



TOWN OF FAIRFAX

STAFF REPORT

January 13, 2016

TO: Mayor and Town Council

FROM: Jim Moore, Director of Planning and Building Services *GM*

SUBJECT: Introduction and first reading by title only of an Ordinance Amending Chapters 17.048 ('Residential Second Units'), 17.076 ('RS-7.5 Single Family Residential Zone, Medium Density'), 17.080 ('RS-6 Single Family Residential Zone, High Density'), 17.084 ('RD 5.5-7 Residential Zone, High Density'), 17.116 ('SF-RMP Single-Family Residential Master Planned District'), and 17.124 ('UR Upland Residential Zone'), of Title 17 ('Zoning') of the Fairfax Town Code to allow and regulate Junior Second Units within existing single family residences.

RECOMMENDATION

1. Open/close public hearing
2. Introduce and waive first reading and read by title only an Ordinance of the Town Council of the Town of Fairfax Amending Fairfax Town Code Chapter 17.048 ('Residential Second Units'), 17.076 ('RS-7.5 Single Family Residential Zone, Medium Density'), 17.080 ('RS-6 Single Family Residential Zone, High Density'), 17.084 ('RD 5.5-7 Residential Zone, High Density'), 17.116 ('SF-RMP Single-Family Residential Master Planned District'), And 17.124 ('UR Upland Residential Zone'), of Title 17 ('Zoning') of the Fairfax Town Code to Adopt Junior Second Unit Regulations.

BACKGROUND

After numerous public meetings of the Affordable Housing Committee, General Plan Implementation Committee, and the Planning Commission, on May 27, 2015, the Town Council adopted Resolution 15-13, adopting the 2015 update to the Housing Element of the Fairfax 2010-2030 General Plan. Program H-6.1.2.6 of the new 2015 Housing Element, modeled on the City of Novato's new "Junior Accessory Dwelling Units" program, calls for the creation of a "junior second unit" ordinance stating:

"Review and adopt zoning standards and fees that serve to incentivize the creation of junior second units. Standards and fee considerations should include, but not be limited to the following:

Zoning Standards to consider:

- Conversion of existing bedroom required – no building expansion;
- Maximum 500 square-foot size;
- Wet-bar type kitchen only with limitations on size of sink, waste line and counter area;
- Cooking facility limited by electrical service (110v maximum) and prohibition of gas appliances;
- Separate bathroom permitted, but not required;
- Require external access and internal access to the remainder of the home;
- No additional parking required if dwelling complies with current parking standards;

- Owner occupancy required and established by recorded deed restriction; and
- Ministerial approval process.

Fees considerations:

- Establish a minimal “flat fee” for a planning entitlement;
- No Town Development Impact Fees charged; and
- Work with special districts, e.g. water and sanitary, to reduce or waive fees....”

On December 17, 2015 the Planning Commission, at a duly-noticed public hearing, passed Resolution No. 15-38 recommending that the Town Council adopt an Ordinance allowing Junior Second Units in the Town of Fairfax as stipulated.

DISCUSSION

Residential Second Units

Currently, residential second units in the Town of Fairfax are regulated by Chapter 17.048 of the Zoning Ordinance. Requirements (among others) include:

- Size limits- 700 square feet maximum (or 30-percent of the principal residence, whichever is more restrictive) and 320 square feet minimum;
- On-site parking- one on-site parking space required in addition to the parking required for the principal residence;
- Fire Code compliance- usually including a fire-sprinkler system; and
- Utilities- including sewer and water hook-ups.

The four most common complaints in Fairfax from those considering creating a second unit consist of the following:

- (a) On-site parking requirements –that are often difficult to accommodate;
- (b) Cost-prohibitive fire-sprinkler systems;
- (c) Cost-prohibitive utility hook-up fees that can approach \$20,000 for water and sewer services alone; and
- (d) Increases in property taxes.

As a result of these requirements that are perceived as onerous by Town residents, only three Residential Second Units were formally permitted in Fairfax from 1999 through 2014 (e.g., the two prior Regional Housing Needs Allocation [“RHNA”] cycles). However, through its code enforcement actions, staff believes that “informal” (i.e., un-permitted) second units continue to be built.

Residential “Junior” Second Units

In an effort to mitigate the costly requirements of fire-sprinkler systems and utility hook-up fees, as well as space constraints associated with on-site parking, the communities of Novato, San Rafael, and Tiburon have adopted (and other Marin jurisdictions are considering) zoning code amendments to allow residential “junior” second units. In short, “junior” second units (JSU’s) are an attempt to

create smaller, less impactful, semi-shared living situations within an already constructed building-envelope (e.g., within the already built environment).

As proposed in the draft “Junior Second Unit Ordinance”, JSU’s would be limited to conversion of an existing bedroom, incorporating a small wet-bar kitchen, an exterior entrance and a limited size ranging from 150 to 500 square feet. The wet-bar kitchen sink would be limited to a maximum size of 16 inches in length and width, the drain line would be limited to a maximum of 1.5 inches to preclude the installation of a dish washer and/or garbage disposal, associated counter and cabinets would be limited to a maximum of 6 feet in length, and the installation of a dedicated electrical circuit, gas line, and plumbing stub-out would be prohibited to preclude future service expansion. Further, since a Junior Second Unit would not result in an additional bedroom, no additional parking beyond that required for the single-family home at the time that it was built would be required.

It is important to note that the attached draft JSU Ordinance also requires that either the main portion of the house or the JSU be occupied by the property owner, and stipulates that either a regular second unit or a JSU be allowed where appropriate, however, both are not allowed on a single property.

The following table provides a comparison of the typical Residential Second Unit Regulations (per Chapter 17.048) and those proposed for a Junior Second Unit:

Table 1: Regulation Comparison-Residential Second Unit vs. Junior Second Unit

	Residential Second Unit	Junior Second Unit
Size	320-700 sq. ft.; or 30% of the existing residence, whichever is more restrictive	150 -500 sq. ft.; conversion of existing bedroom required, no building expansion
Kitchen	Kitchen components not limited	Wet-bar type kitchen only. Limits on sink and counter sizes; limit on size of drain line; no gas service and limit on electrical service (110v)
Bathroom	Required as part of the unit	Separate bathroom for unit not required; shared bathroom OK (but with a private bath in order to count toward RHNA per HCD)
Access	Interior access not required	External and internal access required
Parking	One additional on-site space required in addition to requirements for the existing residence	Not required if existing dwelling meets original parking standards when built
Owner Occupancy	Owner occupancy required	Owner occupancy required
Approval Process	Planning Director ministerial approval required unless project deviates from standards.	Planning Director ministerial approval required unless project deviates from standards.
Deed Restriction	Recordation of a deed restriction requiring owner occupancy	Recordation of a deed restriction requiring owner occupancy

JSU’s are intended to provide a lower cost option for property owners to create and will, by design (e.g., small with limited improvements) provide a more affordable option for various user groups

including singles, seniors, caregivers local service and retail employees, and/or part-time accommodations for long-distance commuters into Marin.

Counting Junior Second Units towards Regional Housing Needs Allocation (RHNA)

Staff from the State Department of Housing and Community Development (“HCD”) has confirmed that their RHNA determinations (and a jurisdiction’s resultant RHNA numbers) are based on the definitions contained in the California State Building Code. The 2010 California Building Code defines a “ Dwelling Unit” as follows, “...a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation....” HCD staff has indicated that the proposed provisions for Junior Second Units would meet the CBC definition and would therefore count towards RHNA allocations if the unit is “independent,” meaning that it has a dedicated, private bathroom, such as would be the case if a master bedroom suite was converted to a JSU. Staff recommends that the ordinance allow Junior Second Units either with a dedicated bathroom, which would be counted as a RHNA unit, or with a shared bath, which would not count towards our RHNA numbers.

Fee Reductions

Novato staff has contacted a number of utility districts in Marin to determine connection fees that would be associated with the creation of a Junior Second Unit. The districts confirm that connection or meter fees for installation of a wet bar within a single-family residence would not be charged. However when defined as a separate unit, the utility districts would impose the same connection fee as those associated with a typical Residential Second (Accessory Dwelling) Unit. Some utility district staff and board members have indicated a willingness to consider a reduced fee for Junior Second Units based on the unit(s) smaller size and the requirement that an existing bedroom be utilized. However, district staff have requested that cities and towns adopt new zoning regulations for Junior Second Units prior to requesting reconsideration of associated fees by the utilities. The fire marshals of Marin have reviewed the concept of a Junior Accessory Dwelling Unit and have expressed a willingness to forego the typical fire sprinkler requirement in conjunction with creation of the new dwelling unit.

Currently, the Town does not have a planning fee for Junior Second Units. A planning fee may be required to help offset the costs associated with staff time and application review (e.g., noticing requirements). Any planning fee would be based on the rationale that the impacts of the existing single-family home were addressed when the dwelling was constructed, and that the Junior Second Unit is simply repurposing previously occupied space. Staff will have a better idea of processing costs once it has had the opportunity to review and process a few applications. It should be noted that the JSU’s would be required to pay the appropriate building permit fees.

CEQA REVIEW

The adoption of the ordinance is exempt from the California Environmental Quality Act (codified at California Public Resources Code §§ 21000, *et seq.*, and 14 California Code of Regulations §§ 15000, *et seq.*, collectively, “CEQA”) per 14 CCR § 15301, as the ordinance contemplates the minor alteration of existing residences involving negligible or no expansion of use beyond that already in existence.

FISCAL IMPACT

None at this time.

ATTACHMENTS

1. Planning Commission Resolution No. 15-28 (without attachments)
2. Ordinance

RESOLUTION NO. 15-28

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX RECOMMENDING THE TOWN COUNCIL ADOPT ORDINANCE NO. ____ AMENDING FAIRFAX TOWN CODE CHAPTERS 17.048 ('RESIDENTIAL SECOND UNITS'), 17.076 ('RS-7.5 SINGLE FAMILY RESIDENTIAL ZONE, MEDIUM DENSITY'), 17.080 ('RS-6 SINGLE FAMILY RESIDENTIAL ZONE, HIGH DENSITY'), 17.084 ('RD 5.5-7 RESIDENTIAL ZONE, HIGH DENSITY'), 17.116 ('SF-RMP SINGLE-FAMILY RESIDENTIAL MASTER PLANNED DISTRICT'), AND 17.124 ('UR UPLAND RESIDENTIAL ZONE'), OF TITLE 17 ('ZONING') OF THE FAIRFAX TOWN CODE TO ADOPT JUNIOR SECOND UNIT REGULATIONS

WHEREAS, the Housing Element update adopted by the Town Council on May 27, 2015, recognizes that the local need for housing can be met through a combination of various dwelling types, including junior second units, which are independent living facilities for one or more persons that include permanent provisions for living, sleeping, eating, and cooking, and are crafted out of the bedroom of an existing single-family home; and

WHEREAS, Housing Element Program H-6.1.2.6 requires that, within one year of the adoption of the Housing Element, the Town must "review and adopt standards and fees that serve to incentive the creation of junior units" and provides zoning standards to consider in conjunction with such regulations; and

WHEREAS, consistent with the direction provided in the Housing Element, staff has prepared a junior second unit ordinance (a true and correct copy of which is attached as **Attachment 1** hereto) to create a ministerial approval process within the Town's zoning ordinance for these types of dwellings; and

WHEREAS, in accordance with the State Planning and Zoning Law, the Planning Commission is tasked with considering whether any proposed amendment to the Town's zoning ordinance would be in conformance with the terms of the Town's general plan, and the Planning Commission has determined that the proposed Ordinance would, in fact, conform to the Town's General Plan, as it carries out the direction of Housing Element Program H-6.1.2.6; and

WHEREAS, the adoption of the ordinance is exempt from the California Environmental Quality Act (codified at California Public Resources Code §§ 21000, et seq., and 14 California Code of Regulations §§ 15000, et seq., collectively, "CEQA") per 14 CCR § 15301, as the ordinance contemplates the minor alteration of existing residences involving negligible or no expansion of use beyond that already in existence; and

WHEREAS, the Planning Commission has conducted a duly-noticed public hearing to consider the draft ordinance, hear the presentation of a staff report, and receive public comment on the matter.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the Town of Fairfax as follows:

SECTION 1. The recitals set forth above are adopted as further findings of the Planning Commission.

SECTION 2. The Planning Commission has reviewed the draft ordinance attached hereto as **Attachment 1** and finds that it is consistent with the Town General Plan, specifically, with Housing

Element Program H-6.1.2.6, which commits the Town to "review[ing] and adopt[ing] standards and fees that serve to incentive the creation of junior units" and provides zoning standards to consider in conjunction with such regulations, because the proposed ordinance creates a ministerial approval process for junior second units that includes objective criteria that incentivize the production of these types of units.

SECTION 3. The Planning Commission hereby recommends that the Town Council adopt the draft Junior Second Unit Ordinance, **Attachment B** hereto, in order to amend the Fairfax Town Code to permit the approval of junior second units.


The forgoing Resolution was duly passed and adopted at a regular meeting of the Planning Commission of the Town of Fairfax held in said Town on the 17th day of December 2015 by the following vote, to wit:

AYES: Ackerman, Fragoso, Kehrlein, Newton, Chair Green
NOES: None
ABSENT: Itami Itan, Parber-Gonzalez
ABSTAIN: None



Laura Kehrlein, Vice Chair

Attest:



Jim Moore, Planning Director

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING FAIRFAX TOWN CODE CHAPTER 17.048 ('RESIDENTIAL SECOND UNITS'), 17.076 ('RS-7.5 SINGLE FAMILY RESIDENTIAL ZONE, MEDIUM DENSITY'), 17.080 ('RS-6 SINGLE FAMILY RESIDENTIAL ZONE, HIGH DENSITY'), 17.084 ('RD 5.5-7 RESIDENTIAL ZONE, HIGH DENSITY'), 17.116 ('SF-RMP SINGLE-FAMILY RESIDENTIAL MASTER PLANNED DISTRICT'), AND 17.124 ('UR UPLAND RESIDENTIAL ZONE'), OF TITLE 17 ('ZONING') OF THE FAIRFAX TOWN CODE TO ADOPT JUNIOR SECOND UNIT REGULATIONS

WHEREAS, the availability of housing is a substantial concern for individuals of all demographics, ages, and economic backgrounds in communities throughout the State of California; and

WHEREAS, as reported by the California Department of Finance E-5 Report 2011-2013, the majority of all housing units in the Town of Fairfax are single-family detached structures; and

WHEREAS, approximately twenty percent of all households in Fairfax are headed by a senior citizen; and

WHEREAS, the Housing Element notes that “[s]eniors often live on a limited fixed income and suffer disproportionately from poverty. Seniors may also have special needs relating to accessibility” (Housing Element 2015-2023, App. H-3, p. HB-34); and

WHEREAS, seniors, as well as other residents of the community, may desire to renovate their existing single-family homes to convert unused bedroom space into a junior second unit for use by a care-taker, companion, or other individual; and

WHEREAS, Program H-6.1.2.6 of the Housing Element adopted by the Town Council on xx, 2015, commits the Town to “review[ing] and adopt[ing] standards and fees that serve to incentivize the creation of junior units” and provides zoning standards to consider in conjunction with such regulations; and

WHEREAS, the conversion of existing space within single-family homes will not impose any additional impacts on the community, as any impacts associated therewith were previously considered in conjunction with the approval of the residence itself; and

WHEREAS, in fulfillment of Program H-6.1.2.6 of the Housing Element, and in order to provide a greater range of housing opportunities for individuals within the Town of Fairfax, the Town Council desires to amend the Town Code to provide for the development of junior second units;

NOW THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

SECTION 1. Title 17 (Zoning'), Chapter 17.048 ('Residential Second Units) shall be amended to read as follows:

"CHAPTER 17.048: RESIDENTIAL SECOND UNITS AND JUNIOR SECOND UNITS"

SECTION 2. Title 17 (Zoning'), Chapter 17.048 ('Residential Second Units and Junior Second Units'), Section 17.048.040 ('Requirements for Residential Second Units'), subsection (G) ('Maximum number') shall be amended to read as follows:

"(G) *Maximum number.* Only one residential accessory unit or junior second unit is allowed for a single-family residence developed on a legal and conforming building site, as determined by the town. Accessory units are not allowed in conjunction with duplex or multiple residential development."

SECTION 3. Title 17 (Zoning'), Chapter 17.048 ('Residential Second Units and Junior Second Units') shall be amended to include the following before Section 17.048.010 ('Purpose'):

"ARTICLE I: RESIDENTIAL SECOND UNITS"

SECTION 4. Title 17 (Zoning'), Chapter 17.048 ('Residential Second Units and Junior Second Units') shall be amended to include the following after Section 17.048.180 ('Residential Second Unit Amnesty Program'):

"ARTICLE II: JUNIOR SECOND UNITS"

17.048.210 PURPOSE

The purpose of this Article is to implement direction in the Housing Element of the General Plan to offer additional housing opportunities within the Town of Fairfax.

17.048.220 APPLICABILITY

The provisions for junior second units apply to single-family residential development within the RD 5.5-7, RS-6, RS 7.5, SF-RMP, and UR zoning districts. Junior second units are not allowed in conjunction with duplex or multiple residential developments.

17.048.230 DEFINITIONS

JUNIOR SECOND UNIT. A type of second unit that is accessory to and included within a legal primary single-family residence on the same site. A junior second unit provides independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, and cooking. Cooking and food preparation facilities shall be limited to an efficiency kitchen as provided for in this Article. Sanitation facilities may be

independently provided for the junior second unit or may be shared with occupants of the primary residence.

17.048.240 REQUIREMENTS FOR JUNIOR SECOND UNITS

Junior second units that comply with all of the following standards shall be approved and granted a ministerial permit by the Director of Planning and Building Services:

(A) *Owner occupancy.* Either the primary residence or the junior second unit shall be owner-occupied. The occupancy shall be verified by the submission to the Director of Planning and Building Services of an affidavit of occupancy signed by the property owner prior to issuance of the permit for a junior second unit. The affidavit shall be provided by the town. The affidavit shall be renewable every three years or upon the sale of the property, whichever occurs first, and shall require a re-inspection of the junior second unit by town staff to verify continued conformance with the development standards. A nominal fee shall be imposed for the affidavit renewal and inspection, as set by resolution of the Town Council.

(B) *Size limits.* Junior second units shall be no less than 150 square feet and no more than 500 square feet in size.

(C) *Unit type.* Junior second units shall be limited to those contained within the existing walls of an existing primary single-family residential structure, and must include conversion of an existing bedroom.

(D) *Parking.* No additional parking is required beyond that required at the time the existing primary single-family residential structure was constructed.

(E) *Development standards.* The second unit shall meet all property development standards of the residential zoning district in which it is located.

(F) *Construction and Fire Code compliance.*

(1) All new construction (including structural modifications to existing facilities) shall conform to the requirements of the Uniform Building Code as currently adopted by the Town.

(2) Existing facilities shall conform to the requirements of the Uniform Housing Code to assure minimum health and safety standards for the occupants of the structures.

(G) *Design standards.* Any modifications to the exterior of the building, or construction of new structures, shall be strictly in keeping with the architectural character of the principal residence, and shall maintain the scale and character of the existing residence within the neighborhood in which the second unit is situated.

(H) *Separate entry.* Each junior second unit shall have an exterior entry to serve the unit.

(I) *Interior access.* Each junior second unit shall have internal access to the single-family home of which it is a part.

(J) *Kitchen facilities.* Each junior second unit shall include an efficiency kitchen, requiring and limited to the following components:

(1) A sink with maximum width and length dimensions of sixteen (16) inches and with a maximum waste line diameter of one-and-a-half (1.5) inches,

(2) A cooking facility or appliance which does not require electrical service greater than one-hundred-and-twenty (120) volts or natural or propane gas, and

(3) A food preparation counter and storage cabinets which do not exceed six (6) feet in length.

(K) *Sanitation facilities.* A junior second unit may, but is not required to, include individual sanitation facilities to serve the junior second unit.

(M) *Number of units allowed.* Only one junior second unit or residential second unit may be allowed within or on the same parcel as any single-family residence. Only single-family residences that conform with the Town Code may include a junior second unit. Junior second units may be prohibited by the terms of approval of any Planned Development District.

(N) *Indivisible interest.* A junior second unit remains an indivisible part of the single-family residence within which it is located and, as such, may not be sold independently of said single-family residence.

17.048.250 APPLICATION PROCESSING AND REVIEW.

(A) *Application Processing.* The Director of Planning and Building Services shall issue a junior second unit permit if the application provides the information required per the Submittal Requirements set forth in subsection (B) below and conforms to the development standards set forth in Section 17.048.240 above.

(B) *Submittal Requirements.* Each application for a junior second unit shall include a completed application for a junior second unit permit and the following information as deemed appropriate by the Director of Planning and Building Services :

(1) *Plot Plan (Drawn to Scale).* Dimension the perimeter of parcel on which the junior second will be located. Indicate the location and use of all existing and proposed structures on the project site.

(2) *Floor Plans.* A dimensioned plan drawn to scale of the existing primary dwelling identifying the use of each room and identifying the room(s) to be dedicated to the junior second unit, including an exterior entrance. The resulting floor area

calculation of the proposed junior second unit shall be included, which shall include the area of any dedicated bathroom, if any, for the exclusive use of the junior second unit.

(3) *Kitchen Plan.* A dimensioned plan drawn to scale indicating proposed kitchen improvements, including a kitchen sink, cooking appliance(s) food preparation counter and food storage cabinets.

17.048.260. DEED RESTRICTION.

Prior to obtaining a building permit for a junior second unit, a deed restriction, approved by the Town Attorney, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a junior second unit identified in this Article. Said deed restriction shall run with the land, and shall be binding upon any future owners, heirs, or assigns. A copy of the recorded deed restriction shall be filed with the Department of Planning and Building Services stating that:

1. The junior second unit shall not be sold separately from the primary dwelling unit;
2. The junior second unit is restricted to the maximum size allowed per the development standards in Section 17.048.240;
3. The junior second unit shall be considered legal only so long as either the primary residence, or the junior second unit, is occupied by the owner of record of the property;
4. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with any provisions of this Article may result in legal action against the property owner, including revocation of any right to maintain a junior second unit on the property."

SECTION 5. Title 17 (Zoning'), Chapter 17.076 ('RS-7.5 Single Family Residential Zone, High Density'), Section 17.076.030 ('Conditional Uses and Structures'), subsection (J) shall be added to read as follows:

"(J) On each legal building site, as defined by the Town, either one residential second unit or one junior second unit, either of which must be approved in accordance with the procedures and standards in Chapter 17.048 of this title."

SECTION 6. Title 17 (Zoning'), Chapter 17.080 ('RS-6 Single Family Residential Zone, High Density'), Section 17.080.030 ('Conditional Uses and Structures'), subsection (J) shall be amended to read as follows:

"(J) On each legal building site, as defined by the Town, either one residential second unit (in addition to the allowed density) or one junior second unit, either of which must be approved in accordance with the procedures and standards in Chapter 17.048 of this title."

SECTION 7. Title 17 (Zoning'), Chapter 17.084 ('RD 5.5-7 Residential Zone, High Density'), Section 17.084.030 ('Conditional Uses and Structures'), subsection (J) shall be amended to read as follows:

“(J) On each legal building site, as defined by the Town, either one residential second unit (in addition to the allowed density) or one junior second unit, either of which must be approved in accordance with the procedures and standards in Chapter 17.048 of this title.”

SECTION 8. Title 17 (Zoning'), Chapter 17.116 ('SF-RMP Single-Family Residential Master Planned District'), Section 17.116.040 ('Principal Permitted Uses'), subsection (A) shall be amended to read as follows:

“(A) On each legal building site, as determined by the Town, either one residential second unit (in addition to the allowed density) or one junior second unit, either of which must be approved in accordance with the procedures and standards in Chapter 17.048 of this title;”

SECTION 9. Title 17 (Zoning'), Chapter 17.124 ('UR Upland Residential Zone'), Section 17.124.030 ('Conditional Uses and Structures'), subsection (J) shall be amended to read as follows:

“(J) On each legal building site, as determined by the Town, either one residential second unit (in addition to the allowed density) or one junior second unit, either of which must be approved in accordance with the procedures and standards in Chapter 17.048 of this title.”

SECTION 10. The adoption of the ordinance is exempt from the California Environmental Quality Act (codified at California Public Resources Code §§ 21000, *et seq.*, and 14 California Code of Regulations §§ 15000, *et seq.*, collectively, “CEQA”) per 14 CCR § 15301, as the ordinance contemplates the minor alteration of existing residences involving negligible or no expansion of use beyond that already in existence.

SECTION 11. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional, provided, however, that if any decision of a court of competent jurisdiction invalidates the increase of the water service charges set forth in this Ordinance, then the water service charges in effect on the date of adoption shall continue in existence.

SECTION 12. This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin

Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women's Club Building, located at 46 Park.

The foregoing Ordinance was introduced at a meeting of the Town Council on the 13th day of January 2016, and duly adopted at the next regular meeting of the Town Council on the ____ day of _____, 2016, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Renee Goddard, Mayor

Attest:

Michele Gardner, Town Clerk

Date