

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;

WHEREAS, staff will work with local utilities to eliminate or reduce connection fees for 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 renewed ~~able every three years or upon the sale of the property;~~ Resale inspections conducted by town staff whichever occurs first, and shall ~~include the 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