

ORDINANCE NO. 2020-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON TO AMEND THE AMERICAN CANYON MUNICIPAL CODE CHAPTER 19.39 "ACCESSORY DWELLING UNITS" AND CHAPTER 19.10.040 "RESIDENTIAL DISTRICTS PERMITTED USE TABLE" CONSISTENT WITH CURRENT STATE LAW

WHEREAS, Municipal Code Section 19.39 provides regulations to address accessory dwelling units (ADUs) in the City of American Canyon; and

WHEREAS, in October 2019, six new laws enacted by the State of California regarding Accessory Dwelling Units (SB13, AB68, AB587, AB670, AB671, AB881) went into effect and invalidated referenced Municipal Code section 19.39; and

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

WHEREAS, the proposed Ordinance modifies Chapter 19.10.040 that addresses Residential Districts permitted use table in a manner consistent with current State law; and

WHEREAS, on February 27, 2020, the City of American Canyon Planning Commission conducted a public hearing on the proposed Ordinance, and unanimously recommended approval; and

WHEREAS, this Ordinance amendment was publicly noticed on July 23, 2020; and

WHEREAS, on August 4, 2020, the City of American Canyon City Council conducted a public hearing on the proposed Ordinance, at which time all those in attendance were given the opportunity to speak on this proposal; and

WHEREAS, on August 18, 2020, the City of American Canyon City Council conducted a public meeting on the proposed Ordinance, at which time all those in attendance were given the opportunity to speak on this proposal.

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

SECTION 1: Adopt the updated American Canyon Municipal Code 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 multifamily dwelling 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 Section 65852.2(a)(8).

19.39.040 Definitions.

“Accessory dwelling unit” means one additional attached or detached residential dwelling unit one thousand two hundred (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:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
2. 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 five hundred (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. (Ord. 2017-05 § 2, 2017)

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 detached accessory dwelling unit and one junior accessory dwelling unit are permitted per single-family parcel.
- 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 setback is closer than the setback for the primary residence.
2. If the accessory dwelling unit is built in an existing accessory structure, the existing accessory structure setbacks apply and not the setbacks for a single-family house.
3. Existing setbacks apply to existing structure conversions.
4. Development standards shall be waived to permit a detached accessory dwelling unit that is no greater than eight hundred (800) square feet, sixteen feet in height, and has four-foot setbacks.
5. The applicant shall not be required to correct pre-existing nonconforming zoning conditions as conditions of approval.

G. Accessory Dwelling Living Area Standard.

1. Detached accessory dwelling units shall not exceed one thousand two hundred (1,200) square feet and sixteen feet in height.
2. Attached accessory dwelling units may occupy up to fifty percent of the primary residence living area but shall not exceed one thousand two hundred (1,200) square feet.
3. Junior accessory dwelling units shall not exceed five hundred (500) square feet.

H. Fire Sprinkler 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 Title 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.
 - c. Detached accessory dwelling units require fire sprinklers unless the primary residence does not have fire sprinklers.

I. 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 except accessory dwelling unit and junior accessory dwelling unit applications submitted between January 1, 2020 to January 1, 2025.

I. Impact Fees.

1. Accessory dwelling units less than seven hundred and fifty (750) square feet are exempt from all City impact fees.
2. Impact fees for accessory dwelling units equal or greater than seven hundred and fifty (750) square feet are exempt from water and sewer capacity fees. All remaining impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit.

J. Accessory Dwelling Units on Multifamily Dwellings. The Building Division shall review and approve ministerially accessory dwelling units under the following conditions.

1. Non-Habitable area within an existing multifamily dwelling structure, including but not limited to: storage rooms, boiler rooms, passageways, attics, basements or garages, may be converted to one or more accessory dwelling units if each accessory dwelling unit complies with State dwelling unit building standards.
2. An existing multifamily dwelling shall be permitted to accommodate additional accessory dwelling units in an amount up to 25 percent of the existing multifamily dwelling units.
3. An existing multifamily dwelling is permitted up to two (2) detached accessory dwelling units on the same lot. Each detached accessory dwelling unit shall subject to a height limit of 16 feet and four-foot rear yard and side yard setbacks.

K. CC&Rs. As defined in California Civil Code Section 4751 or any successor statute, any covenant, condition, and restriction (CC&R) or contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the above-described minimum standards (subsections F and G) established for those units shall be void and unenforceable.

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 one hundred twenty volts.
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 one and one-half 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. Notwithstanding subsections (C)(1), on-site parking is not required if the detached accessory dwelling unit is located within one-half mile walking distance 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. (Ord. 2017-05 § 2, 2017)
- F. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the City shall not require replacement of the off-street parking spaces.

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 except accessory dwelling unit and junior accessory dwelling unit applications submitted between January 1, 2020 to January 1, 2025.
- C. An accessory dwelling unit may not be rented for transient occupancy (less than thirty 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.
- E. An accessory dwelling unit connected to an onsite water treatment system requires a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

19.39.100 Review and Approval Process

Permits for Accessory Dwelling Units and Junior Accessory Dwelling Units shall be reviewed ministerially through the Building Division in accordance to Government Code Section 65852.2 (a) through (e).

- A. The Building Division shall act on the application to create an accessory dwelling unit or junior accessory dwelling unit within sixty (60) days from the date the Building Division receives a completed application if there is an existing single-family or multifamily dwelling on the lot.
- B. If the permit application to create an accessory dwelling unit or junior accessory dwelling unit is submitted concurrently with a permit application to create a new single-family dwelling on the lot, the Building Division may delay acting on the accessory dwelling unit or junior accessory dwelling unit permit application until the Building Division acts on the new single-family dwelling permit application, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered ministerial without discretionary review or a hearing. If the applicant requests a delay, the sixty (60) day time period shall be tolled for the period of the delay.

19.39.110 Code Enforcement

For accessory dwelling units built before January 1, 2020, the property owner may request delayed enforcement of building standards for five years.

- A. There shall be no delays granted after January 1, 2030.
- B. There shall be no delays granted if the delay of the correction will cause a violation needed to protect health and safety.

SECTION 2: Adopt the updated Chapter 19.10.040 "Residential Districts Permitted Use" as follows:

19.10.040 Permitted uses.

Table 19.10.040 of this section 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 DISTRICTS¹**

RESIDENTIAL DISTRICT	ZONING DISTRICTS						
Use Classifications	RRH	RE	RR	RS	RM	RH	Related Provisions
Residential							
Cannabis indoor cultivation	P	P	P	P	P	P	Chapter 5.10
Cannabis outdoor cultivation	-	-	-	-	-	-	Chapter 5.10
Congregate living facility	-	-	-	-	P	P	
Cottage food operations	P	P	P	P	P	P	
Employee housing (1 to 6 occupants)	P	P	P	P	-	-	
Garden apartments	-	-	-	-	P	P	
Mobilehome	-	C	C	C	-	-	
Mobilehome park	-	-	-	-	C	C	Chapter 19.10
Multifamily residential	-	-	-	-	P	P	
Residential care home	-	P	P	P	P	P	
Single room occupancy	-	-	-	-	-	P	Section 19.10.160
Single-family residential		-	-	-	-	-	
- Detached	P	P	P	P	p ²	p ²	² GP Policy 1.8.3
- Semidetached	-	-	p ³	p ⁴	P	P	³ GP Policy 1.7.1
Townhouses	-	-	-	-	P	P	
Accessory							
Accessory dwelling unit	P	P	P	P	P	P	Chapter 19.39
Livestock keeping	P	P	P	P	-	-	Chapter 19.31
Caretaker's quarters	C	C	-	-	-	-	
Family child care home, large	P	P	P	P	-	-	Chapter 19.33
Family child care home, small	P	P	P	P	P	P	
Guest house	C	C	C	C	-	-	
Home occupation	P	P	P	P	P	P	Chapter 19.29
Horticulture, limited	P	P	P	P	P	P	
Room rentals	-	-	C	C	-	-	
Temporary							
Animal show			-	-	-	-	
Commercial filming	C	C	C	C	C	C	
Mobile structures	C	C	C	C	C	C	Chapter 19.30
Personal property sales	P	P	P	P	P	P	

SECTION 3: CEQA FINDINGS. 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, 2020 by virtue of the state 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 Accessory Dwelling 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 Accessory Dwelling Unit Ordinance, changing the standards for accessory 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: EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days following adoption.

SECTION 5: 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 6: 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 7: 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 zoning code, shall be construed as restatements and continuations, and not as new enactments.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 4th day of August, 2020 by the following vote:

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

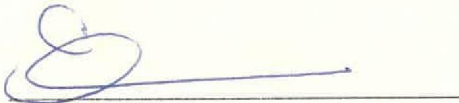
The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 18th day of August, 2020, by the following vote:

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



Leon Garcia, Mayor

ATTEST:



Cherri Walton, Interim City Clerk

APPROVED AS TO FORM:



William D. Ross, City Attorney