ORDINANCE NO. 1220

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO AMENDING TITLE 10 OF THE SAUSALITO MUNICIPAL CODE TO: ADD SECTION 10.40.130 WHICH ESTABLISHES APPLICABILITY, REQUIREMENTS, DENSITY BONUS AWARDS, INCENTIVES, CONCESSIONS, APPROVAL REQUIREMENTS AND OTHER CRITERIA FOR USE BY THE CITY AND APPLICANTS IN PROCESSING DENSITY BONUS PROJECTS AND MODIFY CHAPTER 10.88 TO ADD DEFINITIONS RELATED TO DENSITY BONUS PROJECTS ZOA 14-007

WHEREAS, Government Code Sections 65915-65918 requires local jurisdictions to adopt local density bonus ordinances; and

WHEREAS, on October 9, 2012 the Housing Element was adopted by the City Council; and

WHEREAS, On November 7, 2012 the California Department of Housing and Community Development certified the adopted Housing Element to be in conditional compliance with Housing Element Law; and

WHEREAS, the adopted Housing Element contains Program 19, Density Bonus and Other Incentives for Affordable Housing to encourage the development of affordable housing through granting density increases above that permitted under zoning, along with other incentives, to developers of residential projects with five or more units who commit to providing a certain percentage of affordable units within their projects; and

WHEREAS, Section 10.80.070 allows for amendments of the Zoning Ordinance (Title 10 of the Sausalito Municipal Code) whenever the City Council determines that public necessity, convenience, or welfare would be served; and

WHEREAS, Section 10.80.070.C requires the Planning Commission to provide a recommendation to the City Council on proposed Zoning Ordinance amendments; and

WHEREAS, from January 2014-April 2014 a subcommittee of the City Council and Planning Commission held six public meetings regarding the 2009-2014 Housing Element Implementation Amendments; and

WHEREAS, on March 15, 2014 a publicly-noticed Community Workshop was held to discuss the 2009-2014 Housing Element Implementation Amendments; and

WHEREAS, on May 21, 2014 the Planning Commission conducted a duly-noticed public hearing at which time all interested persons were given an opportunity to be heard; and

WHEREAS, on May 21, 2014 the Planning Commission adopted Planning Commission Resolution No. 2014-12, which recommended City Council adoption of an Ordinance regarding the Density Bonus Ordinance; and

WHEREAS, on June 24, 2014 and July 8, 2014 the City Council conducted duly-noticed public hearings at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15061.b.3 of the CEQA Guidelines because adoption of the zoning ordinance amendment 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 this project does not have the potential for causing a significant effect on the environment; and

WHEREAS, adoption of Density Bonus Ordinance is consistent with the General Plan, including Program 19 of the Housing Element regarding density bonuses, Land Use Element Policy LU-1.16 regarding child care and residential care facilities, and Land Use Element Policy HE-4.1 regarding regulatory incentives for affordable housing.

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

Section 1: Section 10.40.130 of the Sausalito Municipal Code is hereby amended as follows:

A. Purpose. The purpose of this section is to demonstrate the standards and procedures in granting affordable housing density bonuses for housing developments, in an effort to incentivize the construction of Affordable Units within new developments in the City. This section implements the requirements of Government Code Section 65915 ("State Density Bonus Law").

B. Applicability.

1. This section shall apply to all zoning districts within the City that allow residential use.
2. The bonus granted pursuant to this section shall apply only to residential projects or residential components of mixed-use projects, not including units granted as a density bonus.
3. The proposed project shall have all of the following characteristics in order to qualify for a density bonus:
    a. The residential development must include a minimum of five (5) dwelling units.
    b. The applicant seeks and agrees to provide housing units to very-low, low or moderate income households or senior citizens at rates consistent with those specified in Table 10.40-2 (Density Bonus Standards).
    c. The resulting density is beyond that permitted by the applicable zoning district.
    d. The applicant agrees to retain the affordable status of housing units for at least thirty (30) years through the recordation of a deed restriction.

C. Application Requirements.

1. Any applicant requesting a density bonus, incentives, and/or concessions must provide the City with a written proposal.
2. The proposed project shall have all of the following characteristics in order to qualify for a density bonus:
   a. Requested Density Bonus.
      1) Evidence that the project meets thresholds set by State Density Bonus Law, excluding the units added by the granted density bonus;
      2) Calculations showing the maximum base density;
      3) Number or percentage of affordable units and the income level at which the units will be restricted to;
      4) Number of market rate units to result from the granted density bonus;
      5) Resulting density, described in units per square foot; and,
      6) A written acknowledgement that the project will be subject to a condition of approval and deed restriction to retain affordability of the affordable unit(s) for at least thirty (30) years.
   b. Documentation of Requested Incentives or Concessions.
      1) A pro forma or other report demonstrating that the requested incentives and concessions result in identifiable, financially sufficient and actual cost reductions necessary to ensure the financial feasibility of the proposed units shall be prepared.
      2) A detailed report to allow the City to verify the conclusions of the report submitted in Section 10.40.130.C.2.b.1 above shall be prepared. The City may require that an independent financial review be conducted and the applicant shall be responsible for all consulting costs for document preparation and review.
      3) The proposal shall include a description of any proposed waivers of development standards and why they are necessary for making the project physically possible.
      4) All requested incentives and concessions should not exceed the limits stated in Table 10.40-3 (Incentives and Concessions).
3. Payment of fees set by resolution of the City Council.

D. Density Bonus Allowance.

1. A request for a density bonus pursuant to this section shall only be granted if the applicant agrees to construct one of the following:
   a. At least five percent (5%) of the units are dedicated to very-low income households;
   b. At least ten percent (10%) of the units are dedicated to very-low income and/or low income households;
   c. At least ten percent (10%) of the units are dedicated to moderate-income households and are developed as common interest developments (including condominium projects, planned developments, community apartment projects or stock cooperatives) and are available to the general public for sale; or,
   d. At least thirty-five (35) dwelling units are dedicated and available exclusively to persons aged fifty-five (55) and older and to those residing with them in accordance with State Density Bonus Law Section (65915(b)(1)(c)).
   e. The density bonuses available under this section shall not be combined.
   f. All calculations resulting in fractional units shall be rounded up to the next whole number.

Table 10.40-2. Density Bonus Standards

Target Group	Proportion of Total Affordable Dwelling Units	Maximum Density Bonus	Example Project with 10 Base Units (Except Senior Citizen Housing Development)			
			Base Units		Bonus Units (4)	Maximum Number of Units
			Market Units	Minimum Affordable Units		
Very-Low Income (1)	5%	20%	9	1	1	11
	10%	33%	9	1	4	14
	11% or above	35%	8	2	4	14
Low Income (2)	10%	20%	9	1	2	12
	20% or above	35%	8	2	4	14
Moderate Income (3) (Common interest developments)	10%	5%	9	1	1	11
	20%	15%	8	2	2	12
	40% or above	35%	4	6	4	14
Senior Citizen	35 units (minimum)	20%	35		7	42

(1) For each 1% increase over 5% of the Target Units, the Density Bonus shall be increased by 2.5% up to a maximum of 35%
(2) For each 1% increase over 10% of the Target Units, the Density Bonus shall be increased by 1.5% up to a maximum of 35%
(3) For each 1% increase over 10% of the Target Units, the Density Bonus shall be increased by 1% up to a maximum of 35%
(4) Rounded up to the next whole number

E. Floor Area Bonus and Concessions for Child Care Facilities.

1. When the applicant proposes to construct a housing development that includes affordable housing units as stated in Table 10.40-2 (Density Bonus Standards)and includes a "child care facility," as defined in State Density Bonus Law Section 65915(h)(4), to be located on the premises of, constructed as part of, or located adjacent to the housing development, the City shall grant either of the following to the applicant:
   a. An additional density bonus in an amount that is equal to or greater than the total square footage of the child care facility; or
   b. An additional incentive or concession that contributes significantly to the economic feasibility of the construction of the child care facility.

2. A housing development shall be eligible for either the density bonus or concession described in this section once the granting authority makes all of the following findings:
   a. The granted density bonus or concession would contribute to the economic feasibility of the construction of the child care facility.
   b. The density bonus or concession would not have a significant adverse impact on public health, public safety or the physical environment to an extent which cannot be feasibly mitigated or avoided without compromising the affordability of very-low income, low income and moderate income housing units. A specific adverse impact is a significant, quantifiable, direct, and unavoidable impacts, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that application was deemed complete.
   c. The child care facility shall remain in operation for the same period of time in which Affordable Units of the development are proposed and required to remain affordable.
   d. Of the children attending the child care facility, the percentage of children of very-low income, low income or moderate income households shall be equal to or greater than the percentage of the dwelling units proposed to be affordable to very-low income, low income and moderate income households.
   e. The City shall not be required to grant a density bonus or concession if it determines, based on substantial evidence, that the community has adequate child care facilities.
   f. A floor area density bonus for the provision of a child care facility may be combined with a density bonus granted for the provision of affordable housing units. The combined density bonus for any residential development shall not exceed thirty-five percent (35%).

F. Incentives and Concessions.

1. In addition to the density bonus, an applicant who utilizes the density bonus provisions of this chapter may request one or more concessions or incentives. The number of incentives or concessions granted to the applicant shall be pursuant to the State Density Bonus Law, as set forth in Table 10.40-3 (Incentives and Concessions), unless the City makes the findings and rejects a request under the procedures described in subsection 6 pursuant to the State Density Bonus Law
2. Incentives and Concessions may include: A reduction in site development standards or a modification of zoning code requirements or architectural design requirements which exceed the minimum building standards provided in Part 2.5 (commencing with Section 18901) of Division 13 of the California Health and Safety Code, and which result in identifiable, financially sufficient, and actual cost reductions. These incentives (or concessions) are broken down into two tiers, with applicants encouraged to select incentives identified in Tier 1 before selecting concessions in Tier 2. Incentives with an anticipated greater level of impact are identified as Tier 2 and are less preferred, and thus require a higher level of review and approval by the City. The overall goal of this hierarchy is to choose concessions that reduce neighborhood impacts, further the project's consistency with the General Plan, and promote affordability.
   a. Tier 1 Incentives/Concessions (review/decision by the Planning Commission)
      1) Reduced minimum lot setbacks
      2) Reduced minimum lot sizes and/or dimensions

3) Increased maximum building coverage
4) Reduced common or private open space
5) Approval of mixed use zoning in conjunction with the residential development if non-residential land uses will reduce the cost of residential development and the City finds that the proposed non-residential uses are compatible with the residential development and with existing or planned development in the area where the proposed residential development will be located.

b. Tier 2 Incentives/Concessions (review/recommendation by the Planning Commission and review/ decision by the City Council)
1) Reduced parking (beyond the State Alternative Parking Standards identified in Section G of this Chapter)
2) Building heights that do not comply with Sausalito Municipal Code Section 10.40.060
3) Increased maximum floor area ratio (FAR)
4) Other regulatory incentives or concessions (such as impacts to primary views that do not comply with Sausalito Municipal Code Section 10.54.050.D.4) proposed by the applicant or City which result in identifiable, financially sufficient, and actual cost reductions.

3. Applicants may seek a waiver or modification of development standards that will have the effect of precluding the construction of a residential development meeting the criteria of Section D of this chapter at the densities or with the concessions or incentives permitted by this Division. The applicant must demonstrate that the waiver or modification is necessary to make the residential project, with the affordable units, economically feasible.
4. The denial of an incentive is separate from a decision to approve or deny the project as a whole.
5. The granting of a density bonus, incentives or concessions shall not be interpreted to require a General Plan amendment, Zoning Map amendment, or other discretionary action for approval. If the base project requires discretionary approval, the City retains discretion whether to make the required findings for the project's approval.

Table 10.40-3. Incentives and Concessions

Unit Affordability Level	Percentage of Total Housing Units	Number of Incentive(s) or Concession(s)
Very-Low Income	5%	1
Low Income	10%	1
Moderate Income	10%	1
Very-Low Income	10%	2
Low Income	20%	2
Moderate Income	20%	2
Very-Low Income	15%	3
Low Income	30%	3
Moderate Income	30%	3

6. The City reserves the right to deny density bonus incentives and concessions requests if written findings are made based upon substantial evidence demonstrating any of the following :
   a. The concession or incentive would be contrary to State or Federal law;
   b. The concession or incentive is not required to provide for affordable housing costs as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set at affordable levels as specified in Section 50053 of the Health and Safety Code;
   c. The concession or incentive would have a specific adverse impact , as defined in Government Code Section 65589.5(d)(2) upon:
      1) Public health or safety for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households;
      2) The physical environment for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households; or
      3) Any real property listed in the California Register of Historical Resources.
   d. Development is physically possible without granting a waiver of development standards.

G. Alternative Parking Standards. For density bonus projects meeting the criteria set forth under Table 10.40-2 (Density Bonus Standards), upon a request by the applicant, the City shall allow the following modified parking requirements:
1. Zero to one bedroom units – one off-street parking space per unit
2. Two to three bedroom units – two off-street parking spaces per unit
3. Four and more bedrooms – two and one-half off-street parking spaces per unit

These spaces are inclusive of accessible and guest parking spaces. All fractions of numbers shall be rounded up. An applicant may use tandem or uncovered parking spaces to meet these parking requirements.

H. Design and Quality. Affordable units must be constructed concurrently with market rate units and shall be dispersed within the development. The number of bedrooms of the affordable units shall be equivalent to the bedroom mix of the market rate units in the development. Affordable units shall be of equal design and quality as market rate units unless approved by the City. Exterior architectural appearance shall not differentiate between affordable and market rate units. Interior design, finishes and amenities of affordable units may differ from market rate units, but may not be of substandard or inferior quality as determined by the Community Development Director.

I. Donation of Land.
1. An applicant for a tentative subdivision map, parcel map, or other residential development who donates land to the City, as provided for in this Section 10.40.130, shall be entitled to a fifteen percent (15%) increase above the otherwise maximum allowable residential density under the applicable zoning district and the Land Use Element of the General Plan for the entire development. For each one percent increase above the minimum ten percent land donation for very-low income units described in paragraph (3)(a) of this section, the Density Bonus shall be increased by

one percent, up to a maximum of thirty-five percent (35%) as shown in Table 10.40-4 (Density Bonus for Land Donations).

2. This increase shall be in addition to any increase in density allowed by Section E, up to a maximum combined Density Bonus of thirty-five percent (35%) if an applicant seeks both the increase required pursuant to this Section and Section E. When calculating the number of permitted Density Bonus Units, any calculations resulting in fractional units shall be rounded to the next larger integer.

3. An applicant shall be eligible for the increased density bonus described in this subsection I when all of the following requirements are met:
   a. The applicant shall donate and transfer the land no later than the date of approval of the final tract or parcel map, or application for the construction of residential units.
   b. The development acreage and zoning classification of the land being transferred shall be sufficient to permit construction of units affordable to very-low income households in an amount not less than ten percent of the number of residential units of the proposed development.
   c. The transferred land shall be at least one acre in size or of sufficient size to permit development of at least forty (40) units, has the appropriate General Plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.
   d. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all the permits and approval, other than building permits, necessary for development of the very-low income housing units on the transferred land except that the City may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Health and Safety Code Section 65583.2, as amended from time to time, if the design is not reviewed by the City prior to the time of transfer.
   e. The land shall be transferred to the City of Sausalito, or to a housing developer approved by the City of Sausalito.
   f. The transferred land and the very-low income units constructed on the land will be subject to a deed restriction ensuring continued affordability of the units constructed consistent with this chapter, which restriction will be recorded on the property at the time of transfer.
   g. The transferred land shall be within the boundary of the proposed development or, with the approval of the City, within one-quarter mile of the boundary of the proposed development
   h. A bonus shall not be granted unless a source of funding for the very-low income units has been identified not later than the date of approval of the final parcel or tract map, or application for the construction of residential units.

Table 10.40-4. Density Bonus for Land Donation

Percentage Very-Low Income Units	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

Section 2. Section 10.44.080 of the Sausalito Municipal Code is hereby amended to add the following definitions:

Affordable Units. Units within a residential development which will be reserved for sale or rent to, and made available at an affordable rent or affordable ownership cost to very low, low or moderate income households.

Granting Authority. Includes the Building Official, Director, Zoning Administrator, Historic Landmarks Board, Planning Commission and City Council.

Household Income Levels: Very Low, Low and Moderate. Households whose gross incomes do not exceed the qualifying very low, low and moderate income limits established in Section 6932 of the California Code of Regulations, and amended periodically based on the U.S. Department of Housing and Urban Development (HUD) estimate of median income in Marin County, and as adjusted by the State Department of Housing and Community

Development (HCD). Pursuant to Code Sections 6926, 6928 and 6930, these income limits are equivalent to the following:

- Very low income household: 50 percent of area median income, adjusted for household size appropriate for the unit and other factors determined by HUD
- Low income household: 80 percent of area median income, adjusted for household size appropriate for the unit and other factors determined by HUD
- Moderate income households: 120 percent of area median income adjusted for household size appropriate for the unit and other factors determined by HUD

Pursuant to the Code of Federal Regulations (24 CFR 5.609(b)(3) and 24 CFR 5.603(b)), and consistent with the income eligibility criteria utilized by Marin Housing, "interest, dividends, and other net income of any kind from real personal property" are included in the calculation of annual household income.

Section 3. The adoption of this ordinance is exempt from the application of the California Environmental Quality Act (CEQA), Public Resources Code section 21000, *et seq.,* in accordance with Section 15061.b.3 of the CEQA Guidelines; and

Section 4. If any section or portion of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. This Ordinance shall be in full force and effect thirty (30) days after the date of its adoption.

Section 6. This Ordinance shall be published once within fifteen (15) days after its passage and adoption in a newspaper of general circulation in the City of Sausalito.

THE FOREGOING ORDINANCE was read at a regular meeting of the Sausalito City Council on the 24th day of June, 2014, and was adopted at a regular meeting of the City Council on the 8th day of July, 2014 by the following vote:

AYES:	COUNCILMEMBER:	Leone, Pfeifer, Theodores, Weiner and Mayor Withy
NOES:	COUNCILMEMBER:	None
ABSTAIN:	COUNCILMEMBER:	None
ABSENT:	COUNCILMEMBER:	None

MAYOR OF THE CITY OF SAUSALITO

ATTEST:

CITY CLERK