

Ordinance No. 376

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SARATOGA AMENDING ARTICLE 15-56 OF THE CITY CODE
(ACCESSORY DWELLING UNITS)**

The City Council of the City of Saratoga finds that:

Findings:

1. The State Legislature passed a suite of bills (AB 68, AB 587, AB 671, AB 881, SB 13) amending Government Code Sections 65852.2 and 65852.22 which became effective on January 1, 2020. The bills have the intent of promoting Accessory Dwelling Units as a partial solution to the State's housing crisis.
2. This ordinance amends Saratoga Municipal Code Chapter 15- Zoning Regulations to incorporate the modifications to State housing law. These amendments were considered by the Planning Commission of the City of Saratoga at duly noticed public hearings on July 8 and September 9, 2020. Following consideration of all testimony and written materials, the Planning Commission on September 9, 2020 recommended that the City Council adopt the amendments to Chapter 15 set forth herein.
3. The City Council of the City of Saratoga held a duly noticed public hearing on October 7, 2020, and after considering all testimony and written materials provided in connection with that hearing introduced this ordinance and waived the reading thereof and adopted the ordinance on October 21, 2020.

Therefore, the City Council hereby ordains as follows:

Section 1. Adoption.

Section 15-56 (Accessory Dwelling Unit Regulations) of the Saratoga City Code is amended as set forth in Exhibit A.

Section 2. Severance Clause.

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

Section 3. California Environmental Quality Act

The proposed ordinance is exempt from California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code and CEQA Guidelines section 15282(h) which categorically exempts adoption of an ordinance by a City to implement the provisions of Government Code Sections 65852.1 and 65852.2 governing accessory dwelling units. Furthermore, the proposed ordinance is exempt pursuant to CEQA Guidelines section 15061(b)(3). CEQA applies only to projects which have the potential of causing a significant effect on the environment. Where it can be seen with certainty that there is no reasonably possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the ordinance will have a de minimis impact on the environment.

Section 4. Publication.

A summary of this ordinance shall be published in a newspaper of general circulation of the City of Saratoga within fifteen days after its adoption.

Following a duly noticed public hearing the foregoing ordinance was introduced at the regular meeting of the City Council of the City of Saratoga held on the 7th day of October 2020 and was adopted by the following vote on October 21, 2020.

AYES: Mayor Howard A. Miller, Vice Mayor Mary-Lynne Bernald, Council Members Yan Zhao, Rishi Kumar

NOES:

ABSENT:

ABSTAIN:



Howard A. Miller, Mayor

ATTEST:



Debbie Bretschneider
CITY CLERK

DATE: 10/28/2020

APPROVED AS TO FORM:



Richard Taylor
CITY ATTORNEY

DATE: 10/23/2020

Exhibit A – Updates to Article 15-56 (Accessory Dwelling Units)

The provisions of the Saratoga Municipal Code set forth below are amended or adopted as follows:

*Text added to existing provisions is shown in bold double-underlined text (**example**) and text to be deleted is shown in strikethrough (~~example~~). Text in italics is explanatory and is not an amendment to the Code except in cases where it directs renumbering of subsections not otherwise amended.*

Article 15-06 - DEFINITIONS

15-06.240 - Dwelling.

"Dwelling" means a permanent building, or a portion of a permanent building used as the personal residence of the occupants thereof, excluding trailers, campers, recreational vehicles, hotels, motels, bed and breakfast establishments, tents and temporary structures.

(a) **Dwelling unit** means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting separate and independent housekeeping units, occupied or intended for occupancy by one family on a permanent basis and having not more than one kitchen.

(b) **Single-family dwelling** means a dwelling unit constituting the only main structure upon a single building site.

(c) **Multi-family dwelling** means a structure or site containing more than one dwelling unit, designed for occupancy by more than one family living independently of each other, and doing their own cooking in the building. However, a single-family dwelling and a lawful accessory dwelling unit located upon the same site shall not be deemed a multi-family dwelling.

(d) **Accessory dwelling unit** means an attached or detached residential dwelling unit, built or legalized pursuant to this Chapter, which provides complete independent living facilities for one or more persons, including permanent provisions for living, cooking, sleeping and sanitation **and that meets all requirements set forth in Article 15-56** ~~on a lot within the A, R-1, or HR district where a legally created single-family dwelling is situated. Accessory dwelling units are not to be sold separately from the main dwelling but may be rented.~~ An accessory dwelling unit also includes the following:

(1) An accessory dwelling unit that is an efficiency unit, as defined in Health and Safety Code Section 17958.1.

(2) An accessory dwelling unit that is a manufactured home, as defined in Health and Safety Code Section 18007.

(e) **Junior accessory dwelling unit** is a unit that is no more than 500 square feet in size, contained entirely within an existing or proposed single-family dwelling or accessory structure, and that meets all requirements set forth in **Article 15-56** subsection

~~15-56.030(b)(2).~~ A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure.

Article 15-56 - ACCESSORY DWELLING UNITS

15-56.010 – Purpose of Article.

The purpose of this Article is to authorize the establishment of accessory dwelling units and junior accessory dwelling units in districts zoned to allow for single-family or multi-family dwellings ~~residential zoning districts~~ to comply with state law and to help achieve the goals and policies of the Housing Element of the Saratoga General Plan. Controlled construction of accessory dwelling units and junior accessory dwelling units will promote a stable heterogeneous community with a balanced social and economic mix.

15-56.015 - Definitions.

The following definitions apply only to this Article:

- (1) **Accessory dwelling unit** as defined in Article 15-06.
- (2) **Junior accessory dwelling unit** as defined in Article 15-06.
- (3) **Living area** means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.
- (4) **Passageway** means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- (5) Short-term rental means a dwelling unit which is used for transient occupancy for periods of up to 30 consecutive days for which payment is required.**
- (5g) Tandem parking** means two or more automobiles parked on a driveway or in any other location on a lot, lined up behind one another.

15-56.020 - ~~One accessory dwelling unit or junior accessory dwelling unit per lot.~~
Number of units allowed for single-family and multi-family dwellings.

(a) Only one Single-family dwellings. One accessory dwelling unit ~~or~~ **and one** junior accessory dwelling shall be allowed on any one lot ~~only if the lot is zoned for single-family use and~~ **which** contains an existing or concurrently approved single-family dwelling unit. ~~The accessory dwelling unit or junior accessory dwelling unit is an accessory use to the main dwelling unit and shall not count toward density limitations or be considered a new residential use.~~ **Such units are an accessory use to the main dwelling unit and shall not count toward density limitations or be considered a new residential use.**

(b) Multi-family dwellings. Refer to Section 15-56.030 of this article.

15-56.03025 - Development standards for accessory dwelling units and junior accessory dwelling units.

Except as otherwise provided in Section 15-56.050, each accessory dwelling unit shall comply with all of the following development standards:

(a) **Newly constructed accessory dwelling unit that adds floor area.** Each newly constructed accessory dwelling unit that adds floor area to a lot is required to satisfy the following criteria:

~~(1) — Lot size.~~ The net site area of the lot upon which the accessory dwelling unit is located shall not be less than ninety percent of the minimum standard prescribed for the district applicable to such lot. Minimum standards for lots located in the HR Residential District are determined per Section 15-13.060(a) of the City Code.

~~(2)(1) Building codes requirements.~~ The accessory dwelling unit shall comply with applicable building, health and fire codes. **Each accessory dwelling unit shall satisfy all applicable requirements of Chapter 16 (Building Regulations) with the exception that accessory dwelling units shall not be required to provide fire sprinklers unless fire sprinklers are required for the primary single-family dwelling or multi-family dwelling structure. An accessory dwelling unit shall be connected to a public sewer system. Occupancy of an accessory dwelling unit concurrently approved with a single-family dwelling unit shall not be allowed until the Building Department approves occupancy of the primary dwelling.**

~~(3)(2) Zoning regulations.~~ Unless otherwise provided in this Article, the accessory dwelling unit shall comply with applicable zoning regulations (including, but not limited to, required setbacks, floor area limits, site coverage, and height limits). **For lots that are at least 10,000 net square feet in size, A a** one-time ten percent increase in site coverage and allowable floor area may be granted by the Community Development Director if the new accessory dwelling unit is deed restricted so that it may only be rented to below market rate households.

~~(4)(3) Sale prohibited and rental.~~ The unit shall not be intended for sale, or sold, separately from the main dwelling. **An accessory dwelling unit may be rented separately from the primary single-family dwelling or multi-family dwelling but may not be sold or otherwise conveyed separately from the primary dwelling on the lot. An accessory dwelling unit or junior accessory dwelling unit shall not be used as a short-term rental.**

~~(5)(4) Location and configuration.~~ The accessory dwelling unit must be either (i) attached to the **an** existing or concurrently approved **accessory structure or** main dwelling (including being located within the living area of the existing or concurrently approved main dwelling) or (ii) detached from the existing or concurrently approved main dwelling and located on the same lot as the existing main dwelling **or (iii) on a lot with a multi-family dwelling per Section 15-56.030.**

~~(6)(5) Floor area.~~

a. Except as provided in subsection (b) below, ~~The~~ the maximum floor area limit for an accessory dwelling unit shall be as follows:

i. an attached accessory dwelling unit shall not exceed 50 percent of the existing or concurrently approved living area of a single-family dwelling, with a maximum size of 1,200 square feet, not including the garage.

ii. a detached accessory dwelling unit, not located within a side or rear setback area, ~~shall not exceed~~ have a maximum size of 1,200 square feet of living area, not including the garage.

iii. a detached accessory dwelling unit located partially or entirely within a side or rear setback area shall have a maximum size of 850 square feet of floor area if the unit has one bedroom or 1,000 square feet of floor area if the unit has two bedrooms.

b. Both the accessory dwelling unit and the primary dwelling unit shall count toward the total maximum allowable floor area set by applicable zoning regulations. However floor area and site coverage requirements shall not be applied to prohibit the construction of an accessory dwelling unit that does not exceed 800 square feet gross floor area and which otherwise complies with all other applicable development standards.

~~b.c.~~ If an accessory dwelling unit has a basement or an attic, that area is included as part of the total maximum floor area allowed.

~~e. Both the accessory dwelling unit and the main dwelling unit shall count toward the total floor area limit set by applicable zoning regulations.~~

(6) Height of Accessory Dwelling Units.

a. No detached accessory dwelling unit located partially or entirely within a side or rear setback area shall exceed sixteen (16) feet in height.

b. No detached or attached accessory dwelling units located outside setback areas shall exceed twenty-six (26) feet in height.

c. Accessory dwelling units, both detached and attached, in excess of eighteen (18) feet in height shall comply with the applicable design review regulations set forth in Article 15-45 of this Chapter.

(7) Setbacks. Attached accessory dwelling units shall comply with the setbacks required for the primary dwelling unit. Detached accessory dwelling units shall have rear and side setbacks of no less than four feet. However, setbacks of less than four feet are allowed if the accessory dwelling unit is constructed in the same location and to the same dimensions as an existing structure that is demolished for the purpose of constructing the accessory dwelling unit.

(7)(8) Construction above garage. Notwithstanding other setback requirements in the City Code, a setback as low as no less than five feet from the side and rear lot lines shall be allowed for an accessory dwelling unit that is constructed above a garage that is non-conforming as to setbacks.

~~(8)~~**(9) Parking.** Parking requirements for an accessory dwelling unit shall be as follows:

a. Unless otherwise provided in this section, one off-street ~~covered~~ parking space ~~within a garage~~ shall be provided for the accessory dwelling unit in addition to the off-street covered parking spaces required for the main dwelling. ~~The garage requirement may be waived if the accessory dwelling unit is deed restricted so that it may only be rented to below market rate households. If the garage requirement is waived, an open off-street parking space must be provided.~~

b. No parking space shall be required for an accessory dwelling unit in any of the following instances:

i. The accessory dwelling unit is located within one-half mile of a ~~major transit stop~~ **public transit** as defined in Government Code § 65852.2 California Public Resources Code § 21064.3 or included in the regional transportation plan;

ii. The accessory dwelling unit is located within a designated **architecturally and historically significant** historic district;

iii. The accessory dwelling unit is part of the **proposed or** existing **primary** residence or ~~concurrently approved main dwelling or an existing residential~~ accessory structure ~~intended for human habitation~~;

iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit;

v. When there is a car share vehicle, ~~in a location determined by the Community Development Director to have at least three dedicated parking spaces, located within one block of the accessory dwelling unit; or~~

vi. The unit is permitted as a junior accessory dwelling unit.

c. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any lost off-street parking spaces required for the main dwelling **are not required to be replaced** ~~must be replaced with off-street covered parking. However, the construction of additional parking will not be required for the accessory dwelling unit in any of the instances described in subsection 15-56.030(a)(8)(B).~~

~~(9)~~**(10) Access.** The accessory dwelling unit shall be served by the same driveway access to the street as the existing or concurrently approved main dwelling.

~~(10)~~**(11) Common-entrance Entrances.** If the accessory dwelling unit is attached to the main dwelling both the accessory dwelling unit and the main dwelling ~~must~~ **may be** served by ~~either a common entrance; however~~ or a separate **exterior** entrance to the accessory dwelling unit must be located on the side or at the rear of the main dwelling. **No interior access shall be allowed between an accessory building and an accessory dwelling unit if both structures are connected by a common wall, with the exception that an attached garage may have interior access to an accessory dwelling unit.**

~~(11) **Fire sprinklers.** An accessory dwelling unit may be required to provide fire sprinklers, but only if they are required for the main dwelling.~~

(12) **Passageway.** No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

~~(13) **Owner occupation.** The lot containing the accessory dwelling shall remain occupied by the owner of the lot, as evidenced by a valid Homeowners' Property Tax Exemption. The accessory dwelling must be vacated within one year after the termination of the owner-occupier's Homeowners' Property Tax Exemption, unless and until an owner-occupier reobtains the Homeowner's Property Tax Exemption.~~

(14)~~13~~ **Limitation on number of bedrooms.** An accessory dwelling unit may not have more than two bedrooms.

~~(15)~~14 **Appearance.** All new construction to create an accessory dwelling unit must match the existing or concurrently approved main structure in color, materials and architectural design.

~~(16) **Sewage disposal.** An accessory dwelling unit shall be connected to a public sewer system.~~

(b) **Accessory dwelling unit constructed within existing floor area.**

(1) **Conversion of existing floor area.** Each application for a building permit to convert existing floor area interior space of an existing single-family dwelling or accessory structure to an accessory dwelling unit shall comply with the following standards:

a. The accessory dwelling unit must:

1. Be located within an area a district zoned to allow for single-family use or multi-family dwellings;

2. Be contained within the existing interior space of a single-family dwelling or accessory building, including, but not limited to, a studio, pool house, or other similar structure. The interior space of an existing accessory building may be expanded by no more than 150 square feet beyond the physical dimensions of the existing structure for the sole purpose of accommodating ingress and egress.

3. Have independent exterior access from the existing main dwelling;

4. Not be intended for sale, or sold, separately from the main dwelling;

5. Have side and rear setbacks sufficient for fire safety as determined by the fire agency having jurisdiction; and

6. Comply with all building codes and health and safety regulations.

b. **Parking.**

1. 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, any lost off-street parking spaces required for the main dwelling are not required to be must be replaced with off-street covered parking.

2. No additional parking will be required for the accessory dwelling unit in instances where the accessory dwelling unit is part of the existing main dwelling or an existing residential accessory structure ~~intended for human habitation~~.

~~e. Fire sprinklers. The accessory dwelling unit may be required to provide fire sprinklers only if they are required for the main dwelling.~~

~~dc.~~ dc. Converted garage setbacks. No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.

(2) **Creation of a junior accessory dwelling unit within existing floor area.** Each application for a building permit to convert ~~existing~~ floor area of an existing or proposed single-family dwelling or accessory structure to a junior accessory dwelling unit shall comply with the following standards:

~~a. Owner occupation. The lot containing the junior accessory dwelling unit shall remain occupied by the owner of the lot, as evidenced by a valid Homeowners' Property Tax Exemption. The junior accessory dwelling unit must be vacated within one year after the termination of the owner-occupier's Homeowners' Property Tax Exemption, unless and until an owner-occupier reobtains the Homeowner's Property Tax Exemption. Owner occupation is not required if the owner is another governmental agency, land trust, or housing organization.~~

~~ba.~~ ba. The junior accessory dwelling unit shall be located within a district zoned to allow for single-family or multi-family dwellings.

~~eb.~~ eb. The junior accessory dwelling unit shall be constructed within the existing walls of an existing or proposed single-family structure and shall be no more than 500 square feet in size.

~~d. The junior accessory dwelling unit shall include one existing bedroom constructed as part of an existing single-family structure.~~

~~ec.~~ ec. The junior accessory dwelling unit shall have a separate exterior entrance from the main entrance to the proposed or existing single-family residence, with an interior entry to the main living area. A second interior doorway may be used for sound attenuation.

~~fd.~~ fd. The junior accessory dwelling unit shall contain an efficiency kitchen, which shall include all of the following:

~~i. A sink with a maximum waste line diameter of 1.5 inches;~~

~~ii i~~ ii i A cooking facility with appliances ~~that do not require electrical service greater than 120 volts, or natural or propane gas; and~~

~~ii ii~~ ii ii A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

~~g e~~ g e The junior accessory dwelling unit shall have side and rear setbacks sufficient for safety, as determined by the fire agency having jurisdiction.

~~hf.~~ The junior accessory dwelling unit must comply with all building codes and health and safety codes.

~~I. Deed restriction.~~ The lot upon which the junior accessory dwelling unit is located shall be deed restricted, which shall run with the land and be filed with the Community Development Department. The deed restriction shall include the following:

~~i. A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.~~

~~ii. A restriction on the size and attributes of the junior accessory dwelling unit that conforms with subsection 15-56.030(b)(2).~~

¶g. Parking. No additional parking shall be required as a condition to grant a permit for the creation of a junior accessory dwelling unit.

15-56.030 – Additional provisions for multi-family dwellings.

The following additional provisions apply to the creation of accessory dwelling units for multi-family dwellings as defined in Section 15-06.240(c).

(a) For every four dwelling units within a multi-family dwelling, one accessory dwelling unit may be created within existing spaces that are not part of the living area, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that the accessory dwelling unit so created complies with the California Building Code.

(b) In addition to the accessory dwelling units allowed by subsection (a) above, not more than two (2) detached accessory dwelling units may be allowed for a multi-family dwelling subject to the standards, requirements, and restrictions of this Chapter.

15-56.035 – Owner occupancy restrictions.

(a) With respect to a lot containing a standard accessory dwelling unit, for applications received after January 1, 2025, one of the dwellings on the lots must be the bona fide principal residence of at least one legal owner of the lot containing the dwelling, as evidenced at the time of building permit approval by appropriated documents of title and residency. Prior to the issuance of a building permit, the applicant shall provide evidence that a deed restriction has been recorded on the title of the affected property stating that one of the dwelling units on the lot shall remain owner occupied.

15-56.03540 - Permitting

Within 60 days of receipt of a complete application, the Community Development Department shall ministerially process for approval any application for a junior accessory dwelling unit or an accessory dwelling unit that is in compliance with the

requirements of this Article or otherwise qualifies for ministerial approval pursuant to state law.

~~(a) — Construction of an accessory dwelling unit that adds floor area. Within 120 ~~60~~ days of receipt of a complete application, the Community Development Department shall ministerially process for approval any application for a building permit for a newly created accessory dwelling unit that adds floor area to the site and meets all the criteria in subsection 15-56.030(a) and none of the criteria in subsection 15-45.060(a).~~

~~(b) — Creation of accessory dwelling unit within existing floor area. Within 120 ~~60~~ days of receipt of a complete application, the Community Development Department shall ministerially process for approval application for a building permit for an accessory dwelling unit that is built entirely within the floor area of an existing structure and that meets all the criteria in subsection 15-56.030(b)(1).~~

~~(c) — Creation of a junior accessory dwelling unit. Within 120 ~~60~~ days of receipt of a complete application, the Community Development Department shall ministerially process for approval any application for a building permit for a junior accessory dwelling unit that meets all the criteria in subsection 15-56.030(b)(2).~~

15-56.040~~45~~ - Inspections of legalized accessory dwelling units and junior accessory dwelling units.

(a) Where the application is for legalization of any existing accessory dwelling unit or junior accessory dwelling unit under Section 15-56.050, an inspection of the property shall be conducted to determine that the existing accessory dwelling unit or junior accessory dwelling unit under Section 15-56.050 will comply with all applicable building, health, fire and zoning codes. Such inspections shall be performed by the City or by an independent contractor retained by the City for such purpose, and the applicant thereof shall pay the cost.

(b) The inspections to be conducted pursuant to this Section shall not constitute an assumption by the City, or by anyone acting in its behalf, of any liability with respect to the physical condition of the property, nor shall the authorization to construct a new accessory dwelling unit or junior accessory dwelling unit or the legalization of an existing accessory dwelling unit or junior accessory dwelling unit, pursuant to this Code, represent a warranty by the City to the owner of the property or any other person that such property fully complies with all applicable building, health and fire codes.

15-56.050 - Legalization of existing accessory dwelling units and junior accessory dwelling units.

(a) Purpose of Section. It is in the public interest that all residents of the City live in safe, sanitary housing conditions. Accessory dwelling units and junior accessory dwelling units currently exist which were created prior to the adoption of this Article. In order to encourage the legitimating of such units under the law, the owners of property on which accessory dwelling units and junior accessory dwelling units are located should be

(2) In lieu of compliance with the Uniform Building Code, the accessory dwelling unit or junior accessory dwelling unit shall comply with the Uniform Housing Code as adopted by the City and shall otherwise comply with applicable health and fire codes.

~~(3) Provided that not less than three off-street parking spaces are available on the site, the requirement of a covered parking space for the accessory dwelling unit or junior accessory dwelling unit may be waived if there is no feasible location on the site for either a garage or carport. In such event, the parking space for the accessory dwelling unit or junior accessory dwelling unit shall be screened from view from the street, if possible; otherwise, the driveway on the site may be utilized as a parking space for the accessory dwelling unit or junior accessory dwelling unit.~~

(43) Where the accessory dwelling unit or junior accessory dwelling unit is served by a septic tank, the septic system shall be inspected and approved by the County Health Department. In addition, the applicant shall execute and record a deferred improvement agreement wherein the applicant and the applicant's successors will be obligated to connect the accessory dwelling unit or junior accessory dwelling unit, and the main dwelling if also served by a septic system, to a sanitary sewer whenever the same becomes available and to pay the applicant's or the applicant's successors' proportionate share of the installation cost.

(e) Disqualified existing units. Any accessory dwelling unit or junior accessory dwelling unit established prior to February 19, 2003, which does not qualify for legalization under this Section by reason of not having been lawfully constructed, shall be deemed a new unit subject to the remaining provisions of this Article, except as follows:

(1) The existing accessory dwelling unit or junior accessory dwelling unit shall comply with the standards set forth in subsection (d) of this Section.

(2) The existing accessory dwelling unit or junior accessory dwelling unit shall comply with current zoning regulations, unless a variance is granted pursuant to Article 15-70 of this Chapter.

(f) Burden of proof. Wherever in this Section the legalization of an existing accessory dwelling unit or junior accessory dwelling unit depends upon the establishment of any event occurring on or before a specified date, the burden of proof shall be upon the applicant.

End of Amendments

encouraged to legalize such units provided the units are determined to be both safe and sanitary for continued human occupancy. Conversely, if existing accessory dwelling units or junior accessory dwelling units are not safe and sanitary for continued human occupancy, the City has the responsibility to either insure they are made both safe and sanitary or their use for human occupancy is discontinued. The purpose of this Section is to establish special procedures and standards for legalization of existing accessory dwelling units and junior accessory dwelling units that are or can be made fit for human occupancy.

(b) Scope of Section. This Section shall apply only to accessory dwelling units or junior accessory dwelling units established prior to February 19, 2003, but after August 18, 1984, within a structure for which a building permit was issued, or otherwise was lawfully constructed, and which complied with any applicable zoning or development standards in force at the time of construction. Any accessory dwelling unit or junior accessory dwelling unit established from and after February 19, 2003, shall be deemed a new unit subject to the remaining provisions of this Article.

(c) Contents of application. Application to legalize an existing accessory dwelling unit or junior accessory dwelling unit shall be filed with the Community Development Director on such form as shall be prescribed. The application shall be accompanied by the following:

- (1) A vicinity map showing the location of the site.
- (2) An accurate scale drawing showing the location of all structures, trees, landscaping and off-street parking spaces on the site.
- (3) Inspection reports by the City or an independent contractor, as required under Section 15-56.040 of this Article.
- (4) A preliminary title report covering the site, or other evidence showing the applicant to be the owner of the property.
- (5) If the site is a hillside lot, either or both of the following documents shall be furnished if requested by the Community Development Director: (i) a topographic map of the site showing contours at intervals of not more than five feet; and/or (ii) a geologic report on the site prepared by a certified engineering geologist or a registered civil engineer qualified in soil mechanics.
- (6) If the existing accessory dwelling unit or junior accessory dwelling unit is served by a septic system, a description thereof together with a drawing showing the location of the septic tank and leach field on the site.

(d) Standards. Existing accessory dwelling units and junior accessory dwelling units shall comply with the following standards:

- (1) Where the accessory dwelling unit or junior accessory dwelling unit is located upon a hillside lot, the applicant shall demonstrate, to the satisfaction of the Community Development Director, that the accessory dwelling unit or junior accessory dwelling unit is not subject to actual or potential damage from landslide, earth movement or other geologic hazards.