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*****Working Draft*****
For ADU Working Group Use

Chapter 10.XX Accessory Dwelling Unit Regulations
Updated: July 30, 2012

Sections:

- .010 Definitions
- .020 Purpose.
- .030 Applicability
- .040 Application Process
- .050 Accessory Dwelling Unit Permit
- .060 Amnesty Accessory Dwelling Unit Permit

.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.

Affordable Rent: The amount of monthly rent, including a reasonable utility allowance, that does not exceed the maximum allowable rent to be charged by property owner and paid by Very Low Income Households, or Low Income Households, or Moderate Income Households, as the case may be, occupying the Accessory Dwelling Unit as determined pursuant to Section 50053 of the California Health & Safety Code.

Very Low Income Household: A household whose gross annual income does not exceed fifty percent (50%) of the Marin County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development, pursuant to California Health & Safety Code Section 50105.

Low Income Household: A household whose gross annual income does not exceed eighty percent (80%) of the Marin County median income adjusted for family size as set forth from time to time by regulation of the California Department of Housing and Community Development, pursuant to California Health & Safety Code Section 50093.

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2 **Moderate Income Household:** A household whose gross annual income does not
3 exceed one hundred twenty percent (120%) of the Marin County median income
4 adjusted for family size as set forth from time to time by regulation of the California
5 Department of Housing and Community Development, pursuant to California Health &
6 Safety Code Section 50093.
7

8 **.020 Purpose.** The City of Sausalito finds and declares that accessory dwelling units are a
9 valuable form of housing. Accessory dwelling units provide housing for family members,
10 students, elderly, in-home health care providers, persons with disabilities and others, at below
11 market rental rates within existing neighborhoods. Homeowners who create accessory dwelling
12 units benefit from added income and an increased sense of security.
13

14 It is the intent of the City to encourage accessory dwelling units and impose standards to enable
15 homeowners to create accessory dwelling units that will not aggravate or create neighborhood
16 problems. Additionally, it is the intent of the City to encourage the legalization of existing
17 accessory dwelling units that were not built or established with proper permits and ensure that
18 existing accessory dwelling units are safe and habitable.
19

20 The purpose of this Chapter is also to comply with Government Code Section 65852.2 relating
21 to accessory dwelling units.
22

23 **.030 Applicability.** The provisions of this Chapter shall apply to single-family residential (R-1-
24 20, R-1-8, R-1-6), two-family residential (R-2-5, R-2-2.5) and multifamily residential (R-3) Zoning
25 Districts.
26

27 **.040 Application Process.**

- 28 **A.** An Accessory Dwelling Unit Permit is required to establish a new Accessory Dwelling
29 Unit in a single-family, two-family or multiple family residential zoning district. Any
30 application for an accessory dwelling unit that meets the location and development
31 standards contained in this Chapter shall be approved ministerially without
32 discretionary review or public hearing unless otherwise specified.
33 **B.** An Amnesty Accessory Dwelling Unit Permit is required to legalize an existing illegal
34 Accessory Dwelling Unit in a single-family, two-family, or multiple family residential
35 zoning district. Any application for an accessory dwelling unit that meets the location
36 and development standards contained in this Chapter shall be approved ministerially
37 without discretionary review or public hearing unless otherwise specified during the
38 amnesty period effective through March 31, 2014 pursuant to xx.060.D.
39 **C.** An application for an Accessory Dwelling Unit Permit or Amnesty Accessory Dwelling
40 Unit Permit shall be made by the property owner and filed with the Community
41 Development Department on a form prescribed by the Community Development
42 Director. The City Council shall establish by resolution the respective application fees
43 for Accessory Dwelling Unit Permit and Amnesty Accessory Dwelling Unit Permit.
44

45 **.050 Accessory Dwelling Unit Permit.**

46 A permit allowing a new Accessory Dwelling Unit shall be issued by the Community
47 Development Director upon compliance with the following development standards or
48 requirements:
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- 1 **A. Number of Accessory Dwelling Units per Parcel.** No more than one Accessory
2 Dwelling Unit shall be located on a parcel.
- 3 **B. Access.** A new Accessory Dwelling Unit shall have a separate entrance. An
4 entrance leading to a foyer with entrances leading from the foyer to the main dwelling
5 unit(s) and the accessory dwelling unit is permitted.
6
- 7 **C. Facilities.** A new Accessory Dwelling Unit shall contain a separate kitchen and
8 bathroom facility.
9
- 10 **D. Building Permits.** A new Accessory Dwelling Unit shall comply with the California
11 Building Code, including local amendments adopted by the City.
12
- 13 **E. Building Coverage and Impervious Surfaces.** New construction of an attached or
14 detached Accessory Dwelling Unit shall conform with the building coverage and
15 impervious surfaces regulations applicable to the parcel upon which the unit is
16 located. At its discretion, the Planning Commission may grant exceptions to building
17 coverage and impervious surfaces regulations with approval of a Conditional Use
18 Permit.
19
- 20 1. Exception to Building Coverage. With the approval of a Conditional Use
21 Permit, the Planning Commission may grant an exception to the allowable
22 building coverage permitted on a parcel to permit an accessory dwelling
23 unit, provided the exception does not allow the total building coverage on
24 the parcel to exceed five (5) percent of the maximum allowable building
25 coverage on the parcel.
- 26 2. Exception to Impervious Surface. With the approval of a Conditional Use
27 Permit the Planning Commission may grant an exception to the allowable
28 impervious surfaces permitted on a parcel to permit an accessory
29 dwelling unit, provided the exception does not allow the total impervious
30 surfaces on the parcel to exceed five (5) percent of the maximum
31 allowable impervious surfaces on the parcel.
- 32 3. The Planning Commission may grant one or both of the exceptions
33 enumerated above if the Planning Commission makes the following
34 findings:
35
- 36 a) The exception will not create a significant adverse impact on any
37 adjacent property, the surrounding neighborhood, or the general
38 public good.
- 39 b) The lot and the arrangement of existing and proposed physical
40 improvements on the lot can accommodate the exception without
41 adversely affecting the views, privacy, or access to light and air of
42 neighboring properties.
- 43 c) Any modifications to site drainage shall be designed by a licensed
44 engineer and shall result in no net increase to the rate or volume
45 of peak runoff from the site compared to pre-project conditions.
46 Any new mechanical pumps or equipment shall not create noise
47 that is audible off-site.
48
- 49 **F. Setbacks.** A new attached or detached Accessory Dwelling Unit shall conform with
50 the setback regulations applicable to the parcel upon which the unit is located. At its

1 discretion, the Planning Commission may grant exceptions to side yard setback
2 regulations with a Conditional Use Permit.

- 3 1. Exception to Side Yard Setbacks. With the approval of a Conditional Use
4 Permit, the Planning Commission may grant an exception to the required
5 side yard setback permitted on a lot or parcel to permit an accessory
6 dwelling unit, provided that at all times a minimum setback of three feet
7 (3') is maintained.
- 8 2. The Planning Commission may grant an exception enumerated above if
9 the Planning Commission makes the following findings:
 - 10 a) The exception will not create a significant adverse impact on any
11 adjacent property, the surrounding neighborhood, or the general
12 public good.
 - 13 b) The lot and the arrangement of existing and proposed physical
14 improvements on the lot can accommodate the exception without
15 adversely affecting the views, privacy, or access to light and air of
16 neighboring properties.
 - 17 c) Any new mechanical pumps or equipment shall not create noise
18 that is audible off site.

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21 **G. Floor Area.** Up to 500 square feet of a new attached or detached Accessory
22 Dwelling Unit shall be exempted from the floor area ratio calculation. Any additional
23 Accessory Dwelling Unit floor area above 500 square feet shall be counted as floor
24 area. New construction of an attached or detached Accessory Dwelling Unit shall
25 conform with the floor area regulations applicable to the parcel upon which the unit is
26 located.

27
28 **H. Public Services.** The property owner applying for an Accessory Dwelling Unit Permit
29 shall have paid all sewer connection fees to the Sausalito-Marín City Sanitary District
30 and water connection fees to the Marin Municipal Water District.

31
32 **I. Unit Size and Number of Bedrooms.** A new Accessory Dwelling Unit shall comply
33 with the following maximum unit sizes and number of allowed bedrooms:

- 34 1- Interior Conversions. The maximum floor area for an interior conversion
35 Accessory Dwelling Unit shall be no less than 300 square feet and no
36 greater than forty percent (40%) of the primary unit up to a 1,000 square
37 foot maximum. There shall be no more than two bedrooms in the
38 Accessory Dwelling Unit.
- 39 2- Attached Units. The maximum floor area for an attached Accessory
40 Dwelling Unit shall be no less than 300 square feet and no greater than
41 thirty percent (30%) of the primary unit up to a 700 square foot maximum.
42 There shall be no more than one bedroom in the Accessory Dwelling Unit.
43 A Conditional Use Permit may be requested for two bedrooms and/or to
44 exceed the unit size limitations up to forty percent (40%) of the primary
45 unit up to a maximum of 1,000 square feet.
- 46 3- Detached Units. The maximum floor area for a detached Accessory
47 Dwelling Unit shall be no less than 300 square feet and no greater than
48 thirty percent (30%) of the primary unit up to a 700 square foot maximum.
49 There shall be no more than one bedroom in the Accessory Dwelling Unit.
50 A Conditional Use Permit may be requested for two bedrooms and/or to

1 exceed the unit size limitations up to forty percent (40%) of the primary
2 unit up to a maximum of 1,000 square feet.

3 **J. Height.**

- 4 1. Attached Units. The height of an attached Accessory Dwelling Unit shall
5 comply with the requirements of Chapter 10.40 regarding the height
6 applicable to the main building.
7 2. Detached Units. The height of a detached Accessory Dwelling Unit shall be
8 no greater than fifteen (15) feet as measured from the average natural grade.
9 At its discretion, the Planning Commission may grant approval of a new
10 Accessory Dwelling Unit which exceeds the fifteen (15) foot height limit with
11 approval of a Conditional Use Permit. The Planning Commission may grant a
12 height exception enumerated above if the Planning Commission makes the
13 following findings:
14 a. The exception will not create a significant adverse impact on any
15 adjacent property, the surrounding neighborhood, or the general
16 public good.
17 b. The lot and the arrangement of existing and proposed physical
18 improvements on the lot can accommodate the exception without
19 obstructing views or adversely affecting the privacy or access to
20 light and air of neighboring properties.

21
22 **K. Design.** A new Accessory Dwelling Unit shall have a roof slope, window
23 arrangement, siding materials, colors and architectural style compatible with the
24 primary residence. At its discretion, the Planning Commission may grant exceptions
25 to design regulations with a Conditional Use Permit. The Planning Commission may
26 consider applications for Conditional Use Permits for a Detached Accessory Dwelling
27 Unit which has an architectural style, exterior materials and colors a roof slope,
28 window arrangement, siding materials, colors and architectural style which differs
29 from the primary residence
30

31 **L. Views.** A new Accessory Dwelling Unit should be designed to not impair views from
32 neighboring properties. At its discretion, the Planning Commission may grant
33 approval of a new Accessory Dwelling Unit which impairs views from neighboring
34 properties with approval of a Conditional Use Permit.
35

- 36 1. View Impairment Determination. A “view” is defined by Chapter 10.88. In
37 order to determine if a view is impaired, story poles for the Accessory
38 Dwelling Unit shall be erected. Following receipt of the application, staff shall
39 mail a “pre-notice” to property owners and residents within 300 feet of the
40 proposed Accessory Dwelling Unit regarding the opportunity to provide
41 comments related to view obstruction. Following installation of the story
42 poles, staff shall mail a second notice to property owners and residents within
43 300 feet of the proposed Accessory Dwelling Unit. The second notice shall
44 provide for a 10-day comment period for comments related to view
45 obstruction. The notices shall indicate that if no comments are received on
46 the project by the conclusion of the comment period staff may determine that
47 there are no view impairments. If there are view concerns staff will visit the
48 site and make a view determination as specified by the Zoning Ordinance. If
49 staff determines a view is potentially impaired, the applicant must apply for

1 and obtain approval of a Conditional Use Permit by the Planning Commission
2 for approval of the project.

- 3 2. Finding for View Impairment. The Planning Commission may grant approval
4 of a new Accessory Dwelling Unit which impairs views from neighboring
5 properties with approval of a Conditional Use Permit if the Planning
6 Commission finds the project has been located and designed to minimize
7 obstruction of views from surrounding properties, and particular care has
8 been taken to protect primary views.

9
10 **M. Privacy.** A new attached or detached Accessory Dwelling Unit shall be designed so
11 that its exterior windows, decks and doors do not overlook directly the exterior living
12 areas or interior living areas of adjoining properties. This privacy standard is waived
13 for an interior conversion Accessory Dwelling Unit which does not involve new
14 windows, decks, doors, or similar exterior features.

15
16 **N. Off-Street Parking.** The design and location of off-street parking for the Accessory
17 Dwelling Unit shall be provided in compliance with Section 10.40.120. Additionally,
18 the following regulations apply:

- 19 1. Accessory Dwelling Units 700 square feet or less. One off-street parking
20 space shall be provided for the Accessory Dwelling Unit.
21 a. If it can be demonstrated that it is not feasible to accommodate an
22 unobstructed 9-foot by 20-foot parking space on the parcel,
23 tandem will be allowed without a Conditional Use Permit subject to
24 the following conditions:
25 i. The tandem space shall not be located on a shared
26 driveway.
27 ii. The design of the tandem space shall be reviewed by the
28 City Engineer in order to verify that it is provided safely.
29 iii. No portion of the tandem space shall be located in the
30 public right of way.
31 b. If it can be demonstrated that it is not feasible to accommodate a
32 parking space on the parcel, the applicant may submit a parking
33 study that shows the availability of on-street parking during
34 daytime and nighttime hours. If it is demonstrated that there is
35 adequate on-street parking, the parking requirement may be
36 relieved without a Variance, subject to the condition that the main
37 unit(s) must meet all current parking requirements.
38 c. Any off-street parking for Accessory Dwelling Units may be
39 located in required yard areas regardless of structure height.
40
41 2. Accessory Dwelling Units greater than 700 square feet. Two off-street parking
42 spaces shall be provided for the Accessory Dwelling Unit.
43 a. Relief from one off-street parking space, for a total requirement of
44 one off-street parking space, may be granted if the Accessory
45 Dwelling Unit is deed restricted as an Affordable Rent Unit.
46 i. Prior to deed restriction as an Affordable Rent Unit, the
47 property owner shall select the level of affordability and
48 associated period of deed restriction:
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| <i>Period of Restriction</i> | <i>Affordability</i> |
|------------------------------|-----------------------------------|
| <i>10 years</i> | <i>Very Low – Affordable Rent</i> |
| <i>15 years</i> | <i>Low – Affordable Rent</i> |
| <i>20 years</i> | <i>Moderate – Affordable Rent</i> |

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ii. If the Accessory Dwelling Unit is removed or converted pursuant to Section xx.050.P the deed restriction shall be rescinded.

b. If it can be demonstrated that it is not feasible to accommodate an unobstructed 9-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.

c. 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 applicable parking requirements.

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

O. 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 twelve (12) consecutive months during any twenty-four (24) month period.

P. Effect of Conversion. For any new Accessory Dwelling Unit, elimination of any of the required access and/or facilities elements (i.e., the separate entrance, kitchen, bathroom facilities), or non-compliance with any required deed restriction shall require the property owner to:

- 1. Demonstrate compliance of the main residence with all applicable development standards in the Zoning Ordinance; and
- 2. 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 demonstrate compliance with the Floor Area Ratio allowances.

Q. Fees. Fees as established by City Council resolution shall be paid.

1 **.060 Amnesty Accessory Dwelling Unit Permit.**

2 A permit allowing an Amnesty Accessory Dwelling Unit shall be issued by the Community
3 Development Director upon compliance with the following development standards or
4 requirements during the amnesty period effective through March 31, 2014 pursuant to
5 subsection D:
6

7 **A. Eligibility.** In order to grant an Accessory Dwelling Unit Amnesty Permit, an
8 existing non-permitted accessory dwelling unit shall comply with the following
9 standards.
10

- 11 1. **Documentation.** The existing Accessory Dwelling Unit proposed for
12 legalization was constructed or established prior to January 1, 2012 by
13 providing two forms of evidence. Acceptable means of documenting
14 compliance with this standard include, but are not limited to, the following:
 - 15 a. County Assessor's records;
 - 16 b. Rental contracts and/or receipts;
 - 17 c. Income tax records;
 - 18 d. Utility bills;
 - 19 e. Contractor's bills; and/or
 - 20 f. Written affidavits from former owners, tenants, or neighbors,
21 signed and notarized under penalty of perjury.
- 22 2. **Fees.** Fees as established by City Council resolution shall be paid.
23
- 24 3. **Number of Accessory Dwelling Units per Parcel.** No more than one
25 Accessory Dwelling Unit shall be located on the parcel.
26
- 27 4. **Access.** An amnesty Accessory Dwelling Unit shall have a separate
28 entrance. An entrance leading to a foyer with entrances leading from the
29 foyer to the main dwelling unit(s) and the accessory dwelling unit is
30 permitted.
31
- 32 5. **Facilities.** An amnesty Accessory Dwelling Unit shall contain a separate
33 kitchen and bathroom facility.
34
- 35 6. **Owner Restriction.** The owner of the property shall occupy either the
36 primary unit or accessory dwelling unit as their primary residence. An
37 owner may be absent from the primary or accessory dwelling unit for up
38 to twelve (12) consecutive months during any twenty-four (24) month
39 period.
40
- 41 7. **Development Standards.**
 - 42 a. **Parking.** Parking for the amnesty Accessory Dwelling Unit shall
43 not be required.
 - 44 b. **Floor Area Ratio.** The floor area of the amnesty Accessory
45 Dwelling Units shall be documented by the Community
46 Development Department but not counted in determining if the
47 unit is eligible for amnesty. Up to 500 square feet of an amnesty
48 Accessory Dwelling Unit shall be exempted from the floor area
49 ratio calculation. Any additional square footage beyond 500
50

1 square feet shall be counted as floor area for future development
2 of the property

3 c. Building Coverage. The building coverage of the amnesty
4 Accessory Dwelling Units shall be documented by the Community
5 Development Department but not counted in determining if the
6 unit is eligible for amnesty. The building coverage of the amnesty
7 Accessory Dwelling Unit shall be counted for future development
8 of the property.

9 d. Impervious Surface. The impervious surfaces of the amnesty
10 Accessory Dwelling Units shall be documented by the Community
11 Development Department but not counted in determining if the
12 unit is eligible for amnesty. The impervious surfaces of the
13 amnesty Accessory Dwelling Unit shall be counted for future
14 development of the property.

15 e. Setbacks. The setbacks of the amnesty Accessory Dwelling Units
16 shall be documented by the Community Development Department
17 but not counted in determining if the unit is eligible for amnesty.
18

19 **B. Non-conformity Provisions.** Upon final issuance of an Accessory Dwelling Unit
20 Amnesty Permit obtained through the processes established by this Ordinance, if
21 the amnesty dwelling unit violates any provisions of the Zoning Ordinance it shall
22 be deemed a legal nonconforming structure which shall be subject to Zoning
23 Ordinance Chapter 10.62 (Nonconformity Use and Structures).
24

25 **C. Effect of Conversion.** For any amnesty Accessory Dwelling Unit, elimination of
26 any of the required access and facilities elements (i.e., the separate entrance,
27 kitchen, bathroom facilities) shall require the property owner to do both of the
28 following:

- 29 1. Demonstrate compliance of the main residence with all applicable
30 development standards in the Zoning Ordinance (taking into account any
31 pre-existing legal non-conformities); and
- 32 2. Re-credit any Floor Area waiver previously received on floor area for the
33 Accessory Dwelling Unit back to the parcel. If this causes the parcel to
34 exceed the maximum Floor Area Ratio allowed on the parcel the property
35 owner shall obtain the approvals necessary to come into compliance with
36 the Floor Area Ratio allowances.
37

38 **D. Sunset Provision.** The amnesty period will be in effect through March 31, 2014,
39 before which time the owner of an existing accessory dwelling unit created prior
40 to January 1, 2012 may submit a completed Amnesty Accessory Dwelling Unit
41 Permit application to legalize the unit. The amnesty provisions only apply to
42 complete applications received through March 31, 2014. The City Council may by
43 resolution extend the conclusion of the amnesty period. An accessory dwelling
44 unit created prior to January 1, 2012 is subject to code enforcement actions after
45 expiration of amnesty period.
46