

ORDINANCE NO. 2017-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON AMENDING THE AMERICAN CANYON MUNICIPAL CODE TO REPEAL SECTION 19.10.120 SECOND RESIDENTIAL UNITS AND ADOPT A NEW CHAPTER 19.39 ACCESSORY DWELLING UNITS CONSISTENT WITH CURRENT STATE LAW

WHEREAS, Municipal Code section 19.10.120 provides regulations to address second residential units in the City of American Canyon; and

WHEREAS, on January 1, 2017, new laws enacted by the State of California regarding Accessory Dwelling Units (AB2299, AB2406, SB1069) went into effect and invalidated Municipal Code section 19.10.120 that provides regulations to address second residential units in the City of American Canyon; and

WHEREAS, the proposed ordinance adds a new Chapter 19.39 that addresses Accessory Dwelling Units in a manner consistent with current State law; and

WHEREAS, the Planning Commission conducted a public hearing on April 27, 2017 and unanimously recommended approval of the ordinance; and

WHEREAS, the City Council considered all of the written and oral testimony presented at a public hearing on June 27, 2017 and July 18, 2017 in making its decision.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Repeal Municipal Code Section 19.10.120 Second Residential Units.

SECTION 2: Adopt Chapter 19.39 Accessory Dwelling units as follows:

19.39.010 Purpose of the chapter.

The purpose of this chapter is to increase the supply of smaller units and rental housing units by allowing Accessory Dwelling units on lots containing a single-family dwelling in various residential districts as shown on Table 19.10.040, and to establish design and development standards for Accessory Dwelling units to ensure that they are compatible with existing neighborhoods and consistent with the general plan and its elements. Accessory Dwelling units contribute needed housing to the community's housing stock.

19.39.020 Applicability.

The provisions of this chapter apply to all lots that are occupied with a single family dwelling unit and zoned residential. Accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and are a residential use that is consistent with the existing general plan and zoning designation for the lot.

19.39.030 General Plan Consistency.

An accessory dwelling unit that conforms to this chapter shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it

is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth in accordance with Government Code 65852.2(a)(8).

19.39.040 Definitions.

“Accessory Dwelling unit” means one additional attached or detached residential dwelling unit 1,200 square feet or less that is on the same parcel as a single-family dwelling, and provides permanent and independent provisions for living, sleeping, eating, cooking, and sanitation for one or more persons. An Accessory Dwelling unit also includes the following:

- i. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
- ii. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

“Junior Accessory Dwelling unit” means one Accessory Dwelling Unit that is 500 square feet or less that is contained entirely in the primary residence.

“Primary Residence” means the residential dwelling that existed on the single family parcel before or constructed concurrent with the Accessory Dwelling unit.

19.39.050 Development Standards - Generally.

A. The addition of an Accessory Dwelling unit to a primary residence requires the primary residence to remain in compliance with the applicable development standards for that home.

B. Each Accessory Dwelling Unit requires approval of a building permit.

C. The applicant of each Accessory Dwelling Unit building permit application shall identify the anticipated rent and household size of the new accessory dwelling unit.

D. One Accessory Dwelling Unit is permitted per single-family parcel. Accessory Dwelling Units are not permitted on parcels that are developed with multifamily dwellings.

E. A single family Primary Residence dwelling must exist on the parcel before the Accessory Dwelling unit is built or it shall be built concurrently with the Accessory Dwelling unit.

F. Accessory Dwelling Units shall comply with the lot area, yard setback, height, and building coverage standards of the applicable residential zoning district as described in Section 19.10.050 except for the following:

1. The Accessory Dwelling unit is built in the garage and the garage is setback closer than the setback for the primary residence.
2. If the Accessory Dwelling unit is built in an accessory structure, the accessory structure setbacks apply and not the setbacks for a single family house.

G. Accessory Dwelling living area standard:

1. Detached Accessory Dwelling units shall not exceed 1,200 square feet and 15 feet in height.
2. Attached Accessory Dwelling units shall not exceed fifty percent (50%) of the Primary residence living area or a maximum of 1,200 square feet.

3. Junior Accessory Dwelling units shall not exceed 500 square feet.

H. Fire Sprinkle Requirements.

1. Accessory Dwelling units shall comply with all applicable fire safety provisions of state law as well as locally adopted building and fire codes under Chapter 16. Examples include, but are not limited to standards such as water supply and fire department access.

2. Under State law, in general, Accessory Dwelling units shall not be required to be equipped with fire sprinklers unless fire sprinklers are required for the primary residence. For purposes of this requirement, the following standards shall apply:

a. When the primary residence has fire sprinklers, the Accessory Dwelling unit shall be constructed with fire sprinklers.

b. When the primary residence does not have fire sprinklers, the Junior Accessory Dwelling unit and Attached Accessory Dwelling unit do not require fire sprinklers unless the Junior Accessory Dwelling unit or Attached Accessory Dwelling unit increases the size of the house by at least fifty percent (50%.)

c. Detached Accessory Dwelling units require fire sprinklers unless the primary residence does not have fire sprinklers.

I. Water and Sewer Capacity Fees.

Accessory Dwelling units constructed on or after January 1, 2017 shall be exempt from water and sewer capacity fees.

J. Deed Restrictions.

Prior to issuing a building permit for an Accessory Dwelling unit, the property owner shall file with the county recorder, in a format with language approved by the City, a declaration of restrictions, containing a reference to the deed under which the property was acquired by the present owner and stating that:

1. The Accessory Dwelling unit shall not be sold separately.
2. The restrictions are binding upon any successor in ownership of the property.
3. The property owner must occupy as a primary residence one of the two dwelling units on the property, either the primary or accessory dwelling unit.

19.39.060 Junior Accessory Dwelling unit standards.

A. Each Junior Accessory Dwelling unit shall comply with the following building standards.

1. Electric service may not exceed 120V.
2. No appliances may be fueled with natural gas or propane.
3. The dwelling must have its own exterior entrance.
4. The kitchen must include a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards.
5. The kitchen sink waste line may not exceed 1.5 inches.
6. The bathroom may be included in the unit or shared with the primary residence.

7. Junior Accessory Dwelling units are exempt from the building code wall separation requirements with the primary residence.

19.39.070 Parking Standards.

A. When Accessory Dwelling unit parking is required by this Chapter or provided at the discretion of the homeowner, parking spaces may be covered or uncovered, provided as tandem parking on an existing driveway or on a paved surface in a setback or yard area.

B. Primary Residence – parking for the primary residence must comply with Chapter 19.21.

C. Detached Accessory Dwelling unit.

1. A minimum of one on-site parking space is required.

2. Detached Accessory Dwelling units that have two or more bedrooms must provide one additional on-site parking space for each bedroom in excess of one bedroom. For purposes of calculating parking requirements, a studio Detached Accessory Dwelling unit is equal to a one bedroom Detached Accessory Dwelling unit.

3. Notwithstanding paragraph (1) and (2) above, on-site parking is not required if the Detached Accessory Dwelling unit is located within ½ mile of public transit or within one block of a car-sharing pickup/drop-off location.

D. Attached Accessory Dwelling unit. No on-site parking is required.

E. Junior Accessory Dwelling unit. No on-site parking is required.

19.39.080 Operational Standards.

A. The Accessory Dwelling unit may not be sold separately from the primary residence.

B. Owner-occupancy: The property owner shall reside in either the primary residence or the Accessory Dwelling unit.

C. An Accessory Dwelling unit may not be rented for transient occupancy (less than 30 consecutive days).

19.39.090 Design Standards. Accessory Dwelling units shall comply with the following design standards that are intended to maximize the compatibility of Accessory Dwelling units with the neighborhoods in which they are located.

A. The Accessory Dwelling unit shall be designed so the site appearance remains that of a single-family residence, insofar as possible.

B. Where feasible, any new entrance to an Accessory Dwelling unit attached to the primary residence shall be located on the side or rear of the structure.

C. The Accessory Dwelling unit shall be aesthetically compatible with the primary residence and the surrounding neighborhood, including coordinating colors, materials, roofing, building height, other architectural features, and landscaping.

D. The Accessory Dwelling unit location and orientation shall not materially reduce the privacy otherwise enjoyed by residents of adjacent parcels. The community development director shall consider, but is not limited to considering, the placement of windows, decks and balconies, landscape screening, height, and number of stories in determining if privacy will be materially reduced.

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”) The proposed municipal code amendment is exempt from the requirement for environmental review under CEQA because: 1) the accessory housing unit regulations effectively took effect on January 1, 2017 by virtue of the state’s adoption of new statutes that preempt any inconsistent local ordinance. Thus, the city’s action is not creating a new land use regulation and it can be seen with certainty that no environmental impacts will result from the City’s action. Instead, the city’s action is to amend the second unit ordinance to match the new requirements of state law. Consequently, and in accordance with CEQA Section 21084 and both Section 15002(i)(1) – lack of Local Jurisdictional Discretion – and Section 15061(b)(3) – General Rule of Exemption – of the CEQA Guidelines, the ordinance adoption is exempt from CEQA review and a Notice of Exemption has been prepared for this proposed amendment; and

2) Consideration of this ordinance also does not meet the definition of a project under CEQA Guidelines section 15061, subdivision(b)(3) and section 15378, subdivision (a) and subdivision (b)(5). The proposed changes to the second residential unit ordinance, changing the standards for second residential units as required by state law, has no potential for resulting in physical changes in the environment, directly or indirectly, because it consists of changes in the standards governing issuance of ministerial permits for accessory dwelling units and does not directly or indirectly approve any applications for particular accessory units. The ordinance adoption is therefore further exempt from CEQA review pursuant to California code of Regulations, Title 14, Sections 15301 and 15308 of the CEQA guidelines.

SECTION 4: Severability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, 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, sentence, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5: Custodian of Records

The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk’s office located at 4831 Broadway, Suite 201, American Canyon, CA 94503. The custodian of these records is the City Clerk.

SECTION 6: Restatement of Existing Law

Neither the adoption of this ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the City related to the same subject matter or

relating to the enumeration of permitted uses under the City's zoning code, shall be construed as restatements and continuations, and not as new enactments.

The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 15th day of August, 2017, by the following vote:

AYES: Council Members Aboudamous, Leary, Oro, Vice Mayor Joseph and Mayor Garcia
NOES: None
ABSTAIN: None
ABSENT: None




Leon Garcia, Mayor

ATTEST:



Suellen Johnston, CMC, City Clerk

APPROVED AS TO FORM:



William D. Ross, City Attorney