



# STAFF REPORT

## SAUSALITO CITY COUNCIL

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### AGENDA TITLE:

First Hearing on the Minor Omnibus Muni Code Amendments

### RECOMMENDED ACTION:

- Conduct a public hearing on the proposed Omnibus Muni Code Amendments
- Introduce and read by Title only "Ordinance of the City Council of the City of Sausalito Amending Titles 1, 2, 10, And 11 of the Sausalito Municipal Code to: Correct Errors, Clarify Ambiguities, And To Modify Various Sections For Increased Effectiveness: and
- Schedule a second reading for the next regularly scheduled meeting of the City Council

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### BACKGROUND

Since the adoption of the Zoning Ordinance (Sausalito Municipal Code Title 10) in 2003, staff has been compiling a list of issues that would benefit from clarification. This includes issues raised by residents and other interested community members. As part of the update of the City's Municipal Code (Priority Calendar Item #30) staff brought the list of issues to the City Council on July 12, 2011 and recommended they be split into two categories: (1) those issues that are ready to be brought to the Planning Commission for immediate review ("Minor Omnibus Muni Code Amendments") and (2) those issues that require additional staff work and potential review by the Legislative Committee ("Policy Omnibus Muni Code Amendments").

On July 13, 2011 staff invited input on both the Minor and Policy Omnibus Muni Code Amendments from 21 local architects via email. Local architect Michael Rex provided comments. On July 19, 2011 and August 18, 2011 staff met with the Legislative Committee and the public to review and discuss the Minor Amendments. Additional suggested amendments were provided by Michael Rex and reviewed by the Legislative Committee at that time. At the August 18, 2011 meeting the Legislative Committee authorized the Minor Amendments to be reviewed by the Planning Commission<sup>1</sup>.

On September 7, September 21 and October 12, 2011 the Planning Commission conducted study sessions to review a table of suggested amendments and a list of suggested redlines to the Municipal Code required to make the proposed Minor Amendments. At each of the study session meetings the Planning Commission gave direction to staff regarding the Minor Amendments and staff made subsequent changes to the list of amendments. On October 12, 2011 the Planning Commission directed staff to schedule a public hearing on the Minor Amendments.

### DISCUSSION

On November 9, 2011 the Planning Commission held a public hearing on the Minor Omnibus Muni Code Amendments and adopted Planning Commission Resolution No. 2011-29, which recommends City Council approval of the draft ordinance amending Titles 1, 2, 10 and 11 of the Sausalito Municipal Code for clarification of various sections. The amendments include, but are not limited to, clarifications regarding uses; floor area; measurement of building height; substandard lots; public right of way; sloped and level parcels; parking; setbacks and projections;

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<sup>1</sup> The Legislative Committee is currently in the process of reviewing the Policy Omnibus Muni Code Amendments and has held meetings on September 9, October 13 and November 17, 2011. The next scheduled Legislative Committee meeting regarding the Policy Amendments will be December 8, 2011.

utility meters; railing height; accessory structures; sidewalk dining; visitor serving stores; zoning permits; administrative changes to approved projects; administrative design review permits; design review permits; building coverage; encroachment permits; specific uses; tree permit standards; computation of time; noticing procedures; diagrams.

**Attachment 1** is a table of Minor Omnibus Muni Code Amendments, dated December 6, 2011. The table provides a listing of the proposed amendments by identifying the applicable section of the draft ordinance, the Municipal Code section number being modified, topic, description, the proposed modification and the rationale. **Attachment 2** is Planning Commission Resolution 2011-29 recommending City Council adoption of the draft ordinance. **Attachment 3** is the draft City Council ordinance.

**PUBLIC CORRESPONDENCE**

Staff received a letter from architect Michael Rex on November 29, 2011 (see **Attachment 4**) regarding the recommended change to Section 10.50.180 of the Zoning Ordinance (changes to an approved project). Mr. Rex does not agree with the Planning Commission’s recommendation regarding modifying the Changes to an Approved Project section to require additional notice to neighbors.

Currently, the Zoning Ordinance prescribes an varied noticing process for various types of applications . Additionally, there is no noticing requirements for projects which have been approved, but are being requested to be modified. Staff and the Planning Commission recommend a more consistent noticing process for all applications. See **Table 1** below for a summary of the current noticing process in addition to the noticing procedures the Community Development Department has enacted to provide additional notice.

**Table 1: Current Noticing Requirements**

		Zoning Permit (Administrative) Review	Administrative Design Review	Zoning Administrator, Planning Commission, City Council Review	Changes to Any Approved Project
Notice Required <u>Prior</u> to Action	Minimum Required by Zoning Ordinance	Story poles and applicant affidavit, if view determination is required	12 days in advance sent to 100 feet radius and posted on site	10 days in advance sent to 300 feet radius and posted on site	None
Notice Required <u>After</u> Action	Minimum Required by Zoning Ordinance	Notice Posted on Project Site	Decision mailed to Applicant		None
	<i>Additional Notice as Per CDD Policy</i>	<i>No additional notice</i>	<i>Decision distributed to all persons who submitted written comment on the application.</i>		<i>Decision distributed to applicant and all persons within the original mailing radius</i>

Sections 38 and 47 of the draft Ordinance in **Attachment 3** propose a consistent 300-foot noticing radius (as opposed to a 100-foot and a 300-foot), a consistent 10 day advanced notice period (as opposed to a 10-day and a 12-day), and a requirement to issue a Notice of Decision

to be distributed to applicant (including the owner) and all those who commented in writing. See **Table 2** for the proposed process. Of note, a noticing requirement would be established for Changes to an Approved Project.

**Table 2: Proposed Process (Sections 38 and 47 of the draft Ordinance)<sup>2</sup>**

	Zoning Permit (Administrative) Review	Administrative Design Review	Zoning Administrator, Planning Commission, City Council Review	Changes to Any Approved Project
<b>Notice Required Prior to Action</b>	Story poles and applicant affidavit, if view determination is required	<b>10</b> days in advance sent to <b>300</b> feet radius and posted on site	10 days in advance sent to 300 feet radius and posted on site	<b>10 days in advance sent to 300 feet radius and posted on site</b>
<b>Notice Required After Action</b>	Notice posted on project site	<b><u>Decision distributed to applicant and all persons who submitted written comment on the application</u></b>		

Mr. Rex is concerned about the impact that noticing for “Changes to an Approved Project” may have on both the homeowner’s decision to move forward with changes and the decision the homeowner might make to institute these changes without appropriate approvals. It is Staff and the Planning Commission’s recommendation that changes to a project that went through a discretionary process (e.g., a Design Review Permit; a Conditional Use Permit, etc.) should be noticed to neighboring properties. What is minor to one neighbor may be major to another; this distinction is something that Staff cannot anticipate without notifying neighboring properties. Additionally, noticing to the neighbors assures transparency in the evolution of a project that was noticed from the very beginning. There are negotiations made between neighbors early on in the process to which the City is not privy; neighbors should be notified of changes that are made from the Planning Commission’s original approval.

Therefore, Staff supports the modifications as recommended by the Planning Commission and listed in the draft ordinance. However, if the Council sees merit in Mr. Rex’s second suggested modification, Staff suggests that additional language be added to require at least a posted notice of the Department’s decision at the project site after the decision to take action on the changes has been made. This is the minimum noticing which is required for a Zoning Permit and is necessary in order for the neighborhood to be informed that the Department has made a decision. Therefore, if the Council chooses to require a lower level of notification for some types of “Changes to an Approved Project,” Staff suggests that Mr. Rex’s second alternative (on page 2) be modified accordingly (see suggested additional language below in **bold underline**):

C. Notice shall be given as set forth in Section 10.82.020 for all changes to an approved project, except for those changes that are so minor, they do not appreciably alter the character and appearance of the project’s design as determined by the Community Development Director. **Such minor changes shall be posted in accordance with Section 10.84.010.A.**

<sup>2</sup> Additional language is printed in **bold underline**.

It should be noted that pursuant to Section 10.80.070, as the above modification was not previously considered by the Planning Commission, if the City Council would like to accept Mr. Rex's alternative the modified language would need to first be referred to the Planning Commission for report and recommendation.

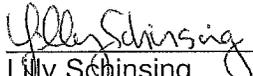
**STAFF RECOMMENDATION**

- Conduct a public hearing on the proposed Minor Omnibus Muni Code Amendments
- Introduce and read by Title only "Ordinance of the City Council of the City of Sausalito Amending Titles 1, 2, 10, And 11 of the Sausalito Municipal Code to: Correct Errors, Clarify Ambiguities, And To Modify Various Sections For Increased Effectiveness", and
- Schedule a second reading for the next regularly scheduled meeting of the City Council

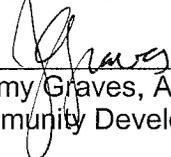
**ATTACHMENTS**

- 1- Table of Minor Omnibus Muni Code Amendments
- 2- Planning Commission Resolution 2011-29 (without attachment)
- 3- Draft City Council Ordinance
- 4- Rex letter, date stamped November 28, 2011

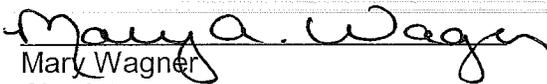
PREPARED BY:

  
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Lily Schinsing  
Associate Planner

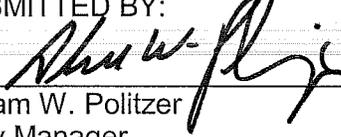
REVIEWED BY:

  
\_\_\_\_\_  
Jeremy Graves, AICP  
Community Development Director

REVIEWED BY:

  
\_\_\_\_\_  
Mary Wagner  
City Attorney

SUBMITTED BY:

  
\_\_\_\_\_  
Adam W. Politzer  
City Manager

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Attachment 1

Minor Omnibus Muni Code Amendments to the SMC Titles 1, 2, 10 and 11  
City Council Public Hearing – December 6, 2011

Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 1	Table 10.24-1	Service Uses: Clarify "Office"	New structure or replacement of existing office	Will add the word "office" to the end of the sentence	As written it is unclear if this refers to the replacement of an existing structure or an existing office and should be clarified. Staff suggests that the regulation applies to new office structures and replacement of existing offices.
Section 1	Table 10-24-1	Bars (Commercial Districts)	Change "Bars" to "Drinking Establishments"	Revise as per description	There is no definition of a "bar" in the Zoning Ordinance. "Drinking Establishment" is the correct term and is defined in the Zoning Ordinance.
Section 1	Table 10.24-1	Ground Floor Residential in Commercial Districts	Remove "ground floor residential" from Table 10.24-1	Revise as per description	The land uses in commercial districts table indicates that residential uses on the ground floor are allowed with a CUP. However, 10.44.190, "residential use in commercial districts" specifically only allows residential uses in commercial districts above the ground floor, under a variety of conditions.
Section 2	Table 10.24-2	W-M Zoning Designation	The table has no W-M Zoning Designation, however the Ordinance refers to a W-M Zone and Table 10.24-1 has a W-M Zone	Add W-M to the table and reference Table 10.28-1 for the required development standards	This amendment is necessary for a clearer document.
Section 3	Table 10.40-1	GFA	Gross Floor Area is just listed as "GFA"—this should be defined	Revise as per description-	This amendment is necessary for a clearer document.

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**ATTACHMENT 1**  
(19 PAGES)

Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 3	Table 10.40-1	Multiple Family Residential	"Multiple-Family Residential (1 bedroom or less)" should be changed to "Multiple-Family Residential (1 bedroom or studio)"	Revise as per description	This amendment is necessary for a clearer document.
Section 4	Diagram 10.40-1	Add note to Diagram	Add the following note to diagram: "This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text."	Revise as per description	In the event of a conflict between the text and the diagrams the text should rule.
Section 5	Diagram 10.40-2	Add note to Diagram  Remove Site Diagram	Add the following note to diagram: "This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text."  Remove Site diagram	Revise as per description	In the event of a conflict between the text and the diagrams the text should rule.  The site diagram is not accurate. No site diagram is necessary—the cross section is sufficient.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 6	Diagram 10.40-3	Add note to Diagram	Add the following note to diagram: "This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text."	Revise as per description	In the event of a conflict between the text and the diagrams the text should rule.
Section 7	Diagram 10.40-4	Replace Site Diagram Add note to Diagram	Replace site diagram for level sites. Add the following note to diagram: "This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text."	Revise as per description	The site diagram is not accurate and should be replaced. In the event of a conflict between the text and the diagrams the text should rule.
	Replace Cross Section Diagram and Site Diagram		The site plan diagram and cross section diagram in 10.40-4 is inaccurate. The diagrams should be revised so that they accurately illustrate the method of measuring noted in Section 10.40.060-C1. Replace diagram.		The cross section and site diagrams are not accurate.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 8	Diagram 10.40-5	Add note to Diagram	Add the following note to diagram: "This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text."	Revise as per description	This amendment is necessary for a clearer document.
Section 9	Diagram 10.40-6	Replace Site Diagram	The Site Plan diagram does not coordinate with how building height is measured, as defined in Section 10.40.060.C.3. Replace diagram.	Revise as per description	The site diagram is not accurate.
Section 9	Diagram 10.40-6	Add note to Diagram	Add the following note to diagram: "This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text."	Revise as per description	This amendment is necessary for a clearer document.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 10	Diagram 10.40-7	Add note to Diagram	Add the following note to diagram: "This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text."	Revise as per description	This amendment is necessary for a clearer document.
Section 11	Diagram 10.40-8	Add note to Diagram	Add the following note to diagram: "This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text."	Revise as per description	This amendment is necessary for a clearer document.
Section 12	Diagram 10.40-9	Add reference to Diagram	Add reference to reference 10.40.120.A.3.a within Diagram 10.40-9	Revise as per description	This amendment is intended to facilitate the use of the Zoning Ordinance and make it a more user-friendly document.
Section 13	New Diagram 10.40-10	New Diagram for Floor Area for Stairs	Create a new diagram to illustrate how floor area for staircases is calculated	Revise as per description	This diagram is helpful to understand the regulation

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 14	10.40.030.D.2	Substandard Lots	Insert "at least" in between "provide" and "1,500"	Modify 10.40.030.D.2 to read: "Subject parcel must provide at least 1,500 square feet of net parcel area." (emphasis added).	As written the sentence could be interpreted to imply that the parcel must provide 1,500 square feet, and no more and no less, of parcel area. The intent is to regulate substandard parcels (those less than the minimum parcel size).
Section 15	10.40.040.B (Was listed as 10.40.040)	Floor Area for Stairs	Clarify measurement of floor area for stairs	Add sentence at the end of 10.40.040.B to read: "Staircases in residential structures shall be measured once from the floor of origin to the floor of destination."	The Zoning Ordinance is silent on how floor area for stairs is measured. An interpretation was issued by the Community Development Director in 2004 regarding how floor area for stairs should be measured. This amendment applies the 2004 interpretation.
Section 16	10.40.040.C	Clarify FAR subterranean calculation	Current application is "Floor area for basements where at least 50 percent of the exterior walls are subterranean shall be calculated at 50 percent, up to a maximum of 500 square feet before the fifty percent discount" to mean that a maximum of 250 square foot credit can be applied for subterranean areas.	Revise to read: "Floor area for basements where at least 50 percent of the exterior walls are subterranean shall receive a 50 percent discount. A maximum of 500 square feet of subterranean floor area may receive the discount."	The language is unclear as to when the discount is given and by how much.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 17	10.40.040.D	Public Right of Way	Add "Also see Section 10.56.050" to reference the need to count the area within a public right-of-way as floor area	Revise as per description	This cross-referencing amendment is necessary for a clearer document.
Section 18	10.40.050.B	Public Right of Way	This section needs to reference Section 10.56.050 to count areas within a public right-of-way as building coverage	Revise as per description	This cross-referencing amendment is necessary for a clearer document.
Section 19	10.40.050	Reference Diagram	Reference Diagram 10.40-1	Revise as per description	This amendment is intended to facilitate the use of the Zoning Ordinance and make it a more user-friendly document.
Section 20	10.40.060.C.1	Reference Diagram	Reference Diagram 10.40-2	Revise as per description	This amendment is intended to facilitate the use of the Zoning Ordinance and make it a more user-friendly document.
Section 21	10.40.060.C.1 10.40.060.C.2 and 10.40.060.C.3	Sloped and Level Parcels	Add the words "of the property" after "... abuts a street."	Revise as per description	The language is unclear. The sentence could be read to mean that the regulations apply to any slope that abuts a street at the rear of the property or alternatively that the slope is computed from the parcel line that abuts a street and the calculation continues to the rear of the property. The intent of the regulation is to describe how the slope is calculated, and therefore language should be added that makes it clear that the slope is computed from the parcel line that abuts a street and the calculation continues to the rear of the property.
Section 21	10.40.060.C.1 10.40.060.C.2 and 10.40.060.C.3	Reference Diagram	Reference Diagram 10.40-4, Diagram 10.40.-3 and Diagram 10.40-5	Revise as per description	This amendment is intended to facilitate the use of the Zoning Ordinance and make it a more user-friendly document.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 21	10.40.060.C.2	Measurement of a Level Slope	This section provides regulations for a slope "plus ten (10) degrees up and minus ten (10) degrees down." The "plus" and "minus" are unnecessary.	Remove the words "plus" and "minus".	This section has unnecessary language that should be eliminated for clarity.
Section 21	10.40.060.C.3 .b	Parking Exception	Clarify that this exception only applies to parking areas attached to the main structure.	Add language clarifying that the exception only applies to the situation listed in the description	The language could suggest that a detached parking structure could be allowed taller than the 15' maximum allowed for accessory structures. The intent of this exception is to provide relief for parcels to provide covered parking.
Section 22	10.40.070.B	Reference Diagram	Reference Diagram 10.40-6	Revise as per description	This amendment is intended to facilitate the use of the Zoning Ordinance and make it a more user-friendly document.
Section 23	10.40.070.C	Reference Diagram	Reference Diagram 10.40-7	Revise as per description	This amendment is intended to facilitate the use of the Zoning Ordinance and make it a more user-friendly document.
Section 24	10.40.070.D1	Reference Diagram	Reference Diagram 10.40-8	Revise as per description	This amendment is intended to facilitate the use of the Zoning Ordinance and make it a more user-friendly document.
Section 25	10.40.080.A	Reference Diagram	Reference Diagram 10.40-7	Revise as per description	This amendment is intended to facilitate the use of the Zoning Ordinance and make it a more user-friendly document.
Section 27	10.40.090.B	Reference Diagram	Reference Diagram 10.40-8	Revise as per description	This amendment is intended to facilitate the use of the Zoning Ordinance and make it a more user-friendly document.

Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 26	10.40.090.A.1	Utility meters	Clarify that utility service meters are allowed in setbacks, but not mechanical equipment.	Revise 10.40.090.A.1 to read: "Underground utilities and the related above-ground metering" Move "septic tanks" to A.2. and will revise all according numbering.	Utility service meters are commonly requested to be attached to the sides of residences. In many cases, the attachment of such utility meters would cause an encroachment into the setback. The amendment allows some relief for property owners.
Section 27	10.40.090.B.1 a.3 & B.2.c	Railing Height	Railing height should say "not to exceed minimum building code height."	Remove 10.40.090.B.1.a.iii Add "consistent with the California Building Code" to the end of B.2.c	This section was written at a time when the building code regulation for minimum railing heights was 36". The current building code regulation for minimum railing heights is 42". The section should be revised to provide flexibility with changes in the building code.
Section 27	10.40.090.B.1	Collapse Sections	Collapse B.1 with B.1.a and revise all appropriate sections	Revise as per description	There is no B.1.b, so "a" should be eliminated for clarity.
Section 28	10.40.100.B.4	Parking	Insert "vehicular" in first line to read, "parking and vehicular access must be designed . . ."	Revise as per description	Staff has interpreted "access" to refer to vehicular access, so this amendment is necessary for clarity.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 29	10.44.010.B	Specific Use Section Numbers and Add Additional Section	Add corresponding Section numbers for each specific use listed at beginning of chapter.  Also add "Medical Marijuana Dispensaries (SMC 10.44.320)" as #31 to the end of the list.	Revise as per description	This amendment is necessary for a clearer document.
Section 30	10.44.080	Reserve Section 10.44.080 for Secondary Dwellings	Section 10.44.080 needs to be reserved.	Revise as per description	The section should be reserved in the event of future regulations for Accessory Dwelling Units.
Section 31	10.44.020.C.4	Typo	Remove reference to Section 10.40.090.C.1 (it does not exist)	Remove reference	This amendment is necessary for a clearer document.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 31	10.44.020.C.4	Accessory Structures	Clarify in (b) that the accessory structure regulations speak to rear yard areas only, not side yard. Suggested change: "The height of any such building at the rear property line shall not exceed six feet (6')". Such building or structure may then be increased one foot (1') in height for each foot such building or structure is set back from the rear property line."	Suggested change: "The height of any such building at the rear property line shall not exceed six feet (6')". Such building or structure may then be increased one foot (1') in height for each foot such building or structure is set back from the rear property line."	Structures are not allowed in side yard setbacks; however, the language in this section is ambiguous.
Section 32	10.44.170.A	Liveboards	Update 10.44.170.A to require a CUP	Insert the following italicized and underlined language: 10.44.170.A Purpose. Liveboards are subject the requirements of this section, as provided by Chapter 10.24 (Commercial Zoning Districts) and when allowed in the W or CW zoning districts <u>in accordance with Table 10.24-1</u>	The commercial land use table 10-24-2 indicates that a CUP is required for liveboard uses. Section 10.44.170, which addresses liveboard uses does not mention a CUP requirement.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 33	Title 10 (10.44.210.B.1 & B.2)	Planning Director	Change all references from "Planning Director" to "Community Development Director"	Change the references of "Planning Director" to "Community Development Director" in 10.44.210.B.1 & 2	The Planning Director position is currently frozen. 10.80.030 allows other Community Development Department employees to carry out the responsibilities of the Community Development Director.
Section 33	10.44.220.C	Sidewalk Dining	Add "Sidewalk Dining" to second line to read, "...Administrator and a Sidewalk Dining Encroachment Permit by the..."	Revise language to state "Sidewalk Dining" in front of each "Encroachment Permit" instance	Encroachment Permits for Sidewalk Dining have been called "Sidewalk Dining Encroachment Permits". This amendment would formalize that term.
Section 34	10.44.220.D and 10.44.220.C	Reference to Title 17	Delete reference to Title 17	Delete reference per discussion and will incorporate reference to 10.44.220.C.  10.44.220.C will read: "...Community Development Department as outlined in Title 17 (Streets, Sidewalks and Public Places)."	There are no limitations are listed in Title 17 so this reference should be deleted.
Section 35	10.88 & 10.44.230.B	Visitor Serving Store	10.44.230 definition for Visitor Serving Store needs to include 3, 4, 10 and 11 listed under 10.88.040	Revise as per description	The section describing Visitor Serving Stores in Chapter 10.44 does not include a complete listing of stores which are visitor serving. The listing in the definitions section is correct and the section in Chapter 10.44 should be revised accordingly for clarity and accuracy.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 36	10.44.230.C	Visitor serving stores	Clarify if a CUP is needed if a visitor serving store with an existing CUP is going from one use type to another	Amend 10.44.230.C to read: "...any new visitor store in the CC District, <i>any change from one type of visitor store to another type of visitor store, or any art dealer...</i> " (emphasis added)	There are specific findings for CUPs for visitor serving stores that demonstrate that there will not be an over concentration of a particular type of use. Therefore, if the use is changing (e.g. from Art Dealer to Massage), a new CUP should be required.
Section 37	10.45.110.C	Biennially	Change "biennially" to "biannually"	Revise per description	This section clearly requires an EMF report to be provided to the City every two years ("...on years when testing is not required..."). "Biannually" would require a report twice a year. This is an error and should be corrected.
Section 38	10.50.180	Changes to an Approved Project	Establish a time limit on changes to an approved project.	Amend 10.50.180 to provide: Prior to approval of final inspection for construction permits; Before recordation for non-construction permits; noticing requirements and appeal period.	A time limit, noticing requirements and appeal period need to be established on when the CD Director may approve a change to an approved project. The current code section does not stipulate a specific time frame, and states that the changes can be requested prior to or after construction. This means that a residence constructed 20 years ago could request a simple changes to an approved project and might not be subject to a Design Review or Administrative Design Review Permit.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 38 and Section 40 and Section 41	10.50.180 and 10.54.040.B.10	Changes to an Approved Project and Administrative Design Review Permits	Clarify the distinction between Changes to an Approved Project (10.50.180) and Administrative DRP (10.54.040.B.10).	Add a sentence to 10.54.020 which states that minor revisions to approved projects shall be regulated under 10.50.180; Delete section 10.54.040.B.10 and revise all other sections accordingly.	Both Sections address minor changes to approved projects but provide different processing procedures. One process should be provided for simplification and to avoid confusion.
Section 39	10.52.020	Zoning Permits	Establish reasonable criteria for when Zoning Permits are not required.	Add language to 10.52.020—"Building Permits for non-structural interior work (e.g., plumbing and electrical permits, interior water heater replacement and non-structural interior remodels) shall not require a Zoning Permit, unless otherwise determined by the Community Development Director."	Currently, the Zoning Ordinance requires a Zoning Permit whenever a building permit is required. A reasonable relaxation of this requirement might exclude interior modifications such as the installation of water heaters, replacement of kitchen cabinets, etc.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 41	10.54.040	Clarifying Language in Administrative Design Review Permit Section	Revise first paragraph of 10.54.040 and make it more similar to the first paragraph of 10.54.050	Revise as per description	The Administrative Design Review Permit section states "proposals that are smaller than that listed in..." whereas the Design Review Permit section states "proposals that do not require an Administrative Design Review Permit and fall below the design review thresholds contain herein..." The Design Review Permit section is clearer, and therefore the language in the Administrative Design Review Permit section should be revised.
Section 42	10.54.050.B.1	New Commercial Building	There is no required Design Review Permit for a new commercial building	Revise 10.54.050.B.1 to state "any structure proposed for construction" to take care of new commercial/industrial buildings	A Design Review Permit should be required for a new commercial or industrial building.
Section 42	10.54.050.B.6.a	Language Revision	Section 10.54.050.B.6.a should read: "Adds more than 300 square feet of floor area to any building on the parcel where the additional floor area will add new building coverage to the subject parcel where building coverage did not previously exist; or"	Revise as per description	This amendment is necessary for a clearer document.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 42	10.54.050.B.6 .b	Language Revision	Section 10.54.050.B.6.b should read: "Adds more than 25% of the total floor area of the existing structure or adds more than 600 square feet of floor area (whichever is less with respect to adding new floor area square footage) to any building on the parcel where the additional floor area will not add any new building coverage to the subject parcel where building coverage did not previously exist; or"	Revise as per description	This amendment is necessary for a clearer document.
Section 42	10.54.050.B.1 5	Missing words	Add "the" between "where" and "structure"	Revise as per description	This amendment will make this section clearer.
Section 42	10.54.050.B.2 0	Side Yard Structural Projections	Section 10.40.090.D should be referenced in Chapter 10.54 as a trigger for Design Review	Revise as per description	This cross-referencing amendment is necessary for a clearer document.
Section 43	10.54.050.E	Site Coverage	The first paragraph, second to the last line, should refer to building coverage, not site coverage	Revise as per description	This cross-referencing amendment is necessary for a clearer document.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 44	10.56.010	Un-needed wording	Eliminate "permit" reference	Take out the reference to encroachment permit in 10.56.010	This chapter describes procedures for Encroachment Agreements. Encroachment Permits are different and therefore should be eliminated as a reference for clarity.
Section 45	10.58.052	Cross Reference	Reference Section 10.44.210.B	Delete section 10.58.052 and incorporate it into section 10.44.210.B; revise 10.44.210.B to make it easier to follow	The "Specific Use" chapter (10.44) lists specific requirements for certain uses and associated permitting procedures. The reference to a Minor Use Permit for Music and Dancing should be incorporated into Chapter 10.44, and not listed as a standalone item in 10.58 (Minor Use Permits). This amendment is necessary to make the Zoning Ordinance an easier to read document.
Section 46	10.82.020.C	Unclear reference	The reference to Section 10.54.090.B does not make sense	The reference will be changed to 10.54.050.B	This amendment is necessary to resolve an error.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 47	10.82.020	Noticing Procedures	Revise language to (1) require a consistent 300-foot noticing area (2) require a consistent 10 day advanced notice/appeal period (as opposed to a 12-day and a 10-day) (3) remove reference to the Pacific Bell directory (4) require noticing to occupants (5) require a Notice of Decision to be distributed to owner, applicant and all those who commented in writing.	Revise as per description	Currently the noticing requirements are confusing due to 10-day/12-day requirements. Additionally, reference to the Pacific Bell directory is outdated. Finally, notice should be given of department decisions.
Section 48	10.84.030	Redundant Language	The first sentence is redundant	Collapse language	This cross-referencing amendment is necessary for a clearer document.
Section 49	10.88	Def of Secondary Dwelling	Revise definition of "Secondary Dwelling" to remove reference to Section 10.44.080 which does not exist.	Remove reference	This definition references a section that does not exist. The reference should be removed.
Section 50	10.88	Building Height	"Building height" is not defined.	Provide an entry in Chapter 10.88 for "Building Height" and reference 10.40.060.B.1	In the definitions section "Height" is defined as "see 'Building Height'", which is not listed as an entry. An entry for "Building Height" should be provided.

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Draft Ordinance Section No.	Muni Code Section/ Table	Topic	Description	Proposed Modification	Rationale
Section 51 and Section 52	11.12	Tree Permit Standards	Modify tree permit standards to be "diameter at breast height," not "circumference at breast height."	Revise as per description	The standard in the industry is to use "diameter at breast height", and not "circumference at breast height." This has caused confusion in the past and therefore the standards should be converted and amended for easier use of the document.
Section 53	1.04.070	Computation of Time	Clarify if City Hall is closed on the final day of a counted timeframe, the timeframe is extended to the next City Hall business day.	Revise as per description	The final day for an appeal to be filed should be a day that City Hall is open for business.
Section 54	2.20.006	Community Development Department staff	Change "provided in title" to "provided by this code"	Revise as per description	This amendment is needed for consistency.
--	Document-wide	Formatting language	Change format of instances of "10.xx.xxx SMC" to "Section 10.xx.xxx"	Throughout all sections proposed for modifications, change of format of instances of "10.xx.xxx SMC" to "Section 10.xx.xxx"	This makes for a more uniform document.

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.....

**SAUSALITO PLANNING COMMISSION  
RESOLUTION NO. 2011-29**

**RECOMMENDATION OF CITY COUNCIL APPROVAL OF OMNIBUS MUNICIPAL  
CODE AMENDMENTS OF TITLES 1, 2, 10, AND 11 TO: CORRECT ERRORS,  
CLARIFY AMBIGUITIES, AND MODIFY VARIOUS SECTIONS FOR INCREASED  
EFFECTIVENESS**

**(ZOA 10-038)**

---

**WHEREAS**, since the adoption of the Zoning Ordinance (Sausalito Municipal Code Title 10) in 2003, the Community Development Department compiled a list of issues that would benefit from clarification; and

**WHEREAS**, on July 19, 2011 and August 18, 2011 the Legislative Committee of the City Council conducted public meetings to review the issues that would benefit from clarification and on August 18, 2011 the Legislative Committee authorized the issues to be reviewed by the Planning Commission; and

**WHEREAS**, on September 7, September 21 and October 12, 2011 the Planning Commission conducted study sessions to review proposed Municipal Code amendments which address the issues; and

**WHEREAS**, on October 12, 2011 the Planning Commission directed staff to schedule a public hearing on the amendments; and

**WHEREAS**, the Planning Commission conducted a duly-noticed public hearing on November 9, 2011, at which time all interested persons were given an opportunity to be heard; and

**WHEREAS**, the Planning Commission has considered all oral and written testimony on the proposed amendments; and

**WHEREAS**, the Planning Commission has reviewed and considered the information contained in the staff report dated November 9, 2011 for the project; and

**WHEREAS**, the project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15061.b.3 of the CEQA Guidelines because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and

**WHEREAS**, the Planning Commission finds the proposed amendments are consistent with the General Plan as described in the staff report dated November 9, 2011.

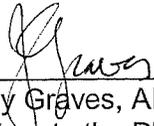
**NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES:**

The Planning Commission recommends City Council approval of the Omnibus Municipal Code amendments, as listed in the Attachment, amending Titles 1, 2, 10, and 11 of the Sausalito Municipal Code to correct errors, clarify ambiguities, and to modify various sections for increased effectiveness.

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**ATTACHMENT 2**  
(2 PAGES)

**RESOLUTION PASSED AND ADOPTED**, at the regular meeting of the Sausalito Planning Commission on the 9<sup>th</sup> day of November, 2011, by the following vote:

AYES:	Commissioner:	Graef, Werner, Cox, Keegin
NOES:	Commissioner:	None
ABSENT:	Commissioner:	Bair
ABSTAIN:	Commissioner:	None

  
\_\_\_\_\_  
Jeremy Graves, AICP  
Secretary to the Planning Commission

ATTACHMENT- Draft Ordinance

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO  
 AMENDING TITLES 1, 2, 10, AND 11 OF THE SAUSALITO MUNICIPAL  
 CODE TO: CORRECT ERRORS, CLARIFY AMBIGUITIES, AND TO MODIFY  
 VARIOUS SECTIONS FOR INCREASED EFFECTIVENESS  
 ZOA 10-038

THE CITY COUNCIL OF THE CITY OF SAUSALITO DOES HEREBY ORDAIN AS  
 FOLLOWS:

**Section 1.** Table 10.24-1 of the Sausalito Municipal Code is hereby amended as  
 follows<sup>1,2</sup>:

Table 10.24-1

Offices (new structure or replacement of existing office)	P	P	CUP		CUP			
---	---	---	-----	--	-----	--	--	--

Table 10.24-1

Retail Trade								
Art galleries dealing in original art	P	CUP						<del>SMC</del> Sec. 10.44.230 (Visitor serving stores and art galleries)
<u>Drinking</u> <u>Establishments</u> <del>Bars</del>	CUP	CUP	CUP		CUP <sup>5</sup>			
Building material stores	P	P	P		P			
Formula retail (applies to all forms of retail trade)	CUP		CUP	CUP				<del>SMC</del> Sec. 10.44.240 (Formula retail)
Full service supermarket				P				
Furniture, furnishings and equipment stores	P	P	P		P			
Grocery stores	P	P	P		P			

<sup>1</sup> Only the pertinent sections of Table 10.24-1 have been shown. The remainder of Table 10.24-1 remains unchanged.

<sup>2</sup> With the exception of the diagrams, the text to be added is printed double-underlined and the text to be removed is printed ~~double-strikeout~~.

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**Table 10.24-1**

<b>Residential Uses</b>								
<del>Ground floor residential</del>	<del>CUP</del>	<del>CUP</del>	<del>CUP</del>					
Home occupations	P	P	P		P			<del>SMC</del> Sec. 10.44.030 (Home occupations)

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**Table 10.24-1**

<b>Transportation and Communications Uses</b>								
Wireless communications facilities	See Chapter 10.45 <del>SMC</del> (Standards and Criteria for Wireless Communications Facilities)						Chapter 10.45 <del>SMC</del>	
Boat launching ramps					CUP	CUP	CUP	
Dry boat storage				CUP	CUP	P	P	
Harbor facilities and marinas					P	P	p7	<del>SMC</del> Sec. 10.44.140 (Harbor and marina facilities)
Off-street parking facilities (private and commercial)	CUP	CUP	CUP					<del>SMC</del> Sec. 10.40.100 – 10.40.120 (Parking – standards, requirements, design)
Pipelines and transmission lines		P	P		P	MUP		
Transit stations and terminals	CUP	CUP	CUP					
P MUP CUP	Permitted use Minor Use Permit required Conditional Use Permit required						Chapter 10.58 <del>SMC</del> Chapter 10.60 <del>SMC</del>	

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- 1 Zoning Permit required for all uses. (See Chapter 10.52 SMC.)
- 2 Tax-exempt yacht clubs only, subject to restrictions in the Marinship Specific Plan.

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3 No new houseboats are allowed. Existing houseboats may be legalized with a  
 2 Conditional Use Permit.

4 Residential uses are permitted above the ground floor in the CN zoning districts  
 4 located in the Second and Main Street area and the Bridgeway and Spring Street area.  
 5 Residential uses are not permitted in the CN zoning district located along Bridgeway  
 6 between Coloma Street and Ebbtide Avenue. No residential use between Coloma and  
 7 Ebbtide.

8 5 Other than beer and wine for on-site consumption as an accessory use.

9 6 Not to exceed 20 seats.

10 7 Marine service harbors only.

12 **Section 2.** Table 10.24-2 of the Sausalito Municipal Code is hereby amended as follows:

14 **Table 10.24-2**  
 15 **SITE DEVELOPMENT STANDARDS – COMMERCIAL ZONING DISTRICTS**

Development Requirement	CC	CR	CN		SC	CW	W	W-M	See SMC
Minimum parcel size	5,000 sf	5,000 sf	5,000 sf		10,000 sf	5,000 sf	25,000 sf	See Table 10.28-1 for site development standards	<del>Sec. SMC 10.40.030</del> (Minimum parcel standards) and SMC Title 9
Minimum lot width	50 feet	50 feet	50 feet		50 feet	50 feet	50 feet		<del>Sec. SMC 10.28.060</del> (Planned development (-Pd))
Maximum density 1 du per	1,500 sf	1,500 sf	1,500 sf		N/A	10% of total berths (1)	10% of total berths (1)		<del>Sec. SMC 10.44.170</del> (Liveaboards)
Maximum floor area ratio	1.3	1.00	-1	-2	.20	.30	.30		<del>Sec. SMC 10.40.040</del> (Floor area ratio)
			.50	.35					
Maximum building coverage	100%	70%	70 %	50 %	50%	30%	30%		<del>Sec. SMC 10.40.050</del> (Building coverage limits)
Minimum Setbacks									<del>Sec. SMC 10.40.080</del> (Exceptions to required setbacks), <del>Sec. 10.40.070</del> (Setbacks and yards), and
Front	N/A	N/A	N/A		N/A	N/A	N/A	1 for site developo	
Side (2)	10 feet	10 feet	10 feet		(3)	(3)	(3)		

Development Requirement	CC	CR	CN	SC	CW	W	W-M	See SMC
Rear (2)	15 feet	15 feet	15 feet	20 feet	20 feet	15 feet		Chapter 10.44 SMC (Specific Use Requirements)
Maximum building height	32 feet	32 feet	32 feet	32 feet	25 feet	32 feet		Sec. SMC 10.40.060 (Height requirements)

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**Section 3.** Table 10.40-1 of the Sausalito Municipal Code is hereby amended as follows<sup>2</sup>:

**Table 10.40-1  
PARKING REQUIREMENTS**

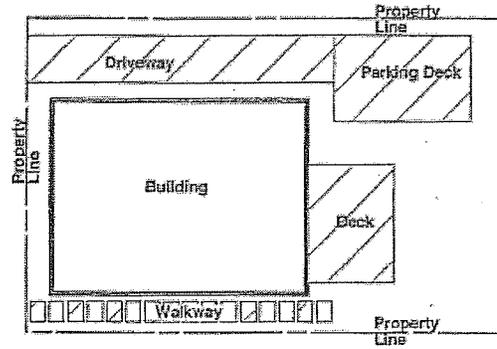
Land Use	Off-Street Parking Required
<b>Open Space and Public</b>	
Plant nurseries	1 per 400 sq. ft. of <u>Gross Floor Area ("GFA")</u> of manufacturing stock + 1 per 2,000 sq. ft. of nursery stock area
<b>Residential</b>	
Multiple-family residential (1 bedroom or less studio)	1.5 per dwelling unit

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<sup>2</sup> Only the pertinent sections of Table 10.40-1 have been shown. The remainder of Table 10.40-1 remains unchanged.

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1 **Section 4.** Diagram 10.40-1 of the Sausalito Municipal Code is hereby amended as  
2 follows:  
3



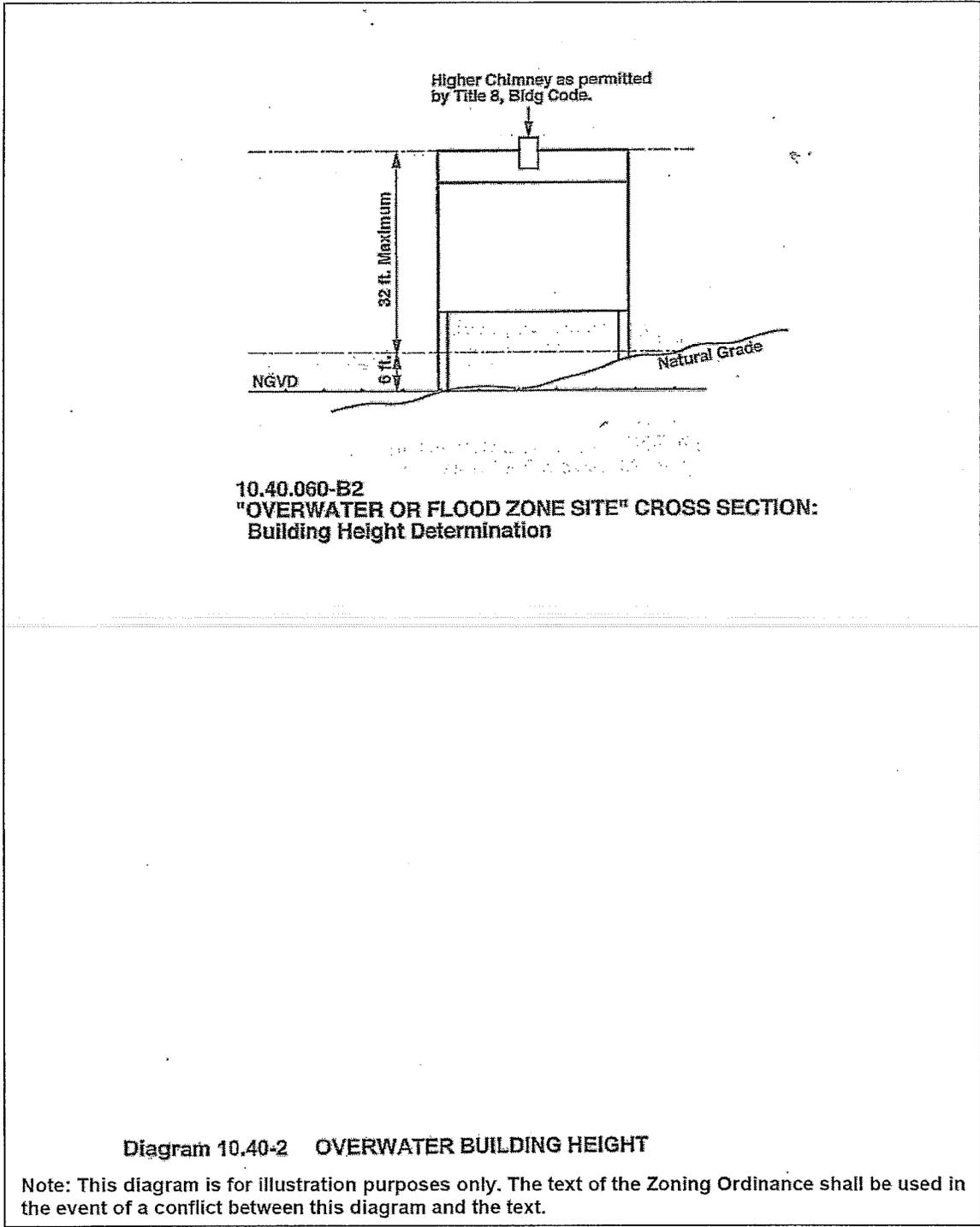
10.40.050-C  
IMPERVIOUS SURFACE COMPONENTS:  
Maximum Allowable Per Table

Diagram 10.40-1 IMPERVIOUS SURFACE

Note: This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text.

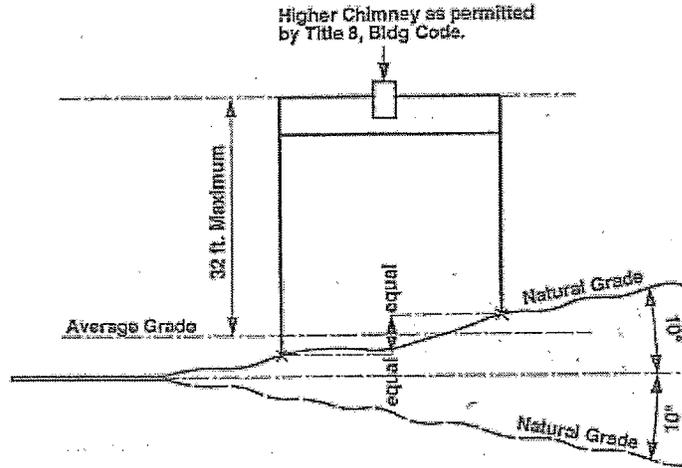
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1 **Section 5.** Diagram 10.40-2 of the Sausalito Municipal Code is hereby amended as  
2 follows:  
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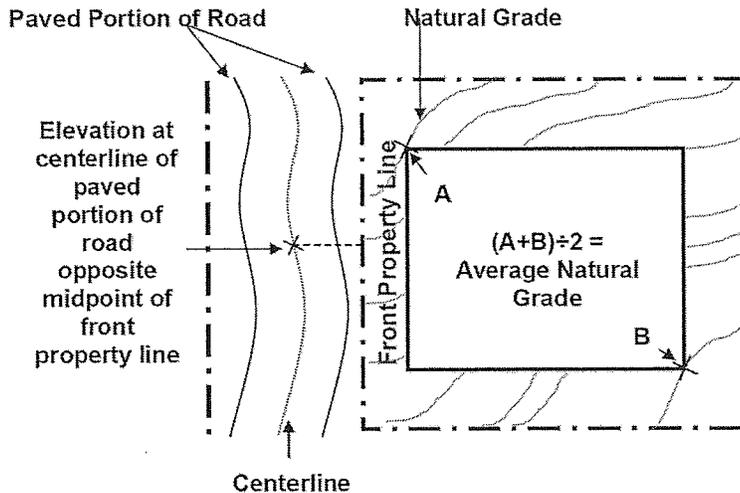


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1 **Section 6.** Diagram 10.40-3 of the Sausalito Municipal Code is hereby amended as  
 2 follows:  
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10.40.060-C2  
 "LEVEL SITE" CROSS SECTION:  
 Max. 10° Up or Down Slope



Reference: Section 10.40.060-C2  
 Site Plan: Building Height Determination  
 Diagram 10.40-3 Level Site Building Height

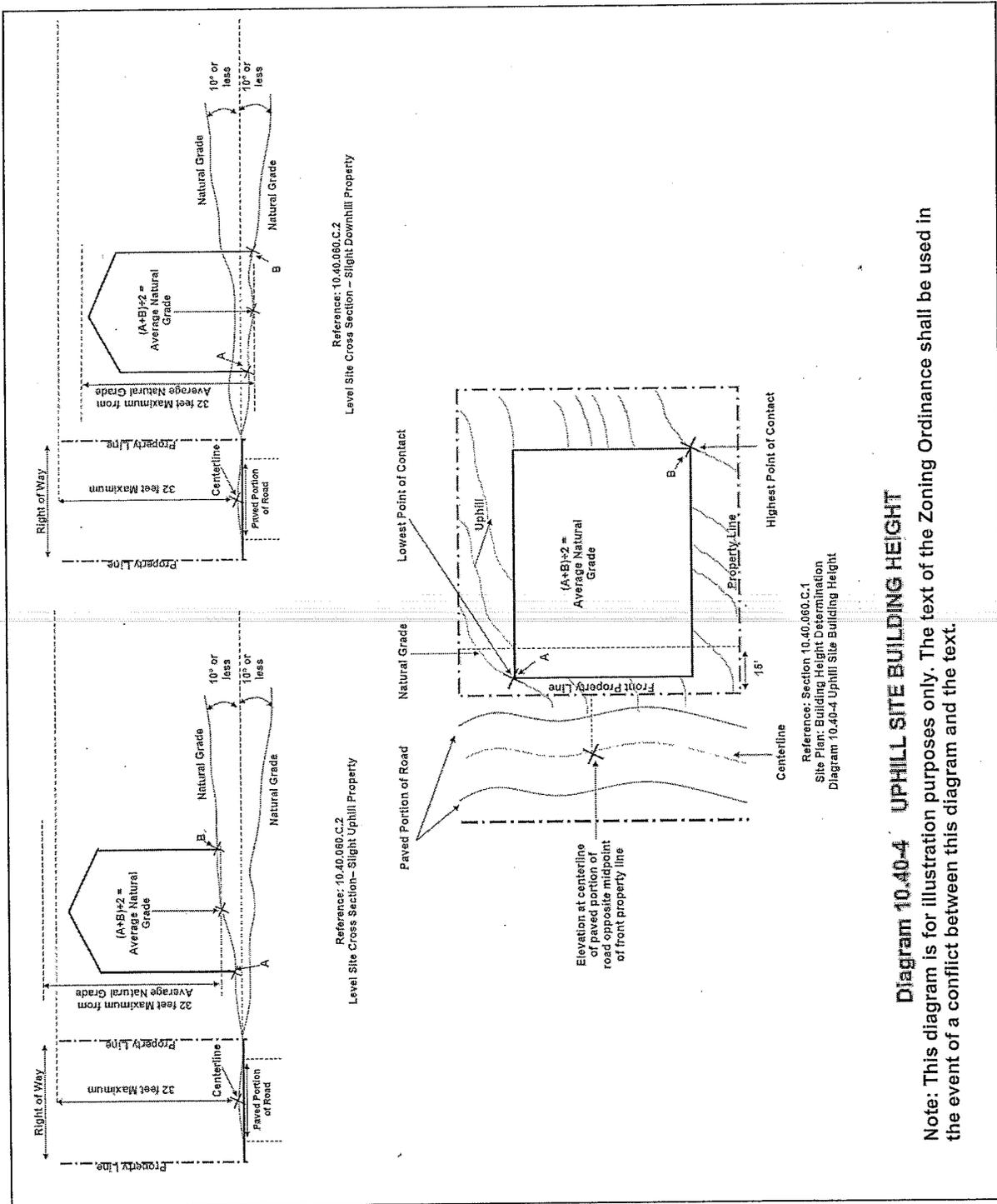
Diagram 10.40-3 LEVEL SITE BUILDING HEIGHT

Note: This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text.

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1 **Section 7.** Diagram 10.40-4 of the Sausalito Municipal Code is hereby amended as  
 2 follows:  
 3



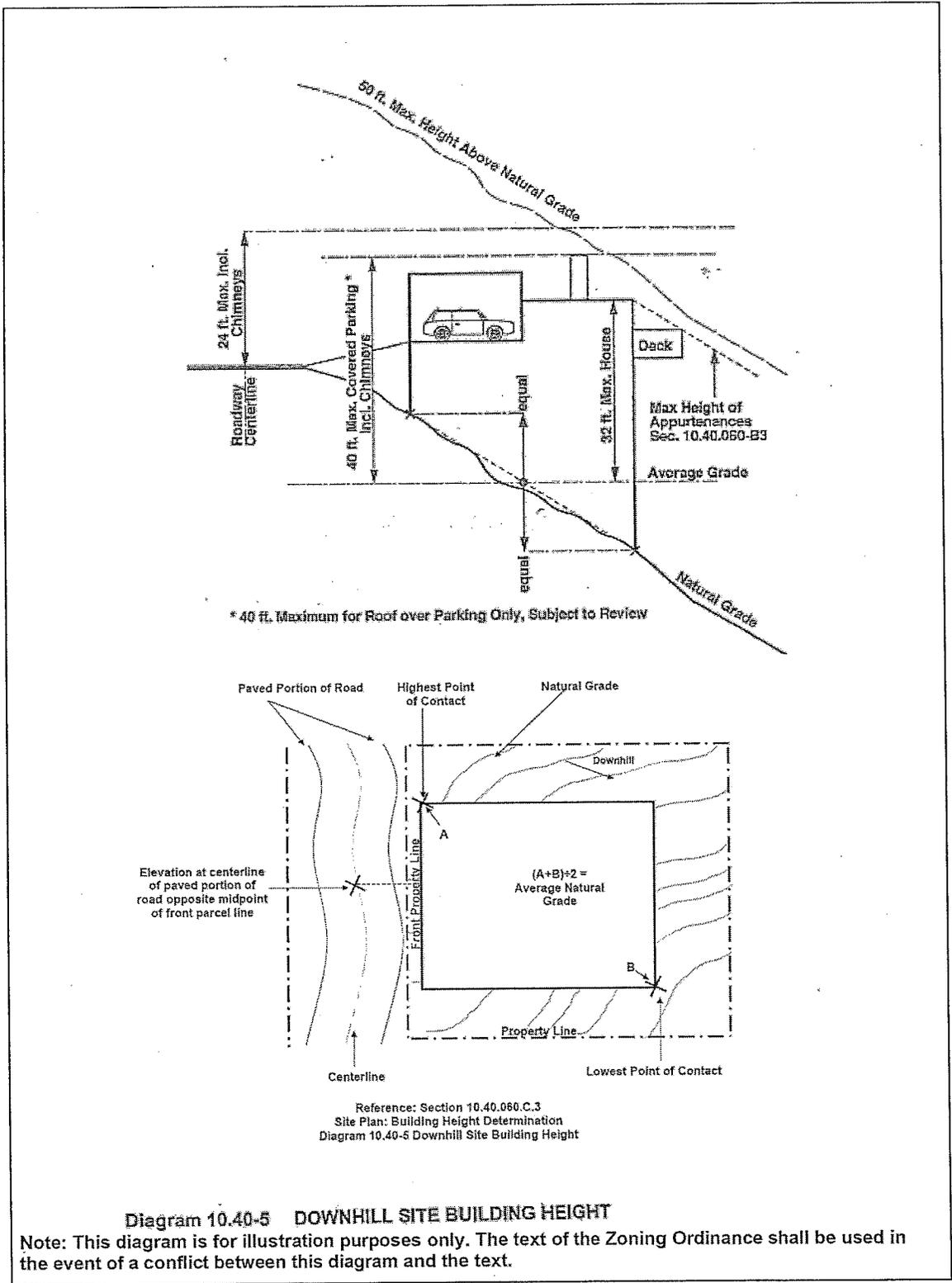
**Diagram 10.40-4 UPHILL SITE BUILDING HEIGHT**

Note: This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text.

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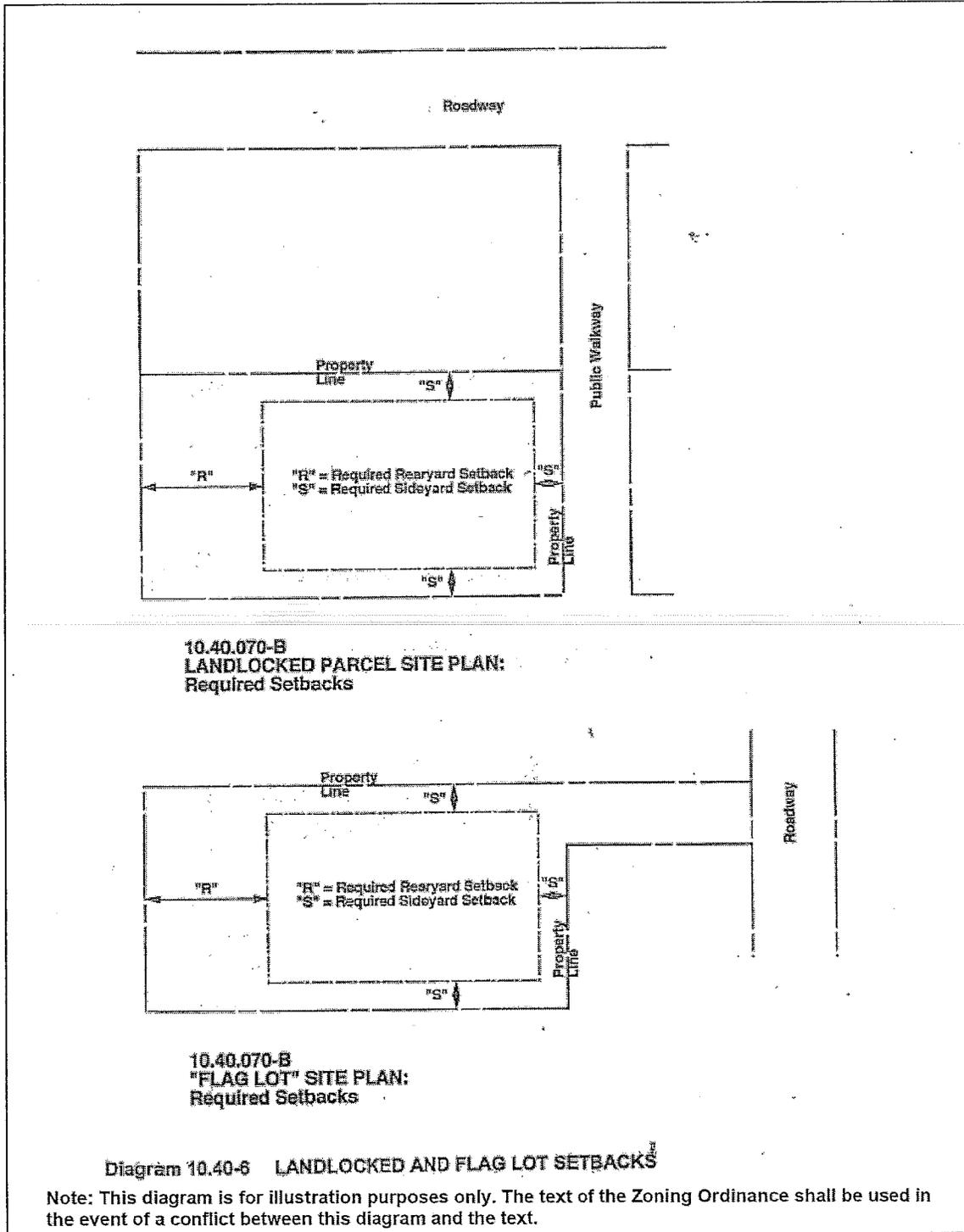
1 **Section 8.** Diagram 10.40-5 of the Sausalito Municipal Code is hereby amended as  
 2 follows:  
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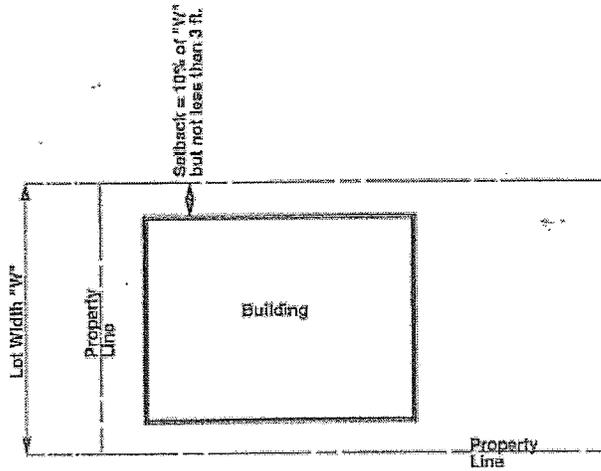
1 **Section 9.** Diagram 10.40-6 of the Sausalito Municipal Code is hereby amended as  
2 follows:  
3



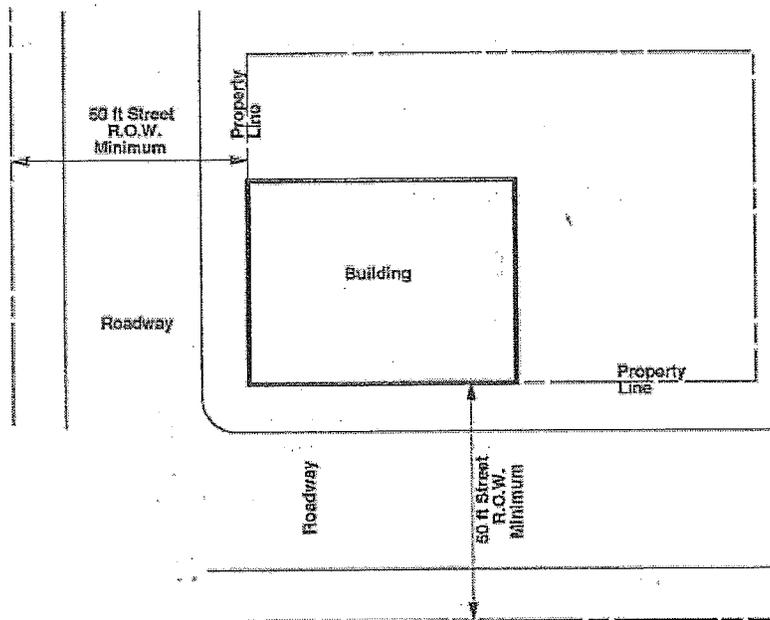
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1 **Section 10.** Diagram 10.40-7 of the Sausalito Municipal Code is hereby amended as  
2 follows:  
3



**10.40.080-A**  
**NARROW PARCEL SITE PLAN:**  
**Building Setbacks for Narrow Parcels (Less than 50 ft.)**



**10.40.070-C**  
**CORNER LOT SITE PLAN:**  
**Zero Building Setbacks at Corner Lots**

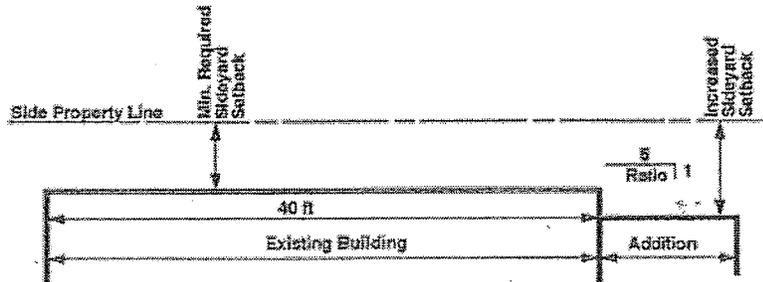
**Diagram 10.40-7 NARROW AND CORNER PARCEL SETBACKS**

Note: This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text.

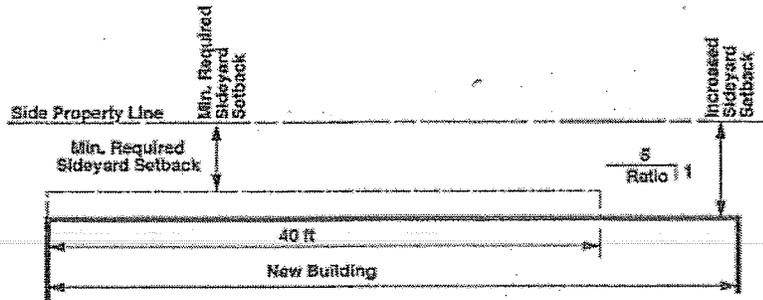
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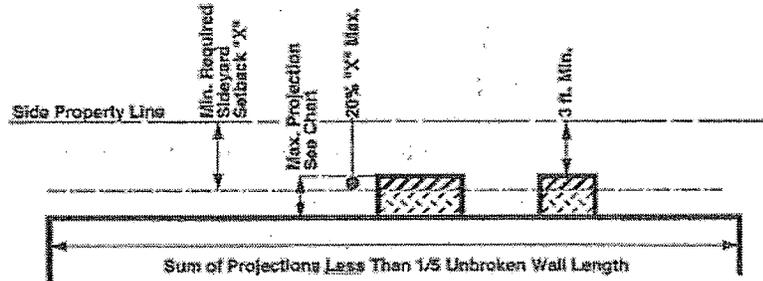
1 **Section 11.** Diagram 10.40-8 of the Sausalito Municipal Code is hereby amended as  
 2 follows:  
 3



10.40.070-D  
 SITE PLAN:  
 Side Yard Setbacks; Additions



10.40.070-D  
 SITE PLAN:  
 Side Yard Setbacks; New Buildings



10.40.090B  
 SITE PLAN:  
 Setbacks; Allowable Projections.  
 (See text section for additional information)

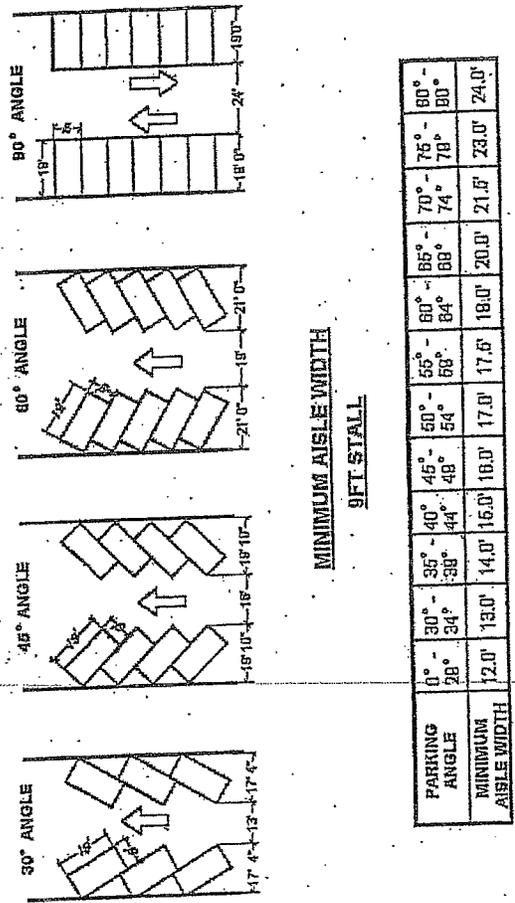
Diagram 10.40-3 INCREASED SETBACK AND ALLOWABLE PROJECTIONS

Note: This diagram is for illustration purposes only. The text of the Zoning Ordinance shall be used in the event of a conflict between this diagram and the text.

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1 **Section 12.** Diagram 10.40-9 of the Sausalito Municipal Code is hereby amended as  
 2 follows:  
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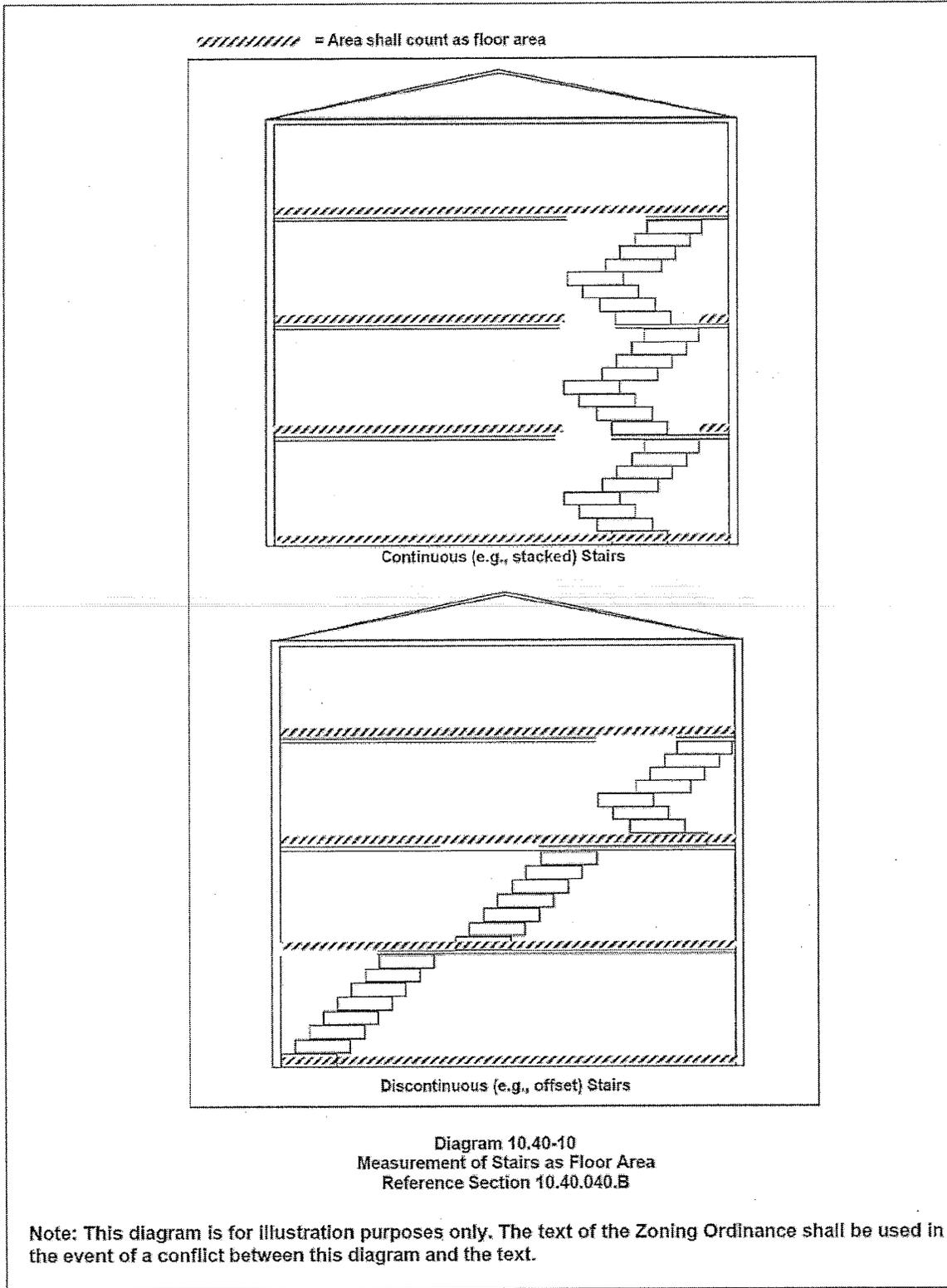
Reference 10.40.120.A.3.a

Diagram 10.40-9 PARKING AISLE WIDTH

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1 **Section 13.** Diagram 10.40-10 is hereby added to the Sausalito Municipal Code as  
2 follows:  
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1 **Section 14.** Section 10.40.030.D.2 of the Sausalito Municipal Code is hereby amended  
2 as follows:

3  
4 D. Development on Substandard Lots. A legally created substandard-sized lot (either  
5 width or area) for the applicable base district may be occupied by a permitted or  
6 conditional use, subject to the following:

- 7 1. Subject parcel must average at least 30 feet wide; and
- 8 2. Subject parcel must provide at least 1,500 square feet of net parcel area.

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11 **Section 15.** Section 10.40.040.B of the Sausalito Municipal Code is hereby amended as  
12 follows:

13  
14 B. Measurement of Floor Area. The sum of the gross horizontal surfaces of all  
15 enclosed buildings and any covered patio, balcony, court, deck, porch or terrace with  
16 over 50 percent of the surface of the exterior vertical area (not including the vertical  
17 area of the main building wall) enclosed by weatherproof materials (including  
18 closable windows, doors and louvers.). Floor area shall be measured from the interior  
19 faces of the exterior walls and shall exclude vent, utility and elevator shafts; inner  
20 courts; 500 square feet of enclosed automobile parking spaces for single-family  
21 dwellings and the minimum area for parking and circulation required by ~~SMC~~ Section  
22 10.40.110 (Parking space requirements by land use) and 10.40.120 (Design and  
23 improvement of parking) for all other uses; and shall include attics, crawl spaces and  
24 other confined spaces with a ceiling height greater than five feet eleven inches (5'  
25 11") where such space has a finished floor. Interior volumes in residential structures  
26 with a finished floor to top of roof height of over 20 feet for sloped roofs (minimum  
27 4:12 pitch) and over 17 feet for flat roofs shall be counted as 1.5 times the finished  
28 floor area. Continuous staircases (e.g., stacked) shall be measured as floor area on  
29 one floor only. Discontinuous (e.g., offset) staircases in residential structures shall be  
30 measured as floor area on each floor. See Diagram 10.40-10.

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33 **Section 16.** Section 10.40.040.C of the Sausalito Municipal Code is hereby amended as  
34 follows:

35  
36 C. Floor Area Ratio (FAR) Calculation. "Floor area ratio" or "FAR" shall mean the  
37 floor area of the building or buildings on a parcel divided by the net area of the  
38 parcel. Floor area for basements where at least 50 percent of the exterior walls are  
39 subterranean shall receive a 50 percent discount. A maximum of 500 square feet of  
40 subterranean floor area may receive the discount. ~~Floor area for basements where at~~  
41 least 50 percent of the exterior walls are subterranean shall be calculated at 50  
42 percent, up to a maximum of 500 square feet before the 50 percent discount. To  
43 receive this credit for subterranean floor area, the entire basement must be located  
44 within the required setbacks, and a deed restriction must be recorded stipulating that  
45 the basement area shall not be utilized for the creation of an additional unit on the  
46 property, and the project must comply with all other parts of this title.

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3 **Section 17.** Section 10.40.040.D of the Sausalito Municipal Code is hereby amended as  
4 follows:

5  
6 D. Floor Area Ratio (FAR) Limits. The maximum floor area allowed on any parcel  
7 shall be determined by multiplying the net parcel area by the maximum permitted  
8 FAR identified in the site development standards table for each applicable district.  
9 Also see Section 10.56.050.

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12 **Section 18.** Section 10.40.050.B of the Sausalito Municipal Code is hereby amended as  
13 follows:

14  
15 B. Measurement of Coverage. Coverage is measured as the percentage of the total site  
16 area occupied by buildings and structures. For the purposes of this definition,  
17 “buildings” include primary buildings, garages, carports, and accessory buildings;  
18 decks and paved areas (such as walkways, driveways, patios, uncovered parking areas  
19 or roads) that have an elevation of at least two (2) feet above the average level of the  
20 natural grade directly below the constructed feature (average of highest and lowest  
21 points); and stairs two (2) feet above the natural grade. The measurement of site  
22 coverage shall not include the portion of roof eaves and/or rain gutters that extend no  
23 more than two feet six inches (2’6”) from the face of the building wall, but shall  
24 include the portion of roof eaves and/or rain gutters that extend more than two feet six  
25 inches (2’6”) from the face of the building wall. Also see Section 10.56.050.

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28 **Section 19.** Section 10.40.050.C of the Sausalito Municipal Code is hereby amended as  
29 follows:

30  
31 C. Limit on Decks and Impervious Surfaces. All structures which count toward  
32 building coverage shall also count as impervious surface. In addition, impervious  
33 surface shall consist of any of the following features, regardless of height relative to  
34 natural grade: (1) all paved surfaces, such as concrete, regardless of the  
35 permeability of the material; (2) all hardscape garden elements such as stepping  
36 stones, fountains, statuary, swimming pools, and walls; (3) all deck areas regardless  
37 of the material used for the deck structure; (4) all gravel areas. See Diagram 10.40-  
38 1. The following features shall not be counted toward impervious surface: (1)  
39 landscaped areas; (2) planters; (3) un-landscaped areas of exposed earth, including  
40 those between different impervious surfaces (such as stepping stones) or between  
41 impervious surfaces and landscaped areas (such as the area between a walkway and  
42 a landscaped area). Impervious surfaces shall be subject to the maximum area  
43 specified in Table 10.22-2 (Site Development Standards – Residential Zoning Dis-  
44 tricts).

1 **Section 20.** Section 10.40.060.B.2 of the Sausalito Municipal Code is hereby amended  
2 as follows:

3  
4 2. Over Water or Flood Zone. Maximum height of buildings located over water or  
5 within the V1 flood zone as identified in the FIRM (National Flood Insurance Rate  
6 Map) of the National Flood Insurance Program shall be measured above the natural  
7 grade or six (6) feet above NGVD (National Geodetic Vertical Datum), whichever is  
8 higher. The height of floating structures shall be measured from three (3) feet above  
9 the waterline. See Diagram 10.40-2.

10  
11  
12 **Section 21.** Section 10.40.060.C of the Sausalito Municipal Code is hereby amended as  
13 follows:

14  
15 C. Sloped and Level Parcels. In addition to the provisions contained in subsection B  
16 of this section (Measurement of Height), height restrictions shall apply to all sloped  
17 (uphill and downhill) and level lots, as the lots are sloped from abutting streets. For  
18 lots that abut more than one street, more than one restriction will apply. The  
19 Community Development Director shall review and make a determination for  
20 proposals that do not meet the site conditions described below:

21 1. Uphill. Any slope greater than 10 degrees slope computed upward from a  
22 parcel line that abuts a street at the front of the property to the rear of the property.  
23 On the uphill side of a street, a sloped roof that exceeds the height restriction  
24 identified in subsection B of this section (Measurement of Height) may be  
25 permitted subject to the following conditions (see Diagram 10.40-4):

26 a. The roof slopes to meet a front wall of less than 32 feet toward the front  
27 property line, measured as stated above;

28 b. The maximum height within the first 15 feet does not exceed 40 feet;  
29 and

30 c. The sloped roof is subject to review and approval by the Planning  
31 Commission as governed by Chapter 10.54 ~~SMC~~ (Design Review Proce-  
32 dures).

33 2. Level. Any slope between ~~plus~~ 10 degrees up and ~~minus~~ 10 degrees down  
34 computed from a parcel line that abuts a street at the front of the property to the  
35 rear of the property. On level parcels, no portion of a building, including any  
36 portion of a roof, chimney or other appurtenance, shall exceed a height of 32 feet,  
37 as measured from a point located at the centerline of the paved portion of the road  
38 opposite the midpoint of the front parcel line. See Diagram 10.40-3.

39 3. Downhill. Any slope greater than 10 degrees slope computed downward from a  
40 parcel line that abuts the street at the front of the property to the rear of the  
41 property. The following provisions apply (see Diagram 10.40-5):

42 a. Height Restrictions. On the downhill side of a street no portion of a  
43 building, including any portion of a roof, chimney, or other appurtenance,  
44 shall exceed a height of 24 feet, as measured from the centerline of the  
45 paved portion of the road opposite the midpoint of the front parcel line.

1 b. Exception for Parking. On the downhill side of a street, that portion of a  
2 building that is attached to the main building and is devoted to covering  
3 the off-street parking spaces and building access may project above the  
4 32-foot required height limit subject to the following conditions:

- 5 i. The overall height of the structure and all appurtenances does not  
6 exceed 40 feet;  
7 ii. The portion of new proposed structures exclusive of covered  
8 parking does not exceed the 32-foot height limit;  
9 iii. The covering does not violate any other provisions of this title;  
10 iv. The covered parking is the highest structure on an uphill lot;  
11 and  
12 v. The covered parking is subject to review and approval by the  
13 Planning Commission as governed by Chapter 10.54 ~~SMC~~ (Design  
14 Review Procedures).

15  
16  
17 **Section 22.** Section 10.40.070.B of the Sausalito Municipal Code is hereby amended as  
18 follows:

19  
20 B. Land Locked Parcel. Any parcel that does not have a front parcel line (i.e., not  
21 fronting on a public street or road) shall provide the required rear yard along one  
22 parcel line and the required side yard along all remaining parcel lines. If a rear parcel  
23 line has not already been established, the owner may elect any parcel line as the rear  
24 parcel line provided such choice is not injurious to adjacent properties, as determined  
25 by the Community Development Director. If a rear parcel line has already been  
26 established, the owner may elect a new parcel line as the rear parcel line, provided  
27 such choice is not injurious to adjacent properties, as determined by the Community  
28 Development Director. See Diagram 10.40-6.

29  
30  
31 **Section 23.** Section 10.40.070.C of the Sausalito Municipal Code is hereby amended as  
32 follows:

33  
34 C. Parcels Fronting on More Than One Street. The following setbacks shall apply for  
35 parcels abutting more than one public street or right-of-way measuring 50 feet or  
36 more in width (whether or not developed) (see Diagram 10.40-7):

- 37 1. No setback shall be required from parcel lines adjoining two intersecting public  
38 streets or rights-of-way.  
39 2. Setbacks may be decreased for parcels fronting on two non-intersecting streets,  
40 or for parcels fronting on more than two intersecting streets, provided the proposal  
41 is subject to design review and the Planning Commission finds the reduced setback  
42 does not diminish the overall purpose of providing physical and visual space  
43 between residences.  
44  
45  
46

1 **Section 24.** Section 10.40.070.D.1 of the Sausalito Municipal Code is hereby amended  
2 as follows:

3  
4 1. Length of Building. The length of a structure shall be measured along a line  
5 parallel to the adjoining side lot line. Where the length of a structure, building wall, or  
6 series of attached building walls exceeds 40 feet measured parallel to the adjoining  
7 side lot line, the minimum setback shall be increased at the rate of one (1) foot for  
8 each five (5) feet such length exceeds 40 feet. The full length of the building shall be  
9 subject to the increased setback. If the addition will increase the building length to  
10 exceed 40 feet, only the addition shall require the additional side yard setback. The  
11 full length of the addition shall be subject to the increased setback. See Diagram  
12 10.40-8.

13  
14  
15 **Section 25.** Section 10.40.080.A of the Sausalito Municipal Code is hereby amended as  
16 follows:

17  
18 A. Narrow Parcels. The side yard setback requirement may be reduced to 10 percent  
19 of the lot width, to not less than three (3) feet, for any substandard parcel that meets  
20 the criteria in ~~SMC Section~~ 10.40.030(D) (Development on Substandard Lots) and is  
21 less than 50 feet wide. See Diagram 10.40-7.

22  
23  
24 **Section 26.** Section 10.40.090.A of the Sausalito Municipal Code is hereby amended as  
25 follows:

26  
27 A. Use of Setbacks. No structure shall be permitted within any required setback area,  
28 except the following:

- 29 1. Underground utilities and the related aboveground metering;  
30 2. and Sseptic tanks;  
31 ~~3.~~ Fences and retaining walls that comply with the applicable height requirements;  
32 ~~4.~~ Signs pursuant to Chapter 10.42 ~~SMC~~ (Sign and Awning Regulations); and  
33 ~~5.~~ As otherwise provided by ~~SMC Section~~ 10.40.080 (Exceptions to required  
34 setbacks) and this section.

35  
36  
37 **Section 27.** Section 10.40.090.B of the Sausalito Municipal Code is hereby amended as  
38 follows:

39  
40 B. Yard Projections. Projections into minimum yards shall be as follows:

- 41 1. The minimum yard setback may be reduced by up to 20 percent. The following  
42 features (not including decks 24 inches or more above natural grade, porches, or  
43 other indoor or outdoor living areas) provided that at all times a minimum setback  
44 of three (3) feet is provided, for the following features (see Diagram 10.40-8):

1 ~~a. The minimum yard setback may be reduced by up to 20 percent for the~~  
2 ~~following features; provided, that at all times a minimum setback of three feet~~  
3 ~~is provided:~~

4 ~~ia. Cornices, canopies, eaves, or any other similar architectural features, not~~  
5 ~~exceeding three (3) feet.~~

6 ~~ib. Fire escapes not exceeding four (4) feet.~~

7 ~~iii. An uncovered stair and necessary landings; provided, that such stair and~~  
8 ~~landings do not extend above the entrance floor of the building except for a~~  
9 ~~railing not to exceed three feet in height.~~

10 ~~ic. Bay windows, balconies, and chimneys may project a distance not to~~  
11 ~~exceed three (3) feet; provided, that such features do not occupy, in aggregate,~~  
12 ~~more than one-fifth the length of any otherwise unbroken section of wall of the~~  
13 ~~building on which they are located.~~

14 2. The minimum yard setback may not be reduced for decks that are 24 inches or  
15 more above natural grade, porches, or other indoor or outdoor living areas.

16 3a. The following features may project into required yards if the applicable height  
17 and/or coverage requirements are met:

18 a. Walkways; provided, that any walkway is not at any point more than two (2)  
19 feet above or below the level of natural grade.

20 b. Decks, swimming pools and patios; provided, that the height of any structure  
21 does not exceed two (2) feet above the average level of natural grade directly  
22 below the feature and at all times a minimum setback of five (5) feet is  
23 maintained.

24 c. An uncovered stair and necessary landings; provided, that such stair and  
25 landings do not extend above the entrance floor of the building except for a  
26 railing ~~not to exceed three feet in height~~ compliant with the California Building  
27 Code.

28 d. Accessory structures if consistent with the requirements of ~~SMC Section~~  
29 10.44.020 (Accessory uses and structures).

30  
31 **Section 28.** Section 10.40.100.B.4 of the Sausalito Municipal Code is hereby amended  
32 as follows:

33  
34 4. Minimum Off-Street Parking. All off-street parking and vehicular access must be  
35 designed to result in a minimum loss of on-street parking and a net increase of at least  
36 one overall parking space (i.e., at least two off-street parking spaces must be served  
37 by a driveway where one on-street parking space is eliminated). Where only one off-  
38 street parking space is typically required, two off-street parking spaces shall be  
39 provided where one off-street parking space is lost to driveway access. Alternatively,  
40 the loss of on-street parking may be offset by frontage reconfiguration or improve-  
41 ments to maintain the existing amount of on-street parking. Any proposed  
42 reconfiguration or improvement to on-street parking shall be subject to review and  
43 approval by the Community Development Director and City Engineer.  
44  
45

1 **Section 29.** Section 10.44.010.B of the Sausalito Municipal Code is hereby amended as  
2 follows:

3  
4 B. Applicability. All land uses listed in this chapter shall conform to the minimum  
5 standards established by this chapter, unless the Planning Commission adopts  
6 findings pursuant to subsection E of this section (Findings to Waive Specific Use  
7 Requirements) can be made. All land uses shall also conform to all other applicable  
8 requirements of this Zoning Ordinance, including but not limited to the minimum lot  
9 area, floor area ratio, building coverage, setbacks, and height limits imposed by the  
10 applicable district (Chapters 10.20 through 10.28=~~SMC~~, Zoning Districts Regula-  
11 tions), the general development regulations (Chapter 10.40=~~SMC~~) and sign and  
12 awning regulations (Chapter 10.42=~~SMC~~). This chapter regulates the following uses:

- 13 1. Accessory uses and structures (~~SMC~~Section 10.44.020);
- 14 2. Home occupations (~~SMC~~Section 10.44.030);
- 15 3. Noncommercial vehicle and boat repair and storage in residential areas  
16 (~~SMC~~Section 10.44.040);
- 17 4. Accessory storage (~~SMC~~Section 10.44.050);
- 18 5. Mobile home/manufactured housing standards (~~SMC~~Section 10.44.060);
- 19 6. Piers, docks, floats and wharves (~~SMC~~Section 10.44.070);
- 20 7. Secondary dwellings, existing (~~SMC~~Section 10.44.080);
- 21 8. Detached dwelling units (~~SMC~~Section 10.44.090);
- 22 9. Child day care (~~SMC~~Section 10.44.100);
- 23 10. Religious institutions, private clubs, fraternal organizations (~~SMC~~Section  
24 10.44.110);
- 25 11. Senior housing projects (~~SMC~~Section 10.44.120);
- 26 12. Arks (~~SMC~~Section 10.44.130);
- 27 13. Harbor and marina facilities (~~SMC~~Section 10.44.140);
- 28 14. Open water moorings (~~SMC~~Section 10.44.150);
- 29 15. Houseboats (~~SMC~~Section 10.44.160);
- 30 16. Liveaboards (~~SMC~~Section 10.44.170);
- 31 17. Veterinary clinics and kennels (~~SMC~~Section 10.44.180);
- 32 18. Residential use in commercial districts (~~SMC~~Section 10.44.190);
- 33 19. Recycling collection stations (~~SMC~~Section 10.44.200);
- 34 20. Restaurants (~~SMC~~Section 10.44.210);
- 35 21. Restaurants – Outdoor eating areas (~~SMC~~Section 10.44.220);
- 36 22. Visitor serving stores (~~SMC~~Section 10.44.230);
- 37 23. Formula retail (~~SMC~~Section 10.44.240);
- 38 24. Office conversions (~~SMC~~Section 10.44.250);
- 39 25. Service stations (~~SMC~~Section 10.44.260);
- 40 26. Freestanding personal structures (~~SMC~~Section 10.44.270);
- 41 27. Offices, temporary (~~SMC~~Section 10.44.280);
- 42 28. Storage, accessory (~~SMC~~Section 10.44.290);
- 43 29. Temporary outdoor retail sales (~~SMC~~Section 10.44.300);
- 44 30. Temporary uses and events (~~SMC~~Section 10.44.310);
- 45 31. Medical Marijuana Dispensaries (SMCSection 10.44.320).

1  
2 **Section 30.** Section 10.44 of the Sausalito Municipal Code is hereby amended to add a  
3 new section 10.44.080 to read as follows:  
4

5 **10.44.080** Reserved.  
6  
7

8 **Section 31.** Section 10.44.020.C.4 of the Sausalito Municipal Code is hereby amended  
9 as follows:  
10

11 4. Structure Size. Accessory buildings and structures shall not exceed one story or 15  
12 feet in height, and may occupy up to 25 percent of the required rear yard area,  
13 consistent with ~~SMC~~Section ~~10.40.090(C)(1)~~ and 10.40.050. The following  
14 requirements shall also apply:

- 15 a. No such building shall be used for sleeping quarters; and  
16 b. The height of any such building at the rear property line shall not exceed six (6)  
17 feet. Such building or structure may then be increased one (1) foot in height for  
18 each foot such building or structure is set back from the rear property line.  
19

20 **Section 32.** Section 10.44.170.A of the Sausalito Municipal Code is hereby amended as  
21 follows:  
22

23 **Purpose.**

24 Liveboards are subject to the requirements of this section, as provided by Chapter  
25 10.24 (Commercial Zoning Districts) and when allowed in the W or CW zoning  
26 districts in accordance with Table 10.24-1. In addition to the general purposes of this  
27 Chapter, the specific purposes of allowing and regulating liveboards on private  
28 vessels in recreational marinas or harbors are as follows:

- 29 1. To provide affordable housing opportunities for low and moderate income  
30 households;  
31 2. To promote twenty four hour security in marinas and harbors;  
32 3. To ensure compatibility with adjacent land uses; and  
33 4. To ensure environmentally sensitive use of water areas for residential uses.  
34

35 **Section 33.** Section 10.44.210.B of the Sausalito Municipal Code is hereby amended as  
36 follows:  
37

38 B. Music and/or Dancing. Music and/or dancing are only permitted as an accessory  
39 use to an approved eating or drinking establishment.

40 1. A Minor Use Permit is required (see SMC Chapter 10.58).

41 2. Findings. The Zoning Administrator may approve or conditionally approve a  
42 Minor Use Permit if the following findings can be made in addition to those  
43 required by SMC Section 10.58.050:

44 a. The proposed use is incidental to a primary restaurant use.

45 b. The proposed use will not adversely affect residential uses.

1 3. Conditions. All Minor Use Permits for music and/or dancing must meet the  
2 following conditions:

3 a. Under Planning Division supervision and at the cost of the applicant,  
4 prior to commencement of use the ambient noise levels shall be  
5 established from specific residential properties within 300 feet of the  
6 restaurant premises. The location of the ambient noise measurements shall  
7 be established by the Community Development Director during the  
8 completeness review of the Minor Use Permit application.

9 b. Under Planning Division supervision and at the cost of the applicant,  
10 noise measurements shall be taken after commencement of the use to  
11 ensure that the noise source does not exceed "audible" levels (See Chapter  
12 10.88 SMC for definition of "audible"). Thereafter, testing shall be done at  
13 any time so directed by the Community Development Director.

14 c. Noise from the music and/or dancing shall not be audible from any  
15 residential property or from within any residential unit.

16 d. Music and dancing shall only be allowed between the hours of 9:00 a.m.  
17 and midnight.

18 ~~with the issuance of a minor use permit and shall not be audible from any residential~~  
19 ~~property or from within any residential unit. However, this requirement shall not~~  
20 ~~apply to recorded music if it is inaudible from outside the premises where the~~  
21 ~~recorded music is being played. (See Chapter 10.88 SMC for a definition of~~  
22 ~~"audible.") Music and dancing shall only be allowed between the hours of 9:00 a.m.~~  
23 ~~and midnight. The following requirements shall also apply to all minor use permits~~  
24 ~~issued for purposes of music and/or:~~

25 ~~1. Under Planning Division supervision and at the cost of the applicant, prior to~~  
26 ~~commencement of use the ambient noise levels shall be established from specific~~  
27 ~~residential properties within 300 feet of the restaurant premises. The location of~~  
28 ~~the ambient noise measurements shall be established by the Planning Director~~  
29 ~~during the completeness review of the minor use permit application.~~

30 ~~2. Under Planning Division supervision and at the cost of the applicant, noise~~  
31 ~~measurements shall be taken after commencement of the use to ensure that the~~  
32 ~~noise source does not exceed "audible" levels. Thereafter, testing shall be done at~~  
33 ~~any time so directed by the Planning Director.~~

34  
35  
36 **Section 34.** Section 10.44.220 of the Sausalito Municipal Code is hereby amended as  
37 follows:

38  
39 **Restaurants – Outdoor dining areas.**

40 A. Purpose. In addition to the general purposes of this title, the specific purposes of  
41 allowing and regulating outdoor dining areas for restaurants are as follows:

- 42 1. To meet the desires of Sausalito residents to dine outdoors;  
43 2. To provide for the use of public sidewalks for outdoor dining consistent with  
44 the public's preeminent right to use the right-of-way for public passage and travel;  
45 3. To provide for improved business to restaurants and surrounding businesses;

- 1 4. To allow Sausalito restaurants to be competitive with restaurants in neighboring  
2 communities that provide for outdoor dining;  
3 5. To protect the economic and social health and safety of Sausalito; and  
4 6. To provide a process for restaurant owners to request and obtain Sidewalk  
5 Dining Encroachment Permits.

6 B. Private Property. Outdoor dining areas located on private property where an  
7 approved restaurant is located shall require a Minor Use Permit pursuant to the  
8 provisions of Chapter 10.58 ~~SMC~~-(Minor Use Permits).

9 C. Sidewalks. Outdoor dining on sidewalks shall require the issuance of a Minor Use  
10 Permit from the Zoning Administrator and an Sidewalk Dining Encroachment Permit  
11 by the Community Development Department as outlined in Title 17 (Streets,  
12 Sidewalks, and Public Places) and shall meet the requirements of this subsection..

13 1. Encroachment Defined. For the purposes of this section, “encroachment” is  
14 defined to include, but not be limited to, any utility, stairs on grade, sidewalk,  
15 curb and gutter, newspaper vending machine, garbage can, street excavation,  
16 installation and maintenance of landscaping, installation and maintenance of  
17 driveways with cuts or fills of less than six (6) feet and concrete or asphalt  
18 surfacing, any dining table and/or chair and any device or structure intentionally  
19 placed within the public right-of-way.

20 2. Authority. The Zoning Administrator is authorized to issue Minor Use Permits  
21 and the Community Development Director is authorized to issue Sidewalk Dining  
22 Encroachment Permits for encroachments defined by this section only after  
23 approval of a Minor Use Permit for this use.

24 3. Conditions. Permit issuance shall be subject to any special conditions imposed  
25 by the Community Development Department deemed necessary to protect the  
26 City’s interests and to assure public safety and welfare, the provisions of this title  
27 and all other provisions of applicable City and State laws. The following standard  
28 conditions shall also apply:

29 a. Safe Passage. The Community Development Director shall make a  
30 determination regarding the adequacy of the passageway. The sidewalk  
31 immediately adjacent to the restaurant shall have adequate space to  
32 accommodate tables and chairs and shall provide adequate safe passage along  
33 the sidewalk for pedestrian and wheelchair users of the sidewalk. Safe and  
34 adequate passage of 48 inches width shall be provided both along the sidewalk  
35 and from the curb to the sidewalk (to provide for two pedestrians walking side  
36 by side or by a single wheelchair.) No tables or chairs shall be placed or  
37 allowed to remain on any sidewalk that inhibits passage.

38 b. Location. Permits shall only be issued to allow the use of sidewalk  
39 immediately adjacent to the restaurant seeking the permit. The Community  
40 Development Department shall determine the most appropriate location along  
41 the sidewalk for the applicant’s tables and chairs. The permit shall include a  
42 map of the portion of the sidewalk where tables and chairs may be located.

43 c. Cleanliness. Debris, litter or food matter shall be removed from the  
44 sidewalk, streets or surrounding property at least once each day during  
45 operating hours and at the time tables and chairs are removed from the  
46 sidewalk.

1 d. Food Service. The establishment obtaining the permit shall be engaged in  
2 food service and shall provide such service at the tables subject to the permit.

3 e. Insurance. The applicant shall obtain liability insurance with policy limits  
4 of at least \$500,000 per incident. The City shall be named an additional  
5 insured and the policy shall remain in force at all times that the permit is in  
6 effect.

7 f. Hold Harmless. The applicant shall enter into a Sidewalk Dining  
8 Encroachment Permit agreement prepared by and satisfactory to the City  
9 Attorney. The applicant shall agree to conform to these conditions and all  
10 applicable City ordinances. The applicant shall also agree to indemnify the  
11 City and hold the City harmless from and against all liability arising out of the  
12 applicant's activities under the permit or otherwise arising out of the  
13 applicant's placement of tables and chairs in the City sidewalk and/or from  
14 permitting the use of such tables and chairs by patrons or otherwise.

15 g. Orderliness. All tables and chairs shall be removed from the sidewalk  
16 whenever the restaurant is closed or when the restaurant is not serving patrons  
17 on the sidewalk. The permit shall provide for the placement of tables and  
18 chairs for the use of diners only. The restaurant shall not be permitted to place  
19 any other structures or objects of any sort along or in the sidewalk. No  
20 entertainment shall be permitted along the sidewalk by the restaurant. No food  
21 preparation shall take place along the sidewalk, and no serving trays or bus  
22 stations shall be located along the sidewalk.

23 h. Preeminence. The applicant shall acknowledge that its use of the sidewalk  
24 under the permit is subordinate to the public's right to use the sidewalk for  
25 passage and travel. The permit shall be revocable from time to time by order  
26 of the City to allow for a public event or other public use of the sidewalk  
27 subject to the permit or if the use of the sidewalk for dining purposes conflicts  
28 with any public use of the sidewalk. The applicant shall also acknowledge that  
29 the use of the sidewalk is subject to temporary suspension any time the City or  
30 any utility company or easement holder requires access to the sidewalk or any  
31 utility under the sidewalk, or requires use of the sidewalk in conjunction with  
32 any construction project.

33 i. Fee. The applicant shall be required to pay the City an annual permit fee,  
34 based on square footage of the permit area, as established by resolution of the  
35 City Council.

36 j. Compliance with All Regulations. The applicant shall comply with all  
37 regulations of State Alcoholic Beverage Control and the County of Marin  
38 Department of Public Health, and any other agency that controls the  
39 operations of the restaurant.

40 k. Revocable. All sidewalk dining minor use permits and sidewalk dining  
41 encroachment permits shall be subject to permanent revocation by the City at  
42 any time.

43 4. Validity. Sidewalk Dining Encroachment Permits become valid with signatures  
44 of the Community Development Director and the applicant. A copy of the valid  
45 permit shall be placed on file with the Community Development Department.

1 5. Alcoholic Beverages. Consumption of alcoholic liquor or other alcoholic  
2 beverages on any public street, sidewalk or passageway or in any park or  
3 playground or highway shall require City Council approval. The consumption  
4 may be allowed at any special civic event when policing is adequately provided.

5 D. Capacity of Outdoor Eating Area. An outdoor eating area on private property shall  
6 not exceed the most restrictive of the following limits, unless otherwise authorized by  
7 the Zoning Administrator in the required Minor Use Permit:

- 8 1. Twenty-five percent of the indoor dining area of the restaurant; or
- 9 2. Five (5) tables; or
- 10 3. A capacity of 20 people.

11 ~~Outdoor eating areas on sidewalks are subject to the limitations outlined in SMC Title~~  
12 ~~17 (Streets, Sidewalks and Public Places) that govern the issuance of encroachment~~  
13 ~~permits for sidewalk outdoor dining.~~

14 E. Parking. Eating establishments with outdoor eating areas in public rights-of-way  
15 shall be exempt from additional parking requirements. The following requirements  
16 apply:

- 17 1. Additional outdoor eating areas (on-site) shall be subject to the same parking  
18 requirements as indoor eating areas.
- 19 2. Eating establishments without public street frontage shall be exempt from  
20 additional parking requirements for on-site outdoor eating areas in the amount  
21 that would have been allowed if there was public street frontage. However, any  
22 additional on-site outdoor eating areas shall be subject to the same parking  
23 requirements as indoor eating areas.

24  
25  
26 **Section 35.** Section 10.44.230.B of the Sausalito Municipal Code is hereby amended as  
27 follows:

28  
29 B. Applicability. The following uses are determined to be visitor serving and are  
30 subject to the requirements of this section:

- 31 1. Apparel stores which inventory and sell the following types of apparel as more  
32 than 10 percent of their total display area and/or more than 10 percent of their  
33 window display area, either cumulatively or individually: tee shirts, baseball caps,  
34 sweatshirts, windbreakers, and fleecewear.
- 35 2. Art dealers including any store that engages in retail sales of art objects,  
36 including but not limited to paintings, graphic arts, sculpture or glass but  
37 excluding any art dealer primarily engaged in the sale of original art objects.
- 38 3. Camera stores.
- 39 4. Candy stores.
- 40 ~~53.~~ Eating places selling frozen dessert products including any eating place that  
41 sells as a primary product dessert products made of ice cream, frozen yogurt,  
42 freezes, ices, gelato and frozen custard.
- 43 ~~64.~~ Gift, novelty and souvenir stores engaged in the sale of any, or a combination,  
44 of the following: balloons, curios, novelties, postcards, souvenirs or any items  
45 bearing local place names.
- 46 ~~75.~~ Jewelry stores primarily engaged in the sale of costume jewelry.

1 | 86. Miscellaneous amusements including astrologers, palm readers, phrenologists,  
2 | and fortunetellers.

3 | 97. Miscellaneous personal services including spas, steam baths, tattoo parlors  
4 | and Turkish baths.

5 | 10. Photo supply stores.

6 | 11. Photo finishing laboratories.

7 | 128. Art dealers that engage in the sale of original works of art in the CR district.

8 |  
9 | **Section 36.** Section 10.44.230.C of the Sausalito Municipal Code is hereby amended as  
10 | follows:

11 |  
12 | C. Conditional Use Permit Required. A Conditional Use Permit (Chapter 10.60-SMC)  
13 | shall be required for any new visitor serving store in the CC district, any change from  
14 | one type of visitor store to another type of visitor store, or for any art dealer selling  
15 | original works of art in the CR district.

16 |  
17 |  
18 | **Section 37.** Section 10.45.110.C of the Sausalito Municipal Code is hereby amended as  
19 | follows:

20 |  
21 | C. ~~Biannually~~ Biennially, the operator of the antenna shall have EMF exposure levels  
22 | tested and shall submit to the City written report of the results of the tests. On years  
23 | when testing is not required, the operator of the antenna shall submit to the City  
24 | written certification by an independent licensed engineer that no modifications have  
25 | been made to the facility design or configuration that have increased or will increase  
26 | EMF exposure. If modifications have been made to the facility which have increased  
27 | or will increase the EMF exposure, the applicant shall provide a supplemental report  
28 | measuring the modified facility as set forth in subsection B of this section.

29 |  
30 | **Section 38.** Section 10.50.180 of the Sausalito Municipal Code is hereby amended as  
31 | follows:

32 |  
33 | **Changes to an approved project.**

34 | Changes to any approved Administrative Design Review Permit, Design Review  
35 | Permit, Minor Use Permit, Conditional Use Permit, Nonconformity Permit, Lot Line  
36 | Adjustment, Condominium Conversion Permit, or Variance shall be subject to this  
37 | section. An applicant shall request any desired changes in writing, and shall also  
38 | furnish appropriate supporting materials and an explanation of the reasons for the  
39 | request.

40 | A. Changes ~~must~~ may be requested; ~~either before or after construction or~~  
41 | ~~establishment and operation of the approved use.~~

42 | 1. Prior to a final inspection for a construction permit associated with any  
43 | Administrative Design Review Permit, Design Review Permit, or  
44 | Nonconformity Permit issued for a structure;

45 | 2. Prior to recordation for any Conditional Use Permit or Condominium  
46 | Conversion Permit;

- 1           3. Prior to recordation of the associated map for a Lot Line Adjustment; or  
2           4. Within 90 days of commencement of use for a Minor Use Permit,  
3           Variance, or Nonconformity Permit issued for a use.

4           B. The Community Development Director may authorize minor changes to an  
5           approved site plan, architecture, or the nature of the approved use provided the  
6           changes meet the following requirements:

- 7           1. Changes are consistent with all applicable provisions of this title;  
8           2. Changes do not involve a feature of the project that was specifically  
9           addressed, or was a basis for findings, in a negative declaration or envi-  
10           ronmental impact report for the project;  
11           3. Changes do not involve a feature of the project that was specifically  
12           addressed or was a basis for the project's conditions of approval or that was a  
13           specific consideration by the granting authority in the approval of the permit;  
14           4. Changes do not result in a significant expansion of the use; and  
15           5. Changes do not adversely impact a view.

16           Changes to the project involving features described in subsections 2, 3, and 5  
17           of this section shall only be approved by the granting authority pursuant to a  
18           new permit application processed as set forth in this title.

19           C. Notice. Notice shall be given as set forth in Section 10.82.020.

20           D. Appeal. Changes to approved project decisions may be appealed to the  
21           Planning Commission within ten (10) days of the decision date. Appeals must be  
22           submitted in writing and shall be processed in accordance with Chapter 10.84  
23           (Appeals).

24  
25  
26           **Section 39.** Section 10.52.020 of the Sausalito Municipal Code is hereby amended as  
27           follows:

28  
29           **Applicability.**

30           Application shall be made on a form provided by the Community Development  
31           Department at the time application is made for the Building Permit. If no Building  
32           Permit is required, application shall be made whenever there is any change in the use  
33           of any structure, or any change of use in any land, or whenever there is a change in  
34           existing grade greater than six (6) feet or whenever any sign is erected, altered,  
35           strung, or otherwise displayed. Building Permits for non-structural interior work  
36           (e.g., plumbing and electrical permits, interior water heater replacement, and non-  
37           structural interior remodels) shall not require a Zoning Permit, unless otherwise  
38           determined by the Community Development Director.

39  
40  
41           **Section 40.** Section 10.54.020 of the Sausalito Municipal Code is hereby amended as  
42           follows:

43  
44           **Applicability.**

45           This chapter establishes thresholds for administrative design review and Planning  
46           Commission design review. Administrative Design Review Permits shall be required

1 | and processed in accordance with ~~SMC~~Section 10.54.040 (Administrative Design  
2 | Review Permits). Planning Commission Design Review Permits shall be required and  
3 | processed in accordance with ~~SMC~~Section 10.54.050 (Design Review Permits). No  
4 | design review shall be required for projects that fall under the design review thresh-  
5 | olds contained in this chapter. Minor revisions to approved projects are not subject to  
6 | this Chapter and are instead governed by 10.50.180 (Changes to an Approved  
7 | Project).

8  
9  
10 | **Section 41.** Section 10.54.040 of the Sausalito Municipal Code is hereby amended as  
11 | follows:

12  
13 | **Administrative Design Review Permits.**

14 | Proposals that ~~are smaller than that fall below the thresholds contained listed~~ in sub-  
15 | section B of this section (Applicability), either incrementally or cumulatively over a  
16 | three-year period, and meet or exceed all zoning requirements shall require a Building  
17 | Permit, are subject to Chapter 10.52 ~~SMC~~(Zoning Permits), and are exempt from  
18 | design review.

19 | A. Purpose and Authority. Administrative Design Review Permits allow for  
20 | administrative design review of selected projects where clear design review  
21 | guidelines and criteria exist. Administrative Design Review Permits may be  
22 | approved, conditionally approved or denied by the Community Development  
23 | Department. When Administrative Design Review Permits are requested in  
24 | conjunction with one or more permits requiring Zoning Administrator review,  
25 | Administrative Design Review Permits may be approved, conditionally approved, or  
26 | denied by the Zoning Administrator. If a proposal meets the requirements of  
27 | subsection B of this section (Applicability) and requires Planning Commission review  
28 | for a concurrent application, the proposal shall be subject to design review, pursuant  
29 | to ~~SMC~~Section 10.54.050 (Design Review Permits).

30 | B. Applicability. Selected project proposals require a lesser level of design review  
31 | which shall be conducted by the Community Development Department (or Zoning  
32 | Administrator where applicable). The Community Development Department shall  
33 | review and act on applications which are made solely for the following classifications  
34 | of projects, for which Planning Commission review is not required for another  
35 | concurrent application, and for sites that are not listed on the local register and/or are  
36 | located outside the boundaries of any officially designated historic district:

- 37 | 1. Additions to single-family or two-family (duplex) residences where the  
38 | addition results in a setback from any adjacent structure on a neighboring property  
39 | of less than ten (10) feet.  
40 | 2. Additions to multifamily residences, commercial structures, and industrial  
41 | structures which increase the size of the structure by less than 10 percent, not to  
42 | exceed 300 square feet, and which are consistent with the architectural style of  
43 | existing buildings on the site.  
44 | 3. Replacement of awning fabric on existing frames with fabric of a different  
45 | color or modified signage.

1 4. Any elevated structures wherein subfloor plumbing, utility ducts, or mechanical  
2 equipment is exposed to view from adjacent properties or the public right-of-way.  
3 5. Driveways in required side yard open spaces if not a part of an application  
4 which requires review by the Planning Commission.

5 6. Encroachment agreements (improvements in the public right-of-way) for the  
6 following items, if not part of other improvements requiring design review:

- 7 a. Major landscaping;
- 8 b. Stairs not on grade;
- 9 c. Driveways involving cut or fill of more than six (6) feet;
- 10 d. Fences not exceeding 42 inches in height; and
- 11 e. Retaining walls not exceeding six (6) feet in height.

12 7. Signs and awnings consistent with criteria developed by the Planning  
13 Commission and City Council as adopted by resolution.

14 8. Installation or reconstruction, other than repairing and re-striping, of a parking  
15 area of five or more spaces.

16 9. Capital improvement projects appropriate for staff review, as determined by the  
17 Planning Commission review of the annual capital improvement program.

18 ~~10. Minor revisions to approved projects where the change does not appreciably~~  
19 ~~alter the character and appearance of the project's design.~~

20 ~~101.~~ Application for Building Permits for the construction, renovation or  
21 extension of any pier or dock, or application to establish floats or dolphins, for  
22 private pleasure craft in the R-2-2.5 zoning district.

23 ~~112.~~ Application for Zoning Permits for all buildings, decks, yards, and other  
24 improvements proposing a change in existing grade by cutting or filling greater  
25 than six (6) feet in height.

26 ~~123.~~ Applications to construct fences that require the issuance of a Building  
27 Permit.

28 ~~134.~~ Applications to construct terraced or multiple retaining walls or slope  
29 stabilization projects that retain an aggregate of six (6) feet or more of slope  
30 within any 10-foot horizontal interval.

31 C. Public Notice. The Community Development Department shall give public notice  
32 of the application, pursuant to ~~SMC~~Section 10.82.020(B) (Public Notice –  
33 Administrative Design Review).

34 D. Conditions. The Community Development Department may apply reasonable  
35 conditions of approval, in addition to those identified in ~~SMC~~Section 10.54.090  
36 (Conditions of Approval) and consistent with ~~SMC~~Section 10.50.100 (Recommended  
37 Conditions of Approval).

38 E. Findings. The Community Development Department may approve or conditionally  
39 approve an Administrative Design Review Permit if the findings specified in  
40 ~~SMC~~Section 10.54.050(D) (Findings), and ~~SMC~~Section 10.54.050(E) (Heightened  
41 Review Findings) as applicable, can be made.

42 F. Resolution and Notice of Decision. The Community Development Department  
43 shall prepare a written resolution which shall include all findings and applicable  
44 conditions of approval. Notice of decision shall be distributed to applicant and all  
45 persons who received public notice.

1 G. Appeal. Administrative Design Review Permit decisions may be appealed to the  
2 Planning Commission within 10 days of the decision date. Appeals must be submitted  
3 in writing and shall be processed in accordance with Chapter 10.84 ~~SMC~~(Appeals).  
4 Notice of appeals of staff decisions to the Planning Commission and the City Council  
5 shall be sent to all properties within ~~4~~300 feet of the subject property.

6 H. Effective Date. Community Development Department staff and Zoning  
7 Administrator decisions of approval or denial of Administrative Design Review  
8 Permit applications shall become final 10 days after date of resolution, unless an  
9 appeal has been filed.

10 I. Referral to Planning Commission. The Community Development Director may  
11 refer an Administrative Design Review Permit application to the Planning  
12 Commission. Such referral shall be subject to public hearing, consideration, and  
13 approval or denial pursuant to the procedures specified by ~~SMC~~Section 10.54.050  
14 (Design Review Permits). Referral shall be at the discretion of the Community Devel-  
15 opment Director dependent upon policy implications, unique or unusual  
16 circumstances, the size of the project, or other factors determined by the Community  
17 Development Director to be significant enough to warrant Planning Commission  
18 review.

19 J. Expiration of Permit. Administrative Design Review Permits shall expire two years  
20 following the effective date of the permit, provided no extension has been filed prior  
21 to the expiration date.

22  
23 **Section 42.** Section 10.54.050.B of the Sausalito Municipal Code is hereby amended as  
24 follows:

25  
26 B. Applicability. Design Review Permits shall be required for the following  
27 applications:

28 Building Permits:

- 29 1. ~~Any single family, two family (duplex), or any multifamily residential~~  
30 ~~structure~~ Any structure proposed for construction.
- 31 2. Any replacement or substantial reconstruction of a single-family, two-family  
32 (duplex), or multifamily residential structure which does not substantially replicate  
33 the original structure.
- 34 3. Any alteration to existing secondary dwellings.
- 35 4. Projects for any two-family (duplex) or any multifamily residence which has any  
36 of the following effects:
- 37 a. Adds more than 10 percent of the total floor area of the structure(s) or more  
38 than 300 square feet of floor area to the structure(s) (whichever is less with  
39 respect to adding new floor area square footage); or
- 40 b. Increases the height of the structure(s); or
- 41 c. Has the potential to impair views from other properties.
- 42 5. Projects for exterior remodeling of any commercial or industrial structure which  
43 has any of the following effects:
- 44 a. Adds more than 10 percent of the total floor area to the structure(s) or adds  
45 more than 300 square feet of floor area to the structure(s) (whichever is less with  
46 respect to adding new floor area square footage); or

- 1           b. Increases the height of the structure(s); or  
 2           c. Has the potential to impair views from other properties.
- 3       6. Projects for existing single-family residence or construction or expansion of an  
 4       accessory structure which has any of the following effects:  
 5           a. Adds more than 300 square feet of floor area to any building on the parcel  
 6           where the additional floor area will add new building coverage to the subject  
 7           parcel where building coverage did not previously exist; or  
 8           b. Adds more than 25 percent of the total floor area of the existing structure or  
 9           adds more than 600 square feet of floor area (whichever is less with respect to  
 10          adding new floor area square footage) to any building on the parcel where the  
 11          addition will not add any new building coverage to the subject parcel where  
 12          building coverage did not previously exist; or  
 13          c. Has the potential to impair views from other properties; or  
 14          d. Increases the height of any building.
- 15       7. Construction of structures with a distance of more than six (6) feet from the  
 16       ground to the lowest point of complete enclosure. (Design review shall address the  
 17       potential visual impact of unsightly exposed underframing and utility ducts.)
- 18       8. Any addition or remodeling that causes the structure to exceed the height limits  
 19       established by SMCSection 10.40.060 (Height Requirements).
- 20       9. Covering parking spaces causing the existing structure to exceed the maximum  
 21       height limit pursuant to SMCSection 10.40.060(C)(3) (Downhill Parcels).
- 22       10. Construction of a structure on an uphill parcel which will have a sloped roof in  
 23       excess of the maximum height limit within the first 15 feet of the property pursuant  
 24       to SMCSection 10.40.060(C)(1) (Uphill Parcels).
- 25       11. Exterior renovation, modification, or remodeling of any structure listed on the  
 26       National (or State) Register of Historic Places, or on the local register or structure  
 27       located within a City-designated historic district.
- 28       Signs and Awnings:
- 29       12. Signs and awnings subject to design review as specified by Chapter 10.42 ~~SMC~~  
 30       (Sign and Awning Regulations).
- 31       Capital Improvement Projects:
- 32       13. Local public capital improvement projects and local public enhancement  
 33       projects, excluding capital improvement projects which are maintenance projects or  
 34       do not appreciably change the appearance of the area being maintained.
- 35       Other Permits:
- 36       14. Encroachment agreements for garages, fences, buildings, dwelling units,  
 37       structures, and parking spaces.
- 38       15. Demolition permits to demolish 51 percent or more of any single-family, two-  
 39       family, or multifamily structure as defined in Chapter 10.88 ~~SMC~~ (Definitions)  
 40       except where the structure has been irreparably damaged due to forces of nature.
- 41       16. Permits to construct wireless communication facilities (antennas and ground  
 42       equipment).
- 43       17. Permits to install satellite dish antennas which have a diameter greater than 40  
 44       inches (one meter).
- 45       18. Administrative design review for proposals made in conjunction with other  
 46       applications requiring Planning Commission review and approval.

1 19. Administrative design review when the Community Development Director  
2 determines a project warrants Planning Commission review and approval.

3 20. Any project proposing side yard structural projections (see Section  
4 10.40.090.D).

5  
6  
7 **Section 43.** Section 10.54.050.E of the Sausalito Municipal Code is hereby amended as  
8 follows:

9  
10 E. Heightened Review Findings. The site development standards contained in Table  
11 10.22-2 are not entitlements; the approved size, setbacks or other physical conditions  
12 of a proposed new home or expansion of an existing home subject to design review  
13 shall be at the discretion of the Planning Commission. In order to meet the findings of  
14 design review, including the following heightened review findings, the Planning  
15 Commission may approve a home smaller, or with greater setbacks, or otherwise  
16 impose requirements that are more restrictive than those set forth in this chapter. For  
17 residential projects that require a discretionary design review (either Administrative  
18 Design Review or a Design Review Permit) and exceed 80 percent of the permitted  
19 floor area ratio (FAR) and/or ~~site coverage~~building coverage limitations, the decision-  
20 making body must determine whether or not the site can support maximum build-out,  
21 consistent with the following:

- 22 1. Proposed development of the site maximizes preservation of protected trees.
- 23 2. The site is configured with adequate width and depth to provide yard spaces  
24 and setbacks, proportional to the size of the structure.
- 25 3. The site will be developed in a manner that minimizes the obstruction of views  
26 from surrounding properties and public vantage points, with particular care taken  
27 to protect primary views.
- 28 4. The proposed development of the site presents no potential hazard to public  
29 safety in terms of vehicle traffic, pedestrian circulation, slope and tree stability,  
30 run-off, and public utilities.
- 31 5. The slope and topography of the site allow for limited excavation and minimal  
32 alteration to the site topography outside the footprint of structures.
- 33 6. The site will provide adequate guest parking either on-site or within the  
34 immediate street frontage.
- 35 7. The proposed plan provides adequate landscaping to maximize privacy and  
36 minimize the appearance of bulk.

37 Although these findings are only required for projects that would otherwise require a  
38 discretionary design review public hearing, all projects that result in or exacerbate  
39 floor area and/or building coverage of over 80 percent shall require the Community  
40 Development Department to give public notice of the application, pursuant to  
41 ~~SMC~~Section 10.82.020(A) (Public Hearing). If such notice is required for a project  
42 that does not require a public hearing, the notice shall be mailed to notify neighbors  
43 that a Zoning Permit has been issued, including a description of the project, and shall  
44 include information regarding the appeal period for the Zoning Permit.  
45

1 **Section 44.** Section 10.56.010 of the Sausalito Municipal Code is hereby amended as  
2 follows:  
3

4 **Purpose.**

5 The encroachment review and agreement process (~~also referred to as "encroachment~~  
6 ~~permits"~~) provides an opportunity to review permanent and/or semi-permanent  
7 encroachments onto public lands, easements and rights-of-way of the City of  
8 Sausalito. In addition to the general purposes of this title, the specific purposes of this  
9 chapter regulating encroachments are as follows:

- 10 A. To review and regulate the long-term (three years or more) use of City of  
11 Sausalito properties and easements by individual property owners;
  - 12 B. To protect the City of Sausalito's interests in City-owned property and  
13 easements;
  - 14 C. To examine demonstrated physical need by neighboring property owners to use  
15 and improve adjacent or nearby publicly owned properties or easements for long-  
16 term and short-term private use;
  - 17 D. To ensure that permanent and/or semi-permanent private use of City-owned  
18 properties or easements will not affect the need for, and use of, public  
19 passageways and utilities;
  - 20 E. To ensure compatibility of permanent and/or semi-permanent encroachments  
21 with the surrounding area;
  - 22 F. To ensure land use review of permanent and/or semi-permanent  
23 encroachments;
  - 24 G. To ensure consistency of encroachments with the General Plan, Marinship  
25 Specific Plan, other sections of the Municipal Code and applicable plans and  
26 ordinances; and
  - 27 H. To provide for the necessary removal or termination of any encroachment.
- 28  
29  
30

1 **Section 45.** Section 10.58.052 of the Sausalito Municipal Code is hereby amended as  
2 follows:

3  
4 **10.58.052** Reserved.

5 ~~**Required findings for minor use permits to allow music and/or dancing.**~~

6 ~~The Zoning Administrator may approve or conditionally approve a minor use permit~~  
7 ~~for amplified music and/or dancing in association with a restaurant if the following~~  
8 ~~findings can be made in addition to those required by SMC 10.58.050:~~

9 ~~A. The proposed use is incidental to a primary restaurant use.~~

10 ~~B. The proposed use complies with SMC 10.44.210 (Restaurants).~~

11 ~~C. The proposed use will not adversely affect residential uses. [Ord. 1167 § 2,~~  
12 ~~2003.]~~

13  
14 **Section 46.** The introductory language of Section 10.58 of the Sausalito Municipal Code  
15 is hereby amended as follows:

16  
17 **Chapter 10.58**

18 **MINOR USE PERMITS**

19 Sections:

20 10.58.010 Purpose.

21 10.58.020 Applicability.

22 10.58.030 Application contents and submittal.

23 10.58.040 Public notice and hearing.

24 10.58.050 Findings.

25 10.58.052 ~~Required findings for minor use permits to allow music and/or~~  
26 ~~dancing.~~ Reserved.

27 10.58.060 Conditions of approval.

28 10.58.070 Notice of decision.

29 10.58.080 Appeals.

30 10.58.090 Effective date of permit.

31 10.58.100 Approval applies to land.

32 10.58.110 Expiration.

33 10.58.120 Referral to Planning Commission.

34  
35 **Section 47.** Section 10.82.020 of the Sausalito Municipal Code is hereby amended as  
36 follows:

37  
38 **Public notice.**

39 A. Public Hearing. Notice of a public hearing before the Zoning Administrator,  
40 Planning Commission or City Council shall be given in accordance with law and as  
41 follows:

42 1. Content. In addition to any other information required by law, notice of a  
43 public hearing shall include, but not be limited to: The date, time and place of the  
44 hearing; the name of the hearing body; a general explanation of the matter to be  
45 considered; and a description of the location of the real property that is the subject

1 of the hearing. If a proposed negative declaration, a final environmental impact  
2 report, or any other appropriate environmental document has been prepared for  
3 the project pursuant to SMC Title 11 (Environmental Protection) and the  
4 California Environmental Quality Act (CEQA), the hearing notice shall include a  
5 statement that the hearing body will also consider approval/certification of such  
6 document(s).

7 2. Method of Notice Distribution – Title Adoption or Amendment Not Affecting  
8 Uses. Notice of a public hearing required by this title for the adoption of the  
9 Zoning Ordinance or amendments to the Zoning Ordinance which do not affect  
10 the uses of real property shall be published in at least one newspaper of general  
11 circulation in the City at least 10 days before the hearing, as required by  
12 California Government Code Sections 65090 and 65091.

13 3. Method of Notice Distribution – Title Adoption or Amendment Affecting Uses.  
14 Notice of a public hearing required by this title for the adoption of the Zoning  
15 Ordinance or amendments to the Zoning Ordinance which affect the uses of real  
16 property shall be given as follows, as required by California Government Code  
17 Sections 65090 and 65091:

18 a. Notice shall be mailed or delivered at least 10 days before the hearing to  
19 the following:

20 i. The applicant, and the subject property owner(s) or the owners'  
21 agent, by certified or registered mail.

22 ii. Each local agency expected to provide water, sewage, streets,  
23 roads, schools, or other essential facilities or services to the  
24 project, and whose ability to provide such facilities and services  
25 may be significantly affected.

26 iii. Any person who has filed a written request for notice with the  
27 Community Development Director and has paid the fee set by the  
28 most current Community Development Department fee schedule  
29 for such notice.

30 iv. All owners of real property as shown on the latest equalized  
31 assessment roll ~~and the City's latest copy of Pacific Telephone's~~  
32 ~~"Reverse Telephone Directory"~~ all occupants within 300 feet of  
33 the subject property. The Community Development Director may  
34 choose alternate notice procedure when the number of property  
35 owners to be noticed exceeds 1,000. Such alternate notice shall be  
36 a display advertisement of at least one-eighth page in at least one  
37 newspaper of general circulation within Sausalito at least 10 days  
38 prior to the public hearing.

39 b. Either published in at least one newspaper of general circulation in the  
40 City at least 10 days before the hearing or posted at least 10 days prior to  
41 the hearing in at least three public places within the boundaries of the City,  
42 including one public place in the area directly affected by the proceeding.

43 4. Method of Notice Distribution – Other Matters. Notice of a public hearing  
44 required by this title for discretionary permit, permit modification, or appeal shall  
45 be given as follows:

1 a. Notice shall be mailed or delivered at least 10 days before the hearing to  
2 the following:

3 i. The applicant, and the subject property owner(s) or the owners'  
4 agent, by certified or registered mail.

5 ii. Each local agency expected to provide water, sewage, streets,  
6 roads, schools, or other essential facilities or services to the  
7 project, and whose ability to provide such facilities and services  
8 may be significantly affected.

9 iii. Any person who has filed a written request for notice with the  
10 Community Development Director and has paid the fee set by the  
11 most current Community Development Department fee schedule  
12 for such notice.

13 iv. All owners of real property as shown on the latest equalized  
14 assessment roll and ~~the City's latest copy of Pacific Telephone's~~  
15 ~~"Reverse Telephone Directory"~~ all occupants within 300 feet of the  
16 subject property.

17 b. Either published in at least one newspaper of general circulation in the  
18 City at least 10 days before the hearing or posted at least 10 days prior to  
19 the hearing in at least three public places within the boundaries of the City,  
20 including one public place in the area directly affected by the proceeding.

21 B. Public Notice – Administrative Design Review and Changes to an Approved  
22 Project. Notice of a pending administrative decision on a Design Review or Changes  
23 to an Approved Project application shall be given as follows:

24 1. Content. Notice that an Administrative Design Review or Changes to an  
25 Approved Project decision is pending shall include: a description of the location  
26 of the real property that is the subject of the application; a general explanation of  
27 the matter to be considered; an invitation to review plans and provide comments  
28 and suggestions; and the date that the decision will be rendered.

29 2. Method of Notice Distribution. Notice shall be mailed at least ~~12~~ 10 days prior  
30 to a final administrative decision to the following:

31 a. The applicant and the subject property owner(s) or the owners' agent.

32 b. All owners of real property as shown on the latest equalized assessment  
33 roll and ~~the City's latest copy of Pacific Bell's "Reverse Telephone~~  
34 ~~Directory"~~ all occupants within ~~100~~ 300 feet of the subject property.

35 C. View Determinations. For projects subject to a determination regarding view  
36 impairment consistent with ~~SMC~~ Section 10.54.0590(B) (applicability) (including but  
37 not limited to decks, balconies and chimneys), applicant shall submit an affidavit  
38 indicating adjacent neighbors (property owners and tenants, as applicable), including  
39 those located across a public street or right-of-way, have been notified of the proposal  
40 and related application within 10 days of the determination.

41 D. Additional Notice. The Community Development Director shall provide additional  
42 notice for City-sponsored projects requiring Planning Commission notice and  
43 hearing. The Community Development Director may provide any additional notice  
44 deemed necessary or appropriate. Such notice shall be in addition to that required by  
45 this section and may include additional content and may be distributed differently.

1 E. Notice of Decision. The Community Development Department shall prepare a  
2 written Notice of Decision which shall include all findings and applicable conditions  
3 of approval. Notice of decision shall be distributed to the owner, applicant and all  
4 persons who submitted written comment on the application.

5 ~~F.~~ Failure to Notice. The failure to send notice by mail to any such property owner  
6 or occupant, where the address of such owner is not shown upon the latest equalized  
7 assessment roll of the County or the City's latest copy of Pacific Telephone "Reverse  
8 Telephone Directory" for this area, shall not invalidate any proceedings in connection  
9 with any action.

10  
11 **Section 48.** Section 10.84.030 of the Sausalito Municipal Code is hereby amended as  
12 follows:

13  
14 **Filing and time limit of appeals.**

15 Appeals shall be filed in the Community Development Department within 10  
16 calendar days of the date of the decision being contested, ~~except for appeals of an~~  
17 ~~administrative decision made by the Community Development Department or~~  
18 ~~Community Development Director, which must be filed within 10 calendar days of~~  
19 ~~the date of the decision being contested.~~ Appeals shall be in writing and shall include  
20 reasons and evidence indicating the grounds for the appeal. Appeals shall be subject  
21 to the applicable processing and noticing fees.  
22  
23

24 **Section 49.** The definition of "Secondary dwelling" in Section 10.88 of the Sausalito  
25 Municipal Code is hereby amended as follows:

26  
27 "Secondary dwelling" means a second permanent dwelling that is accessory to a  
28 primary dwelling on a site. A secondary dwelling may be either a detached or  
29 attached dwelling unit that provides complete, independent living facilities for one or  
30 more persons. It shall include permanent provisions for living, sleeping, eating,  
31 cooking, and sanitation on the same parcel or parcels as the primary dwelling. ~~See~~  
32 ~~SMC 10.44.080 (Secondary dwellings, existing) for specific use requirements appli-~~  
33 ~~eable to secondary dwellings.~~  
34  
35

36 **Section 50.** Section 10.88 of the Sausalito Municipal Code is hereby amended to add a  
37 new definition for "Building Height" to read as follows:

38  
39 "Building Height" means the height of a building as defined in ~~SMC~~Section  
40 10.40.060.B.1 (Standard Building Height).  
41

42 **Section 51.** Section 11.12.020.D of the Sausalito Municipal Code is hereby amended as  
43 follows:

44  
45 D. "DC.B.H. (~~circumference—diameter~~ at breast height)" means the tree trunk's  
46 ~~circumference—diameter~~ as measured at four and one-half (4½) feet above the ground;

1 | for multi-trunked trees, the ~~circumference~~ diameter of the two largest trunks  
2 | combined.  
3 |  
4 |

5 | **Section 52.** Section 11.12.020.P of the Sausalito Municipal Code is hereby amended as  
6 | follows:  
7 |

8 | P. "Tree" means a highly compartmented, perennial, woody, shedding plant that is  
9 | usually tall, single-stemmed and long-lived. For purposes of this chapter, trees are of  
10 | the following classes:

- 11 | 1. "Dedicated tree" means a tree which has special significance as provided for by  
12 | resolution of the City Council;
- 13 | 2. "Desirable tree" means a tree that has been approved for the specific location  
14 | by the Tree and Views Committee or City Arborist;
- 15 | 3. "Fast-growing tree" means a tree developing three (3) feet or more in height in  
16 | yearly growth;
- 17 | 4. "Heritage tree" means a tree which has a DC.B.H. of ten (10)~~30~~ inches. No  
18 | "undesirable tree," as defined in this chapter, is a heritage tree;
- 19 | 5. Protected Tree. "Protected trees" are those listed below:
  - 20 | a. On all private property:
    - 21 | i. The California or Coast live oak (*Quercus agrifolia*) measuring  
22 | four (4)~~12~~ inches DC.B.H. or larger;
    - 23 | ii. Heritage trees; and
    - 24 | iii. Dedicated trees;
  - 25 | b. On private undeveloped property, a tree measuring four (4)~~12~~ inches  
26 | DC.B.H., or larger;
  - 27 | c. All trees and shrubs on City-owned property;
  - 28 | d. No undesirable tree is a protected tree;
- 29 | 6. "Undesirable tree" is one of the following:
  - 30 | a. Blue gum eucalyptus;
  - 31 | b. Monterey pine;
  - 32 | c. Monterey cypress;
  - 33 | d. Coast redwood.

34 |  
35 | **Section 53.** Section 1.04.070 of the Sausalito Municipal Code is hereby amended as  
36 | follows:  
37 |

38 | **Computation of time.**

39 | Except when otherwise provided, the time within which an act is required to be done  
40 | shall be computed by excluding the first day and including the last day, unless the last  
41 | day is a Saturday, Sunday, legal holiday, and/or day on which City Hall is not open  
42 | for business in which case the last day shall be carried forward to become the next  
43 | regular City business day.

44 | ~~the last day is Sunday or a holiday, in which case it shall also be excluded. [Ord. 969~~  
45 | ~~§ 7, 1980.]~~  
46 |

1 **Section 54.** Section 2.20.006 of the Sausalito Municipal Code is hereby amended as  
2 follows:

3  
4 **Community Development Department staff.**

5 Except where otherwise provided by this ~~title code~~, the responsibilities of the  
6 Community Development Director may also be carried out by Planning Division  
7 employees under the supervision of the Director.  
8

9 **Section 55.** The adoption of this ordinance is exempt from the application of the  
10 California Environmental Quality Act, Public Resources Code section 21000, *et seq.*, in  
11 accordance with section 15305 (Minor Alterations in Land Use Limitations).  
12

13 **Section 56.** If any section or portion of this ordinance is for any reason held to be invalid  
14 and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect  
15 the validity of the remaining portions of this ordinance.  
16

17 **Section 57.** This Ordinance shall be in full force and effect thirty (30) days after the date  
18 of its adoption.  
19

20 **Section 58.** This Ordinance shall be published once within fifteen (15) days after its  
21 passage and adoption in a newspaper of general circulation in the City of Sausalito.  
22  
23

24 **THE FOREGOING ORDINANCE** was read at a regular meeting of the Sausalito City  
25 Council on the \_\_\_\_\_ day of \_\_\_\_\_ 2011, and was adopted at a regular meeting of the  
26 City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2011 by the following vote:  
27  
28

29 AYES: COUNCILMEMBER:

30 NOES: COUNCILMEMBER:

31 ABSENT: COUNCILMEMBER:

32 ABSTAIN: COUNCILMEMBER:  
33  
34  
35  
36  
37

38 \_\_\_\_\_  
39 Mayor

40 ATTEST:  
41  
42  
43

44 \_\_\_\_\_  
45 Debbie Pagliaro, City Clerk

MICHAEL REX ASSOCIATES  
ARCHITECTURE & DESIGN  
1750 BRIDGEWAY  
SUITE B211  
SAUSALITO  
CALIFORNIA 94965  
T 415 331 1400  
F 415 331 5463  
MICHAELREXASSOCIATES.COM

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NOV 28 2011

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

November 27, 2011

Members of the City Council  
City of Sausalito  
420 Litho Street  
Sausalito, CA 94965

**RE: OMNIBUS ZONING ORDINANCE AMENDMENTS  
SECTION 10.50.180 CHANGES TO AN APPROVED PROJECT**

Dear Members of the City Council,

I am writing in opposition to one portion of the Planning Commission's recommendation to amend Section 10.50.180, which Staff has informed me is on your December 6, 2011 Agenda for discussion and possible adoption.

**Background:**

There are two Sections of Sausalito's Zoning Ordinance that regulate the approval process for minor changes to a project after it has been approved. These Sections are:

Section 10.50.180 Changes to an Approved Project, and  
Section 10.54.040 Administrative Design Review Permits

Section 10.50.180 defines the process and requirements when the Community Development Director can authorize minor changes to an approved project or use. The Planning Commission recommends that you amend this Section to add a Public Noticing requirement, which this Section currently lacks.

Section 10.54.040 defines which Projects only require Administrative Review for approval, rather than Planning Commission approval. All the Projects listed in this Section already require Public Noticing. Minor changes to approved projects, however, are included in this Section as item B.10.

Because both Sections regulate the approval of minor changes to a project, yet one requires public noticing and the other does not, to avoid confusion, Staff and the Planning Commission recommend that Section 10.30.180 be amended to also require Public Noticing. If this is done, Staff opines that B.10. in Section 10.54.040 can be deleted, thus resolving the confusion associated with two Sections regulating the same process differently. While this approach seems logical, it could produce undesirable results, making the approval process more cumbersome and hampering the opportunity to refine a project's design.

**Problem:**

What is in play here is not just the need to resolve a discrepancy in Sausalito's Zoning Ordinance, but the general intent to strengthen the noticing procedures in favor of the owners of property located near proposed projects. Neighbors should be informed of changes that could have an impact on them.

SA  
66

ATTACHMENT 4  
(3 PAGES)

Therefore, amending Section 10.50.180 to add a noticing requirement is appropriate. However, changes that are so minor, they will not impact neighbors, do not need noticing. Section 10.54.040 B.10. defines minor changes as follows:

“Minor revisions to approved projects where the change does not appreciably alter the character and appearance of the project’s design.”

Why would the City need to notice neighbors about changes to a project that do not “appreciably alter the character and appearance” of a project? If the proposed change doesn’t alter a project’s appearance in any appreciable way, how could it impact anyone? Requiring noticing in such cases is overkill. It gets neighbors concerned and perhaps worried over nothing, and results in delays and added expense to the applicant. Worse, it could limit the designer’s ability to refine a design so it’s more pleasing and/or fits better in its setting.

Requiring a public notice for each and every minor change is contrary to the design process. When a project is brought to the Planning Commission for review, the design is only conceptual and the drawings preliminary. Once the project is approved, the design is further developed and the details refined. Even during construction, the project’s owner or architect may need to make minor adjustments to the design as conditions become better known. It is impossible at the conceptual stage of design to fully anticipate all project components. Similarly, it’s impossible to predict all field conditions in advance of construction. Section 10.50.180 is in Sausalito’s Zoning Ordinance to serve this need, allowing one to make minor changes to a project after it’s approved without going through a time consuming and complicated process.

Few will be willing to make refinements to a project if it means risking delay and dealing with neighbors all over again. Delays during construction would be even more difficult to accept. Making the process more difficult will encourage owners to do one of two things; either build in a manner that differs from the approved plans, thus undermining the respect for the law and leading to more enforcement action; or reject a proposed change and stay with what’s approved, thereby losing the opportunity to refine a design. Neither are in the owner’s or the public’s best interest. The Community Development Director needs to have the authority and discretion to quickly approve minor changes to approved projects that in his or her opinion make sense and will not adversely impact anyone.

Amending Section 10.50.180 to require noticing for changes that aren’t minor in nature is appropriate. The existing requirements A. through E. in this Section prohibit approval of changes that would be inconsistent with the Code, impact views, expand use and/or change features specifically discussed by the reviewing body or in the project’s Conditions of Approval. This wording builds in necessary protection against an Administrative approval that could have a significant impact on neighbors.

#### **Action Options:**

I was not present the night this topic was discussed at the Planning Commission. When it was discussed, no one offered the Planning Commission the real world perspective on the results of noticing all minor changes to approved projects. Because this Section of the Zoning Ordinance was on the October 13, 2011 list of items to be reviewed by the Legislative Committee on November 16, 2011, I was surprised when Staff announced at the Nov. 16 meeting that this item was already scheduled to be heard by the City Council. Adequate public input on this topic has not occurred prior to this matter coming before you.

For the reasons explained above, the proposed amendment to this Section is not ready to be adopted and alternatives should be considered. Here are several options:

1. Defer adopting the proposed amendments to Section 10.50.180 and send this Section back to the Legislative Committee for additional vetting. The Legislative Committee is still scheduled to consider Section 10.54.040 B.10., so when doing so, they could address both Sections simultaneously and then recommend a well reasoned solution.

2. Adopt the proposed amendment, but insert at line 45 the following:

C. Notice shall be given as set forth in Section 10.82.020 for all changes to an approved project, except for those changes that are so minor, they do not appreciably alter the character and appearance of the project's design as determined by the Community Development Director.

With this amendment to Section 10.82.020 in place, when Section 10.54.040 comes before the Legislative Committee, they could then delete B.10. and add a reference to Section 10.50.180 for minor changes to a project.

**Conclusion:**

Your action on this matter will have a lasting impact on the quality of projects in Sausalito. It will also affect the town's plan approval process, where we either stay with the existing streamlined approach for approving minor changes to approved projects, or make the process for such changes even more difficult. The recent survey for the City's Economic Study reveals deep concern within the community about the planning process in town already being too slow and difficult.

In the interest of promoting transparency and public noticing, let's not go overboard and eliminate a very necessary and efficient process for approving minor changes to projects. Our Codes, to be respected and effective, need to be based in the real world and on the needs of applicants as well as neighbors. It is for this reason, I am taking the time to bring this matter to your attention and urge an alternative course of action. If you have any doubt about what is the right way to vote on this, please send this matter back to the Legislative Committee for further discussion.

Thank you for considering this request,



Michael Rex, Architect

.....