1 \*\*\*Working Draft\*\*\* 2 For ADU Working Group Use 3 4 **Draft Accessory Dwelling Unit Regulations** 5 Updated: June 19, 2012 6 7 Sections: 8 **Definitions** 9 Purpose. 10 Applicability Application Process 11 12 Accessory Dwelling Unit Permit 13 Amnesty Accessory Dwelling Unit Permit 14 15 **Definitions.** 16 17 Accessory Dwelling Unit. An Accessory Dwelling Unit is a permanent dwelling that is 18 accessory to a primary dwelling on a site. An accessory dwelling may be either a detached or attached dwelling unit that provides complete, independent living facilities 19 for one or more persons. It shall include permanent provisions for living, sleeping, eating, 20 21 cooking, and sanitation on the same parcel or parcels as the primary dwelling. 22 23 Detached Accessory Dwelling Unit: A Detached Accessory Dwelling Unit is a 24 new or existing accessory dwelling unit which occupies a new or existing structure. 25 26 Attached Accessory Dwelling Unit: An Attached Accessory Dwelling Unit is a 27 new or existing accessory dwelling unit that occupies part of the floor area of the existing 28 primary residence or is attached to the primary residence by one or more common walls. 29 Interior Conversion Accessory Dwelling Unit: An Interior Conversion Accessory 30 31 Dwelling Unit is a new or existing accessory dwelling unit which has been created by 32 converting existing primary unit living space into an accessory dwelling unit. This type of conversion involves no exterior modifications other than the creation of new windows 33 34 and/or doors. 35 Purpose. The City of Sausalito finds and declares that residential accessory dwelling units are 36 37 a valuable form of housing. Residential accessory dwelling units provide housing for family 38 members, students, elderly, in-home health care providers, persons with the-disabilitiesed-and others, at below market rental rates within existing neighborhoods. Homeowners who create 39 residential accessory dwelling units benefit from added income and an increased sense of 40 41 security. 42 43 It is the intent of the City to encourage residential accessory dwelling units and impose standards to enable homeowners to create residential accessory dwelling units that will not 44 45 aggravate or create neighborhood problems. Additionally, it is the intent of the City to encourage

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The purpose of this Chapter is also to comply with Government Code Section 65852.2 relating to residential accessory dwelling units.

the legalization of existing residential accessory dwelling units that were not built or established

with proper permits and e-nsure that existing accessory dwelling units are safe and habitable.

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 **Applicability.** The provisions of this Section Chapter shall apply to single-family residential (R-1-20, R-1-8, R-1-6), two-family residential (R-2-5, R-2-2.5) and multifamily residential (R-3) Zoning Districts.

# Application <u>Process</u> for Accessory <u>Dwelling Unit Permits and Amnesty Accessory</u> <u>Dwelling Unit Permits</u>.

- A. An Accessory Dwelling Unit Ppermit is required to establish a new Accessory Dwelling Unit in a single-family, two-family or multiple family residential zoning district. Any application for an accessory dwelling unit that meets the location and development standards contained in this Section—Chapter shall be approved ministerially without discretionary review or public hearing unless otherwise specified.
- **B.** An Amnesty Accessory Dwelling Unit Permit is required to legalize an existing illegal Accessory Dwelling Unit in a single-family, two-family, or multiple family residential zoning district. Any application for an accessory dwelling unit that meets the location and development standards contained in this Section—Chapter shall be approved ministerially without discretionary review or public hearing unless otherwise specified.
- C. An application for an Accessory Dwelling Unit Permit or Amnesty Accessory Dwelling Unit Permit shall be made by the property owner and filed with the Community Development Department on a form prescribed by the Community Development Director. The City Council shall set-establish by resolution the respective application fees for an-Accessory Dwelling Unit Permit application—and Amnesty Accessory Dwelling Unit Permitby resolution.

#### **Accessory Dwelling Unit Permit.**

A permit allowing a new Accessory Dwelling Unit shall be issued by the Community Development Director upon compliance with the following development standards or requirements:

- **A. Number of Accessory Dwelling Units per Parcel.** No more than one Accessory Dwelling Unit shall be located on the parcel.
- **B.** Location. The Accessory Dwelling Unit shall be located on the same lot or parcel as the principal residence maintained by the owner of record.
- **C.** Access and Facilities. All new attached or detached Accessory Dwelling Units shall have a separate entrance and contain a separate kitchen and bathroom facility.
- **D. Building Permits.** All new Accessory Dwelling Units must meet the California Building Code, including local amendments adopted by the City.
- **E. Building Coverage and Impervious Surfaces.** New construction of an attached or detached Accessory Dwelling Unit shall conform with the building coverage and impervious surfaces regulations applicable to the parcel upon which the unit is located. At its discretion, the Planning Commission may grant exceptions to building coverage and impervious surfaces regulations with <a href="mailto:approval of a conditional Use Permit">approval of a conditional Use Permit</a>.

- 1. Exception to Building Coverage. With the approval of a Conditional Use Permit,\_the Planning Commission may grant an exception to the allowable building coverage permitted on a parcel to permit an accessory dwelling unit, provided [xxx]
- 2. Exception to Impervious Surface. With the approval of a Conditional Use Permit the Planning Commission may grant an exception to the allowable impervious surfaces permitted on a parcel to permit an accessory dwelling unit, provided [exception does not increase more than xxx]
- 3. The Planning Commission may grant an exception enumerated above if the Planning Commission makes the following findings:
  - a) The exception will not create a significant adverse impact on any adjacent property, the surrounding neighborhood, or the general public good.
  - b) The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the exception without adversely affecting the views, privacy, or access to light and air of neighboring properties.
  - c) Any modifications to site drainage shall be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project conditions. Any new mechanical pumps or equipment shall not create noise that is audible off site.
- **F. Setbacks.** New construction of an attached or detached Accessory Dwelling Unit shall conform with the setback regulations applicable to the parcel upon which the unit is located. At its discretion, the Planning Commission may grant exceptions to side yard setback regulations with a Conditional Use Permit.
  - Exception to Side Yard Setbacks. With the approval of a Conditional Use Permit, the Planning Commission may grant an exception to the required side yard setback permitted on a lot or parcel to permit an accessory dwelling unit, provided that at all times a minimum setback of three feet (3') is maintained.
  - 2. The Planning Commission may grant an exception enumerated above if the Planning Commission makes the following findings:
    - a) The exception will not create a significant adverse impact on any adjacent property, the surrounding neighborhood, or the general public good.
    - b) The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the exception without adversely affecting the views, privacy, or access to light and air of neighboring properties.
    - c) Any new mechanical pumps or equipment shall not create noise that is audible off site.
- G. Floor Area. Up to 500 square feet of a new attached or detached Accessory Dwelling Unit shall be exempted from the floor area ratio calculation. Any additional Accessory Dwelling Unit floor area above 500 square feet shall be counted as floor area. New construction of an attached or detached Accessory Dwelling Unit shall

conform with the floor area regulations applicable to the parcel upon which the unit is located.

**H.** Public Services. The property owner applying for an Accessory Dwelling Unit Permit shall have paid all sewer connection fees to the Sausalito-Marin City Sanitary District and water connection fees to the Marin Municipal Water District.

#### I. Unit Size and Number of Bedrooms.

- Interior Conversions. The maximum floor area for an interior conversion Accessory Dwelling Unit shall be no less than 300 square feet and no greater than 40 percent of the primary unit up to a 1,000 square foot maximum. There shall be no more than two bedrooms in the Accessory Dwelling Unit.
- 2. Attached Units. The maximum floor area for an attached Accessory Dwelling Unit shall be no less than 300 square feet and no greater than 30 percent of the primary unit up to a 700 square foot maximum. There shall be no more than one bedroom in the Accessory Dwelling Unit. A Conditional Use Permit may be requested for two bedrooms and/or to exceed the unit size limitations up to 40 percent of the primary unit up to a maximum of 1,000 square feet.
- 3. Detached Units. The maximum floor area for a detached Accessory Dwelling Unit shall be no less than 300 square feet and no greater than 30 percent of the primary unit up to a 700 square foot maximum. There shall be no more than one bedroom in the Accessory Dwelling Unit. A Conditional Use Permit may be requested for two bedrooms and/or to exceed the unit size limitations up to 40 percent of the primary unit up to a maximum of 1,000 square feet.

# J. Height.

- 1. Attached Units. The height of an attached Accessory Dwelling Unit shall comply with the requirements of Chapter 10.40 regarding the height applicable to the main building.
- 2. Detached Units. The height of a detached Accessory Dwelling Unit shall be determined by measuring the slope directly below the Accessory Dwelling Unit. Accessory Dwelling Units with a slope less than 10 degrees as measured from the highest and lowest points of Accessory Dwelling Unit contact with the grade shall be no greater than 15 feet as measured from the average natural grade. Accessory Dwelling Units with a slope 10 degrees or greater as measured from the highest and lowest points of Accessory Dwelling Unit contact with the grade shall be no greater than 18 feet as measured from the average natural grade.
- K. Design. All new Accessory Dwelling Units shall have a roof slope, window arrangement, siding materials, colors and architectural style compatible with the primary residence. At its discretion, the Planning Commission may grant exceptions to design regulations with a Conditional Use Permit. The Planning Commission may consider applications for Conditional Use Permits for Detached Accessory Dwelling Units which have an architectural style, exterior materials and colors a roof slope, window arrangement, siding materials, colors and architectural style which differs from the primary residence
- L. Views. xxxUp to ten percent of a primary view from a neighboring property may be impacted by a new accessory dwelling unit. A "view" is defined by Chapter 10.88 of the Zoning Ordinance. In order to determine view impact story poles will be required

to be erected and notices will be sent out to properties within 100' inviting staff to visit the site. Staff will determine where the primary views in a neighboring property are and if the new ADU will impact greater than 10% of the view. The method for determining 10% (i.e., lineal vs. area) will be determined by staff.

M. Privacy. New attached or detached accessory dwelling units shall be designed so that its exterior windows, decks and doors do not overlook directly the exterior living areas or interior living areas of adjoining properties. For interior conversion ADUs which do not involve new windows, decks, doors or similar exterior features, this privacy standard is waived.

# N. Light and Air. [tbd]

- O. Off-Street Parking. The design and location of off-street parking for the Accessory Dwelling Unit shall be provided in compliance with Section 10.40.120. Additionally, the following regulations apply:
  - 1. Accessory Dwelling Units 700 square feet or less. One off-street parking space shall be provided for the Accessory Dwelling Unit.
  - 2. Accessory Dwelling Units greater than 700 square feet. Two off-street parking spaces shall be provided for the Accessory Dwelling Unit. Pursuant to Government Code § 65852.2 (e), the City Council has made the finding that the two parking space requirement for an Accessory Dwelling Unit that exceeds 700 square feet is directly related to the use of the Accessory Dwelling Unit and is consistent with existing neighborhood standards. The City has a severe shortage of street parking due to the topography of Sausalito which results in many narrow and winding streets. This parking shortage led to the existing off-street parking requirement of 2 spaces per dwelling regardless of floor area for a single-family residence. As Accessory dwelling units with over 700 square feet generally have more than one adult occupying the unit, two parking spaces are needed for these units.
  - 3. Exceptions to Parking Requirements
    - a. If it can be demonstrated that it is not feasible to accommodate an unobstructed 19-foot by 20-foot parking space on the parcel, tandem will be allowed without a Conditional Use Permit subject to the following conditions:
      - i. The tandem space shall not be located on a shared driveway.
      - ii. The design of the tandem space shall be reviewed by the City Engineer in order to verify that it is provided safely.
      - iii. No portion of the tandem space shall be located in the public right of way.
    - b. If it can be demonstrated that it is not feasible to accommodate a parking space on the parcel, the applicant may submit a parking study that shows the availability of on-street parking during daytime and nighttime hours. If it is demonstrated that there is adequate on-street parking, the parking requirement may be relieved without a Variance, subject to the condition that the main unit(s) must meet all current parking requirements.
    - c. Any off-street parking for Accessory Dwelling Units may be located in required yard areas regardless of structure height.

**P.** Owner-occupancy compliance. The owner of the property shall occupy either the primary unit or accessory dwelling unit as their primary residence. An owner may be absent from the primary or accessory dwelling unit for up to 12 consecutive months.

# **Accessory Dwelling Unit Permit.**

A.

A permit allowing an Amnesty Accessory Dwelling Unit shall be issued by the Community Development Director upon compliance with the following development standards or requirements:

Applications. A permit-legalizing an existing unpermitted Accessory Dwelling Unit shall be issued by the Community Development Department upon compliance with the following development standards or requirements:

- <u>A.</u> Eligibility. In order to grant an Accessory Dwelling Unit Amnesty Permit, an existing non-permitted accessory dwelling unit shall comply with the following standards.
  - 1. Review Procedure. Accessory Dwelling Unit Amnesty Permits shall be reviewed ministerally by the Community Development Director.
  - <u>Dwelling Unit</u> proposed for legalization was constructed or established prior to [date ordinance is adopted] January 1, 2012]. Acceptable means of documenting compliance with this standard include, but are not limited to, the following:
    - a. County Assessor's records;
    - b. Rental contracts and/or receipts;
    - c. Income tax records;
    - d. Utility bills;
    - e. Contractor's bills; and/or
    - f. Written affidavits from former owners, tenants, or neighbors, signed and notarized under penalty of perjury.
  - **2. Location.** No more than one accessory dwelling unit per parcel shall be permitted under the provisions of this program.
  - Access and Facilities. All existing Accessory Dwelling Units shall have a separate entrance and contain a separate kitchen and bathroom facility.

**4. Size.** If the amnesty Accessory Dwelling Unit exceeds 700 square feet it shall be deed restricted to maintain affordability. Prior to deed restriction, the property owner may select the level of affordability and associated period of deed restriction.

Sliding Scale (property owner chooses an option)

Period of Restriction	<u>Affordability</u>
20 years	<u>Moderate</u>
<u>15 years</u>	<u>Low</u>

 10 years Very Low

Owner Restriction. The owner of the property shall occupy either the primary unit or accessory dwelling unit as their primary residence. An owner may be absent from the primary or accessory dwelling unit for up to 12 consecutive months.

# <u>€-6.</u> Development Standards.

- 4-a. Parking. Parking for the amnesty Accessory Dwelling Unit shall not be required.
- Accessory Dwelling Unit shall be exempted from the floor area ratio calculation. Any additional square footage beyond 500 square feet shall be counted as floor area for future development of the property. If inclusion of the square footage of an amnesty Accessory Dwelling Unit causes the property to violate any floor area standards it shall be considered legally non-conforming. The floor area of the amnesty Accessory Dwelling Units shall be documented by the Community Development Department but not counted in determining if the unit is eligible for amnesty. Up to 500 square feet of an amnesty Accessory Dwelling Unit shall be exempted from the floor area ratio calculation. Any additional square footage beyond 500 square feet shall be counted as floor area for future development of the property
- 3.c. Building Coverage. The building coverage of the amnesty Accessory Dwelling Units shall be documented by the Community Development Department but not counted in determining if the unit is eligible for amnesty. The building coverage of the amnesty Accessory Dwelling Unit shall be counted for future development of the property. If inclusion of the square footage of an amnesty Accessory Dwelling Unit causes the property to violate any floor area standards it shall be considered legally non-conforming.
- d. Impervious Surface. The impervious surfaces of the amnesty Accessory Dwelling Units shall be documented by the Community Development Department but not counted in determining if the unit is eligible for amnesty. The impervious surfaces of the amnesty Accessory Dwelling Unit shall be counted for future development of the property.
- e. Setbacks. The setbacks of the amnesty Accessory Dwelling Units shall be documented by the Community Development Department but not counted in determining if the unit is eligible for amnesty.
  - 4. If inclusion of the square footage of an amnesty Accessory Dwelling Unit causes the property to violate any impervious surface standards it shall be considered legally non-conforming.
  - 5. Setbacks. If the amnesty Accessory Dwelling Unit causes the property to violate any setback standards it shall be considered legally non-conforming.
- D. Inspection. Satisfactory completion of an Accessory Dwelling Unit Housing Inspection by a Building Division Inspector shall be required. The existing

Accessory Dwelling Unit shall comply with the California Residential Code Sections R304, 305 and 306 including the following minimum standards:

- 1. The unit shall have independent heating controls.
- 2. The unit shall have adequate light and ventilation.
- 3. The unit shall have kitchen amenities including a sink, refrigerator, and stove.
- 4. The unit shall have at least one bathroom with a sink, tub or shower, and toilet.
- 5. If building or electrical work is necessary to bring the unit into compliance, a Building Permit will be required.
- 6. Fire [sprinklersxx]

# E. Fees. [TBD]

- B. Non-conformity Provisions. Upon final issuance of an Accessory Dwelling Unit Amnesty Permit obtained through the processes established by this Ordinance, if the amnesty dwelling unit violates any provisions of the Zoning Ordinance it shall be deemed a legal nonconforming structure which shall be subject to Zoning Ordinance Chapter 10.62 (Nonconformity Use and Structures).
- C. Sunset Provision. The amnesty period will be in effect through March 31, 2014, before which time the owner of an existing accessory dwelling unit created prior to January 1, 2012 may submit a completed Amnesty Accessory Dwelling Unit Permit application to legalize the unit. The amnesty provisions only apply to complete applications received through March 31, 2014. The City Council may by resolution extend the conclusion of the amnesty period. An accessory dwelling unit created prior to January 1, 2012 is subject to code enforcement actions after expiration of amnesty period.

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