

ORDINANCE #2014- 06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON, CALIFORNIA, ADOPTING HOUSING-RELATED AMENDMENTS TO THE AMERICAN CANYON MUNICIPAL CODE SECTION 19.05.040 RESIDENTIAL CLASSIFICATIONS TO INCLUDE A DEFINITION OF SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING; AMEND TABLE 1 IN MUNICIPAL CODE SECTION 19.11.040 TO CLASSIFY EMERGENCY SHELTERS AS A PERMITTED USE IN COMMUNITY COMMERCIAL (CC) ZONING DISTRICT; AMEND TABLE 19.14.050 IN MUNICIPAL CODE TO CLASSIFY EMERGENCY SHELTERS AS A PERMITTED USE IN LIGHT INDUSTRIAL (LI) ZONING DISTRICT; ADD CHAPTER 19.38 EMERGENCY SHELTERS TO THE MUNICIPAL CODE; AND REPEAL AND REPLACE CHAPTER 19.27 HOUSING INCENTIVES WITH THE CURRENT STATE DENSITY BONUS LAW

WHEREAS, pursuant to Section 65300 of the State Planning and Zoning Law, the City of American Canyon has adopted a General Plan to provide comprehensive long-range planning and a blueprint of the city's future form, including land use and circulation maps that specify the roadway network and the distribution of types and intensities of land; and

WHEREAS, the most recent General Plan Housing Element Update was adopted in 2010 by the City Council of the City of American Canyon; and

WHEREAS, the 2010 Housing Element contains policies and implementation programs that call for amending the City of American Canyon Municipal Code to allow the following:

1. Transitional and Supportive housing in all residential zoning districts;
2. Emergency Shelters by right in Community Commercial (CC) and Light Industrial (LI) zoning districts; and
3. Repeal the existing Housing Incentive ordinance and replace with the current State Density Bonus law; and

WHEREAS, as part of the City of American Canyon's update of its 2010 Housing Element for the 2015-2023 planning cycle, as required by the State of California the City must provide for Transitional and Supportive housing, Emergency Shelters, and Density Bonus; and

WHEREAS, the proposed ordinance amendments implement the 2010 Housing Element, which was subject to CEQA review in the form of a Mitigated Negative Declaration; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on October 23, 2014 and unanimously recommended approval of the ordinance; and

WHEREAS, the City Council held a duly-noticed public hearing on December 2, 2014 at which all those in attendance were given the opportunity to be heard on the proposed project and annexation and the City Council considered the written and oral testimony given at its public hearing in reaching its decision.

NOW, THEREFORE BE IT ORDAINED that the City Council of the City of American Canyon does hereby approve the following zoning code amendments:

SECTION 1. Amend Municipal Code Section 19.05.040 Residential classifications to include a definition of Supportive Housing and Transitional Housing as shown below:

Supportive Housing shall mean permanent rental housing that provides a range of support services designed to enable residents to maintain stable housing, improve his or her health status, lead fuller lives, and when possible, work in the community. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zoning district.

Transitional Housing shall mean a type of supportive housing used to facilitate the movement of homeless individuals and families to permanent housing. A homeless person may live in a transitional dwelling for no less than six (6) months while receiving supportive services that enable independent living. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zoning district.

SECTION 2. Amend Municipal Code Section 19.05.080 Public and Quasi-Public classifications to replace the Use Classification of Homeless Shelter with Emergency Shelter as follows:

Emergency shelter: a facility, other than a residential care home, operated by a provider, which provides temporary accommodations to homeless persons and/or families and which meet the standards for shelters contained in Title 25, California Administrative Code, Part 1, Chapter P, Subchapter 12, Section 7972. The term “provider” means a government agency or private nonprofit organization which provides, or contracts with recognized community organizations to provide emergency or transitional shelter for the homeless, and which has been certified by the city as meeting all applicable provisions contained in the California Health and Safety, and Administrative Codes. “Temporary accommodations” means that a homeless person or family will be allowed to reside at the shelter for a time period not to exceed six months.

SECTION 3. Amend Table 19.10.040 to replace the Use Classification of Homeless Shelter with Emergency Shelter as depicted below:

Table 19.10.040						
PERMITTED AND CONDITIONALLY PERMITTED USES						
RESIDENTIAL DISTRICTS¹						
RESIDENTIAL DISTRICT	ZONING DISTRICTS					
Use Classifications	RE	RR	RS	RM	RH	Related Provisions
Public and Quasi-Public						
Emergency Shelter	-	-	-	C	C	

SECTION 4. Amend Table 1 in Municipal Code Section 19.11.040 to classify Emergency Shelters as a Permitted use in Community Commercial (CC) zoning district as depicted below

**Table 1
Permitted and Conditionally Permitted Uses¹
Community Commercial and Neighborhood Commercial Districts**

Use Classification	Zoning District		Related Provision
	CN	CC	
Public and Quasi-Public			
Emergency Shelter	-	P	

SECTION 5. Amend Table 19.14.050 in Municipal Code to classify Emergency Shelters as a Permitted use in Light Industrial (LI) zoning district as depicted below

**Table 19.14.050
PERMITTED AND CONDITIONALLY
PERMITTED USES¹
INDUSTRIAL DISTRICTS**

Use Classifications	Zoning District		Related Provisions
	LI	GI	
Public and Quasi-Public			
Emergency Shelter	P	-	

SECTION 6. Chapter 19.38 Emergency Shelters of the Municipal Code is hereby added as follows:

Chapter 19.38 EMERGENCY SHELTERS

19.38.010 Location of emergency shelters.

Emergency shelters are permitted as an allowed use in the Community Commercial (CC) and Light Industrial (LI) subject to the location restrictions identified in this Section. Emergency shelters are also permitted within the Medium Density Residential (RM), High Density Residential (RH) with approval of a conditional use permit and subject to the location restrictions identified in this Section. Emergency shelters shall not be located within less than 300 from any other existing emergency shelter facility.

19.38.020 Standards.

In addition to the development standards in the underlying zoning district, emergency shelters shall comply with the standards set forth in this Section. In the event of conflict between these standards and the underlying zoning district regulations, the provisions of this Section shall apply.

A. Physical Characteristics.

1. Compliance with applicable state and local uniform housing and building code requirements.
2. The facility shall have on-site security during all hours when the shelter is open.
3. Facilities shall provide exterior lighting on pedestrian pathways and parking lot areas on the property. Lighting shall reflect away from residential areas and public streets.
4. Facilities shall provide secure areas for personal property.

B. Limited Number of Beds per Facility. Emergency shelters shall not exceed 40 beds.

C. Limited Terms of Stay. The maximum term of staying at an emergency shelter is 6 months in a consecutive 12-month period.

D. Parking. The emergency shelter shall provide on-site parking at a rate of two (2) spaces per facility for staff plus one (1) space per six (6) occupants allowed at the maximum capacity.

E. Emergency Shelter Management. A management plan is required for all emergency shelters to address management experience, good neighbor issues, transportation, client supervision, client services, and food services. Such plan shall be submitted to and approved by the community development department prior to operation of the emergency shelter. The plan shall include a floor plan that demonstrates compliance with the physical standards of this chapter. The operator of each emergency shelter shall annually submit the management plan to the planning, inspections and permitting department with updated information for review and approval.

SECTION 7. Chapter 19.27 Housing Incentives is repealed and replaced with Chapter 19.27 Density Bonus in accordance with current State density bonus law as shown below:

Chapter 19.27 DENSITY BONUS

19.27.010 - Purpose of Chapter

As required by Government Code Section 65915, this Chapter offers density bonuses, and incentives or concessions for the development of housing that is affordable to the types of households and qualifying residents identified in Section 19.27.020 (Eligibility for Bonus, Incentives, or Concessions), below. This Chapter is intended to implement the requirements of Government Code Section 65915 et seq. and the Housing Element of the General Plan.

19.27.020 - Eligibility for Bonus, Incentives, or Concessions

In order to be eligible for a density bonus and other incentives or concessions as provided by this Chapter, a proposed housing development shall comply with the following requirements and shall satisfy all other applicable provisions of this Zoning Ordinance, except as provided by Section 19.27.040 (Allowed Incentives or Concessions).

- A. Resident requirements.** A housing development proposed to qualify for a density bonus shall be designed and constructed so that it includes at least any one of the following:
1. 10 percent of the total number of proposed units are for lower income households, as defined in Health and Safety Code Section 50079.5;
 2. Five percent of the total number of proposed units are for very low income households, as defined in Health and Safety Code Section 50105;
 3. The project is a senior citizen housing development as defined in Civil Code Sections 51.3 and 51.12, or is a mobile home park that limits residency based on age requirements for housing older persons in compliance with Civil Code Sections 798.76 or 799.5; or
 4. 10 percent of the total dwelling units in a common interest development as defined in Civil Code Section 1351 are for persons and families of moderate income, as defined in Health and Safety Code Section 50093, provided that all units in the development are offered to the public for purchase.
- B. Applicant selection of basis for bonus.** For purposes of calculating the amount of the density bonus in compliance with Section 19.27.030 (Allowed Density Bonuses), below, the applicant who requests a density bonus shall elect whether the bonus shall be awarded on the basis of Subsections A. 1., 2., 3., or 4., below.
- C. Bonus units shall not qualify a project.** A density bonus granted in compliance with Section 19.27.030 (Allowed Density Bonuses), below, shall not be included when determining the number of housing units that is equal to the percentages required by Subsection A., above.
- D. Minimum project size to qualify for density bonus.** The density bonus provided by this Chapter shall be available only to a housing development of five or more dwelling units.
- E. Condominium conversion projects.** A condominium conversion project for which a density bonus is requested shall comply with the eligibility and other requirements specified in Government Code Section 65915.5.

19.27.030 - Allowed Density Bonuses

The review authority shall determine the amount of a density bonus allowed in a housing development in compliance with this Section. For the purposes of this Chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density under the applicable General Plan Land Use designation and zone as of the date of application by the applicant to the City.

- A. Density bonus.** A housing development that complies with the eligibility requirements specified in Subsections 19.27.020 A. 1., 2., 3., or 4., above, shall be entitled to density bonuses as follows, unless a lesser percentage is proposed by the applicant.
1. **Bonus for units for lower income households.** A housing development that is eligible for a bonus in compliance with the criteria specified in Section 19.27.020 A. 1. (10 percent of

units for lower income households) shall be entitled to a density bonus calculated as follows:

**TABLE 3-3
BONUS FOR LOWER INCOME HOUSEHOLDS**

Percentage of Low-Income Units Proposed	Percentage of Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

2. **Bonus for units for very low-income households.** A housing development that is eligible for a bonus in compliance with the criteria specified in Section 19.27.020 A. 2., (five percent of units for very low-income households) shall be entitled to a density bonus calculated as follows:

**TABLE 3-4
BONUS FOR VERY LOW-INCOME HOUSEHOLDS**

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

3. **Bonus for senior citizen development.** A housing development that is eligible for a bonus in compliance with the criteria in Section 19.27.020 A. 3., (senior citizen development or mobile home park) shall be entitled to a density bonus of 20 percent.
4. **Bonus for moderate income units in common interest development.** A housing development that is eligible for a bonus in compliance with the criteria specified in Section 19.27.020 A. 4. (10 percent of units in a common interest development for persons and families of moderate income) shall be entitled to a density bonus calculated as follows:

**TABLE 3-5
BONUS FOR MODERATE INCOME HOUSEHOLDS**

Percentage of Moderate-Income Units Proposed	Percentage of Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	18
23	18
24	19
25	20
26	21
27	22
28	23

Percentage of Moderate-Income Units Proposed	Percentage of Density Bonus
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

5. **Density bonus for land donation.** When an applicant for a tentative map, parcel map, or other residential development approval donates land to the City in compliance with this Subsection, the applicant shall be entitled to a density bonus for the entire development, as follows; provided, that nothing in this Subsection shall be construed to affect the authority of the City to require a developer to donate land as a condition of development.
- a. **Basic bonus.** The applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density under the applicable Land Use Plan designation and zone for the entire development, and an additional increase as follows.

**TABLE 3-6
BASIC BONUSES**

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
10	15
11	16

Percentage of Very Low-Income Units Proposed	Percentage of Density Bonus
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

- b. **Increased bonus.** The increase identified in Table 3-6 above shall be in addition to any increase in density required by Subsections A. 1. through A. 4., up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the increase required in compliance with this Subsection A. 5., as well as the bonuses provided by Subsections A. 1. through A. 4.
- c. **Eligibility for increased bonus.** An applicant shall be eligible for the increased density bonus provided by this Subsection if all of the following conditions are met:

- (1) The applicant donates and transfers the land no later than the date of approval of the final map, parcel map, or residential development application.
- (2) The developable acreage and zoning classification of the land being transferred are sufficient to allow construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.
- (3) The transferred land is at least one acre in size, or of sufficient size to allow development of at least 40 units; has the appropriate Land Use Plan designation; is appropriately zoned for development as affordable housing; and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.
- (4) No later than the date of approval of the final map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than Building Permits, necessary for the development of the very low income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review to the extent authorized by Government Code Section 65583.2(i) if the design is not reviewed by the City before the time of transfer.
- (5) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 19.27.070 (Continued Availability), which shall be recorded on the property at the time of dedication.
- (6) The land is transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the approved housing developer.
- (7) The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.

B. Greater or lesser bonuses. The City may choose to grant a density bonus greater than provided by this Section for a development that meets the requirements of this Section, or grant a proportionately lower density bonus than required by this Section for a development that does not fully comply with the requirements of this Section.

C. Density bonus calculations. The calculation of a density bonus in compliance with this Section that results in fractional units shall be rounded up to the next whole number, as required by State law. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels.

- D. **Requirements for amendments or discretionary approval.** The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.
- E. **Location of bonus units.** The developer may locate density bonus units in the housing project in areas other than where the units for the lower income households are located.

19.27.040 - Allowed Incentives or Concessions

A. **Applicant request and City approval.**

1. An applicant for a density bonus in compliance with this Chapter may submit to the City a proposal for the specific incentives or concessions listed in Subsection C. (Type of incentives), below, that the applicant requests in compliance with this Section, and may request a meeting with the Director. The applicant may file a request either before filing an application for City approval of a proposed project or concurrently with an application for project approval. The review authority shall grant an incentive or concession request that complies with this Section unless the review authority makes either of the following findings in writing, based upon substantial evidence:
 - a. The incentive or concession is not required to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Section 19.27.070 B. (Unit cost requirements); or
 - b. The incentive or concession would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources and for which 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.
2. The applicant shall show that a waiver or modification of development standards is necessary to make the housing units economically feasible.

B. **Number of incentives.** The applicant shall receive the following number of incentives or concessions.

1. **One incentive or concession.** One incentive or concession for a project that includes at least 10 percent of the total units for lower income households, at least five percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.
2. **Two incentives or concessions.** Two incentives or concessions for a project that includes at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

3. **Three incentives or concessions.** Three incentives or concessions for a project that includes at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.
- C. **Type of incentives.** For the purposes of this Chapter, concession or incentive means any of the following:
1. A reduction in the site development standards of this Zoning Ordinance (e.g., site coverage limitations, setbacks, reduced parcel sizes, and/or parking requirements) (see also Section 19.27.050 [Parking Requirements in Density Bonus Projects]), or a modification of architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission in compliance with Health and Safety Code Section 18901 et seq., that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions;
 2. Approval of mixed-use land uses not otherwise allowed by this Zoning Ordinance in conjunction with the housing development, if nonresidential land uses will reduce the cost of the housing development, and the nonresidential land uses are compatible with the housing project and the existing or planned development in the area where the project will be located;
 3. Other regulatory incentives proposed by the applicant or the City that will result in identifiable, financially sufficient, and actual cost reductions; and/or
 4. In its sole and absolute discretion, a direct financial contribution granted by the review authority, including writing-down land costs, subsidizing the cost of construction, or participating in the cost of infrastructure.
- D. **Effect of incentive or concession.** The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

19.27.050 - Parking Requirements in Density Bonus Projects

- A. **Applicability.** This Section applies to a development that meets the requirements of Section 19.27.020 (Eligibility for Density Bonus, Incentives, and Concessions), above, but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this Section in compliance with Section 19.27.040 (Allowed Concessions and Incentives), above.
- B. **Number of parking spaces required.**
1. At the request of the applicant, the City shall require the following vehicular parking ratios for a project that complies with the requirements of Section 19.27.020 (Eligibility for Density Bonus, Incentives, and Concessions), above, inclusive of handicapped and guest parking.
 - a. Zero to one bedroom: One on-site parking space.

- b. Two to three bedrooms: Two on-site parking spaces.
 - c. Four and more bedrooms: Two and one half on-site parking spaces.
2. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.
- C. Location of parking.** For purposes of this Section, a development may provide on-site parking through uncovered parking, but not through on-street parking.

19.27.060 - Bonus and Incentives for Developments with Child Care Facilities

- A. Housing developments.** A housing development that complies with the resident and project size requirements of Subsections 19.27.020 A. and B., above, and also includes as part of that development a child care facility other than a large or small family day care home, that will be located on the site of, as part of, or adjacent to the development, shall be subject to the following additional bonus, incentives, and requirements.
- 1. Additional bonus and incentives.** The City shall grant a housing development that includes a child care facility in compliance with this Section either of the following:
- a. An additional density bonus that is an amount of floor area in square feet of residential space that is equal to or greater than the floor area of the child care facility; or
 - b. An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.
- 2. Requirements to qualify for additional bonus and incentives.**
- a. The City shall require, as a condition of approving the housing development, that:
 - (1) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable in compliance with Section 19.27.070 (Continued Availability), below; and
 - (2) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income in compliance with Subsection 19.27.020 A. (Resident requirements), above.
 - b. The City shall not be required to provide a density bonus for a child care facility in compliance with this Section if it finds, based upon substantial evidence, that the community has adequate child care facilities.

B. Commercial and industrial developments. A developer of a commercial or industrial development project, containing at least 50,000 square feet of floor area, may be granted a density bonus when that developer agrees to set aside at least 2,000 square feet of interior floor area and 3,000 outdoor square footage to be used for a child care facility, other than a large or small family day care home, in compliance with Government Code Section 65917.5 (Commercial density bonus).

1. Allowable density bonuses. The allowable density bonus may be one of the following:

- a. A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility located in an existing child care facility; or
- b. A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility located in a new child care facility.

2. Requirements. Requirements to qualify for the additional density bonus shall include all of the following:

- a. For purposes of calculating the allowable density bonus under this Subsection, both the total area contained within the exterior walls of the child care facility and all outdoor areas devoted to the use of the facility in compliance with applicable State child care licensing requirements shall be considered.
- b. The child care facility shall be of a sufficient size to comply with all applicable State licensing requirements in order to accommodate at least 40 children.
- c. This facility may be located either on the project site or may be located off-site as agreed upon by the developer and the City.
- d. If the child care facility is not located on the site of the development project, the City shall determine whether the location of the child care facility is appropriate and whether it complies with the purpose and intent of this Section.
- e. The granting of a density bonus shall not preclude the City from imposing necessary conditions on the development project or on the additional square footage in compliance with Government Code Section 65917.5 (Commercial density bonus).

19.27.070 - Continued Availability

The units that qualified the housing development for a density bonus and other incentives and concessions shall continue to be available as affordable units in compliance with the following requirements, as required by Government Code Section 65915(c). See also Section 19.27.100 (Control of Resale).

A. Duration of affordability. The applicant shall agree to, and the City shall ensure, the continued availability of the units that qualified the housing development for a density bonus and other incentives and concessions, as follows.

1. **Low- and very low-income units.** The continued affordability of all low- and very low-income qualifying units shall be maintained for 30 years, or a longer time if required by the construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program, or by City policy or ordinance.
 2. **Moderate income units in common interest development.** The continued availability of moderate-income units in a common interest development shall be maintained for a minimum of 10 years, or a longer time if required by City policy or ordinance.
- B. Unit cost requirements.** The rents and owner-occupied costs charged for the housing units in the development that qualify the project for a density bonus and other incentives and concessions, shall not exceed the following amounts during the period of continued availability required by this Section:
1. **Lower income units.** Rents for the lower income density bonus units shall be set at an affordable rent as defined in Health and Safety Code Section 50053; and
 2. **Owner-occupied units.** Owner-occupied units shall be available at an affordable housing cost as defined in Health and Safety Code Section 50052.5.
- C. Occupancy and resale of moderate-income common interest development units.** An applicant shall agree to, and the City shall ensure that the initial occupant of moderate income units that are directly related to the receipt of the density bonus in a common interest development as defined in Civil Code Section 1351, are persons and families of moderate income, as defined in Health and Safety Code Section 50093, and that the units are offered at an affordable housing cost, as defined in Health and Safety Code Section 50052.5. The City shall enforce an equity sharing agreement unless it is in conflict with the requirements of another public funding source or law. The following requirements apply to the equity sharing agreement.
1. 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.
 2. The City shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Health and Safety Code Section 33334.2(e) that promote home ownership. For the purposes of this Section:
 - a. The City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale, minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value; and
 - b. The City's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

19.27.080 - Location and Type of Designated Units

- A. **Location/dispersal of units.** Designated units shall be reasonably dispersed throughout the project where feasible, shall contain on average the same number of bedrooms as the non-designated units in the project, and shall be compatible with the design or use of remaining units in terms of appearance, materials, and finish quality.
- B. **Phasing.** If a project is to be phased, the density bonus units shall be phased in the same proportion as the non-density bonus units, or phased in another sequence acceptable to the City.

19.27.090 - Density Bonus Agreement

A. **Agreement required.** An applicant requesting a density bonus shall agree to enter into a density bonus agreement (referred to as the "agreement") with the City in the City's standard form of agreement. The applicant shall prepare the draft agreement for submission to the City for review.

B. **Agreement provisions.**

1. **Project information.** The agreement shall include at least the following information about the project:

- a. The total number of units approved for the housing development, including the number of designated dwelling units;
- b. A description of the household income group to be accommodated by the housing development, and the standards and methodology for determining the corresponding affordable rent or affordable sales price and housing cost consistent with HUD Guidelines;
- c. The marketing plan for the affordable units;
- d. The location, unit sizes (square feet), and number of bedrooms of the designated dwelling units;
- e. Tenure of the use restrictions for designated dwelling units of the time periods required by Section 19.27.070 (Continued Availability);
- f. A schedule for completion and occupancy of the designated dwelling units;
- g. A description of the additional incentives and concessions being provided by the City;
- h. A description of the remedies for breach of the agreement by the owners, developers, and/or successors-in-interest of the project; and
- i. Other provisions to ensure successful implementation and compliance with this Chapter.

2. **Minimum requirements.** The agreement shall provide, at minimum, that:

- a. The developer shall give the City the continuing right-of-first-refusal to lease or

purchase any or all of the designated dwelling units at the appraised value;

- b. The deeds to the designated dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign, lease, rent, sell, sublet, or otherwise transfer any interests for designated units without the written approval of the City;
 - c. When providing the written approval, the City shall confirm that the price (rent or sale) of the designated dwelling unit is consistent with the limits established for low and very low-income households, as published by HUD;
 - d. The City shall have the authority to enter into other agreements with the developer, or purchasers of the designated dwelling units, to ensure that the required dwelling units are continuously occupied by eligible households;
 - e. Applicable deed restrictions, in a form satisfactory to the City Counsel, shall contain provisions for the enforcement of owner or developer compliance. Any default or failure to comply may result in foreclosure, specific performance, or withdrawal of the Certificate of Occupancy;
 - f. In any action taken to enforce compliance with the deed restrictions, the City Attorney shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the City's costs of action including legal services; and
 - g. Compliance with the agreement will be monitored and enforced in compliance with the measures included in the agreement.
- 3. For-sale housing conditions.** In the case of a for-sale housing development, the agreement shall provide for the following conditions governing the initial sale and use of designated dwelling units during the applicable restriction period:
- a. Designated dwelling units shall be owner-occupied by eligible households, or by qualified residents in the case of senior housing; and
 - b. The initial purchaser of each designated dwelling unit shall execute an instrument or agreement approved by the City which:
 - (1) Restricts the sale of the unit in compliance with this Chapter, or other applicable City policy or ordinance, during the applicable use restriction period;
 - (2) Contains provisions as the City may require to ensure continued compliance with this Chapter and State law; and
 - (3) Shall be recorded against the parcel containing the designated dwelling unit.
- 4. Rental housing conditions.** In the case of a rental housing development, the agreement shall provide for the following conditions governing the use of designated dwelling units during the applicable restriction period:

- a. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, and maintaining the designated dwelling units for qualified tenants;
- b. Provisions requiring owners to annually verify tenant incomes and maintain books and records to demonstrate compliance with this Chapter;
- c. Provisions requiring owners to submit an annual report to the City, which includes the name, address, and income of each person occupying the designated dwelling units, and which identifies the bedroom size and monthly rent or cost of each unit; and
- d. The applicable use restriction period shall comply with the time limits for continued availability in Section 19.27.070 (Continued Availability), above.

C. Execution of agreement.

1. Following approval of the agreement, and execution of the agreement by all parties, the City shall record the completed agreement on the parcels designated for the construction of designated dwelling units, at the County Recorder's Office.
2. The approval and recordation shall take place at the same time as the final map or, where a map is not being processed, before issuance of Building Permits for the designated dwelling units.
3. The agreement shall be binding on all future owners, developers, and/or successors-in-interest.

19.27.100 - Control of Resale

In order to maintain the availability of for-sale affordable housing units constructed in compliance with this Chapter, the following resale conditions shall apply.

- A. Limits on resale price.** The price received by the seller of an affordable unit shall be limited to the purchase price plus an increase based on the local consumer price index, an amount consistent with the increase in the median income since the date of purchase, or the fair market value, whichever is less. Before offering an affordable housing unit for sale, the seller shall provide written notice to the City of their intent to sell. The notice shall be provided by certified mail to the Director.
- B. Units to be offered to the City.** Home ownership affordable units constructed, offered for sale, or sold under the requirements of this Section shall be offered to the City or its assignee for a period of at least 90 days from the date of the notice of intent to sell is delivered to the City by the first purchaser or subsequent purchasers. Home ownership affordable units shall be sold and resold from the date of the original sale only to households as determined to be eligible for affordable units by the City in compliance with this Section. The seller shall not levy or charge any additional fees nor shall any "finder's fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.

- C. **Declaration of restrictions.** The owners of any affordable unit shall attach and legally reference in the grant deed conveying title of the affordable ownership unit a declaration of restrictions provided by the City, stating the restrictions imposed in compliance with this Section. The grant deed shall afford the grantor and the City the right to enforce the declaration of restrictions. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this Section.
- D. **City to monitor resale of units.** The City shall monitor the resale of ownership affordable units. The City or its designee shall have a 90-day option to commence purchase of ownership affordable units after the owner gives notification of intent to sell. Any abuse in the resale provisions shall be referred to the City for appropriate action.

19.27.110 - Judicial Relief, Waiver of Standards

- A. **Judicial relief.** As provided by Government Code Section 65915(d)(3), the applicant may initiate judicial proceedings if the City refuses to grant a requested density bonus, incentive, or concession.
- B. **Waiver of standards preventing the use of bonuses, incentives, or concessions.**
 - 1. As required by Government Code Section 65915(e), the City shall not apply a development standard that will have the effect of precluding the construction of a development meeting the criteria of Subsection 19.27.020 A. (Resident requirements), above, at the densities or with the concessions or incentives allowed by this Chapter.
 - 2. An applicant may submit to the City a proposal for the waiver or reduction of development and zoning standards that would otherwise inhibit the utilization of a density bonus on a specific site, including minimum parcel size, side setbacks, and placement of public works improvements.
 - 3. The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.
- C. **City exemption.** Notwithstanding the provisions of Subsections A. and B., above, nothing in this Section shall be interpreted to require the City to:
 - 1. Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; or
 - 2. Grant a density bonus, incentive, or concession, or waive or reduce development standards, if the bonus, incentive, concession, waiver, or reduction would have an adverse impact on any real property that is listed in the California Register of Historical Resources.


SECTION 8. SCOPE Except as set forth in this resolution, all other provisions of the American Canyon Municipal Code shall remain in full force and effect.

SECTION 9. SEVERABILITY. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, subsections subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional., is for any reason held to in invalid or unconstitutional.


SECTION 10. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen days of its adoption cause a summary of it to be published in a newspaper and circulated in the City and thereupon and thereafter this Ordinance shall take effect and be in force according to law.

PASSED, APPROVED AND ADOPTED at a regularly scheduled meeting of the City Council of the City of American Canyon held on the 16th day of December, 2014, by the following vote:


MAYOR GARCIA:	<u>Yes</u>
VICE MAYOR RAMOS:	<u>Yes</u>
COUNCIL MEMBER BENNETT:	<u>Yes</u>
COUNCIL MEMBER JOSEPH:	<u>Yes</u>
COUNCIL MEMBER LEARY:	<u>Yes</u>



Leon Garcia, Mayor

ATTEST:


Rebekah Barr, MMC, City Clerk

APPROVED AS TO FORM:


William D. Ross, City Attorney