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Working Draft For ADU Working Group Use

<u>Chapter 10.XX</u> Accessory Dwelling Unit Regulations Updated: <u>July 16</u>, 2012

Sections:

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.010 Definitions.

Accessory Dwelling Unit. An Accessory Dwelling Unit is a permanent dwelling that is 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 for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel or parcels as the primary dwelling.

Detached Accessory Dwelling Unit: A Detached Accessory Dwelling Unit is a new or existing accessory dwelling unit which occupies a new or existing structure.

Attached Accessory Dwelling Unit: An Attached Accessory Dwelling Unit is a new or existing accessory dwelling unit that occupies part of the floor area of the existing primary residence or is attached to the primary residence by one or more common walls.

Interior Conversion Accessory Dwelling Unit: An Interior Conversion Accessory Dwelling Unit is a new or existing accessory dwelling unit which has been created by 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 and/or doors.

<u>.020</u> Purpose. The City of Sausalito finds and declares that accessory dwelling units are a valuable form of housing. Residential accessory dwelling units provide housing for family members, students, elderly, in-home health care providers, persons with disabilities and others, at below market rental rates within existing neighborhoods. Homeowners who create accessory dwelling units benefit from added income and an increased sense of security.

It is the intent of the City to encourage accessory dwelling units and impose standards to enable homeowners to create accessory dwelling units that will not aggravate or create neighborhood problems. Additionally, it is the intent of the City to encourage the legalization of existing accessory dwelling units that were not built or established with proper permits and ensure that existing accessory dwelling units are safe and habitable.

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

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_030 Applicability. The provisions of this 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

_Application Process.

- A. An Accessory Dwelling Unit Permit 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 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 Chapter shall be approved ministerially without discretionary review or public hearing unless otherwise specified during the amnesty period effective through March 31, 2014 pursuant to xx.060.D.=
- 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 establish by resolution the respective application fees for Accessory Dwelling Unit Permit and Amnesty Accessory Dwelling Unit Permit.

_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.
- B. Access and Facilities. All new attached or detached Accessory Dwelling Units shall have a separate entrance and contain a separate kitchen and bathroom facility.
- C. Building Permits. All new Accessory Dwelling Units must meet the California Building Code, including local amendments adopted by the City.
- D. 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 approval of a Conditional Use Permit.
 - 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]the exception does not allow the total building

Comment [LS1]: The Working Group decided to limit the areas where ADUs would be allowed to residentially-zoned properties in the R1, R2 and R3 Zoning Districts. No mixed-use properties (CN-1, CC, or CR) or Planned Residential properties (i.e., the Anchorage or Whiskey springs) would be included.

Comment [LS2]: The Working Group wanted to keep the impact on neighborhoods to a minimum and only allow one ADU per parcel.

Comment [LS3]: The Working Group decided that the new ADU would not be exempt from demonstrating compliance with the building coverage/impervious surface limits

Two Working Group members support a process whereby a property owner could request relief from building coverage/impervious surfaces with a Conditional Use Permit application heard by the Planning Commission. Specific findings for the approval of a building coverage/impervious surface exception were crafted to ensure that there would not be an adverse impact on the neighborhood. One Working Group member does not support an exception to the building coverage/impervious surfaces regulations due to the already built-out nature of Sausalito.

- coverage on the parcel to exceed five (5) percent of the maximum allowable building coverage on the parcel.
- 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 the exception does not allow the total impervious surfaces on the parcel to exceed five (5) percent of the maximum allowable impervious surfaces on the parcel [exception does not increase more thanxxx
- 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.
 - 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.
 - 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.
- E. 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.
 - 1. 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.
 - 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
 - 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.
- F. 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

Comment [LS4]: The Working Group decided that the new ADU should not be exempt from demonstrating compliance with setback limitations. They support a process whereby a property owner could request relief from setbacks with a Conditional Use Permit application heard by the Planning Commission as long as a minimum of 3 feet was provided. Specific findings for the approval of a setback exception were crafted to ensure that there would not be an adverse impact on the neighborhood.

Comment [LS5]: As an incentive to create ADUs, the Working Group decided that the new ADU could be exempt from counting towards Floor Area up to 500 square feet. Any amount above 500 square feet would count 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

G. 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.

H. 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.

I. Height.

 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 on a parcel 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 on a parcel 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.
- J. 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

Comment [LS6]: The Marin Municipal Water District has indicated that the connection fees could cost between \$2,300-\$10,000 and the meter installation could cost between \$0.\$4,400

The Sausalito Marin City Sanitary District has indicated that the sewer connection fee could be \$6.130

Comment [LS7]: Since the size of the unit is a factor in limiting the rent charged, in order to ensure a greater number of affordable units and limit neighborhood impact the Working Group decided to limit both the size of the ADU and the number of bedrooms

Comment [LS8]: The Working Group decided to limit the ADU in general to the existing height regulations. Attached ADUs would be required to follow the height restriction for the main unit. Detached ADUs would be required to maintain the height restriction for detached accessory structures, unless limited by a slope greater than 10 degrees

Comment [LS9]: In order to maintain design consistency with the main unit and the neighborhood the Working Group decided to require that the ADU match the design of the main residence.

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- K. Views. exxUp to tenAll new Accessory Dwelling Units shall be designed to not impair views from neighboring properties. At its discretion, the Planning Commission may grant approval of a new Accessory Dwelling Unit which impairs views from neighboring properties with approval of a Conditional Use Permit. percent of a primary view from a neighboring property may be impacted by a new accessory dwelling unit.
 - View Impairment Determination. 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. In order to determine if views are impaired story poles shall be erected. A 10-day "pre-notice" shall be mailed to property owners/residents within 300 feet informing them of the Accessory Dwelling Unit project and inviting comments related to view obstruction. A second 10day notice shall be mailed to property owners/residents within 300 feet reminding them of the Accessory Dwelling Unit project and inviting comments related to view obstruction. The notice shall contain a statement indicating that if no comments are received on the project by the last day of the notice then staff will determine that there are no view impairments. If there are view concerns staff will visit the site and make a view determination as specified by the Zoning Ordinance. If a view is determined to be impaired the applicant may request a Conditional Use Permit for the view impairment from the Planning Commission.
 - 2. Conditional Use Permit Findings for View Impairment. The Planning Commission may grant an exception enumerated above if the Planning Commission makes the following finding: "The proposed project has been located and designed to minimize obstruction of views from surrounding properties, with particular care taken to protect primary views."
- L. 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]

- M. 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:
 - Accessory Dwelling Units 700 square feet or less. One off-street parking space shall be provided for the Accessory Dwelling Unit.
 - 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

Comment [LS10]: The Working Group decided to not allow any view obstructions by a new ADU from neighboring properties. The applicant will be required to install story poles and there will be two city notices sent to properties within 300 feet to determine view obstruction. If there is a view obstruction (as determined by staff) the ADU will be required to be reviewed by the Planning Commission.

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.
 - 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.
 - Any off-street parking for Accessory Dwelling Units may be located in required yard areas regardless of structure height.
- N. 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.

.060 Amnesty Accessory Dwelling Unit Permit.

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 during the amnesty period effective through March 31, 2014 pursuant to subsection D:

- A. Eligibility. In order to grant an Accessory Dwelling Unit Amnesty Permit, an existing non-permitted accessory dwelling unit shall comply with the following standards.
 - Documentation. The existing Accessory Dwelling Unit proposed for legalization was constructed or established prior to January 1, 2012 by providing two forms of evidence. 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

Comment [LS11]: After reviewing other Marin County jurisdiction's regulations, the Working Group decided to require that the property owner live in either the main or accessory unit. The likelihood of the property being properly maintained is greater if the property owner lives on site.

- f. Written affidavits from former owners, tenants, or neighbors, signed and notarized under penalty of perjury.
- 2. Number of Accessory Dwelling Units per Parcel. No more than one Accessory Dwelling Unit shall be located on the parcel.
- 2. Location. No more than one accessory dwelling unit per parcel shall be permitted under the provisions of this program.
- 3. 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_shall_select the level of affordability and associated period of deed restriction;

Sliding Scale (property owner chooses an option)

Period of Restriction	Affordability
20 years	Moderate
15 years	Low
10 years	Very Low

If the amnesty Accessory Dwelling Unit is removed or converted pursuant to xx.060.D the deed restriction shall be rescinded.

- 5. 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.
- 6. Development Standards.
 - Parking. Parking for the amnesty Accessory Dwelling Unit shall not be required.
 - b. Floor Area Ratio. 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
 - 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.
 - d. Impervious Surface. The impervious surfaces of the amnesty Accessory Dwelling Units shall be documented by the Community

Comment [L\$12]: The Working Group wanted to keep the impact on neighborhoods to a minimum and only allow one ADU per parcel.

Comment [LS13]: This language is not necessary and should be removed (there is already language about owner residency)

Comment [LS14]: The Working Group decided that in order to maintain affordability of the ADUs any unit over 700 square feet should be deed restricted to ensure that the unit is affordable.

Comment [LS15]: After reviewing other Marin County jurisdiction's regulations, the Working Group decided to require that the property owner live in either the main or accessory unit. The likelihood of the property being properly maintained is greater if the property owner lives on site.

- 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.
- 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. Effect of Conversion. For any amnesty Accessory Dwelling Unit, elimination of any of the required access and facilities elements (i.e., the separate entrance, kitchen, bathroom facilities), or non-compliance with any required deed restriction shall require the property owner to do both of the following:
 - Demonstrate compliance of the main residence with all applicable development standards in the Zoning Ordinance (taking into account any pre-existing legal non-conformities); and
 - Re-credit any Floor Area waiver previously received on floor area for the Accessory Dwelling Unit back to the parcel. If this causes the parcel to exceed the maximum Floor Area Ratio allowed on the parcel the property owner shall obtain the approvals necessary to come into compliance with the Floor Area Ratio allowances.
- D. 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.

Comment [LS16]: The Working Group supports the inclusion of a clause which would require the property owner to relinquish any benefits received from the amnesty ADU (such as waivers of development standards) if the property owner does not comply with the deed restriction or if the unit is converted into living space for the main unit

Comment [LS17]: The amnesty period would end at the conclusion of the current R-INA cycle. The Working Group supports a clause which would allow the amnesty provisions to be extended by Council resolution.