for implementation as set forth in the Code of Federal Regulations (24 CFR §100.304(b)(4) and the Appendix thereto (64 Fed. Reg. 16331), which provide that a permissible senior housing facility or community includes a municipally zoned area, and which zone, when established, satisfies the “intent” requirement of the “housing for older persons” exemption from the provisions of the Fair Housing Act prohibiting discrimination based on familial status; and,

WHEREAS, by this Ordinance, the City establishes a policy and procedure consistent with the City’s intent to provide “housing for older persons” by:

1. Creating a Senior Mobile Home Park Overlay Zone, in which at least 80 percent (80%) of units must be occupied by at least one person who is age 55 or older; and
2. By requiring biennial verification of occupancy within the Senior Mobile Home Park Overlay Zone that is consistent with “housing for older persons” as described in the Ordinance’s definition of Senior Mobile Home Park; and,
3. By providing for enforcement procedures to ensure compliance with the Ordinance.

WHEREAS, the proposed Ordinance would not alter existing general plan land use designations or development standards. Therefore, any potential effects from the proposed Ordinance are adequately addressed within the final environmental impact report prepared for the General Plan. Also, the project does not have the potential for causing a significant effect on the environment and is a continuing administrative activity. Pursuant to Sections 15162, 15061(b)(3), and 15378(b)(2) of the State CEQA Guidelines, no further environmental review is required for this project.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of American Canyon does hereby ordain the following:

SECTION 1. Title 19, Division 2, Chapter 19.18 of the Municipal Code is hereby amended by adding Section 19.18.050 as follows:

19.18.50. Senior Mobile Home Park Overlay Zone.

A. “Senior Mobile Home Park” is a mobile home park in the City located within the MHP Mobile Home Park Overlay District in which at least eighty percent (80%) of the spaces are occupied by or intended for occupancy by at least one person who is age 55 or older.

B. Coterminous with the existing zoning for Mobile Home Park Residential is the Senior Mobile Home Park Overlay Zone (MHP-S).

C. Mobile home units in a mobile home park in the Senior Mobile Home Overlay Zone shall be occupied only consistent with the definition of Senior Mobile Home Park in paragraph (A) above so that at least eighty percent (80%) of spaces and mobile home units are rented and occupied by at least one person who is age 55 or older. The age restriction stated herein does not apply to or affect ownership of mobile home units, but is an occupancy requirement.

D. The signage, advertising, park rules and regulations, and leases for spaces or units in mobile home parks in the Senior Mobile Home Park Overlay Zone shall state the park is a senior park, or "housing for older persons," which at a minimum is consistent with the definition in paragraph (A).

E. Senior Mobile Home Park Owners and/or their management personnel shall submit biennial verification of occupancy to confirm their status as a Senior Mobile Home Park, through survey or affidavit, in a form to be determined by the City Planning Director, which shall be consistent with the survey or affidavit that satisfies the Federal Fair Housing Act regulations and which the City Planning Director, or his/her designee, shall review and certify.

F. Failure to submit the verification required by this section or failure of the verification to confirm a mobile home park within the Senior Mobile Home Park Overlay Zone meets the definition in paragraph (A) shall constitute a violation of the City's zoning ordinance, subject to enforcement in the manner and form provided for in the Municipal Code.

G. Severability. Should a court of competent jurisdiction find any provision of this Ordinance or its application to any person or property to be invalid or unenforceable, the remaining provisions hereof shall be enforceable according to their terms and to that end the provisions of this Ordinance are severable.


H. Construction. To the extent the provisions of the Municipal Code as amended by this Ordinance are substantially the same as previous provisions of that Code, those provisions shall be construed as continuations of those previous provisions and not as new enactments.

SECTION 2. Effective Date.

This Ordinance is hereby declared an urgency measure pursuant to the terms of Government Code Section 36937 and shall be effective immediately upon the adoption by a four-fifths (4/5th) vote of the City Council.

SECTION 3. This Ordinance was introduced, read, passed and adopted as an Urgency Ordinance at a regular meeting of the City Council on the 2nd day of March, 2010 by the following vote:

AYES: Councilmembers Bennett, Callison, Coffey, Vice Mayor West and Mayor Garcia
NOES: None
ABSTAIN: None
ABSENT: None



Leon Garcia, Mayor

ATTEST:

APPROVED AS TO FORM:



Sherry M. Kelly, Interim City Clerk



William D. Ross, City Attorney