



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE

Housing Element Implementation: Marinship Specific Plan Amendment/Municipal Code Amendments (ZOA/SPA 14-007)

RECOMMENDED ACTIONS

Staff recommends the City Council take the following actions:

- 1- Conduct a public hearing on the Housing Element Implementation Amendments; and
- 2- Introduce and read by Title only, "An Ordinance of the City Council of the City of Sausalito Amending the Applicability, Requirements, Incentives, Concessions, Approval Requirements and Other Criteria for **Density Bonus** Projects" and continue the second reading to July 8, 2014; and
- 3- Introduce and read by Title only, "An Ordinance of the City Council of the City of Sausalito Establishing Written Procedures for Requesting and Granting a **Reasonable Accommodation** Consistent with State and Federal Statutes" and continue the second reading to July 8, 2014; and
- 4- Introduce and read by Title only, "An Ordinance of the City Council of the City of Sausalito Allowing Emergency Shelters as an Allowed Use in the Public Institutional Zoning District and Establishing Development and Management Standards for **Emergency Shelters**" and continue the second reading to July 8, 2014; and
- 5- Adopt a Resolution Amending the Marinship Specific Plan Table #B (Use Designations) to Allow **Emergency Shelters** on Public Institutional Sites.

BACKGROUND

The City's current Housing Element was adopted on October 9, 2012 and certified to be in conditional compliance with Housing Element Law by the California Department of Housing and Community Development (HCD) on November 7, 2012. The current Housing Element reflects the unique character of Sausalito while also being responsive to the State's legal requirements by using a multi-faceted approach that seeks to have a low impact on the community.

The Government Code requires jurisdictions to update their Housing Element every planning period and obtain certification from HCD that the Element complies with Housing Element law. Sausalito's updated Housing Element is required to be adopted by January 31, 2015. The current work involves two tracks.

The first track involves adopting several Municipal Code Amendments and an Amendment to the Marinship Specific Plan which were committed to in the current Housing Element adopted in 2012. Specifically, the remaining programs that are required to be implemented as a part of the first track are:

- Programs 8a/8b (Vertical Mixed Use [VMU] / Horizontal Mixed Use [HMU]), and
- Program 19 (Density Bonus), and
- Program 21 (Special Needs) and
- Program 25 (Reasonable Accommodations).

If these amendments are not implemented by the end of 2014, the City's updated Housing Element in the second track will not be certified by the State, the eight year housing element

cycle may revert to a four year cycle, the City's next Housing Element will be due in 2018, instead of 2023 and some of the Regional Housing Needs Assessment numbers from the 2009-2014 cycle will carry over into the 2015-2023 cycle. The second track is a minor update to the adopted Housing Element and gaining certification by the HCD by January 31, 2015. The second track is reliant on the first track amendments being adopted.

The City Council is reviewing amendments required under Programs 8a and 8b (VMU/HMU) separately. The Planning Commission reviewed amendments as required by **Programs 19, 21 and 25** at a special meeting on May 21, 2014 and made the following recommendations:

- a. Program 19 (**Density Bonus**): Recommended City Council adoption of Municipal Code Amendments (4:1, Keegin: No), see **Attachment F** for Planning Commission Resolution No. 2014-12.
- b. Program 21 (**Special Needs**):
 - i. Recommended City Council adoption of Municipal Code Amendments to principally permit an Emergency Shelter use in the Public Institutional Zoning District (5:0), see **Attachment G** for Planning Commission Resolution **No. 2014-13**; and
 - ii. Recommended City Council adoption of Marinship Specific Plan Amendment to principally permit an Emergency Shelter use on Public Institutional Zoned properties in the Marinship (3:2, Cox, Keegin: No); see **Attachment H** for Planning Commission Resolution **No. 2014-14**; and
 - iii. Continued the Planning Commission hearing on the remainder of the Special Needs Amendments related to Supportive/Transitional Housing and Single Room Occupancy Units to the June 18 Planning Commission meeting (has been subsequently continued to the July 2, 2014 Planning Commission meeting).
- c. Program 25 (**Reasonable Accommodations**). Recommended City Council adoption of Municipal Code Amendments (5:0), see **Attachment I** for Planning Commission Resolution **No. 2014-11**.

MEETING SUMMARY

- In **September 2013** and **January 2014** the Council appointed Mayor Ray Withy and Vice-Mayor Tom Theodores as the City Council representatives and Chair Joan Cox and Commissioner Cleveland-Knowles as the Planning Commission representatives on the Housing Element Subcommittee to work with staff on preparation of the Zoning Ordinance amendments for implementation of the 2009-2014 Housing Element and preparation of the 2015-2023 Housing Element Update.
- The full Subcommittee met on **January 30, 2014, February 7, 2014** and **February 13, 2014** to review the draft amendments (Track 1).
- Staff provided an update to the City Council on **February 25, 2014** regarding the status of the draft amendments in Track 1 and the update of the Housing Element in Track 2.
- A Community Workshop was held on **March 15, 2014** at the Bay Model¹. Written responses to questions asked at the Community Workshop, are provided on the Housing Element website.
- The full Subcommittee met on **March 19, March 31, 2014** to review draft updates to the Housing Element (Track 2) and April 9, 2014 to review the draft amendments (Track 1).

¹ Video from the meeting is here: https://www.youtube.com/watch?v=KomhhFcAa_w&feature=youtu.be (or on the Housing Element website <http://www.ci.sausalito.ca.us/index.aspx?page=703> under "March 15 Workshop").

- Staff provided an update to the City Council on **April 22, 2014** regarding the status of the draft amendments in Track 1 and the update of the Housing Element in Track 2. The Council directed staff to proceed with Planning Commission review of the draft Density Bonus, Special Needs Housing and Reasonable Accommodations Ordinances.
- The Council reviewed the HMU/VMU program separately on **May 20, 2014**. The Council will review the HMU/VMU program again on June 24, 2014 and provided direction regarding the program.
- The Planning Commission reviewed the draft Density Bonus, Special Needs Housing and Reasonable Accommodations Ordinances on **May 21, 2014** (see **Attachment E** for the draft minutes) and provided recommendations to the City Council regarding the amendments (see **Attachments F-I**).

ANALYSIS

DENSITY BONUS AMENDMENTS

Background

The City's current Housing Element sets forth Program 19 "Density Bonus and Other Incentives for Affordable Housing" to bring the City into compliance with State Density Bonus Law (Government Code Section 65915). See **Attachment J** for an excerpt from the Housing Element regarding Program 19.

The purpose of the State Density Bonus Law is to encourage the development of affordable housing through granting density increases (from 5% to 35%) 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.

State Density Bonus Law (found in Government Code Sections 65915-65918) was first enacted in 1979, with significant changes to density bonus provisions enacted in 2005 pursuant to Senate Bill 1818. Jurisdictions are required to adopt local density bonus ordinances that meet the minimum standards set by this legislation. Jurisdictions who do not comply with the adoption of the density bonus ordinance and its provisions are considered to be in violation of State law. In addition to offering density bonuses, incentives and concessions through the provision of affordable housing, applicants may opt to develop senior citizen units, donate land, or construct child care facilities as a method of achieving an awarded bonus.

Draft Density Bonus Ordinance.

Although Sausalito currently has a Density Bonus Ordinance (see **Attachment M**) in place within the Zoning Ordinance, it does not reflect many of the updated standards established under SB 1818, thus requiring updating and reorganization. In compliance with Government Code Sections 65915-65918, and as specified under Program 19 of the City's current Housing Element, staff prepared the ordinance to amend Section 10.40.130 of Title 10 (Zoning) of the Sausalito Municipal Code. On May 21, 2014 the Planning Commission recommended City Council adoption of the Density Bonus Ordinance (4:1, Keegin: No); see **Attachment F** for Planning Commission Resolution No. 2014-12. Staff has prepared a draft Ordinance for Council consideration in **Attachment A**. The ordinance will establish applicability, requirements, density bonus awards, incentives, concessions, approval requirements and other criteria for use by the City and applicants in processing density bonus projects.

In accordance with State Density Bonus Law, the City does not have discretion over allowing a density bonus or concessions if a qualifying applicant requests them, unless there is a specific adverse impact upon public health and safety, or the physical environment, impact to historic

resource and there is no mitigation available or the incentive is not required to provide for affordable housing costs. However, the City does have some discretion regarding the process for reviewing density bonus requests. In response to community concern over view protection, the Housing Element Subcommittee has recommended the introduction of a tiered system for incentives/concessions. Applicants are encouraged to select incentives identified in Tier 1 before selecting concessions in Tier 2 as 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.

- Tier 1 would require review/decision by the Planning Commission:
 - reduced minimum lot setbacks
 - reduced minimum lot sizes and/or dimensions
 - increased maximum building coverage
 - increased maximum floor area ratio (FAR)
 - reduced common or private open space
 - approval of mixed use zoning in conjunction with the residential development if non-residential land uses will reduce the cost of residential development
- Tier 2 would include review/recommendation by the Planning Commission and review/decision by the City Council:
 - reduced parking (beyond the State Alternative Parking Standards in the State Density Bonus)
 - building heights that do not comply with Sausalito Municipal Code Section 10.40.060
 - Other regulatory incentives or concessions (such as impacts to primary views that do not comply with SMC Section 10.54.050.D.4) proposed by the applicant or City which result in identifiable, financially sufficient, and actual cost reductions.

A matrix comparing existing and revised standards is provided as **Attachment N**. The State Density Bonus Law is provided as **Attachment O**.

SPECIAL NEEDS HOUSING AMENDMENTS

Background. The current Housing Element sets forth Program 21 "*Zoning Text Amendments for Special Needs Housing*" to bring the City into compliance with State statutes by making various Zoning Ordinance provisions for special needs housing. See **Attachment K** for an excerpt from the Housing Element regarding Program 21. In 2007, the State enacted legislation commonly referred to as Senate Bill 2 (SB 2).

Senate Bill 2 (SB2) requires local agencies to address housing needs for homeless populations in their communities. Generally, SB 2 specifies that at least one zone in a city or county be identified where "emergency shelters" are a permitted use without a conditional use or other discretionary permit, subject to development and management standards permitted under Government Code Sections 65582, 65583 and 65589.5. Additionally, the jurisdiction must demonstrate that there is sufficient capacity within the designated zone to accommodate the current need for emergency shelters as identified in the Housing Element. The City's current need is 30 unsheltered homeless pursuant to the 2011 Marin Homeless Point in Time Count by Marin Health & Human Services.

An emergency shelter is housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. Emergency shelters must be subject to the same development and operational standards that apply to permitted uses in the chosen district. Written and objective standards may be applied to regulate only the following:

- The maximum number of beds or persons permitted to be served nightly by the facility;

- Off-street parking based on demonstrated need, but not to exceed parking requirements for other residential or commercial uses in the same zone;
- The size and location of exterior and interior onsite waiting and client intake areas;
- The provision of onsite management;
- The proximity of other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart;
- The length of stay;
- Lighting; and
- Security during hours that the emergency shelter is in operation.

A comparison matrix (**Attachment R**) is provided which compares Emergency Shelter regulations adopted in other Marin County jurisdictions, as well as two southern California jurisdictions with socioeconomic characteristics similar to Sausalito.

SB 2 further requires that a jurisdiction's Zoning Ordinance specify that "supportive housing" and "transitional housing" be considered a residential use of property, subject to the same standards as other residential uses of the same type in the same zone. While not specified within SB 2, Government Code Section 65583 also requires jurisdictions to provide zoning for a variety of housing types, including "single room occupancy units", commonly referred to as SROs.

See **Attachment Q** for a technical memorandum from HCD on the requirements of SB 2.

Draft Special Needs Housing Ordinance. The Special Needs Housing Ordinance as presented to the Planning Commission had three focuses: Zoning for Emergency Shelters, allowing Supportive and Transitional Housing, and allowing Single Room Occupancy Units. The Planning Commission, at the special May 21, 2014 meeting, directed that the discussion regarding the portion of the Special Needs Ordinance related to Supportive/Transitional housing and SROs be continued; **therefore, the draft Special Needs Housing Ordinance recommended by the Planning Commission at this time only contains amendments for Zoning for Emergency Shelters.** It is anticipated that the Council will receive a recommendation from the Planning Commission on the Zoning for Supportive and Transitional Housing, and Zoning for Single Room Occupancy Units in the July timeframe.

Zoning for Emergency Shelters. The current Housing Element designates the Public Institutional (PI) Zoning District as the zoning district in which Emergency Shelters will be principally allowed, subject to the specific use standards to be adopted by the City. The Public Institutional Zoning District includes but is not limited to the: Spencer Fire Station at 300 Spencer Avenue (APN 065-181-44), City Hall at 420 Litho Street (APN 064-165-12), PG&E Substation on Woodard Avenue (APN 064-345-01), Police Station on Caledonia Street (APN 065-062-24), Fire Station on Johnson Street (APN 065-061-06), City Corporation yard on Nevada Street (064-341-04), the Army Corps of Engineers Bay Model at 2100 Bridgeway and the Veteran's Affairs Building/Machine Shop (APNs 063-100-11 and 063-110-14), the US Post Office on Harbor Drive (APN 063-130-03), the School District site on Nevada Street (APN 064-322-01) and the MLK site on Coloma (APN 063-170-03). See **Attachment S** for an inventory, and **Attachment T** for a map, of all parcels zoned PI.

Two of the PI sites—the Army Corps of Engineer's site (APNs 063-100-11 and 063-110-14 which contains the Bay Model and the Machine Shop building) and the Post Office site (APN 063-130-03)—are located in the Marinship Specific Plan area. Therefore, to allow Emergency Shelters as a principally permitted use on those two sites requires a Marinship Specific Plan amendment as well as a Zoning Ordinance Amendment. The Army Corps site,

which is identified in the Marinship Specific Plan as parcel 3A, and the Post Office site, which is designated in the Marinship Specific Plan as parcel 6C, are both designated "Public Institutional" in the General Plan Land Element Map and the Zoning Map. However, it should be noted Parcel 3A (Army Corps) is designated in the Marinship Specific Plan as "Public" and Parcel 6C (Post Office) is designated in the Marinship Specific Plan as "Shopping Center." The Marinship Specific Plan (adopted in 1989) was not amended to reflect the changes made in the 1995 General Plan and the 2003 Zoning Map. Therefore, to allow Emergency Shelters as a permitted use on all Public Institutional Zoning District parcels, the Marinship Specific Plan must be amended so that Emergency Shelters are an allowed use on Parcels 3A and 6C (and not specific to the Public Institutional Zoning District in the Marinship Specific Plan because it has not been incorporated into the Specific Plan).

Municipal Code Amendments for Emergency Shelters

In compliance with Government Code Sections 65582, 65583 and 65589.5, and as specified under Program 21 of the current Housing Element, staff prepared a draft Ordinance to:

- Amend Table 10.20-1 of the Sausalito Municipal Code to allow Emergency Shelters as a permitted use in the Public Institutional Zoning District; and
- Add a new Section 10.44.350, which establishes approval requirements and development standards for Emergency Shelters.

On May 21, 2014 the Planning Commission recommended City Council adoption of Municipal Code Amendments to principally permit an Emergency Shelter use in the Public Institutional Zoning District (5:0), see **Attachment G** for Planning Commission Resolution No. 2014-13 with the following direction/modifications:

- The parking calculation for on-site staff was based on "employees". The Planning Commission directed that the parking calculation for on-site staff members should be based on employees, independent contractors and/or other on-site personnel. This change was incorporated into the draft Ordinance for Council review (**Attachment C**).
- Government Code Sections 65582, 65583 and 65589 define an emergency shelter as housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. The draft Ordinance under consideration by the Planning Commission allowed for up to a 90 day stay by a homeless person, with the potential for up to a 90 day extension in a year's period, for a total not exceeding 180 days. The Planning Commission directed that the 90-day extension for emergency shelter operations should be deleted.

Staff contacted HCD to discuss this modification. HCD directed staff to consult with a local shelter provider to ensure an annual 90-day limit on stays wouldn't serve as a constraint to providing service. Staff contacted Homeward Bound of Marin, a major homeless shelter provider, who stated that a limit of a 90-day stay would serve as a constraint as 90-days is not enough time in some cases for clients to secure permanent housing and resolve their situation. Homeward Bound of Marin also indicated that services such as the R.E.S.T. (Rotating Emergency Shelter Team) program operates during five winter months, and therefore a policy of restricting stays to 90-days without the potential for an extension would be inconsistent with other services in the County.

Homeward Bound of Marin indicated that some recommended conditions that may make a homeless person eligible for an extension of time beyond the 90-days (but no greater than 180 days in total) could be:

- Having a medical emergency
- Secured a job, but need more time to bank enough rent to move on to permanent housing
- Negotiating a lease for permanent housing

Staff, therefore, is not recommending retaining the language as recommended by the Planning Commission. The draft Ordinance for Council review (**Attachment C**) includes a 90-day maximum stay limit with the potential for a 90-day extension, not to exceed 180-days in a 365-day period. Staff has also included several example conditions upon which the extension could be evaluated and granted.

- The Planning Commission directed staff to research the possibility of establishing a finding in the ordinance that allows for staff to deny an application or reduces the number of beds once the homeless population is served. Staff looked into this issue and has determined that because the statutory requirements are very specific about what a local agency can and cannot do with respect to regulation of emergency shelters, staff does not believe that additional restrictions (such as a limit on the number of shelters) can be added.
- The Planning Commission directed staff to prepare a checklist for Community Development staff to use regarding development standards for emergency shelters. The draft checklist is provided as **Attachment P**.

The draft Ordinance for Council review is provided in **Attachment C**.

Marinship Specific Plan Amendment for Emergency Shelters

In compliance with Government Code Sections 65582, 65583 and 65589.5, and as specified under Program 21 of the current Housing Element, staff prepared a draft Resolution to amend Table #B (Use Designations) of the Marinship Specific Plan to allow Emergency Shelters as a permitted use on Parcels 3A (Army Corps) and 6C (Post Office) (See **Attachment U** for a parcel identification map from the Marinship Specific Plan).

On May 21, 2014 the Planning Commission recommended City Council adoption of the Marinship Specific Plan Amendment to principally permit an Emergency Shelter use in the Public Institutional Zoning District (3:2; Cox, Keegin: No), see **Attachment H** for Planning Commission Resolution No. 2014-14.

The draft Ordinance for Council review is provided in **Attachment D**.

REASONABLE ACCOMMODATIONS AMENDMENTS

Background. The current Housing Element sets forth Program 25 "Reasonable Accommodation Procedures" to establish specific written procedures for requesting and granting a reasonable accommodation consistent with State and Federal statutes, as summarized below. See **Attachment L** for an excerpt from the Housing Element regarding Program 25.

Pursuant to the Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act, jurisdictions are required to have in place a process by which

persons with disabilities can request reasonable accommodations (modifications or exceptions) to the jurisdiction's codes, rules, policies, practices or services, necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling. Procedures must provide clear rules, policies, and procedures for obtaining reasonable accommodation. The implemented ordinance must be monitored to ensure consistent compliance with the previously stated fair housing laws. Section 804 of the Fair Housing Amendments Act specifically cites a refusal to provide reasonable accommodation through rules, policies, practices, or services as an act of discrimination. These laws prohibit discrimination against individuals with disabilities and eliminate practices that deny housing opportunities to this population.

Draft Reasonable Accommodations Ordinance. In order to comply with State and Federal law, and as specified under Program 25 of the current Housing Element, staff prepared a draft Ordinance to amend Title 12 (Health and Safety) of the Sausalito Municipal Code procedures for granting reasonable accommodations with respect to zoning, permit processing and building regulations. On May 21, 2014 the Planning Commission recommended City Council adoption of the Reasonable Accommodations Ordinance (5:0), see **Attachment I** for Planning Commission Resolution No. 2014-14.

The draft Ordinance for Council review is provided in **Attachment B**.

GENERAL PLAN CONSISTENCY

Staff has reviewed the General Plan objectives and policies and determined the proposed amendments are consistent with the General Plan, including the following policies.

- **Policy HE-4.1. Regulatory Incentives for Affordable Housing.** *Support the use of various incentives to offset the cost of affordable housing while ensuring that potential impacts are addressed.*
- **Policy HE-4.5. Zoning for Special Needs.** *Provide for transitional and supportive housing, emergency shelters, and single room occupancy uses, consistent with State law.*
- **Policy HE-5.4. Housing for Persons with Disabilities.** *Address the special housing needs of persons with disabilities through provision of supportive housing, homeowner accessibility grants, zoning for group housing, and adoption of reasonable accommodation procedure.*
- **Policy LU-1.16. Child Care and Residential Care Facilities.** *Permit child care facilities and residential care facilities are required by State law where such facilities will have minimal impact on the surrounding neighborhood.*

ENVIRONMENTAL REVIEW

The proposed amendments are exempt from environmental review in accordance with Section 15061.b.3. as the amendments are 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. Additionally, the proposed Reasonable Accommodations Ordinance is also exempt from environmental review in accordance with Section 15305 of the California Environmental Quality Act (CEQA) Guidelines which exempts minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density.

PUBLIC NOTICE AND WRITTEN COMMENTS

Notice: In February 2014 a postcard noticing was mailed to all property owners and residents in Sausalito providing noticing of the Housing Element Implementation (Track One) Amendments and the Housing Element Update (Track Two), the March 15, 2014 community workshop and to join the email notification list for future meeting/hearing dates. At least 10 days in advance of this public hearing, notice was given in the *Sausalito Currents*, the Housing Element email notification blast, posted at City Hall, and published in the *Marin Independent Journal*. Additionally, a mailed noticed was sent to all property owners and occupants within 300 feet of each Public Institutional Zoned site on May 9, 2014 (notification of May 21, 2014 Planning Commission hearing) and June 12, 2014 (notification of June 24, 2014 City Council hearing).

Written Comments: As of the writing of this staff report, no written comments were received. Correspondence submitted after the writing of this staff report will be posted on the City's website (<http://www.ci.sausalito.ca.us/>) and available at the City Council public hearing.

STAFF RECOMMENDATION

- 1- Conduct a public hearing on the Housing Element Implementation Amendments; and
- 2- Introduce and read by Title only, "An Ordinance of the City Council of the City of Sausalito Amending the Applicability, Requirements, Incentives, Concessions, Approval Requirements and Other Criteria for **Density Bonus** Projects" (**Attachment A**) and continue the second reading to July 8, 2014; and
- 3- Introduce and read by Title only, "An Ordinance of the City Council of the City of Sausalito Establishing Written Procedures for Requesting and Granting a **Reasonable Accommodation** Consistent with State and Federal Statutes" (**Attachment Error!** Reference source not found.) and continue the second reading to July 8, 2014; and
- 4- Introduce and read by Title only, "An Ordinance of the City Council of the City of Sausalito Allowing Emergency Shelters as an Allowed Use in the Public Institutional Zoning District and Establishing Development and Management Standards for **Emergency Shelters**" (**Attachment C**) and continue the second reading to July 8, 2014; and
- 5- Adopt a Resolution (**Attachment D**) Amending the Marinship Specific Plan Table #B (Use Designations) to Allow **Emergency Shelters** on Public Institutional Sites.

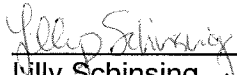
ATTACHMENTS

- A. Draft Density Bonus Ordinance, dated June 24, 2014
- B. Draft Reasonable Accommodations Ordinance, dated June 24, 2014
- C. Draft Emergency Shelter Ordinance, dated June 24, 2014
- D. Draft Resolution Amending the Marinship Specific Plan to Allow Emergency Shelters on Parcels 3A and 6C, dated June 24, 2014
- E. Draft May 21, 2014 Planning Commission Minutes
- F. Planning Commission Resolution No. 2014-12 (Density Bonus Recommendation)
- G. Planning Commission Resolution No. 2014-13 (Zoning Ordinance Emergency Shelter Recommendation)
- H. Planning Commission Resolution No. 2014-14 (Marinship Specific Plan Emergency Shelter Recommendation)
- I. Planning Commission Resolution No. 2014-11 (Reasonable Accommodations Recommendation)
- J. Housing Element Program 19
- K. Housing Element Program 21
- L. Housing Element Program 25


- M. Current Sausalito Municipal Code Section 10.40.130 (Density Bonus)
- N. Density Bonus Comparison Matrix
- O. State Density Bonus Law
- P. Draft Emergency Shelter Supplemental Application
- Q. HCD Technical Memorandum: SB 2
- R. Emergency Shelter Comparison Matrix
- S. Public Institutional Sites Inventory
- T. Public Institutional Sites Map
- U. Marinship Specific Plan Land Use Map, annotated

PREPARED BY:

REVIEWED BY:

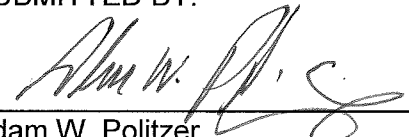


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ORDINANCE NO. XXXX

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

1
2 **WHEREAS**, on June 24, 2014 and July 8, 2014 the City Council conducted a duly-
3 noticed public hearings at which time all interested persons were given an opportunity to be
4 heard; and
5

6 **WHEREAS**, the project is categorically exempt from California Environmental Quality
7 Act (CEQA) pursuant to Section 15061.b.3 of the CEQA Guidelines because adoption of the
8 zoning ordinance amendment is covered by the general rule that CEQA applies only to projects
9 which have the potential for causing a significant effect on the environment, and this project does
10 not have the potential for causing a significant effect on the environment; and
11

12 **WHEREAS**, adoption of Density Bonus Ordinance is consistent with the General Plan,
13 including Program 19 of the Housing Element regarding density bonuses, Land Use Element
14 Policy LU-1.16 regarding child care and residential care facilities, and Land Use Element Policy
15 HE-4.1 regarding regulatory incentives for affordable housing.
16

17 **THE CITY COUNCIL OF THE CITY OF SAUSALITO DOES HEREBY ORDAIN AS**
18 **FOLLOWS:**
19

20 **Section 1:** Section 10.40.130 of the Sausalito Municipal Code is hereby amended as follows:
21

- 22 **A.** Purpose. The purpose of this section is to demonstrate the standards and procedures in
23 granting affordable housing density bonuses for housing developments, in an effort to
24 incentivize the construction of Affordable Units within new developments in the City. This
25 section implements the requirements of Government Code Section 65915 (“State Density
26 Bonus Law”).
27
- 28 **B.** Applicability.
29 1. This section shall apply to all zoning districts within the City that allow residential
30 use.
31 2. The bonus granted pursuant to this section shall apply only to residential projects or
32 residential components of mixed-use projects, not including units granted as a density
33 bonus.
34 3. The proposed project shall have all of the following characteristics in order to qualify
35 for a density bonus:
36 a. The residential development must include a minimum of five (5) dwelling
37 units.
38 b. The applicant seeks and agrees to provide housing units to very-low, low or
39 moderate income households or senior citizens at rates consistent with those
40 specified in Table 10.40-2 (Density Bonus Standards).
41 c. The resulting density is beyond that permitted by the applicable zoning
42 district.
43 d. The applicant agrees to retain the affordable status of housing units for at least
44 thirty (30) years through the recordation of a deed restriction.
45
- 46 **C.** Application Requirements.
47 1. Any applicant requesting a density bonus, incentives, and/or concessions must provide
48 the City with a written proposal.

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

30 **D. Density Bonus Allowance.**

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

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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 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) Increased maximum floor area ratio (FAR)
 - 5) Reduced common or private open space

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- 6) 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) 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

32

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

23
 24 **G.** Alternative Parking Standards. For density bonus projects meeting the criteria set forth under
 25 Table 10.40-2 (Density Bonus Standards), upon a request by the applicant, the City shall allow
 26 the following modified parking requirements:

- 27 1. Zero to one bedroom units – one off-street parking space per unit
- 28 2. Two to three bedroom units – two off-street parking spaces per unit
- 29 3. Four and more bedrooms – two and one-half off-street parking spaces per unit

30
 31 These spaces are inclusive of accessible and guest parking spaces. All fractions of numbers
 32 shall be rounded up. An applicant may use tandem or uncovered parking spaces to meet these
 33 parking requirements.

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

43
 44 **I.** Donation of Land.

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

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

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

8 3. An applicant shall be eligible for the increased density bonus described in this
9 subsection I when all of the following requirements are met:

- 10 a. The applicant shall donate and transfer the land no later than the date of approval
11 of the final tract or parcel map, or application for the construction of residential
12 units.
- 13 b. The development acreage and zoning classification of the land being transferred
14 shall be sufficient to permit construction of units affordable to very-low income
15 households in an amount not less than ten percent of the number of residential
16 units of the proposed development.
- 17 c. The transferred land shall be at least one acre in size or of sufficient size to
18 permit development of at least forty (40) units, has the appropriate General Plan
19 designation, is appropriately zoned for development as affordable housing, and
20 is or will be served by adequate public facilities and infrastructure. The land shall
21 have appropriate zoning and development standards to make the development of
22 the affordable units feasible.
- 23 d. No later than the date of approval of the final subdivision map, parcel map, or of
24 the residential development, the transferred land shall have all the permits and
25 approval, other than building permits, necessary for development of the very-low
26 income housing units on the transferred land except that the City may subject the
27 proposed development to subsequent design review to the extent authorized by
28 subdivision (i) of Health and Safety Code Section 65583.2, as amended from
29 time to time, if the design is not reviewed by the City prior to the time of transfer.
- 30 e. The land shall be transferred to the City of Sausalito, or to a housing developer
31 approved by the City of Sausalito.
- 32 f. The transferred land and the very-low income units constructed on the land will
33 be subject to a deed restriction ensuring continued affordability of the units
34 constructed consistent with this chapter, which restriction will be recorded on the
35 property at the time of transfer.
- 36 g. The transferred land shall be within the boundary of the proposed development
37 or, with the approval of the City, within one-quarter mile of the boundary of the
38 proposed development
- 39 h. A bonus shall not be granted unless a source of funding for the very-low income
40 units has been identified not later than the date of approval of the final parcel or
41 tract map, or application for the construction of residential units.

42
43 Table 10.40-4. Density Bonus for Land Donation

Percentage Very-Low Income Units	Percentage Density Bonus
10	15
11	16

Percentage Very-Low Income Units	Percentage Density Bonus
12	17
13	18
14	19
15	20
16	21
17	22
18	23
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20	25
21	26
22	27
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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 _____ day of _____ 2014, and was adopted at a regular meeting of the City Council on the _____ day of _____, 2014 by the following vote:

AYES:	COUNCILMEMBER:
NOES:	COUNCILMEMBER:
ABSENT:	COUNCILMEMBER:
ABSTAIN:	COUNCILMEMBER:

Mayor

ATTEST: _____
Debbie Pagliaro, City Clerk

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ORDINANCE NO. XXXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
AMENDING TITLE 12 OF THE SAUSALITO MUNICIPAL CODE TO:
ADD SECTION 12.36 ESTABLISHING SPECIFIC WRITTEN PROCEDURES FOR
REQUESTING AND GRANTING A REASONABLE ACCOMMODATION
CONSISTENT WITH STATE AND FEDERAL STATUTES AND
MODIFY CHAPTER 10.88 TO ADD DEFINITIONS RELATED TO REASONABLE
ACCOMMODATIONS
ZOA/SPA 14-007**

WHEREAS, the Federal Fair Housing Amendments Act of 1988 and California Fair Employment and Housing Act require local jurisdictions to establish a process by which persons with disabilities can request reasonable accommodations to the jurisdiction's codes, rules, policies, practices or services, necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling; 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 25, Reasonable Accommodation Procedures, to establish specific written procedures for requesting and granting a reasonable accommodation consistent with State and Federal statutes; 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. 2014-11, which recommended City Council adoption of an Ordinance regarding the Reasonable Accommodations Ordinance; and

WHEREAS, on June 24, 2014 and July 8, 2014 the City Council conducted a 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 15305 of the CEQA Guidelines which exempts minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density and 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 the Reasonable Accommodations Ordinance is consistent with the General Plan, including Program 25 regarding reasonable accommodations procedures and Land Use Policy HE-5.4 regarding housing for persons with disabilities.

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

Section 1. A new Section 12.36 is hereby added to the Sausalito Municipal Code to read as follows:

- A. Purpose. The purpose of this chapter is to establish a procedure for requesting reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning and building laws and other land use regulations, policies and procedures.
- B. Applicability.
1. Definition of Disability. Under the Acts, an individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment. Individuals in recovery from drug or alcohol abuse are protected by federal and state fair housing laws although individuals currently using illegal substances are not protected under the law unless they have a separate disability. This chapter is intended to apply to those persons who are defined as disabled under the Acts.
 2. Scope of Accommodation. A request for a reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide an individual with a disability equal opportunity to housing of their choice. Requests for reasonable accommodation shall be made in the manner prescribed by Section 12.36.D

(Application Contents and Submittal), and shall not require a fundamental alteration to the City's zoning or building laws, policies, and/or procedures, as defined under the Acts. A modification approved under this chapter is considered a personal accommodation for the individual applicant and does not run with the land.

3. Eligibility to Request Accommodation. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.
- C. Notice to the Public of Availability of Accommodation Process. Notice of the availability of reasonable accommodation shall be displayed at the public information counter in the Community Development Department advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall also be made available.
- D. Application Contents and Submittal. Requests for reasonable accommodation shall be submitted on an application form provided by the Community Development Department and shall contain the following information:
1. The applicant's name, address and telephone number.
 2. Address of the property for which the request is being made, and the name, address and telephone number of the property owner.
 3. The current existing use of the property.
 4. The basis for the claim that the individual is considered disabled under the Acts.
 5. The zoning code provision, regulation or policy from which reasonable accommodation is being requested.
 6. Reason the requested accommodation may be necessary to make the specific property accessible to the individual.
- E. Authority.
1. Community Development Director. Requests for reasonable accommodation shall be reviewed by the Director of Community Development, or his/her designee (Director) if no approval is sought other than the request for reasonable accommodation.
 2. Other Review Authority. Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing the discretionary land use application.
- F. Review Procedure.
1. Director Review. The Community Development Director, or his/her designee, shall make a written determination within 45 days of submittal of a complete application and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section G (Findings and Decision). The Director shall mail a notice of a request for reasonable accommodation to contiguous owners of property, as shown on the latest equalized Marin County assessment roll, but may include other property

owners as determined by the Director. Said notice shall be mailed at least ten days prior to making a determination.

2. Other Reviewing Authority. Written determinations on requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be made by the authority responsible for reviewing the discretionary land use application. The written determination to grant or deny the request for reasonable accommodation shall be made in accordance with Section 12.36.G (Findings and Decision).
3. Additional Information. If necessary to reach a determination on the request for reasonable accommodation, the reviewing authority may request further information from the applicant consistent with the Acts, specifying in detail the information that is required. In the event that a request for additional information is made, the 45 day period to issue a decision is stayed until the applicant responds to the request.
4. The reviewing authority may approve an alternative reasonable accommodation that provides the applicant an opportunity to use and enjoy a dwelling equivalent to that provided by the specific accommodation requested, where such an alternative accommodation would:
 - a. Reduce impacts to neighboring properties or the surrounding area; or
 - b. Not require a deviation from the provisions of Title 8 or Title 10 of the Municipal Code or would require less of a deviation than the requested accommodation.

G. Findings and Decision.

1. Findings. The reasonable accommodation shall be approved, with or without conditions, if the reviewing authority finds, based upon all of the evidence presented, that all of the following findings can be made:
 - a. The housing, which is the subject of the request, will be occupied by an individual considered disabled under the Acts.
 - b. The requested accommodation is necessary to provide a disabled individual with an equal opportunity to use and enjoy a dwelling.
 - c. The requested accommodation would not impose an undue financial or administrative burden on the City, as defined under the Acts.
 - d. The requested accommodation would not require a fundamental alteration to the City's zoning or building laws, policies, and/or procedures, as defined under the Acts. In considering whether the accommodation would require such a fundamental alteration, the reviewing authority may consider, among other factors:
 - 1) Whether the requested accommodation would fundamentally alter the character of the neighborhood; and
 - 2) Whether the requested accommodation would substantially undermine any express purpose of either Sausalito's General Plan or an applicable specific plan.
 - e. There are no other reasonable accommodation(s) that would allow the applicant to use and enjoy the dwelling which would:
 - 1) Be less impactful to neighboring properties or the surrounding area; or

- 2) Not require a deviation from the provisions of Title 8 or Title 10 of the Municipal Code or would require less of a deviation than the requested accommodation.
- H. Conditions of Approval. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Subsection A above, including but not limited to the following:
1. Inspection of the property periodically, as specified, to verify compliance with this section and any conditions of approval.
 2. Recordation of a deed restriction requiring removal of the improvements when the need for which the accommodation was granted no longer exists, except where the Director finds that removal would constitute an unreasonable financial burden and/or is physically integrated with the structure and cannot feasibly be removed.
 3. Time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists.
 4. Measures to reduce the impact on surrounding uses.
 5. Measures in consideration of the physical attributes of the property and structures.
 6. Other conditions necessary to protect the public health, safety and welfare.
- I. Written Decision. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the reviewing authority's findings required by Section 12.36.F (Findings and Decision) above. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below.
- J. Appeals. A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be in compliance with Chapter 10.84 (Appeals) of the Sausalito Municipal Code. Appeals shall be submitted on an application form provided by the Community Development Department. If an individual needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure the appeals process is accessible.

Section 2. Section 10.88.040 of the Sausalito Municipal Code is hereby amended to add the following definition:

Director. The Community Development Director or his/her designee.

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 15305 (Minor Alterations in Land Use Limitations) and 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 _____ day of _____ 2014, and was adopted at a regular meeting of the City Council on the _____ day of _____, 2014 by the following vote:

AYES:	COUNCILMEMBER:
NOES:	COUNCILMEMBER:
ABSENT:	COUNCILMEMBER:
ABSTAIN:	COUNCILMEMBER:

Mayor

ATTEST: _____
Debbie Pagliaro, City Clerk

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ORDINANCE NO. XXXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
AMENDING TITLE 10 TO MODIFY SMC TABLE 10.20-1 TO ALLOW
EMERGENCY SHELTERS AS AN ALLOWED USE IN THE PUBLIC
INSTITUTIONAL ZONING DISTRICT, AMENDING TITLE 10 OF THE
SAUSALITO MUNICIPAL CODE TO ADD SMC SECTION 10.44.350
ESTABLISHING DEVELOPMENT AND MANAGEMENT STANDARDS FOR
EMERGENCY SHELTERS, AND MODIFYING SMC CHAPTER 10.88 TO ADD
DEFINITIONS RELATED TO EMERGENCY SHELTERS
ZOA 14-007**

WHEREAS, Government Code Sections 65582, 65583 and 65589.5 require local jurisdictions to adopt provisions for special needs housing, including emergency shelters, supportive and transitional housing and single room occupancy units; 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 21 Zoning Text Amendments for Special Needs Housing; 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, California Government Code Section 65353 requires the Planning Commission to provide a recommendation to the City Council on proposed Specific Plan amendments; 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 Special Needs Housing Ordinance; and

WHEREAS, on June 24, 2014 and July 8, 2014 the City Council conducted a 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 the Emergency Shelters Ordinance is consistent with the General Plan Program 21 of the Housing Element regarding special needs housing and Land Use Policy HE-5.4. regarding housing for persons with disabilities and Land Use Policy HE-4.5 regarding zoning for special needs.

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

Section 1. Table 10.20-1 (Land Uses Allowed in Open Space and Public Districts) is hereby amended as follows^{a,b}:

Table 10.20-1 LAND USES ALLOWED IN OPEN SPACE AND PUBLIC DISTRICTS

Land Use	Open Space Public Zoning Districts*				See SMC
	OS	PP	PI	OA	
Service Uses					
<u>Emergency Shelters</u>			<u>P</u>		<u>SMC 10.44.350 (Emergency Shelters)</u>
* Zoning permit required for all uses					Chapter 10.52 SMC
P Permitted use					
MUP Minor use permit required					Chapter 10.58 SMC
CUP Conditional use permit required					Chapter 10.60 SMC

^a Only the pertinent sections of Table 10.22-2 have been shown. The remainder of Table 10.20-1 remains unchanged.

^b The text to be added is printed double-underlined.

Section 2. A new Section 10.44.330 is hereby added to the Sausalito Municipal Code to read as follows:

- A. Purpose. These emergency shelter regulations are intended to allow the provision of shelter for homeless persons or others in need of a temporary (six months or less) shelter, while ensuring the shelter is operated in a manner that is compatible with surrounding areas. The purpose of this chapter is also to comply with Government Code Section 65583 relating to emergency shelters.
- B. Applicability. Emergency shelters shall be a permitted use on parcels within the Public Institutional (PI) zoning district.
- C. Development Standards. The following development standards shall apply to emergency shelters:
 - 1. Property Development Standards. The shelter shall conform to all property development standards of the zoning district in which it is located except as modified by these performance standards.
 - 2. Shelter Capacity. An emergency shelter for homeless persons shall contain no more than twenty (20) beds and shall serve no more than twenty (20) persons nightly. The physical size of the shelter shall not be larger than necessary for the number of persons the shelter serves.
 - 3. Parking. On-site parking for residents shall be based on one space for every four beds, and staff parking shall be based on one space for each on-site staff, employees and/or independent contractors on the maximum staffed shift.
 - 4. Lighting. Adequate external lighting shall be provided for security purposes. The lighting shall be stationary and designed, arranged and installed so as to confine direct rays onto the premises and to direct light away from adjacent structures and public rights-of-way. External lighting shall be of an intensity compatible with the neighborhood.
 - 5. On-site Waiting and Intake Areas. An interior waiting and intake area shall be provided which contains a minimum of 200 square feet. Waiting and intake areas may be used for other purposes (excluding sleeping) as needed during operations of the shelter.
- D. Common Facilities. The development may provide one or more of the following specific common facilities for exclusive use of the residents and staff, provided that such facilities do not substantially increase the overall size of the shelter facility:
 - 1. Central cooking and dining room.
 - 2. Recreation room.
 - 3. Laundry facilities to serve the number of occupants at the shelter.
 - 4. Other uses that are considered ancillary to the primary use such as office and storage, not to exceed 10% of the total floor area of the shelter facility, exclusive of items 1, 2, and 3 above.
- E. On-site Staff. At least one manager shall be on-site during all hours of operation of the facility. Such manager must be an individual who does not utilize the shelter's

beds or other services and who resides off-site. The manager must be accompanied by one supporting staff member for every fifteen (15) beds occupied in the facility.

- F. Security. Security personnel shall be provided during operational hours whenever clients are on the site. A security plan shall be submitted to the City prior to issuance of a certificate of occupancy.
- G. Concentration of Uses. No more than one emergency shelter shall be permitted within a radius of 300 feet of another emergency shelter.
- H. Emergency Shelter Operations. The agency or organization operating the emergency shelter shall comply with the following requirements:
1. Hours of Operation. Clients shall only be on site and admitted to the facility between 5:00 p.m. and 8:00 a.m.
 2. Length of stay. Each emergency shelter resident shall stay for no more than 90 days (cumulative) in a 365 day period. Extensions up to a total stay of 180 days in a 365-day period may be granted by the shelter provider if no alternative housing is available. Conditions upon which an extension may be granted include, but are not limited to: the emergency shelter resident having a medical emergency, the emergency shelter resident having secured a job, and the emergency shelter resident negotiating a lease for permanent housing.
 3. Management Plan. Prior to commencing operation, the shelter operator shall provide a written management plan to the Director for approval. The management plan shall address: hours of operation, admission hours and process, staff training, neighborhood outreach and privacy, security, resident counseling and treatment, maintenance plans, residency and guest rules and procedures, and staffing needs.
 4. Annual report. The provider shall provide an annual report of the use of the facility and determination of compliance with the City's development standards for the use.

Section 3. Section 10.44.080 of the Sausalito Municipal Code is hereby amended to add the following definitions:

Emergency shelter. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. (Health and Safety Code Section 50801(e))

Section 4. 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.

Section 5. 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 6. This Ordinance shall be in full force and effect thirty (30) days after the date of its adoption.

Section 7. 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 _____ day of _____ 2014, and was adopted at a regular meeting of the City Council on the _____ day of _____, 2014 by the following vote:

AYES:	COUNCILMEMBER:
NOES:	COUNCILMEMBER:
ABSENT:	COUNCILMEMBER:
ABSTAIN:	COUNCILMEMBER:

Mayor

ATTEST: _____
Debbie Pagliaro, City Clerk

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Emergency Shelters- CC Review Draft 6-24-14.doc

RESOLUTION NO. 2014- XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO AMENDING
THE MARINSHIP SPECIFIC PLAN TABLE #B (USE DESIGNATIONS) TO ALLOW
EMERGENCY SHELTERS ON PUBLIC INSTITUTIONAL SITES
(ZOA/SPA 14-007)**

WHEREAS, Government Code Sections 65582, 65583 and 65589.5 require local jurisdictions to adopt provisions for special needs housing, including emergency shelters, supportive and transitional housing and single room occupancy units; 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 21 Zoning Text Amendments for Special Needs Housing; 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, California Government Code Section 65353 requires the Planning Commission to provide a recommendation to the City Council on proposed Specific Plan 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. 2014-14, which recommended City Council adoption of an Ordinance regarding the Marinship Specific Plan Amendment Regarding Emergency Shelters; and

WHEREAS, on June 24, 2014 the City Council conducted a duly-noticed public hearing 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 the Special Needs Housing Ordinance is consistent with the General Plan Program 21 of the Housing Element regarding special needs housing and Land Use Marinship Specific Plan Amendment Regarding Emergency Shelters (ZOA/SPA 14-007) Resolution No. XXXX

Policy HE-5.4. regarding housing for persons with disabilities and Land Use Policy HE-4.5 regarding zoning for special needs.

NOW, THEREFORE, THE CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The Marinship Specific Plan Table B (Use Designations) is hereby amended principally permit an Emergency Shelter use Parcels 3A and 6C in the Marinship Specific Plan area as shown in the **Attachment**.

SECTION 2. The Amendment 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.

RESOLUTION PASSED AND ADOPTED at the regular meeting of the City of Sausalito City Council on the ____ day of _____, 20__, by the following vote:

AYES: Councilmember:
NOES: Councilmember:
ABSENT: Councilmember:
ABSTAIN: Councilmember:

RAY WITHY,
MAYOR OF THE CITY OF SAUSALITO

ATTEST:

DEBBIE PAGLIARO
CITY CLERK

Attachment: Amended Marinship Specific Plan Table B (Use Designations)

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ATTACHMENT: Amendments to the Marinship Specific Plan Table B (Use Designations)¹:

MARINSHIP Specific Plan

Use Designations

TABLE # B

REMARKS:

USES:

INDUSTRIAL

Gen Indust	[Grid of use designations for Gen Indust]																							
Marine Indust	[Grid of use designations for Marine Indust]																							

ARTS

Ind, Mar, Fine	[Grid of use designations for Ind, Mar, Fine]																							
Applied Art	[Grid of use designations for Applied Art]																							

COMMERCIAL

Office	[Grid of use designations for Office]																							
Retail	[Grid of use designations for Retail]																							
Bus Com Serv	[Grid of use designations for Bus Com Serv]																							
Mar Com Serv	[Grid of use designations for Mar Com Serv]																							
Restaurant	[Grid of use designations for Restaurant]																							
Food Service	[Grid of use designations for Food Service]																							

RESIDENTIAL

Exist'g Lnd Res	[Grid of use designations for Exist'g Lnd Res]																							
Houseboats	[Grid of use designations for Houseboats]																							
Live-Abd Boats	[Grid of use designations for Live-Abd Boats]																							

INSTITUTIONAL

Post Offices	[Grid of use designations for Post Offices]																							
Army Corps	[Grid of use designations for Army Corps]																							

MARITIME BERTHS

Marine Service	[Grid of use designations for Marine Service]																							
Pleasure Bts	[Grid of use designations for Pleasure Bts]																							
Dry Bt Stor	[Grid of use designations for Dry Bt Stor]																							

PUBLIC USE

Open Space	[Grid of use designations for Open Space]																							
Open Water	[Grid of use designations for Open Water]																							

REMARKS:

1	2	9	3	3	2	2	4	4	3	3	3	7	7	7	8	8	6	6
3				2					6	6	6							

1. Food Serv-Fish Sales only
2. "W" Zone-Marine Serv Com only
3. Marine Apolled Arts only In "W" Zone
4. Full Service Supermarket With CUP: Lumberyard, Warehouse, Dry Boat Storage only
5. Indus, Marine Arts only
6. Existing Legal Non-Conforming Resid.
7. One Land-Base Resid. permitted
8. As CUP and only if Parcel 2D develops as part of Parcel 2B development
9. Emergency Shelters, as defined in Sausalito SMC Section 10.88.040, are a principally permitted use on Parcels 3A and 6C subject to SMC Section 10.44.330
10. Existing Legal Permitted

See Remark 10

- Principal Uses
- Conditional Uses
- ⊙ Inclusionary Use with Administrative CUP

ZOA/SPA 14-007: Draft 6/24/14

¹ The text to be added is printed underlined and is circled.

SAUSALITO PLANNING COMMISSION
Wednesday, May 21, 2014
Draft Summary Minutes¹

Call to Order

Chair Cox called the meeting to order at 6:30 p.m. in the Council Chambers of City Hall, 420 Litho Street, Sausalito.

Present: Chair Joan Cox, Vice-Chair Bill Werner, Commissioner Susan Cleveland-Knowles, Commissioner Stafford Keegin, Commissioner Vicki Nichols.

Absent: None.

Staff: Administrative Analyst Lilly Schinsing, City Attorney Mary Wagner

Approval of Agenda

Vice-Chair Werner moved and Commissioner Cleveland-Knowles seconded a motion to approve the agenda. The motion passed 5-0.

Public Comments On Items Not on the Agenda

Amy Wilson

- Commented on the appeal of the project at 206 Third Street.

Approval of Minutes

None.

Public Hearings

Declarations of Planning Commissioner Public Contacts

Chair Cox disclosed she had had corresponded with community members regarding the Housing Element implementation ordinances.

- 1. ZOA/SPA 14-007, Housing Element Implementation Programs/Citywide, City of Sausalito.** Amendment of the Marinship Specific Plan and Sausalito Municipal Code Title 10 to allow emergency homeless shelters as a principally permitted use in the Public Institutional Zoning District (which includes but is not limited to: Spencer Fire Station; City Hall; PG&E Substation on Woodard Avenue; Police Station on Caledonia Street; Fire Station on Johnson Street; City Corporation yard on Nevada Street; the Army Corporations of Engineers Bay Model; Veterans Affairs Machine Shop; the US Post Office on Harbor Drive; the School District site on Nevada Street; and the MLK site on Colma), and establish approval requirements and development standards for emergency homeless

¹ A video recording of this meeting is available at: <http://www.ci.sausalito.ca.us/>.

shelters; amendment of Sausalito Municipal Code Title 10 to allow transitional and supportive housing (e.g., for individuals affected by substance abuse, domestic violence) to be regulated as a residential use and single room occupancy units to be regulated as a commercial use within the City; Amendment of Sausalito Municipal Code Title 10 to establish density bonus requirements; Amendment of Sausalito Municipal Code Title 12 to provide procedures for granting reasonable accommodations for disabled individuals with respect to zoning, permit processing and building regulations.

The public hearing was opened.

Geoff Bradley of the M-Group and Karen Warner of Karen Warner Associates provided a PowerPoint presentation.

Planning Commission questions to Mr. Bradley, Ms. Warner and staff followed.

The public testimony period was opened.

Public Comments:

Edward McCann
Meg Fawcett
Raquel Guinness
Steve Hoffman
Michael Rex

The public testimony period was closed.

Planning Commission questions to Ms. Warner, Mr. Bradley and staff followed.

Planning Commission comments followed.

Planning Commission questions to staff followed.

Commissioner Cleveland-Knowles moved and Commissioner Nichols seconded a motion to recommended City Council adoption of a Reasonable Accommodations Ordinance, as contained in the staff report.

The motion passed 5-0.

Commissioner Cleveland-Knowles moved and Vice-Chair Werner seconded a motion to recommended City Council approval of a revised Density Bonus Ordinance, as contained in the staff report.

The motion passed 4-1 (No – Keegin)

Planning Commission questions for Ms. Warner and staff followed.

1 Commissioner Cleveland-Knowles moved to recommend City Council approval of
2 the Special Needs Ordinance, subject to the following Planning Commission
3 suggested modifications:

- 4 • The Marinship Specific Plan amendment to allow emergency shelter use
5 in the PI District shall not be included.
- 6 • Staff shall look into once the homeless population is served if it is
7 possible to establish a finding in the ordinance that existing shelters
8 adequately serve the homeless population, and therefore there may be a
9 basis for denial or reducing the number.
- 10 • The 90-day extension for emergency shelter operations shall be deleted.
- 11 • “Employee,” shall be changed to, “Employee, independent contractor or
12 other onsite personnel.”
- 13 • A checklist shall be developed for “Community Development staff
14 regarding development standards for emergency shelters.

15
16
17 Chair Cox requested that the maker of the motion amend the motion to exclude
18 the Planning Commission’s recommendation on the Special Needs Ordinance
19 regarding Supportive and Transitional Housing.

20
21 Commissioner Cleveland-Knowles accepted the amendment to the motion.

22
23 Commissioner Keegin requested that the maker of the motion amend the motion
24 to state that the phrase “not consecutive” shall be removed from the language
25 pertaining to 90 days.

26
27 Commissioner Cleveland-Knowles accepted the amendment to the motion.

28
29 Commissioner Keegin seconded the motion.

30
31 The motion passed 5-0.

32
33 Commissioner Cleveland-Knowles moved and Vice-Chair Werner seconded a
34 motion to recommend City Council approval of a Marinship Specific Plan
35 amendment to allow emergency shelter use in the PI District.

36
37 The motion passed 3-2 (No – Keegin, Cox).

38
39 Commissioner Cox requested action on the portion of the Special Needs
40 Ordinance for Supportive and Transitional housing be deferred until the
41 Commission has received the revised draft ordinances for the VMU and HMU
42 ordinances.

43
44 Vice-Chair Werner moved and Commissioner Cleveland-Knowles seconded a
45 motion that items not passed at the meeting be continued to the meeting of June
46 18, 2014.

47
48 The motion passed 5-0.

1 **Old Business**

2 None.

3
4 **New Business**

5 None.

6
7 **Communications**

- 8 • Staff: City Attorney Wagner stated the City Council did not make any
9 appointments to the Planning Commission at their meeting on May 20, 2014. The
10 Council expressed its gratitude to the three Planning Commission members that
11 have termed out but will continue to serve on the Commission until the City
12 Council appoints new members.
13

14 **Adjournment**

15
16 **Commissioner Keegin moved and Commissioner Cleveland-Knowles seconded a**
17 **motion to adjourn the meeting.**

18
19 **The motion passed 5-0.**

20
21 The meeting was adjourned at 8:56 p.m.

22
23
24
25 _____
26 Submitted by
27 Jeremy Graves, AICP
28 Community Development Director

Approved by
Joan Cox
Chair

29 I:\CDD\Plan Comm\Minutes\2014\05-21-Draft.doc

SAUSALITO PLANNING COMMISSION RESOLUTION NO. 2014-12

**RECOMMENDATION OF CITY COUNCIL APPROVAL OF MUNICIPAL CODE
AMENDMENTS OF TITLE 10 FOR IMPLEMENTATION OF PROGRAM 19 OF THE
HOUSING ELEMENT RELATED TO DENSITY BONUSES
ZOA/SPA 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, from January to May 2014 the Housing Element subcommittee of the City Council and Planning Commission held six public meetings regarding the 2009-2014 Housing Element Implementation Amendments; and

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

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

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

WHEREAS, the Planning Commission has reviewed and considered the information contained in the staff report dated May 21, 2014 for the project; and

WHEREAS, the project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15061.b.3 of the CEQA Guidelines since adoption of the Municipal Code 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, the Planning Commission finds the proposed amendments are consistent with the General Plan as described in the staff report dated May 21, 2014.

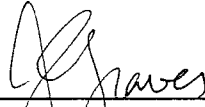
NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES:

The Planning Commission recommends City Council approval of Municipal Code amendments regarding the Density Bonus Ordinance (**Attachment**): Amendment of Title 10 to modify Section

10.40.130 to establish 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 Section 10.88.040 to add definitions related to density bonus projects.

RESOLUTION PASSED AND ADOPTED, at the special meeting of the Planning Commission on the 21st day of May, 2014, by the following vote:

AYES: Nichols, Cleveland-Knowles, Werner, Cox
NOES: Keegin
ABSENT: None
ABSTAIN: None



Jeremy Graves, AICP
Secretary to the Planning Commission

ATTACHMENT

Planning Commission Recommended Draft Density Bonus Ordinance, dated May 21, 2014

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1
2 **WHEREAS**, on XX and XX the City Council conducted a duly-noticed public hearings
3 at which time all interested persons were given an opportunity to be heard; and
4

5 **WHEREAS**, the project is categorically exempt from California Environmental Quality
6 Act (CEQA) pursuant to Section 15061.b.3 of the CEQA Guidelines because adoption of the
7 zoning ordinance amendment is covered by the general rule that CEQA applies only to projects
8 which have the potential for causing a significant effect on the environment, and this project does
9 not have the potential for causing a significant effect on the environment; and
10

11 **WHEREAS**, adoption of Density Bonus Ordinance is consistent with the General Plan,
12 including Program 19 of the Housing Element regarding density bonuses, Land Use Element
13 Policy LU-1.16 regarding child care and residential care facilities, and Land Use Element Policy
14 HE-4.1 regarding regulatory incentives for affordable housing.
15

16 **THE CITY COUNCIL OF THE CITY OF SAUSALITO DOES HEREBY ORDAIN AS**
17 **FOLLOWS:**
18

19 **Section 1:** Section 10.40.130 of the Sausalito Municipal Code is hereby amended as follows:
20

- 21 **A.** Purpose. The purpose of this section is to demonstrate the standards and procedures in
22 granting affordable housing density bonuses for housing developments, in an effort to
23 incentivize the construction of Affordable Units within new developments in the City. This
24 section implements the requirements of Government Code Section 65915 (“State Density
25 Bonus Law”).
26
- 27 **B.** Applicability.
28 1. This section shall apply to all zoning districts within the City that allow residential
29 use.
30 2. The bonus granted pursuant to this section shall apply only to residential projects or
31 residential components of mixed-use projects, not including units granted as a density
32 bonus.
33 3. The proposed project shall have all of the following characteristics in order to qualify
34 for a density bonus:
35 a. The residential development must include a minimum of five (5) dwelling
36 units.
37 b. The applicant seeks and agrees to provide housing units to very-low, low or
38 moderate income households or senior citizens at rates consistent with those
39 specified in Table 10.40-2 (Density Bonus Standards).
40 c. The resulting density is beyond that permitted by the applicable zoning
41 district.
42 d. The applicant agrees to retain the affordable status of housing units for at least
43 thirty (30) years through the recordation of a deed restriction.
44
- 45 **C.** Application Requirements.
46 1. Any applicant requesting a density bonus, incentives, and/or concessions must provide
47 the City with a written proposal.
48 2. The proposed project shall have all of the following characteristics in order to qualify
49 for a density bonus:

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- 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.D.2.b.i 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.

1 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

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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 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) Increased maximum floor area ratio (FAR)
 - 5) Reduced common or private open space
 - 6) 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-

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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) 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

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- 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

1 seeks both the increase required pursuant to this Section and Section E. When
 2 calculating the number of permitted Density Bonus Units, any calculations resulting in
 3 fractional units shall be rounded to the next larger integer.

4 3. An applicant shall be eligible for the increased density bonus described in this
 5 subsection I when all of the following requirements are met:

- 6 a. The applicant shall donate and transfer the land no later than the date of approval
 7 of the final tract or parcel map, or application for the construction of residential
 8 units.
- 9 b. The development acreage and zoning classification of the land being transferred
 10 shall be sufficient to permit construction of units affordable to very-low income
 11 households in an amount not less than ten percent of the number of residential
 12 units of the proposed development.
- 13 c. The transferred land shall be at least one acre in size or of sufficient size to
 14 permit development of at least forty (40) units, has the appropriate General Plan
 15 designation, is appropriately zoned for development as affordable housing, and
 16 is or will be served by adequate public facilities and infrastructure. The land shall
 17 have appropriate zoning and development standards to make the development of
 18 the affordable units feasible.
- 19 d. No later than the date of approval of the final subdivision map, parcel map, or of
 20 the residential development, the transferred land shall have all the permits and
 21 approval, other than building permits, necessary for development of the very-low
 22 income housing units on the transferred land except that the City may subject the
 23 proposed development to subsequent design review to the extent authorized by
 24 subdivision (i) of Health and Safety Code Section 65583.2, as amended from
 25 time to time, if the design is not reviewed by the City prior to the time of transfer.
- 26 e. The land shall be transferred to the City of Sausalito, or to a housing developer
 27 approved by the City of Sausalito.
- 28 f. The transferred land and the very-low income units constructed on the land will
 29 be subject to a deed restriction ensuring continued affordability of the units
 30 constructed consistent with this chapter, which restriction will be recorded on the
 31 property at the time of transfer.
- 32 g. The transferred land shall be within the boundary of the proposed development
 33 or, with the approval of the City, within one-quarter mile of the boundary of the
 34 proposed development
- 35 h. A bonus shall not be granted unless a source of funding for the very-low income
 36 units has been identified not later than the date of approval of the final parcel or
 37 tract map, or application for the construction of residential units.

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 39 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

Percentage Very-Low Income Units	Percentage Density Bonus
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 _____ day of _____ 2014, and was adopted at a regular meeting of the City Council on the _____ day of _____, 2014 by the following vote:

AYES:	COUNCILMEMBER:
NOES:	COUNCILMEMBER:
ABSENT:	COUNCILMEMBER:
ABSTAIN:	COUNCILMEMBER:

Mayor

ATTEST: _____
Debbie Pagliaro, City Clerk

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SAUSALITO PLANNING COMMISSION RESOLUTION NO. 2014-13 (7 PAGES)**RECOMMENDATION OF CITY COUNCIL APPROVAL OF MUNICIPAL CODE
AMENDMENTS OF TITLE 10 FOR IMPLEMENTATION OF PROGRAM 21 OF THE
HOUSING ELEMENT RELATED TO EMERGENCY SHELTERS
ZOA/SPA 14-007**

WHEREAS, Government Code Sections 65582, 65583 and 65589.5 require local jurisdictions to adopt provisions for special needs housing, including emergency shelters, supportive and transitional housing and single room occupancy units; 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 21 Zoning Text Amendments for Special Needs Housing; and

WHEREAS, Zoning Ordinance 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, Zoning Ordinance 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 to May 2014 the Housing Element subcommittee of the City Council and Planning Commission held six public meetings regarding the 2009-2014 Housing Element Implementation Amendments; and

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

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

WHEREAS, the Planning Commission has reviewed and considered the information contained in the staff report dated May 21, 2014 for the project; and

WHEREAS, the project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15061.b.3 of the CEQA Guidelines since adoption of the Municipal Code 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, the Planning Commission finds the proposed amendments are consistent with the General Plan as described in the staff report dated May 21, 2014.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES:

The Planning Commission recommends City Council approval of Municipal Code amendments

regarding the Emergency Shelters Ordinance (**Attachment**):

- a. Amendment of Title 10 to modify Table 10.20-1 to allow Emergency Shelters as an allowed use in the Public Institutional Zoning District;
- b. Amendment of Title 10 to add a new Section 10.44.350 establishing development and management standards for Emergency Shelters;
- c. Amendment of Title 10 to modify Section 10.88.040 to add definitions related to Emergency Shelters.

RESOLUTION PASSED AND ADOPTED, at the special meeting of the Planning Commission on the 21st day of May, 2014, by the following vote:

AYES: Nichols, Cleveland-Knowles, Keegin, Werner, Cox

NOES: None

ABSENT: None

ABSTAIN: None



Jeremy Graves, AICP
Secretary to the Planning Commission

ATTACHMENT

Planning Commission Recommended Draft Emergency Shelter Ordinance, dated May 21, 2014

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ORDINANCE NO. XXXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
AMENDING TITLE 10 TO MODIFY SMC TABLE 10.20-1 TO ALLOW
EMERGENCY SHELTERS AS AN ALLOWED USE IN THE PUBLIC
INSTITUTIONAL ZONING DISTRICT, AMENDING TITLE 10 OF THE
SAUSALITO MUNICIPAL CODE TO ADD SMC SECTION 10.44.350
ESTABLISHING DEVELOPMENT AND MANAGEMENT STANDARDS FOR
EMERGENCY SHELTERS, AND MODIFYING SMC CHAPTER 10.88 TO ADD
DEFINITIONS RELATED TO EMERGENCY SHELTERS
ZOA 14-007**

WHEREAS, Government Code Sections 65582, 65583 and 65589.5 require local jurisdictions to adopt provisions for special needs housing, including emergency shelters, supportive and transitional housing and single room occupancy units; 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 21 Zoning Text Amendments for Special Needs Housing; 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, California Government Code Section 65353 requires the Planning Commission to provide a recommendation to the City Council on proposed Specific Plan amendments; 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 Special Needs Housing Ordinance; and

WHEREAS, on XX and XX the City Council conducted a 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 the Emergency Shelters Ordinance is consistent with the General Plan Program 21 of the Housing Element regarding special needs housing and Land Use Policy HE-5.4. regarding housing for persons with disabilities and Land Use Policy HE-4.5 regarding zoning for special needs.

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

Section 1. Table 10.20-1 (Land Uses Allowed in Open Space and Public Districts) is hereby amended as follows^{a,b}:

Table 10.20-1 LAND USES ALLOWED IN OPEN SPACE AND PUBLIC DISTRICTS

Land Use	Open Space Public Zoning Districts*				See SMC
	OS	PP	PI	OA	
Service Uses					
<u>Emergency Shelters</u>			<u>P</u>		<u>SMC 10.44.350 (Emergency Shelters)</u>
* Zoning permit required for all uses					Chapter 10.52 SMC
P Permitted use					
MUP Minor use permit required					Chapter 10.58 SMC
CUP Conditional use permit required					Chapter 10.60 SMC

^a Only the pertinent sections of Table 10.22-2 have been shown. The remainder of Table 10.20-1 remains unchanged.

^b The text to be added is printed double-underlined.

Section 2. A new Section 10.44.330 is hereby added to the Sausalito Municipal Code to read as follows:

- A. Purpose. These emergency shelter regulations are intended to allow the provision of shelter for homeless persons or others in need of a temporary (six months or less) shelter, while ensuring the shelter is operated in a manner that is compatible with surrounding areas. The purpose of this chapter is also to comply with Government Code Section 65583 relating to emergency shelters.

- B. Applicability. Emergency shelters shall be a permitted use on parcels within the Public Institutional (PI) zoning district.

- C. Development Standards. The following development standards shall apply to emergency shelters:
 - 1. Property Development Standards. The shelter shall conform to all property development standards of the zoning district in which it is located except as modified by these performance standards.
 - 2. Shelter Capacity. An emergency shelter for homeless persons shall contain no more than twenty (20) beds and shall serve no more than twenty (20) persons nightly. The physical size of the shelter shall not be larger than necessary for the number of persons the shelter serves.
 - 3. Parking. On-site parking for residents shall be based on one space for every four beds, and staff parking shall be based on one space for each on-site staff, employees and/or independent contractors on the maximum staffed shift.
 - 4. Lighting. Adequate external lighting shall be provided for security purposes. The lighting shall be stationary and designed, arranged and installed so as to confine direct rays onto the premises and to direct light away from adjacent structures and public rights-of-way. External lighting shall be of an intensity compatible with the neighborhood.
 - 5. On-site Waiting and Intake Areas. An interior waiting and intake area shall be provided which contains a minimum of 200 square feet. Waiting and intake areas may be used for other purposes (excluding sleeping) as needed during operations of the shelter.

- D. Common Facilities. The development may provide one or more of the following specific common facilities for exclusive use of the residents and staff, provided that such facilities do not substantially increase the overall size of the shelter facility:
 - 1. Central cooking and dining room.
 - 2. Recreation room.
 - 3. Laundry facilities to serve the number of occupants at the shelter.
 - 4. Other uses that are considered ancillary to the primary use such as office and storage, not to exceed 10% of the total floor area of the shelter facility, exclusive of items 1, 2, and 3 above.

- E. On-site Staff. At least one manager shall be on-site during all hours of operation of the facility. Such manager must be an individual who does not utilize the shelter's

beds or other services and who resides off-site. The manager must be accompanied by one supporting staff member for every fifteen (15) beds occupied in the facility.

- F. Security. Security personnel shall be provided during operational hours whenever clients are on the site. A security plan shall be submitted to the City prior to issuance of a certificate of occupancy.
- G. Concentration of Uses. No more than one emergency shelter shall be permitted within a radius of 300 feet of another emergency shelter.
- H. Emergency Shelter Operations. The agency or organization operating the emergency shelter shall comply with the following requirements:
1. Hours of Operation. Clients shall only be on site and admitted to the facility between 5:00 p.m. and 8:00 a.m.
 2. Length of stay. Each emergency shelter resident shall stay for no more than 90 days (cumulative) in a 365 day period.
 3. Management Plan. Prior to commencing operation, the shelter operator shall provide a written management plan to the Director for approval. The management plan shall address: hours of operation, admission hours and process, staff training, neighborhood outreach and privacy, security, resident counseling and treatment, maintenance plans, residency and guest rules and procedures, and staffing needs.
 4. Annual report. The provider shall provide an annual report of the use of the facility and determination of compliance with the City's development standards for the use.

Section 3. Section 10.44.080 of the Sausalito Municipal Code is hereby amended to add the following definitions:

Emergency shelter. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. (Health and Safety Code Section 50801(e))

Section 4. 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.

Section 5. 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 6. This Ordinance shall be in full force and effect thirty (30) days after the date of its adoption.

Section 7. 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 _____ day of _____ 2014, and was adopted at a regular meeting of the City Council on the _____ day of _____, 2014 by the following vote:

AYES:	COUNCILMEMBER:
NOES:	COUNCILMEMBER:
ABSENT:	COUNCILMEMBER:
ABSTAIN:	COUNCILMEMBER:

Mayor

ATTEST: _____
Debbie Pagliaro, City Clerk

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Emergency Shelters- PC Recommended Draft 5-21-14.doc

SAUSALITO PLANNING COMMISSION RESOLUTION NO. 2014-14

**RECOMMENDATION OF CITY COUNCIL APPROVAL OF AN AMENDMENT TO THE
MARINSHIP SPECIFIC PLAN FOR IMPLEMENTATION OF PROGRAM 21 OF THE
HOUSING ELEMENT RELATED TO EMERGENCY SHELTERS
ZOA/SPA 14-007**

WHEREAS, Government Code Sections 65582, 65583 and 65589.5 require local jurisdictions to adopt provisions for special needs housing, including emergency shelters, supportive and transitional housing and single room occupancy units; 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 21 Zoning Text Amendments for Special Needs Housing; and

WHEREAS, California Government Code Section 65353 requires the Planning Commission to provide a recommendation to the City Council on proposed specific plan amendments; and

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

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

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

WHEREAS, the Planning Commission has reviewed and considered the information contained in the staff report dated May 21, 2014 for the project; and

WHEREAS, the project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15061.b.3 of the CEQA Guidelines since adoption of the specific plan 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, the Planning Commission finds the proposed amendments are consistent with the General Plan as described in the staff report dated May 21, 2014.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES:

The Planning Commission recommends City Council approval of a Marinship Specific Plan amendment to amend Table #B (Use Designations) to allow Emergency Shelters as a principally permitted use on Public Institutional sites as shown in the **Attachment**.

RESOLUTION PASSED AND ADOPTED, at the special meeting of the Planning Commission on the 21st day of May, 2014, by the following vote:

AYES: Nichols, Cleveland-Knowles, Werner

NOES: Keegin, Cox

ABSENT: None

ABSTAIN: None



Jeremy Graves, AICP
Secretary to the Planning Commission

ATTACHMENT

Planning Commission Recommended Draft Resolution Regarding the Emergency Shelters
Marinship Specific Plan Amendment, dated May 21, 2014

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MSP amendment emergency shelters.doc

RESOLUTION NO. 2014- XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO AMENDING
THE MARINSHIP SPECIFIC PLAN TABLE #B (USE DESIGNATIONS) TO ALLOW
EMERGENCY SHELTERS ON PUBLIC INSTITUTIONAL SITES
(ZOA/SPA 14-007)**

WHEREAS, Government Code Sections 65582, 65583 and 65589.5 require local jurisdictions to adopt provisions for special needs housing, including emergency shelters, supportive and transitional housing and single room occupancy units; 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 21 Zoning Text Amendments for Special Needs Housing; and

WHEREAS, California Government Code Section 65353 requires the Planning Commission to provide a recommendation to the City Council on proposed Specific Plan 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. 2014-14, which recommended City Council adoption of an Ordinance regarding the Marinship Specific Plan Amendment Regarding Emergency Shelters; and

WHEREAS, on XX and XX the City Council conducted a 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 the Special Needs Housing Ordinance is consistent with the General Plan Program 21 of the Housing Element regarding special needs housing and Land Use Policy HE-5.4. regarding housing for persons with disabilities and Land Use Policy HE-4.5 regarding zoning for special needs.

NOW, THEREFORE, THE CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The Marinship Specific Plan Table B (Use Designations) is hereby amended as shown in the **Attachment**.

SECTION 2. The Amendment 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.

RESOLUTION PASSED AND ADOPTED at the regular meeting of the City of Sausalito City Council on the ____ day of _____, 20__, by the following vote:

AYES: Councilmember:
NOES: Councilmember:
ABSENT: Councilmember:
ABSTAIN: Councilmember:

RAY WITHY,
MAYOR OF THE CITY OF SAUSALITO

ATTEST:

DEBBIE PAGLIARO
CITY CLERK

Attachment: Amended Marinship Specific Plan Table B (Use Designations)

I:\CDD\PROJECTS - NON-ADDRESS\ZOA\2014\14-007 Housing Element Implementation\Ordinance\Special Needs\Reso Emergency Shelters MSP Amendment- PC Recommended Draft 5-21-14.doc

ATTACHMENT: Amendments to the Marinship Specific Plan Table B (Use Designations)¹:

MARINSHIP Specific Plan
Use Designations
TABLE # B

	ZONE 1										ZONE 2										ZONE 3																												
	PAR 1			PARCEL 2							P 2	PARCEL 3			4	P 4	PAR 6		7	PAR B	PAR 6	PAR 7	PARCEL 9				PAR 10	PAR 11																					
	A	B	C	D	E	F	G	H	I	J	A	B	C	D	E	F	G	H	I	J	A	B	C	D	E	F	G	H	I	J	K	L	M	A	B	C	D	A	B	C	D	E	F	G	H	I	J	K	L
USES:																																																	
INDUSTRIAL																																																	
Gen Indust																																																	
Marine Indust																																																	
ARTS																																																	
Ind, Mar, Fine																																																	
Applied Art																																																	
COMMERCIAL																																																	
Office																																																	
Retail																																																	
Bus Com Serv																																																	
Mar Com Serv																																																	
Restaurant																																																	
Food Service																																																	
RESIDENTIAL																																																	
Exist'g Lnd Res																																																	
Houseboats																																																	
Live-Abd Boats																																																	
INSTITUTIONAL																																																	
Post Office																																																	
Army Corps																																																	
MARITIME BERTHS																																																	
Marine Service																																																	
Pleasure Bts																																																	
Dry Bt Stor																																																	
PUBLIC USE																																																	
Open Space																																																	
Open Water																																																	
REMARKS:																																																	

REMARKS:

- Food Serv-Fish Salcs only
- "Y" Zone-Marine Serv Com only
- Marine Applied Arts only in "I" Zone
- Full Service Supermarket With CIP: Lumberyard, Warehouse, Dry Boat Storage only
- Indus, Marine Arts only
- Existing Legal Non-conforming Resid.
- One Land-Base Resid. permitted
- As CIP and only if Parcel 20 develops as part of Parcel-20 development
- Emergency Shelters, as defined in Sausalito SMC Section 10.88.040, are a principally permitted use on Parcels 3A and 6C subject to SMC Section 10.44.330
- Existing Legal Permitted

ZOA/SPA 14-007: Draft 5/21/14

¹ The text to be added is printed underlined and is circled.

SAUSALITO PLANNING COMMISSION RESOLUTION NO. 2014-11**RECOMMENDATION OF CITY COUNCIL APPROVAL OF MUNICIPAL CODE
AMENDMENTS OF TITLE 10 AND TITLE 12 FOR IMPLEMENTATION OF
PROGRAM 25 OF THE HOUSING ELEMENT RELATED TO REASONABLE
ACCOMMODATION PROCEDURES
ZOA/SPA 14-007**

WHEREAS, the Federal Fair Housing Amendments Act of 1988 and California Fair Employment and Housing Act require local jurisdictions to establish a process by which persons with disabilities can request reasonable accommodations to the jurisdiction's codes, rules, policies, practices or services, necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling; 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 25, Reasonable Accommodation Procedures, to establish specific written procedures for requesting and granting a reasonable accommodation consistent with State and Federal statutes; and

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

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

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

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

WHEREAS, the Planning Commission has reviewed and considered the information contained in the staff report dated May 21, 2014 for the project; and

WHEREAS, the project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15305 of the CEQA Guidelines which exempts minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density and Section 15061.b.3 of the CEQA Guidelines since adoption of the Municipal Code 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, the Planning Commission finds the proposed amendments are consistent with the General Plan as described in the staff report dated May 21, 2014.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES:

The Planning Commission recommends City Council approval of Municipal Code amendments as regarding the Reasonable Accommodations Ordinance (**Attachment**): Amendment of Title 12 to add a new Section 12.36 establishing specific written procedures for requesting and granting a reasonable accommodation consistent with state and federal statutes and Amendment of Title 10 to modify Section 10.88.040 to add definitions related to reasonable accommodation projects.

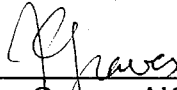
RESOLUTION PASSED AND ADOPTED, at the special meeting of the Planning Commission on the 21st day of May, 2014, by the following vote:

AYES: Nichols, Keegin, Cleveland-Knowles, Werner, Cox

NOES: None

ABSENT: None

ABSTAIN: None



Jeremy Graves, AICP
Secretary to the Planning Commission

ATTACHMENT

Planning Commission Recommended Draft Reasonable Accommodations Ordinance, dated May 21, 2014

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ORDINANCE NO. XXXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
AMENDING TITLE 12 OF THE SAUSALITO MUNICIPAL CODE TO:
ADD SECTION 12.36 ESTABLISHING SPECIFIC WRITTEN PROCEDURES FOR
REQUESTING AND GRANTING A REASONABLE ACCOMMODATION
CONSISTENT WITH STATE AND FEDERAL STATUTES AND
MODIFY CHAPTER 10.88 TO ADD DEFINITIONS RELATED TO REASONABLE
ACCOMMODATIONS
ZOA/SPA 14-007**

WHEREAS, the Federal Fair Housing Amendments Act of 1988 and California Fair Employment and Housing Act require local jurisdictions to establish a process by which persons with disabilities can request reasonable accommodations to the jurisdiction's codes, rules, policies, practices or services, necessary to afford persons with disabilities an equal opportunity to use or enjoy a dwelling; 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 25, Reasonable Accommodation Procedures, to establish specific written procedures for requesting and granting a reasonable accommodation consistent with State and Federal statutes; 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. 2014-11, which recommended City Council adoption of an Ordinance regarding the Reasonable Accommodations Ordinance; and

WHEREAS, on XX and XX the City Council conducted a 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 15305 of the CEQA Guidelines which exempts minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density and 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 the Reasonable Accommodations Ordinance is consistent with the General Plan, including Program 25 regarding reasonable accommodations procedures and Land Use Policy HE-5.4 regarding housing for persons with disabilities.

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

Section 1. A new Section 12.36 is hereby added to the Sausalito Municipal Code to read as follows:

A. Purpose. The purpose of this chapter is to establish a procedure for requesting reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning and building laws and other land use regulations, policies and procedures.

B. Applicability.

1. Definition of Disability. Under the Acts, an individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment. Individuals in recovery from drug or alcohol abuse are protected by federal and state fair housing laws although individuals currently using illegal substances are not protected under the law unless they have a separate disability. This chapter is intended to apply to those persons who are defined as disabled under the Acts.
2. Scope of Accommodation. A request for a reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide an individual with a disability equal opportunity to housing of their choice. Requests for reasonable accommodation shall be made in the manner prescribed by Section 12.36.D (Application Contents and Submittal), and shall not require a fundamental

alteration to the City's zoning or building laws, policies, and/or procedures, as defined under the Acts. A modification approved under this chapter is considered a personal accommodation for the individual applicant and does not run with the land.

3. Eligibility to Request Accommodation. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.
- C. Notice to the Public of Availability of Accommodation Process. Notice of the availability of reasonable accommodation shall be displayed at the public information counter in the Community Development Department advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall also be made available.
- D. Application Contents and Submittal. Requests for reasonable accommodation shall be submitted on an application form provided by the Community Development Department and shall contain the following information:
1. The applicant's name, address and telephone number.
 2. Address of the property for which the request is being made, and the name, address and telephone number of the property owner.
 3. The current existing use of the property.
 4. The basis for the claim that the individual is considered disabled under the Acts.
 5. The zoning code provision, regulation or policy from which reasonable accommodation is being requested.
 6. Reason the requested accommodation may be necessary to make the specific property accessible to the individual.
- E. Authority.
1. Community Development Director. Requests for reasonable accommodation shall be reviewed by the Director of Community Development, or his/her designee (Director) if no approval is sought other than the request for reasonable accommodation.
 2. Other Review Authority. Requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing the discretionary land use application.
- F. Review Procedure.
1. Director Review. The Community Development Director, or his/her designee, shall make a written determination within 45 days of submittal of a complete application and either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section G (Findings and Decision). The Director shall mail a notice of a request for reasonable accommodation to contiguous owners of property, as shown on the latest equalized Marin County assessment roll, but may include other property owners as determined by the Director. Said notice shall be mailed at least ten days prior to making a determination.

2. Other Reviewing Authority. Written determinations on requests for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be made by the authority responsible for reviewing the discretionary land use application. The written determination to grant or deny the request for reasonable accommodation shall be made in accordance with Section 12.36.G (Findings and Decision).
3. Additional Information. If necessary to reach a determination on the request for reasonable accommodation, the reviewing authority may request further information from the applicant consistent with the Acts, specifying in detail the information that is required. In the event that a request for additional information is made, the 45 day period to issue a decision is stayed until the applicant responds to the request.
4. The reviewing authority may approve an alternative reasonable accommodation that provides the applicant an opportunity to use and enjoy a dwelling equivalent to that provided by the specific accommodation requested, where such an alternative accommodation would:
 - a. Reduce impacts to neighboring properties or the surrounding area; or
 - b. Not require a deviation from the provisions of Title 8 or Title 10 of the Municipal Code or would require less of a deviation than the requested accommodation.

G. Findings and Decision.

1. Findings. The reasonable accommodation shall be approved, with or without conditions, if the reviewing authority finds, based upon all of the evidence presented, that all of the following findings can be made:
 - a. The housing, which is the subject of the request, will be occupied by an individual considered disabled under the Acts.
 - b. The requested accommodation is necessary to provide a disabled individual with an equal opportunity to use and enjoy a dwelling.
 - c. The requested accommodation would not impose an undue financial or administrative burden on the City, as defined under the Acts.
 - d. The requested accommodation would not require a fundamental alteration to the City's zoning or building laws, policies, and/or procedures, as defined under the Acts. In considering whether the accommodation would require such a fundamental alteration, the reviewing authority may consider, among other factors:
 - 1) Whether the requested accommodation would fundamentally alter the character of the neighborhood; and
 - 2) Whether the requested accommodation would substantially undermine any express purpose of either Sausalito's General Plan or an applicable specific plan.
 - e. There are no other reasonable accommodation(s) that would allow the applicant to use and enjoy the dwelling which would:
 - 1) Be less impactful to neighboring properties or the surrounding area; or

- 2) Not require a deviation from the provisions of Title 8 or Title 10 of the Municipal Code or would require less of a deviation than the requested accommodation.
- H. Conditions of Approval. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Subsection A above, including but not limited to the following:
1. Inspection of the property periodically, as specified, to verify compliance with this section and any conditions of approval.
 2. Recordation of a deed restriction requiring removal of the improvements when the need for which the accommodation was granted no longer exists, except where the Director finds that removal would constitute an unreasonable financial burden and/or is physically integrated with the structure and cannot feasibly be removed.
 3. Time limits and/or expiration of the approval if the need for which the accommodation was granted no longer exists.
 4. Measures to reduce the impact on surrounding uses.
 5. Measures in consideration of the physical attributes of the property and structures.
 6. Other conditions necessary to protect the public health, safety and welfare.
- I. Written Decision. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the reviewing authority's findings required by Section 12.36.F (Findings and Decision) above. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below.
- J. Appeals. A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be in compliance with Chapter 10.84 (Appeals) of the Sausalito Municipal Code. Appeals shall be submitted on an application form provided by the Community Development Department. If an individual needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure the appeals process is accessible.

Section 2. Section 10.88.040 of the Sausalito Municipal Code is hereby amended to add the following definition:

Director. The Community Development Director or his/her designee.

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 15305 (Minor Alterations in Land Use Limitations) and 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 _____ day of _____ 2014, and was adopted at a regular meeting of the City Council on the _____ day of _____, 2014 by the following vote:

AYES:	COUNCILMEMBER:
NOES:	COUNCILMEMBER:
ABSENT:	COUNCILMEMBER:
ABSTAIN:	COUNCILMEMBER:

Mayor

ATTEST: _____
Debbie Pagliaro, City Clerk

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Goal 4.0: Reducing Governmental Constraints

18. Fee Deferrals and/or Waivers for Affordable Housing
(Policy 4.1 Regulatory Incentives for Affordable Housing)

The City collects various fees from development projects to cover the costs of processing permits and providing services and facilities. While these fees are assessed on a pro rata share basis, they are an element in the cost of housing and could potentially constrain the provision of affordable housing. The deferral, reduction or waiver of City fees can lower the production costs of affordable housing.

The City will continue to offer a reduction in City fees as an incentive for affordable housing. In order to specifically encourage the provision of housing affordable to extremely low income (ELI) households (<30% AMI), the City will waive 100% of application processing fees for projects with a minimum of 5% ELI units.

In addition, the California legislature passed AB 641 in 2007, which helps to address the cash flow challenges inherent in many affordable housing projects during the construction phase. For affordable housing developments in which at least 49 percent of the units are affordable to low or very low-income households, AB 641 prohibits local governments from requiring the payment of local developer fees prior to receiving a certificate of occupancy.

2009-2014 Objectives: *Provide information to the affordable housing community that fee deferrals, reductions and waivers may be requested for affordable housing projects. Adopt a resolution waiving 100% of application processing fees for projects with a minimum of 5% ELI units.*

***19. Density Bonus and Other Incentives for Affordable Housing**
(Policy 4.1 Regulatory Incentives for Affordable Housing)

Under Government Code section 65915-65918, for housing projects of at least five units cities must grant density bonuses ranging from 5% to 35% (depending on the affordability provided by the housing project) when requested by the project sponsor, and provide up to three incentives or concessions unless specific findings can be made. Local jurisdictions are required to adopt regulations that specify how compliance with the State's density bonus law will be implemented. The City is also required to establish procedures for waiving or modifying development and zoning standards that would otherwise inhibit the utilization of the density bonus on specific sites. These procedures must include, but not be limited to, such items as minimum lot size, side yard setbacks, and placement of public works improvements.

2009-2014 Objectives: *Amend the Zoning Ordinance text to comply with current State requirements, including permit processing procedures as well as regulatory concessions and incentives. Define the relationship between HMU incentives, VMU Requirements, and State density bonus law.*

20. Multi-family Development in Multi-family Districts
(Policy 4.3 Efficient Use of Multi-Family Zoning)

Encourage two-family and multi-family development on R-2-5, R-2-2.5 and R-3 residentially-zoned sites, and discourage the development of single-family homes on such sites, by evaluating the establishment of minimum density thresholds and/or varied development standards for multiple units on a sliding scale (e.g., reduced Floor Area Ratio or Lot Coverage Ratio for projects with a lower density). These would apply except where there are physical or environmental constraints, or significant incompatibility with neighborhood character.

Evaluate options for provision of an ADU or payment of an in-lieu housing fee as an alternative to developing multi-family units (*this measure is currently under study by a Planning Commission subcommittee*).

Evaluate the following incentives for addition to the Zoning Ordinance, for projects that propose the maximum number of units allowed on parcels, or projects that propose multiple units:

- Adoption of new parking standards specifically for projects with multiple units;
- Tandem parking opportunities; and
- Processing priority and expedited plan checks for projects that propose multiple units.

Amend the Design Review regulations in the Zoning Ordinance to add requirements for the submittal of schematic site design to demonstrate the feasibility of constructing the maximum number of units allowed under zoning, or reserving site capacity for the future addition of an Accessory Dwelling Unit on the subject parcel.

2009-2014 Objectives: *Develop and adopt standards within the Zoning Ordinance in 2012 that promote and incentivize the development of two-family and multi-family developments in multi-family zoning districts, and discourage the development of single-family homes in such districts.*



21. Zoning Text Amendments for Special Needs Housing
(Policy 4.5 Zoning for Special Needs, Policy 5.4 Housing for Persons with Disabilities)

Consistent with Senate Bill 2 (Government Code sections 65582, 65583 and 65589.5) the City will specify transitional and supportive housing to be treated as a residential use under the Zoning Ordinance, identify a zoning district where emergency shelters will be permitted by right, and specify provisions for Single-Room Occupancy buildings. The City will establish procedures to encourage and facilitate the creation of emergency shelters and transitional housing, by:

- Adding transitional housing and supportive housing to the Zoning Ordinance's definition section, and regulate as a permitted use within residential zoning districts;

(continued →)

- Adding single room occupancy (SRO) facilities within the Zoning Ordinance's definition section, and conditionally allow within the CC, CR and CN-1 commercial zoning districts; and
- Identifying emergency shelters as a permitted use in the Public Institutional Zoning District and in local churches.

Emergency shelters will be subject to the same development and operational standards as other permitted uses in the Public Institutional Zoning District. However, the City will develop written, objective standards to regulate the following, as permitted under SB 2:

- The maximum number of beds or persons permitted to be served nightly by the facility;
- Off-street parking based on demonstrated need, but not to exceed parking requirements for other residential or commercial uses in the same zoning district;
- The size and location of exterior and interior onsite waiting and client intake areas;
- The provision of onsite management;
- The proximity of other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart;
- The length of stay;
- Lighting; and
- Security during hours that the emergency shelter is in operation.

2009-2014 Objectives: *Adopt text amendments to the Zoning Ordinance to make explicit provisions for a variety of special needs housing. Develop objective standards to regulate emergency shelters as provided for under SB 2, and amend the Zoning Ordinance text within one year of Housing Element adoption.*

24. Home Sharing and Tenant Matching Opportunities
(Policy 5.2 Senior Housing)

“Home Connection of Marin” is a free shared housing program which matches very low income home seekers with home providers interested in sharing their homes. Housing counselors interview each potential roommate and obtain references and background checks, leaving the decision to the potential roommates whether to make a match. Sharing a home promotes independent living, provides additional income for the provider, an affordable rent for the seeker, and the potential for deeper relationships for both. The average age of community members in Sausalito is growing older, and over 330 seniors currently live alone in single-family homes in the City. Shared housing promotes the efficient use of the housing stock, and can help address the housing needs of seniors in our community.

2009-2014 Objectives: *Implement a homesharing/matching program for homeseekers and single-family homeowners with excess space. Collaborate with Marin Housing and Sausalito Village Senior Services to actively promote “Home Connection of Marin” within Sausalito.*

* **25. Reasonable Accommodation Procedures**
(Policy 5.4 Housing for Persons with Disabilities)

It is the policy of the City to provide reasonable accommodation for persons with disabilities seeking fair access to housing in the application of its zoning and building regulations. Depending on the nature and extent of a requested accessibility modification, the City would accommodate such requests either through a building permit, an administrative adjustment, or a zoning permit. While Sausalito has not identified any constraints on the development, maintenance or improvement of housing for persons with disabilities, the City does not have in place specific procedures for requesting and granting a reasonable accommodation. As a means of facilitating such requests and removing constraints for persons with disabilities, the City will develop specific written reasonable accommodation procedures.

2009-2014 Objectives: *Amend the Zoning Ordinance and develop written procedures to allow the Community Development Director to authorize reasonable accessibility accommodations with respect to zoning, permit processing, and building regulations. Procedures will specify who may request an accommodation, time frame for decision-making and modification provisions.*

be considered as providing required parking unless a Conditional Use Permit is secured per Chapter 10.60 (Conditional Use Permits) of this Title.

2. **Off-Site Parking.** The Planning Commission may, upon application by the owner or lessee of any property, authorize a Conditional Use Permit for off-site parking to serve a new use and/or structure subject to the following conditions:
 - a. If the required parking space(s) are located on a separate lot of record from the lot of record of the building, structure, improvement, or use requiring the parking space(s), a covenant shall be recorded in the office of the County Recorder of Marin County, State of California. Such owner or owners shall record the Covenant for the benefit of the City in a form approved by the City. Covenant shall provide that such owner or owners will continue to maintain such parking space so long as said building, structure or improvement is maintained within said City. The covenant shall stipulate that the title to and right to use the parcel or parcels upon which the parking space is to be provided will be subservient to the title to the premises upon which the building is to be erected. The covenant shall guarantee that said parcel or parcels are not and will not be made subject to any other covenant or contract for use without prior written consent of the City; and
 - b. The required parking space(s) must be located on an adjacent parcel or site that is readily accessible to the site containing the building, structure, improvement, or use requiring the parking space(s).

* 10.40.130 Residential Density Bonuses and Incentives

- A. **Purpose.** As required by California Government Code Section 65915, the purpose of this section is to offer incentives to developers for providing housing that is affordable by families of very low or lower income and senior citizens. In offering such incentives, it is the intent of this section to carry out the requirements of California Government Code Sections 65913 and 65915 et seq. This zoning ordinance includes additional density bonus provisions in Section 10.44.120 (Senior Housing Projects).
- B. **Eligibility for bonus and incentives.** In order to be eligible for a density bonus and other incentives as provided by this section, a proposed residential development project shall:
 1. Consist of five or more rental units; and
 2. Be designed and constructed so that at least one of following requirements are met:
 - a. 20 percent of the total number of proposed units are for lower income households, as defined in §50079.5 of the California Health and Safety Code; or

- b. 10 percent of the total number of proposed units are for very low income households, as defined in §50105 of the California Health and Safety Code; or
 - c. 50 percent of the total number of proposed units are for qualifying residents as determined by §51.3 of the California Civil Code (senior citizens of any income level); and
 - 3. Satisfy all other applicable provisions of this Title.
- C. **Density bonus.** A housing development that satisfies all applicable provisions of this section shall be entitled to up to a 25 percent increase in the number of dwelling units normally allowed by the applicable zoning district as of the acceptance date of the project land use permit application. No single project shall be granted more than one density bonus pursuant to this section.
- D. **Other incentives.** A qualifying housing development shall be entitled to at least one of the concessions or incentives identified by California Government Code §65915(b) and 65915(h), and the granting authority is hereby authorized to approve such measures, notwithstanding other provisions of this Title, The granting authority may limit its approval to a density bonus only if it makes a written finding that the additional concession or incentive is not required in order for rents for the targeted units to be set as specified by California Government Code §65915(c).
- E. **Continued availability.** The land use permit application for the residential project shall include the procedures proposed by the developer to maintain the continued affordability of all lower income density bonus units as follows:
 - 1. **Projects with City or County Funding.** Projects receiving a direct financial contribution or other financial incentives from the City or other governmental agencies shall maintain the availability of all lower income density bonus units for a minimum of 30 years, as required by California Government Code §65915(c) and §65916.
 - 2. **Private projects - Density bonus only.** Privately-financed projects that receive a density bonus as the only incentive from the City shall maintain the availability of lower income density bonus units for a minimum of 10 years, consistent with California Government Code § 65915(c).
 - 3. **Private projects – Additional incentives.** Projects receiving a density bonus and at least one other concession or incentive as provided by subsection D (Other incentives) of this section shall maintain the availability of all lower income density bonus units for a minimum of 30 years, as required by California Government Code § 65915(c).
- F. **Location of bonus units.** As required by California Government Code §65915(g), the location of density bonus units within the qualifying housing development may be at the discretion of the developer, and need not be in the same area of the project where the units for the lower income households are located.

ATTACHMENT N

(PAGE)

Comparison Matrix: Sausalito's Existing and Updated Density Bonus Ordinance

No.	Target Development Type	% of Affordable Units		Bonus Granted		Maximum allowed Density Bonus		Density Bonus Increase	% Affordable Units Required for Maximum Bonus
		State	Saus.	State	Saus.	State	Saus.		
A.	Very Low Income housing units	5%	10%	20%	up to 25%	35%	25%	2.5	11
B.	Lower Income housing units	10%	20%	20%	up to 25%	35%	25%	1.5	20
C.	Moderate Income housing units in a comment interest development	10%	N/A	5%	up to 25%	35%	25%	1	40
D.	Senior Housing	35 units	50%	20%	up to 25%	35%	25%	N/A	N/A
E.	Conversion of apartments to condominiums	33%	N/A	25%	N/A	N/A	N/A	N/A	N/A
F.	Housing Development with child care facility		N/A	equal to SF of facility	N/A	N/A	N/A	N/A	N/A

State Density Bonus Law

GOVERNMENT CODE
SECTION 65915-65918

65915.

(a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development as defined in Section 4100 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), the applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, "total units" or "total dwelling units" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all low- and very low income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required

1 by the construction or mortgage financing assistance program,
2 mortgage insurance program, or rental subsidy program. Rents for the
3 lower income density bonus units shall be set at an affordable rent
4 as defined in Section 50053 of the Health and Safety Code.
5 Owner-occupied units shall be available at an affordable housing cost
6 as defined in Section 50052.5 of the Health and Safety Code.
7

8 (2) An applicant shall agree to, and the city, county, or city and
9 county shall ensure that, the initial occupant of the
0 moderate-income units that are directly related to the receipt of the
1 density bonus in the common interest development, as defined in
2 Section 4100 of the Civil Code, are persons and families of moderate
3 income, as defined in Section 50093 of the Health and Safety Code,
4 and that the units are offered at an affordable housing cost, as that
5 cost is defined in Section 50052.5 of the Health and Safety Code.
6 The local government shall enforce an equity sharing agreement,
7 unless it is in conflict with the requirements of another public
8 funding source or law. The following apply to the equity sharing
9 agreement:
0

1 (A) Upon resale, the seller of the unit shall retain the value of
2 any improvements, the downpayment, and the seller's proportionate
3 share of appreciation. The local government shall recapture any
4 initial subsidy, as defined in subparagraph (B), and its
5 proportionate share of appreciation, as defined in subparagraph (C),
6 which amount shall be used within five years for any of the purposes
7 described in subdivision (e) of Section 33334.2 of the Health and
8 Safety Code that promote home ownership.
9

0 (B) For purposes of this subdivision, the local government's
1 initial subsidy shall be equal to the fair market value of the home
2 at the time of initial sale minus the initial sale price to the
3 moderate-income household, plus the amount of any downpayment
4 assistance or mortgage assistance. If upon resale the market value is
5 lower than the initial market value, then the value at the time of
6 the resale shall be used as the initial market value.
7

8 (C) For purposes of this subdivision, the local government's
9 proportionate share of appreciation shall be equal to the ratio of
0 the local government's initial subsidy to the fair market value of
1 the home at the time of initial sale.
2

3 (d) (1) An applicant for a density bonus pursuant to subdivision
4 (b) may submit to a city, county, or city and county a proposal for
5 the specific incentives or concessions that the applicant requests
6 pursuant to this section, and may request a meeting with the city,
7 county, or city and county. The city, county, or city and county
8 shall grant the concession or incentive requested by the applicant
9 unless the city, county, or city and county makes a written finding,
0 based upon substantial evidence, of any of the following:
1

2 (A) The concession or incentive is not required in order to
3 provide for affordable housing costs, as defined in Section 50052.5
4 of the Health and Safety Code, or for rents for the targeted units to
5 be set as specified in subdivision (c).

1
2 (B) The concession or incentive would have a specific adverse
3 impact, as defined in paragraph (2) of subdivision (d) of Section
4 65589.5, upon public health and safety or the physical environment or
5 on any real property that is listed in the California Register of
6 Historical Resources and for which there is no feasible method to
7 satisfactorily mitigate or avoid the specific adverse impact without
8 rendering the development unaffordable to low- and moderate-income
9 households.

0
1 (C) The concession or incentive would be contrary to state or
2 federal law.

3
4 (2) The applicant shall receive the following number of incentives
5 or concessions:

6
7 (A) One incentive or concession for projects that include at least
8 10 percent of the total units for lower income households, at least
9 5 percent for very low income households, or at least 10 percent for
0 persons and families of moderate income in a common interest
1 development.

2
3 (B) Two incentives or concessions for projects that include at
4 least 20 percent of the total units for lower income households, at
5 least 10 percent for very low income households, or at least 20
6 percent for persons and families of moderate income in a common
7 interest development.

8
9 (C) Three incentives or concessions for projects that include at
0 least 30 percent of the total units for lower income households, at
1 least 15 percent for very low income households, or at least 30
2 percent for persons and families of moderate income in a common
3 interest development.

4
5 (3) The applicant may initiate judicial proceedings if the city,
6 county, or city and county refuses to grant a requested density
7 bonus, incentive, or concession. If a court finds that the refusal to
8 grant a requested density bonus, incentive, or concession is in
9 violation of this section, the court shall award the plaintiff
0 reasonable attorney's fees and costs of suit. Nothing in this
1 subdivision shall be interpreted to require a local government to
2 grant an incentive or concession that has a specific, adverse impact,
3 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
4 upon health, safety, or the physical environment, and for which there
5 is no feasible method to satisfactorily mitigate or avoid the
6 specific adverse impact. Nothing in this subdivision shall be
7 interpreted to require a local government to grant an incentive or
8 concession that would have an adverse impact on any real property
9 that is listed in the California Register of Historical Resources.
0 The city, county, or city and county shall establish procedures for
1 carrying out this section, that shall include legislative body
2 approval of the means of compliance with this section.

3
4 (e) (1) In no case may a city, county, or city and county apply
5 any development standard that will have the effect of physically

precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph

1 (B) of paragraph (1) of subdivision (b), the density bonus shall be
2 calculated as follows:
3

4 Percentage Very Low 5 Income Units	Percentage Density Bonus
6 5	20
7 6	22.5
8 7	25
9 8	27.5
0 9	30
1 10	32.5
2 11	35
3	

4 (3) For housing developments meeting the criteria of subparagraph
5 (C) of paragraph (1) of subdivision (b), the density bonus shall be
6 20 percent of the number of senior housing units.

7 (4) For housing developments meeting the criteria of subparagraph
8 (D) of paragraph (1) of subdivision (b), the density bonus shall be
9 calculated as follows:
0

1 Percentage Moderate- 2 Income Units	Percentage Density Bonus
3 10	5
4 11	6
5 12	7
6 13	8
7 14	9
8 15	10
9 16	11
0 17	12
1 18	13
2 19	14
3 20	15
4 21	16
5 22	17
6 23	18
7 24	19
8 25	20
9 26	21
0 27	22
1 28	23
2 29	24
3 30	25
4 31	26
5 32	27
6 33	28
7 34	29
8 35	30
9 36	31
0 37	32
1 38	33
2 39	34
3 40	35
4	

5 (5) All density calculations resulting in fractional units shall

1 be rounded up to the next whole number. The granting of a density
2 bonus shall not be interpreted, in and of itself, to require a
3 general plan amendment, local coastal plan amendment, zoning change,
4 or other discretionary approval.
5

6 (g) (1) When an applicant for a tentative subdivision map, parcel
7 map, or other residential development approval donates land to a
8 city, county, or city and county in accordance with this subdivision,
9 the applicant shall be entitled to a 15-percent increase above the
0 otherwise maximum allowable residential density for the entire
1 development, as follows:
2
3

4 Percentage Very Low	Percentage Density Bonus
5 Income	
6 10	15
7 11	16
8 12	17
9 13	18
0 14	19
1 15	20
2 16	21
3 17	22
4 18	23
5 19	24
6 20	25
7 21	26
8 22	27
9 23	28
0 24	29
1 25	30
2 26	31
3 27	32
4 28	33
5 29	34
6 30	35

7
8 (2) This increase shall be in addition to any increase in density
9 mandated by subdivision (b), up to a maximum combined mandated
0 density increase of 35 percent if an applicant seeks an increase
1 pursuant to both this subdivision and subdivision (b). All density
2 calculations resulting in fractional units shall be rounded up to the
3 next whole number. Nothing in this subdivision shall be construed to
4 enlarge or diminish the authority of a city, county, or city and
5 county to require a developer to donate land as a condition of
6 development. An applicant shall be eligible for the increased density
7 bonus described in this subdivision if all of the following
8 conditions are met:
9

0 (A) The applicant donates and transfers the land no later than the
1 date of approval of the final subdivision map, parcel map, or
2 residential development application.
3

4 (B) The developable acreage and zoning classification of the land
5 being transferred are sufficient to permit construction of units

1 affordable to very low income households in an amount not less than
2 10 percent of the number of residential units of the proposed
3 development.

4
5 (C) The transferred land is at least one acre in size or of
6 sufficient size to permit development of at least 40 units, has the
7 appropriate general plan designation, is appropriately zoned with
8 appropriate development standards for development at the density
9 described in paragraph (3) of subdivision (c) of Section 65583.2, and
0 is or will be served by adequate public facilities and
1 infrastructure.

2
3 (D) The transferred land shall have all of the permits and
4 approvals, other than building permits, necessary for the development
5 of the very low income housing units on the transferred land, not
6 later than the date of approval of the final subdivision map, parcel
7 map, or residential development application, except that the local
8 government may subject the proposed development to subsequent design
9 review to the extent authorized by subdivision (i) of Section 65583.2
0 if the design is not reviewed by the local government prior to the
1 time of transfer.

2
3 (E) The transferred land and the affordable units shall be subject
4 to a deed restriction ensuring continued affordability of the units
5 consistent with paragraphs (1) and (2) of subdivision (c), which
6 shall be recorded on the property at the time of the transfer.

7
8 (F) The land is transferred to the local agency or to a housing
9 developer approved by the local agency. The local agency may require
0 the applicant to identify and transfer the land to the developer.

1
2 (G) The transferred land shall be within the boundary of the
3 proposed development or, if the local agency agrees, within
4 one-quarter mile of the boundary of the proposed development.

5
6 (H) A proposed source of funding for the very low income units
7 shall be identified not later than the date of approval of the final
8 subdivision map, parcel map, or residential development application.

9 (h) (1) When an applicant proposes to construct a housing
0 development that conforms to the requirements of subdivision (b) and
1 includes a child care facility that will be located on the premises
2 of, as part of, or adjacent to, the project, the city, county, or
3 city and county shall grant either of the following:

4
5 (A) An additional density bonus that is an amount of square feet
6 of residential space that is equal to or greater than the amount of
7 square feet in the child care facility.

8
9 (B) An additional concession or incentive that contributes
0 significantly to the economic feasibility of the construction of the
1 child care facility.

2
3 (2) The city, county, or city and county shall require, as a
4 condition of approving the housing development, that the following
5 occur:

1
2 (A) The child care facility shall remain in operation for a period
3 of time that is as long as or longer than the period of time during
4 which the density bonus units are required to remain affordable
5 pursuant to subdivision (c).
6

7 (B) Of the children who attend the child care facility, the
8 children of very low income households, lower income households, or
9 families of moderate income shall equal a percentage that is equal to
0 or greater than the percentage of dwelling units that are required
1 for very low income households, lower income households, or families
2 of moderate income pursuant to subdivision (b).
3

4 (3) Notwithstanding any requirement of this subdivision, a city,
5 county, or city and county shall not be required to provide a density
6 bonus or concession for a child care facility if it finds, based
7 upon substantial evidence, that the community has adequate child care
8 facilities.
9

0 (4) "Child care facility," as used in this section, means a child
1 day care facility other than a family day care home, including, but
2 not limited to, infant centers, preschools, extended day care
3 facilities, and schoolage child care centers.
4

5 (i) "Housing development," as used in this section, means a
6 development project for five or more residential units. For the
7 purposes of this section, "housing development" also includes a
8 subdivision or common interest development, as defined in Section
9 4100 of the Civil Code, approved by a city, county, or city and
0 county and consists of residential units or unimproved residential
1 lots and either a project to substantially rehabilitate and convert
2 an existing commercial building to residential use or the substantial
3 rehabilitation of an existing multifamily dwelling, as defined in
4 subdivision (d) of Section 65863.4, where the result of the
5 rehabilitation would be a net increase in available residential
6 units. For the purpose of calculating a density bonus, the
7 residential units shall be on contiguous sites that are the subject
8 of one development application, but do not have to be based upon
9 individual subdivision maps or parcels. The density bonus shall be
0 permitted in geographic areas of the housing development other than
1 the areas where the units for the lower income households are
2 located.
3

4 (j) The granting of a concession or incentive shall not be
5 interpreted, in and of itself, to require a general plan amendment,
6 local coastal plan amendment, zoning change, or other discretionary
7 approval. This provision is declaratory of existing law.
8

9 (k) For the purposes of this chapter, concession or incentive
0 means any of the following:
1

2 (1) A reduction in site development standards or a modification of
3 zoning code requirements or architectural design requirements that
4 exceed the minimum building standards approved by the California
5 Building Standards Commission as provided in Part 2.5 (commencing

1 with Section 18901) of Division 13 of the Health and Safety Code,
2 including, but not limited to, a reduction in setback and square
3 footage requirements and in the ratio of vehicular parking spaces
4 that would otherwise be required that results in identifiable,
5 financially sufficient, and actual cost reductions.
6

7 (2) Approval of mixed-use zoning in conjunction with the housing
8 project if commercial, office, industrial, or other land uses will
9 reduce the cost of the housing development and if the commercial,
0 office, industrial, or other land uses are compatible with the
1 housing project and the existing or planned development in the area
2 where the proposed housing project will be located.
3

4 (3) Other regulatory incentives or concessions proposed by the
5 developer or the city, county, or city and county that result in
6 identifiable, financially sufficient, and actual cost reductions.
7

8 (l) Subdivision (k) does not limit or require the provision of
9 direct financial incentives for the housing development, including
0 the provision of publicly owned land, by the city, county, or city
1 and county, or the waiver of fees or dedication requirements.
2

3 (m) This section shall not be construed to supersede or in any
4 way alter or lessen the effect or application of the California
5 Coastal Act of 1976 (Division 20 (commencing with Section 30000) of
6 the Public Resources Code).
7

8 (n) If permitted by local ordinance, nothing in this section shall
9 be construed to prohibit a city, county, or city and county from
0 granting a density bonus greater than what is described in this
1 section for a development that meets the requirements of this section
2 or from granting a proportionately lower density bonus than what is
3 required by this section for developments that do not meet the
4 requirements of this section.
5

6 (o) For purposes of this section, the following definitions shall
7 apply:
8

9 (1) "Development standard" includes a site or construction
0 condition, including, but not limited to, a height limitation, a
1 setback requirement, a floor area ratio, an onsite open-space
2 requirement, or a parking ratio that applies to a residential
3 development pursuant to any ordinance, general plan element, specific
4 plan, charter, or other local condition, law, policy, resolution, or
5 regulation.
6

7 (2) "Maximum allowable residential density" means the density
8 allowed under the zoning ordinance and land use element of the
9 general plan, or if a range of density is permitted, means the
0 maximum allowable density for the specific zoning range and land use
1 element of the general plan applicable to the project. Where the
2 density allowed under the zoning ordinance is inconsistent with the
3 density allowed under the land use element of the general plan, the
4 general plan density shall prevail.
5

6 (p) (1) Upon the request of the developer, no city, county, or
7

1 city and county shall require a vehicular parking ratio, inclusive of
2 handicapped and guest parking, of a development meeting the criteria
3 of subdivision (b), that exceeds the following ratios:
4

- 5 (A) Zero to one bedroom: one onsite parking space.
- 6 (B) Two to three bedrooms: two onsite parking spaces.
- 7 (C) Four and more bedrooms: two and one-half parking spaces.

8
9 (2) If the total number of parking spaces required for a
0 development is other than a whole number, the number shall be rounded
1 up to the next whole number. For purposes of this subdivision, a
2 development may provide "onsite parking" through tandem parking or
3 uncovered parking, but not through onstreet parking.
4

5 (3) This subdivision shall apply to a development that meets the
6 requirements of subdivision (b) but only at the request of the
7 applicant. An applicant may request parking incentives or concessions
8 beyond those provided in this subdivision pursuant to subdivision
9 (d).
0

1
2
3 65915.5. (a) When an applicant for approval to convert apartments
4 to a condominium project agrees to provide at least 33 percent of the
5 total units of the proposed condominium project to persons and
6 families of low or moderate income as defined in Section 50093 of the
7 Health and Safety Code, or 15 percent of the total units of the
8 proposed condominium project to lower income households as defined in
9 Section 50079.5 of the Health and Safety Code, and agrees to pay for
0 the reasonably necessary administrative costs incurred by a city,
1 county, or city and county pursuant to this section, the city,
2 county, or city and county shall either

- 3 (1) grant a density bonus or
- 4 (2) provide other incentives of equivalent financial value. A city,
5 county, or city and county may place such reasonable conditions on
6 the granting of a density bonus or other incentives of equivalent
7 financial value as it finds appropriate, including, but not limited
8 to, conditions which assure continued affordability of units to
9 subsequent purchasers who are persons and families of low and
0 moderate income or lower income households.

1
2 (b) For purposes of this section, "density bonus" means an
3 increase in units of 25 percent over the number of apartments, to be
4 provided within the existing structure or structures proposed for
5 conversion.
6

7 (c) For purposes of this section, "other incentives of equivalent
8 financial value" shall not be construed to require a city, county, or
9 city and county to provide cash transfer payments or other monetary
0 compensation but may include the reduction or waiver of requirements
1 which the city, county, or city and county might otherwise apply as
2 conditions of conversion approval.
3

4 (d) An applicant for approval to convert apartments to a
5 condominium project may submit to a city, county, or city and county

1 a preliminary proposal pursuant to this section prior to the
2 submittal of any formal requests for subdivision map approvals. The
3 city, county, or city and county shall, within 90 days of receipt of
4 a written proposal, notify the applicant in writing of the manner in
5 which it will comply with this section. The city, county, or city and
6 county shall establish procedures for carrying out this section,
7 which shall include legislative body approval of the means of
8 compliance with this section.
9

0 (e) Nothing in this section shall be construed to require a city,
1 county, or city and county to approve a proposal to convert
2 apartments to condominiums.
3

4 (f) An applicant shall be ineligible for a density bonus or other
5 incentives under this section if the apartments proposed for
6 conversion constitute a housing development for which a density bonus
7 or other incentives were provided under Section 65915.
8

9 65916. Where there is a direct financial contribution to a housing
0 development pursuant to Section 65915 through participation in cost
1 of infrastructure, write-down of land costs, or subsidizing the cost
2 of construction, the city, county, or city and county shall assure
3 continued availability for low- and moderate-income units for 30
4 years. When appropriate, the agreement provided for in Section 65915
5 shall specify the mechanisms and procedures necessary to carry out
6 this section.
7

8 65917. In enacting this chapter it is the intent of the Legislature
9 that the density bonus or other incentives offered by the city,
0 county, or city and county pursuant to this chapter shall contribute
1 significantly to the economic feasibility of lower income housing in
2 proposed housing developments. In the absence of an agreement by a
3 developer in accordance with Section 65915, a locality shall not
4 offer a density bonus or any other incentive that would undermine the
5 intent of this chapter.
6

7 65917.5. (a) As used in this section, the following terms shall
8 have the following meanings:
9

0 (1) "Child care facility" means a facility installed, operated,
1 and maintained under this section for the nonresidential care of
2 children as defined under applicable state licensing requirements for
3 the facility.
4

5 (2) "Density bonus" means a floor area ratio bonus over the
6 otherwise maximum allowable density permitted under the applicable
7 zoning ordinance and land use elements of the general plan of a city,
8 including a charter city, city and county, or county of:
9

0 (A) A maximum of five square feet of floor area for each one
1 square foot of floor area contained in the child care facility for
2 existing structures.
3

4 (B) A maximum of 10 square feet of floor area for each one square
5 foot of floor area contained in the child care facility for new

1 structures.

2 For purposes of calculating the density bonus under this section,
3 both indoor and outdoor square footage requirements for the child
4 care facility as set forth in applicable state child care licensing
5 requirements shall be included in the floor area of the child care
6 facility.
7

8 (3) "Developer" means the owner or other person, including a
9 lessee, having the right under the applicable zoning ordinance of a
0 city council, including a charter city council, city and county board
1 of supervisors, or county board of supervisors to make an
2 application for development approvals for the development or
3 redevelopment of a commercial or industrial project.
4

5 (4) "Floor area" means as to a commercial or industrial project,
6 the floor area as calculated under the applicable zoning ordinance of
7 a city council, including a charter city council, city and county
8 board of supervisors, or county board of supervisors and as to a
9 child care facility, the total area contained within the exterior
0 walls of the facility and all outdoor areas devoted to the use of the
1 facility in accordance with applicable state child care licensing
2 requirements.
3

4 (b) A city council, including a charter city council, city and
5 county board of supervisors, or county board of supervisors may
6 establish a procedure by ordinance to grant a developer of a
7 commercial or industrial project, containing at least 50,000 square
8 feet of floor area, a density bonus when that developer has set aside
9 at least 2,000 square feet of floor area and 3,000 outdoor square
0 feet to be used for a child care facility. The granting of a bonus
1 shall not preclude a city council, including a charter city council,
2 city and county board of supervisors, or county board of supervisors
3 from imposing necessary conditions on the project or on the
4 additional square footage. Projects constructed under this section
5 shall conform to height, setback, lot coverage, architectural review,
6 site plan review, fees, charges, and other health, safety, and
7 zoning requirements generally applicable to construction in the zone
8 in which the property is located. A consortium with more than one
9 developer may be permitted to achieve the threshold amount for the
0 available density bonus with each developer's density bonus equal to
1 the percentage participation of the developer. This facility may be
2 located on the project site or may be located offsite as agreed upon
3 by the developer and local agency. If the child care facility is not
4 located on the site of the project, the local agency shall determine
5 whether the location of the child care facility is appropriate and
6 whether it conforms with the intent of this section. The child care
7 facility shall be of a size to comply with all state licensing
8 requirements in order to accommodate at least 40 children.

9 (c) The developer may operate the child care facility itself or
0 may contract with a licensed child care provider to operate the
1 facility. In all cases, the developer shall show ongoing coordination
2 with a local child care resource and referral network or local
3 governmental child care coordinator in order to qualify for the
4 density bonus.
5

1 (d) If the developer uses space allocated for child care facility
2 purposes, in accordance with subdivision (b), for purposes other than
3 for a child care facility, an assessment based on the square footage
4 of the project may be levied and collected by the city council,
5 including a charter city council, city and county board of
6 supervisors, or county board of supervisors. The assessment shall be
7 consistent with the market value of the space. If the developer fails
8 to have the space allocated for the child care facility within three
9 years, from the date upon which the first temporary certificate of
0 occupancy is granted, an assessment based on the square footage of
1 the project may be levied and collected by the city council,
2 including a charter city council, city and county board of
3 supervisors, or county board of supervisors in accordance with
4 procedures to be developed by the legislative body of the city
5 council, including a charter city council, city and county board of
6 supervisors, or county board of supervisors. The assessment shall be
7 consistent with the market value of the space. A penalty levied
8 against a consortium of developers shall be charged to each developer
9 in an amount equal to the developer's percentage square feet
0 participation. Funds collected pursuant to this subdivision shall be
1 deposited by the city council, including a charter city council, city
2 and county board of supervisors, or county board of supervisors into
3 a special account to be used for child care services or child care
4 facilities.

5
6 (e) Once the child care facility has been established, prior to
7 the closure, change in use, or reduction in the physical size of, the
8 facility, the city, city council, including a charter city council,
9 city and county board of supervisors, or county board of supervisors
0 shall be required to make a finding that the need for child care is
1 no longer present, or is not present to the same degree as it was at
2 the time the facility was established.

3
4 (f) The requirements of Chapter 5 (commencing with Section 66000)
5 and of the amendments made to Sections 53077, 54997, and 54998 by
6 Chapter 1002 of the Statutes of 1987 shall not apply to actions taken
7 in accordance with this section.

8
9 (g) This section shall not apply to a voter-approved ordinance
0 adopted by referendum or initiative.

1
2 65918. The provisions of this chapter shall apply to charter
3 cities.

Draft Emergency Shelter Supplemental Application
 To Be Filed Concurrent with an Occupational Use Permit and a Zoning Permit

Emergency Shelter Information (to be completed by the Applicant)	
Name of Shelter: _____	
Address of Shelter: _____	Assessor's Parcel Number: _____
Gross Square Footage of Parcel: _____	Total Floor Area of Shelter: _____
Height of Shelter: _____	Total Building Coverage of Shelter: _____
Setback of Shelter to: West Property Line (PL) _____ East PL _____	South PL _____ North PL _____
Number of Beds Proposed: _____	Total Number of On-Site Parking Spaces: _____
Number of Clients Nightly: _____	Maximum Length of Stay Per Client: _____
Hours of Operation: _____	Days of Operation: _____
Square footage of interior waiting and intake area: _____	Number of on-site staff, employees and/or independent contractors on the maximum staffed shift: _____
Square footage of the following: ❖ Central cooking and dining room: _____ ❖ Recreation room: _____ ❖ Laundry facilities: _____ ❖ Office: _____ ❖ Storage: _____ ❖ Other Ancillary Use (_____): _____	
Will new construction or on-site improvements be required?: <input type="checkbox"/> Yes <input type="checkbox"/> No (if yes, a Building Permit and a Design Review Permit may be required)	

ATTACHMENT P
(2 PAGES)

Draft Emergency Shelter Supplemental Application
To Be Filed Concurrent with an Occupational Use Permit and a Zoning Permit

Emergency Shelter Checklist (to be completed by Staff, all answers must be "Yes" to approve)	
Shelter site is located in the Public Institutional (PI) Zoning District	<input type="checkbox"/> Yes <input type="checkbox"/> No
The site complies with all property development standards in the PI Zoning District	<input type="checkbox"/> Yes <input type="checkbox"/> No
The shelter is not located within a radius of 300 feet of another emergency shelter	<input type="checkbox"/> Yes <input type="checkbox"/> No
The shelter contains no more than twenty (20) beds	<input type="checkbox"/> Yes <input type="checkbox"/> No
The shelter serves no more than twenty (20) persons nightly	<input type="checkbox"/> Yes <input type="checkbox"/> No
The physical size of the shelter is no larger than necessary for the number of persons the shelter serves	<input type="checkbox"/> Yes <input type="checkbox"/> No
On-site parking provided for clients is equal to or greater than one space for every four beds	<input type="checkbox"/> Yes <input type="checkbox"/> No Total Number of Client Spaces Required:
Staff parking is equal to or greater than one space for each on-site staff, employees and/or independent contractors on the maximum staffed shift	<input type="checkbox"/> Yes <input type="checkbox"/> No Total Number of Staff Spaces Required:
Adequate external lighting is provided for security purposes. The lighting is stationary and designed, arranged and installed so as to confine direct rays onto the premises and to direct light away from adjacent structures and public rights-of-way. External lighting is of an intensity compatible with the neighborhood	<input type="checkbox"/> Yes <input type="checkbox"/> No
A minimum of 200 square feet interior waiting and intake area is provided	<input type="checkbox"/> Yes <input type="checkbox"/> No
The following specific common facilities provided for the exclusive use of the residents and staff do not substantially increase the overall size of the shelter facility (check which facilities are applicable): <input type="checkbox"/> Central cooking and dining room <input type="checkbox"/> Recreation room <input type="checkbox"/> Laundry facilities	<input type="checkbox"/> Yes <input type="checkbox"/> No
Other uses provided in the facility that are considered ancillary to the primary use such as office and storage do not exceed 10% of the total floor area of the shelter facility	<input type="checkbox"/> Yes <input type="checkbox"/> No
A written management plan has been submitted to the Community Development Director for approval	<input type="checkbox"/> Yes <input type="checkbox"/> No

UPDATED: 6/17/14

I:\CDD\PROJECTS - NON-ADDRESS\ZOA\2014\14-007 Housing Element Implementation\Special Needs Housing (SB2)\Draft Application Materials\Draft Emergency Shelter Supplemental Application.docx

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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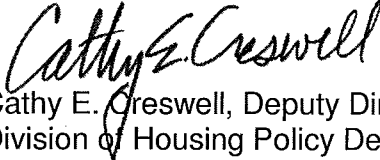
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**MEMORANDUM**

Updated: April 10, 2013

DATE: May 7, 2008

TO: Planning Directors and Interested Parties

FROM: 
Cathy E. Creswell, Deputy Director
Division of Housing Policy Development

SUBJECT: **Senate Bill 2 -- Legislation Effective January 1, 2008:
*Local Planning and Approval for Emergency Shelters and
Transitional and Supportive Housing***

Chapter 633, Statutes of 2007 (SB 2) clarifies and strengthens housing element law to ensure zoning encourages and facilitates emergency shelters and limits the denial of emergency shelters and transitional and supportive housing under the Housing Accountability Act. The law will facilitate efforts to address the critical needs of homeless populations and persons with special needs throughout all communities in California. Generally, SB 2 amends housing element law regarding planning and approval for emergency shelters and transitional and supportive housing as follows:

Planning (Government Code Section 65583)

- At least one zone shall be identified to permit emergency shelters without a conditional use permit or other discretionary action.
- Sufficient capacity must be identified to accommodate the need for emergency shelters and at least one year-round emergency shelter.
- Existing or proposed permit procedures, development and management standards must be objective and encourage and facilitate the development of or conversion to emergency shelters.
- Emergency shelters shall only be subject to development and management standards that apply to residential or commercial within the same zone.
- Written and objective standards may be applied as specified in statute, including maximum number of beds, provision of onsite management, length of stay and security.
- Includes flexibility for jurisdictions to meet zoning requirements with existing ordinances or demonstrate the need for emergency shelters can be accommodated in existing shelters or through a multi-jurisdictional agreement.

- Transitional and supportive housing shall be considered a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone.

Local Approval (Government Code Section 65589.5: Housing Accountability Act)

- Limits denial of emergency shelters, transitional housing or supportive housing by requiring specific findings.
- Some findings shall not be utilized if new planning requirements of SB 2 are not met; such as identifying a zone without a conditional use permit,

Attached is a briefing paper informing local governments of SB 2, providing assistance in evaluating these new provisions to effectively implement this important new State law; in addition to a copy of the legislation. Electronic copies of these can be found on the Department's website at www.hcd.ca.gov or the Senate's website at www.senate.ca.gov. You may also obtain copies of published bills from the Legislative Bill Room by calling (916) 445-2323. If you have any questions, or seek additional technical assistance, please contact Paul McDougall, HPD Manager, at (916) 445-4728.

Attachments

Chapter 633, Statutes of 2007 (Senate Bill 2)

TABLE OF CONTENTS

Introduction

Homeless Needs	5
Purpose and Objectives of SB 2	5

Section 1: Planning (Government Code Section 65583)

Identifying and Analyzing Needs and Resources	7
Identifying Zoning for Emergency Shelters	8
Permitting Emergency Shelters without Discretionary Action	10
Development Standards to Encourage and Facilitate	10
Encouraging Multi-jurisdictional Cooperation and Coordination	12
Existing Ordinances and Existing Shelters that Accommodate Need	13
Transitional and Supportive Housing	13
Housing Element Policies and Programs	14
Timing: When SB 2 Applies	15

Section 2: Local Approval (Government Code Section 65589.5)

The Housing Accountability Act	17
Zoning Inconsistency	17

Attachments

1 – Statutory Changes to Housing Element Law (Underline Version)	18
2 – Definitions	30
3 – Helpful Links	32

Introduction

Homeless Needs

Homelessness in California is a continuing and growing crisis. On any given day, there are at least 361,000 homeless individuals in California – or 1.1 percent of the State’s total population. Of this number, two-thirds are estimated to be single adults, while the other third are families. Some 30 percent of California’s homeless – 108,000 – are so-called “chronic” homeless who have been homeless for six months or more. This population tends to be comprised of single adults who face such obstacles as mental illness, substance abuse problems and chronic physical health problems or disabilities that prevent them from working. Homeless individuals and families are without permanent housing largely because of a lack of affordable housing, often compounded by limited education or skills, mental illness and substance abuse issues, domestic violence and the lack of family or other support networks.¹

California’s homelessness crisis demands the effective involvement of both the public and private sectors. A housing element can be an effective and powerful tool in combating homelessness. Passage of SB 2 strengthened the law to increase its effectiveness in addressing the needs of California’s homeless population. The upcoming housing element update presents an important opportunity to make ending homelessness a critical priority.

Purpose and Objectives of SB 2

The framework of SB 2 resulted from a collaborative effort by key stakeholders including housing and homeless advocates and providers, local governments, planners, and the building industry. SB 2 strengthens existing housing element requirements to provide the opportunity for the development of emergency shelters and transitional and supportive housing. SB 2 ensures zoning, development and management standards and permit procedures encourage emergency shelters while allowing flexibility for existing local strategies and cooperative efforts.

SB 2 focuses on the impacts of zoning requirements on the development of emergency shelters. While the new statute requires that every local government zone for the development of emergency shelters, it does not restrict how local governments allocate resources to address local priority needs. For example, nothing in SB 2 prohibits communities from also adopting a “Housing First” strategy to provide homeless persons with housing immediately and then providing services as needed.

¹ *Governor’s Interagency Task Force on Homelessness, Progress Report and Work Plan for 2003.* Health and Human Services Agency and Business, Transportation and Housing Agency, December 2002

Section 1

Planning

(Government Code Section 65583)

Identifying and Analyzing Needs and Resources

Current law, Government Code Section 65583(a)(7), requires an identification and analysis of the needs of homeless persons and families. The analysis is an essential component of an effective housing element; however data sources can be limited and vary in estimates of need. As a result, an analysis should consider a variety of data sources and include proactive outreach with service providers to examine the degree and characteristics of homeless needs in the community and surrounding communities. A thorough analysis includes:

- An estimate or count of the daily average number of persons lacking shelter. Wherever possible, and to better describe the characteristics of needs, this figure could be divided into single males, single females and families (one or more adults with children) as the needs of each subgroup differ significantly.
- As local data or other existing sources permit (see list below), a description of the percentage of the homeless population who are mentally ill, developmentally disabled, veterans, runaway or emancipated foster youth, substance abusers, survivors of domestic violence, and other subpopulations of homeless considered significant by the jurisdiction.
- An inventory of the resources available within the community including shelters, transitional housing and supportive housing units by type. The analysis should estimate the number and type of existing shelter beds, and units of transitional and supportive housing available.
- Assess the degree of unmet homeless needs, including the extent of need for emergency shelters. As part of this analysis, SB 2 now clarifies the need assessment for emergency shelters must consider seasonal and year-round need. In recognition of local efforts to encourage supportive housing, SB 2 allows jurisdictions with 10 Year Plans to End Chronic Homelessness to reduce the need for emergency shelters by the number of supportive housing units identified in an adopted 10-year plan and that are either vacant or funding has been identified to allow construction in the housing element planning period.

Resources to identify and analyze homeless needs, include:

- Consolidated plans
- Continuum of care plans
- 10 Year Plans to End Chronic Homelessness
- Interagency Council on Homelessness, Guide to Developing Plans and Examples (<http://www.ich.gov/slocal/index.html>)

- Local service providers such as continuum of care providers, local homeless shelter and service providers, food programs, operators of transitional housing programs, local drug and alcohol program service providers, county mental health and social service departments, local Salvation Army, Goodwill Industries, churches and schools, and
- 15 countywide Designated Local Boards certified by the Department's Emergency Housing and Assistance Program (<http://www.hcd.ca.gov/fa/ehap/cntys-with-dlb.html>).

Identifying Zoning for Emergency Shelters

Prior to enactment of SB 2, housing element law required local governments to identify zoning to encourage and facilitate the development of emergency shelters. SB 2 strengthened these requirements. Most prominently, housing element law now requires the identification of a zone(s) where emergency shelters are permitted without a conditional use permit or other discretionary action. To address this requirement, a local government may amend an existing zoning district, establish a new zoning district or establish an overlay zone for existing zoning districts. For example, some communities may amend one or more existing commercial zoning districts to allow emergency shelters without discretionary approval. The zone(s) must provide sufficient opportunities for new emergency shelters in the planning period to meet the need identified in the analysis and must in any case accommodate at least one year-round emergency shelter (see more detailed discussion below).



Cloverfield Services Center – Emergency Shelter by OPCC in Santa Monica, CA
Photo courtesy of OPCC in Santa Monica

When identifying a zone or analyzing an existing zone for emergency shelters, the element should address the compatibility and suitability of the zone. The element should consider what other uses are permitted in the zone and whether the zone is suitable for residential or emergency shelters. For example, an industrial zone with heavy manufacturing may have environmental conditions rendering it unsuitable for residential or shelter uses. In some localities, manufacturing or industrial zones may be in transition, where older industrial uses are redeveloping to residential, office or commercial. Transitioning zones may be compatible

with residential uses and suitable for emergency shelters. Also, a commercial zone allowing residential or residential compatible services (i.e., social services, offices) would be suitable for shelters. For example, Sacramento County permits emergency shelters in its commercial zone along with other residential uses and uses such as retail that are compatible with residential.

SB 2 clarifies existing law by requiring zoning identified for emergency shelters to include sufficient capacity to accommodate the need. The identified zone(s) must have sufficient capacity, when taken as a whole, to meet the need for shelters identified in the housing element, and have a realistic potential for development or reuse opportunities in the planning period. Further, capacity for emergency shelters must be suitable and available and account for physical features (flooding, seismic hazards, chemical contamination, other environmental constraints, and slope instability or erosion) and location (proximity to transit, job centers, and public and community services). The element should also address available acreage (vacant or underutilized) and the realistic capacity for emergency shelters in the zone. For example, if a jurisdiction identifies the public institution zoning district as the zone where emergency shelters will be allowed without a conditional use permit, the element should demonstrate sufficient acreage within the zoning district that could accommodate the actual development of an emergency shelter. The element could also discuss the potential for reuse or conversion of existing buildings to emergency shelters.

SB 2 ensures that each local government shares the responsibility to provide opportunities for the development of emergency shelters. Regardless of the extent of need identified in the element, local governments must provide zoning to allow at least one year round emergency shelter, unless the need for emergency shelters is accommodated through existing shelters or a multi-jurisdictional agreement (see discussion below). This is especially important given the fact that the homeless population is not always visible in the community; is sometimes transitory; data resources are frequently inadequate and the availability and adequacy of services and programs vary significantly by community and can impact the homeless count.

If a local government's existing zoning does not allow emergency shelters without a conditional use permit or other discretionary action, the housing element must include a program to identify a specific zone(s) and amend the zoning code within one year of adoption of the housing element (65583(a)(4)). The only exceptions permitted to the non-discretionary zoning requirement are where a jurisdiction demonstrates their homeless needs can be accommodated in existing shelters; or where the jurisdiction meets all of its need through a multi-jurisdictional agreement (discussed in later sections).

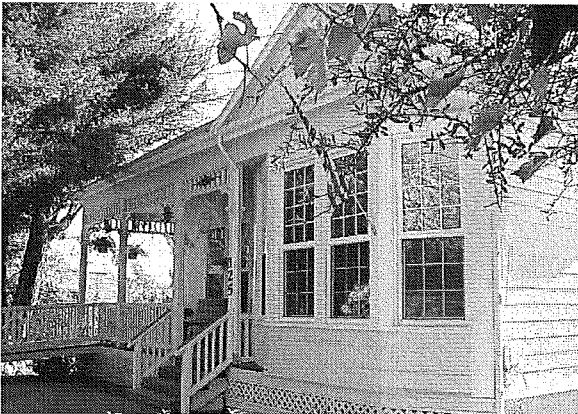
Where a local government has identified a zone and sufficient capacity to encourage emergency shelters consistent with the provisions of SB 2, a local government may also identify additional zones for the development of emergency shelters that require a conditional use permit.

Permitting Emergency Shelters without Discretionary Action

To comply with SB 2, localities must have or adopt a zoning classification that permits emergency shelters in a non-discretionary manner (localities may however apply development standards pursuant to Section 65583(a)(4)). In such zones, permitted uses, development standards and permit procedures must include:

- Objective development standards that encourage and facilitate the approval of emergency shelters.
- Decision-making criteria such as standards that do not require discretionary judgment.
- Standards that do not render emergency shelters infeasible, and only address the use as an emergency shelter, not the perceived characteristics of potential occupants.

Requiring a variance, minor use permit, special use permit or any other discretionary process does not constitute a non-discretionary process. However, local governments may apply non-discretionary design review standards.



Emergency Shelter – Jackson, California
Photo courtesy of Amador-Tuolumne Community Action

A local government should not require public notice of its consideration of emergency shelter proposals unless it provides public notice of other non-discretionary actions. For example, if a local government permits new construction of a single-family residence without discretionary action and public notice is not given for these applications, then a local government should employ the same procedures for emergency shelter applications. The appropriate point for public comment and discretionary action is when zoning is being amended or adopted for emergency shelters, not on a project-by-project basis.

Development Standards to Encourage and Facilitate Emergency Shelters

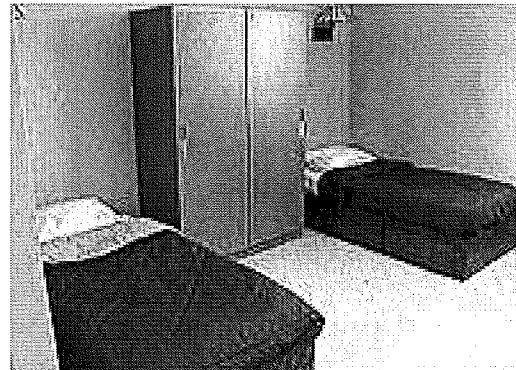
SB 2 requires that emergency shelters only be subject to those development and management standards that apply to residential or commercial use within the same zone, except the local government may apply certain objective standards discussed on the next page (Government Code Section 65583(a)(4)). For example, a light commercial zone might permit a range of wholesaler, service repair and business services subject to buildable area and lot area requirements. In this case, the emergency shelter may be subject only to the same buildable area and lot area requirements. The same zone might permit residential uses subject to certain development standard (i.e., lot area, heights, and setbacks) requirements. In this case, emergency shelters should only be subject to the same development standards.

To demonstrate that processing procedures and standards are objective and encourage and facilitate development of emergency shelters, the housing element must address how:

- zoning explicitly allows the use (meaning the use is specifically described in the zoning code);
- development standards and permit procedures do not render the use infeasible;
- zoning, development and management standards, permit procedures and other applicable land-use regulations promote the use through objective; and predictable standards.

SB 2 allows flexibility for local governments to apply written, objective development and management standards for emergency shelters as described in statute and below.

- The maximum number of beds or persons permitted to be served nightly by the facility.
- Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
- The size and location of exterior and interior on-site waiting and client intake areas.
- The provision of on-site management.
- The proximity to other emergency shelters provided that emergency shelters are not required to be more than 300 feet apart.
- The length of stay.
- Lighting.
- Security during hours that the emergency shelter is in operation.



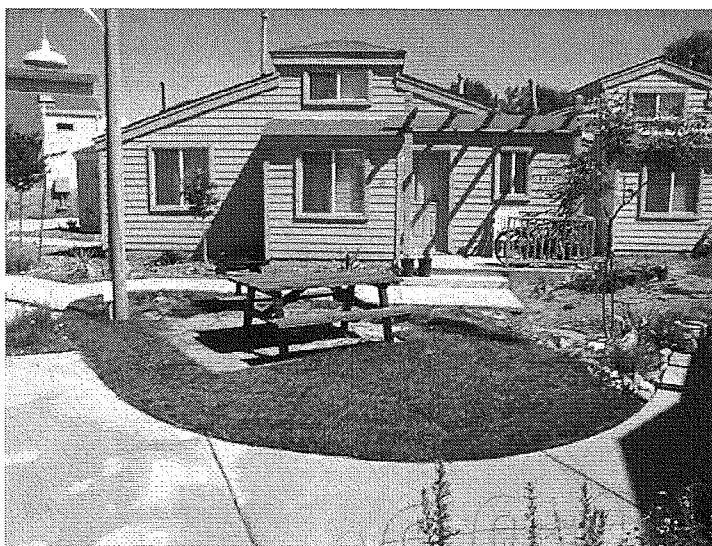
These standards must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter. For example, a standard establishing the maximum number of beds should act to encourage the development of an emergency shelter; local governments should establish flexible ranges for hours of operation; length of stay provision should be consistent with financing programs or statutory definitions limiting occupancy to six months (Health and Safety Code Section 50801) and should not unduly impair shelter operations. Appropriate management standards are reasonable and limited to ensure the operation and maintenance of the property.

Encouraging Multi-Jurisdictional Cooperation and Coordination

SB 2 recognizes and encourages multi-jurisdictional coordination by allowing local governments to satisfy all or part of their obligation to zone for emergency shelters by adopting and implementing a multi-jurisdictional agreement, with a maximum of two adjacent communities. The agreement must commit the participating jurisdictions to develop at least one year-round shelter within two years of the beginning of the housing element planning period. For example, jurisdictions in Southern California Association of Governments (SCAG) region with a statutory due date of June 30, 2008 would need to ensure the development of shelter(s) by June 30, 2010. To utilize this provision, local governments must adopt an agreement that allocates a portion of the new shelter capacity to each jurisdiction as credit towards the jurisdiction's emergency shelter need. The housing element for each participating local government must describe how the capacity was allocated. In addition, the housing element of each participating jurisdiction must describe:

- How the joint facility will address the local governments need for emergency shelters.
- The local government's contribution for both the development and ongoing operation and management of the shelter.
- The amount and source of the funding to be contributed to the shelter.
- How the aggregate capacity claimed by all of the participating jurisdictions does not exceed the actual capacity of the shelter facility.

If the local government can demonstrate that the multi-jurisdictional agreement can accommodate the jurisdiction's need for emergency shelter, the jurisdiction is authorized to comply with the zoning requirements for emergency shelters by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit.

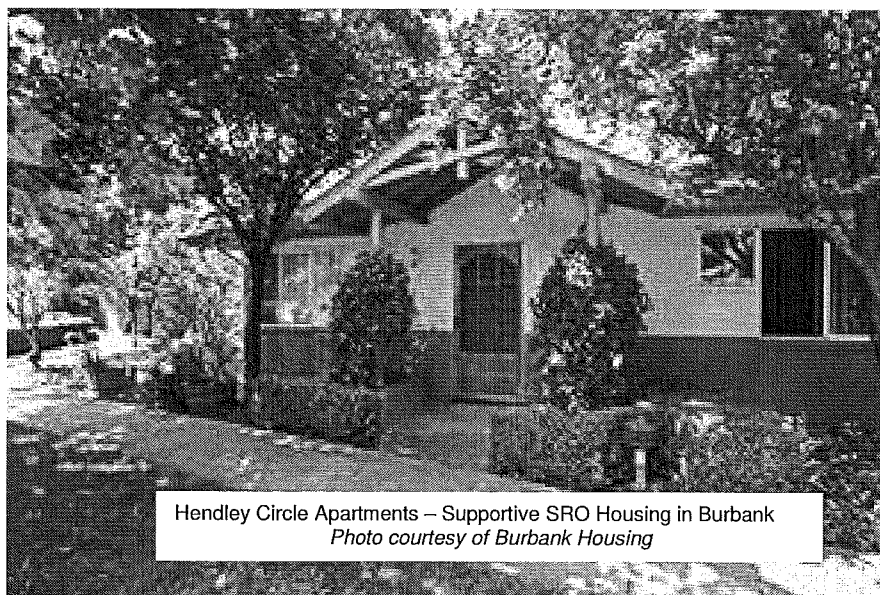


Quinn Cottages, Transitional Housing in Sacramento, CA
Photo courtesy of Cottage Housing, Inc.

Existing Ordinances and Existing Shelters that Accommodate Need

Existing Ordinances Permitting Emergency Shelters

Many local governments have a record of effective actions to address the homeless needs in their community. SB 2 recognizes and provides flexibility for jurisdictions that have already adopted an ordinance(s) that complies with the new zoning requirements. For those local governments with existing ordinances and zoning consistent with requirements of SB 2, no further action will be required to identify zones available



for emergency shelters. The housing element must however, describe how the existing ordinance, policies and standards are consistent with the requirements of SB 2.

Existing Shelters That Accommodate the Need for Emergency Shelters

Local governments that can demonstrate, to the satisfaction of the Department, the existence of one or more emergency shelters either within the jurisdiction or pursuant to a multi-jurisdictional agreement that can accommodate the need for emergency shelters identified in the housing element may comply with the zoning requirements of SB 2 by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit. To demonstrate homeless needs can be accommodated in existing shelters, an element must at minimum list existing shelters including the total number of beds and the number vacant. The analysis should support and document the estimate of vacant beds and must consider seasonal fluctuations in the need for emergency shelters.

Transitional and Supportive Housing

Transitional housing is defined in Section 50675.2 of the Health & Safety Code as rental housing for stays of at least six months but where the units are re-circulated to another program recipient after a set period. Transitional housing may be designated for a homeless individual or family transitioning to permanent housing. This housing can take several forms,

such as single family or multifamily units, and may include supportive services to allow individuals to gain necessary life skills in support of independent living. *Supportive housing* as defined at Section 50675.14 of the Health & Safety Code has no limit on the length of stay, is linked to onsite or offsite services, and is occupied by a target population as defined in Health & Safety Code Section 53260. Services typically include assistance designed to meet the needs of the target population in retaining housing, living and working in the community, and/or improving health and may include case management, mental health treatment, and life skills.

The housing element must demonstrate that transitional housing and supportive housing are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone (Government Code Section 65583(a)(5)). In other words, transitional housing and supportive housing are permitted in all zones allowing residential uses and are not subject to any restrictions (e.g., occupancy limit) not imposed on similar dwellings (e.g., single family home, apartments) in the same zone in which the transitional housing and supportive housing is located. For example, transitional housing located in an apartment building in a multifamily zone is permitted in the same manner as an apartment building in the same zone and supportive housing located in a single family home in a single family zone is permitted in the same manner as a single family home in the same zone.

If jurisdictions do not explicitly permit transitional and supportive housing as previously described, the element must include a program to ensure zoning treats transitional and supportive housing as a residential use, subject only to those restrictions on residential uses contained in the same type of structure.

Housing Element Policies and Programs

Effective programs reflect the results of the local housing need analyses, identification of available resources, including land and financing, and the mitigation of identified governmental and nongovernmental constraints.

Programs consist of specific action steps the locality will take to implement its policies and achieve goals and objectives. Programs must

include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, and describe the jurisdiction's specific role in implementation.



Gish Apartments – Supportive Housing, San Jose, CA
Photo courtesy of First Community Housing and Bernard Andre

Where a jurisdiction does not provide an analysis demonstrating compliance with the provisions of SB 2 through existing zoning, the element must have a program(s) to address the results of that analysis. For example, if the element does not identify an existing zone to

permit emergency shelters without a conditional use permit or other discretionary action, the element must include a program to establish the appropriate zoning, unless the jurisdiction has satisfied its needs through existing emergency shelters or a multi-jurisdictional agreement. If development and management standards do not encourage and facilitate emergency shelters or zoning does not treat transitional and supportive housing as a residential use, the element must include a program(s) to amend existing zoning or processing requirements to comply with SB 2.

Programs to address the requirements of SB 2 for emergency shelters must be implemented within one year of adoption of the housing element. Programs to address requirements for transitional and supportive housing should be implemented early in the planning period. Further, since the program for emergency shelters must be implemented within one year of adoption, the housing element should provide analysis to support and assure effective implementation of the program. For example, the analysis should examine the suitability of zones to be included in the program and whether sufficient and suitable capacity is available. The same type of analysis could evaluate development and management standards that will be considered as part of establishing or amending zoning. This analysis should demonstrate the necessary commitment to ensure zoning, permit procedures and development standards encourage and facilitate emergency shelters.

******* UPDATED*******

Please be aware, if the adopted housing element from the previous cycle (4th cycle) included a program to address the requirements of SB 2 for emergency shelters, and the required timeframe has lapsed, the Department will not be able to find future housing elements in compliance until the required rezoning is complete and the element is amended to reflect that rezoning.

Timing: When SB 2 Applies

In accordance with Government Code Section 65583(e), any draft housing element submitted to the Department after March 31, 2008 will be required to comply with SB 2.

Section 2

Local Approval

(Government Code Section 65589.5)

The Housing Accountability Act

To promote predictability for the development of housing affordable to lower- and moderate-income households, the Housing Accountability Act (Government Code Section 65589.5) prohibits a jurisdiction from disapproving a housing development project, including housing for farmworkers and for very low-, low-, or moderate-income households, or conditioning approval in a manner that renders the project infeasible for development for the use of very low-, low-, or moderate-income households, including through the use of design review standards, unless it makes at least one of five specific written findings based on substantial evidence in the record (Government Code Section 65589.5).

SB 2 adds emergency shelters to the list of uses protected under the Housing Accountability Act. In addition, SB 2 clarifies that the definition of a housing development project includes transitional or supportive housing (see Attachment 1: SB 2 - changes are underlined).

Zoning Inconsistency

Pursuant to the Housing Accountability Act, a local government is prohibited from making the finding regarding zoning and general plan inconsistency (Section 65589.5(d)(5)) to disapprove a development if the jurisdiction identified the site in its general plan (e.g., housing or land-use element) as appropriate for residential use at the density proposed or failed to identify adequate sites to accommodate its share of the regional housing need for all income groups. In addition to extending these provisions to emergency shelters and transitional housing, SB 2 prohibits the use of the zoning and general plan inconsistency finding to disapprove an emergency shelter if the jurisdictions have:

- not identified a zone(s) where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit,
- not demonstrated the identified zone(s) include sufficient capacity to accommodate the need for emergency shelter, or
- not demonstrated the identified zone(s) can accommodate at least one emergency shelter.

This provision applies to any site identified in any element of the general plan for industrial, commercial, or multifamily residential uses. In any court action, the burden of proof is on the local jurisdiction to demonstrate its housing element satisfies the above requirements of SB 2.

Attachment 1

Statutory Changes to Housing Element Law (*underline version*)

Attachment 1

**Changes to State Housing Element Law
Chapter 633, Statutes of 2007 (SB 2)
(changes indicated in strikeouts and underlines)**

65582. As used in this article, the following definitions apply:

- (a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.
- (b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.
- (c) "Department" means the Department of Housing and Community Development.
- (d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.
- (e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.
- (f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.
- (g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

- (a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:
 - (1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.
 - (2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.
(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(iv) The provision of onsite management.

(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in

the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph Transitional housing and supportive housing shall be ~~(5)~~ considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

~~(6)~~ An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

~~(6)~~ An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter. The need for emergency shelter shall be ~~(7)~~ assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.

~~(8)~~ An analysis of opportunities for energy conservation with respect to residential development.

~~(8)~~ An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (89) of subdivision (a).

The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (89) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, ~~where~~when a city, county, or city and county submits a ~~first~~ draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, ~~where~~when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

Housing Accountability Act

65589.5. (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California. (2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and Environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate- income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional

housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and 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 rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

~~(e) This section does not relieve the local agency (C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.~~

~~(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). ThisNeither shall anything in this section also does notbe construed to relieve the local agency local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~(f) This(1) Nothing in this section does notshall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. This. (2) Nothing in this section does notshall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.~~

~~(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.~~

~~(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.~~

~~(h) The following definitions apply for the purposes of this section:~~

~~(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.~~

~~(2) "Housing development project" means a use consisting of either any of the following:~~

~~(A) Residential units only.~~

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of

preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

Attachment 2

Definitions

Attachment 2

Definitions

Emergency Shelters (Health and Safety Code Section 50801(e))

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

Transitional Housing (Health and Safety Code Section 50675.2)(h)

"Transitional housing" and "transitional housing development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

Supportive Housing (Health and Safety Code 50675.14(b))

Housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Section 53260, and that is linked to on- or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Target Population Definition per HSC 53260(d)

(d) "Target population" means adults with low-income having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may, among other populations, include families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, or homeless people.

Attachment 3

Helpful Links

Attachment 3

Helpful Links

National Alliance to End Homelessness

<http://www.endhomelessness.org/section/tools/tenyearplan>

Interagency Council on Homelessness

<http://www.ich.gov/>

Interagency Council on Homelessness, Guide to Developing Plans and Examples

<http://www.ich.gov/slocal/index.html>

U.S. Department of Health and Human Services, Homelessness Resource Center

[http://www.nrchmi.samhsa.gov/\(X\(1\)S\(axpyp555dhn54z45qhpgvnj4\)\)/Default.aspx?AspxAutoDetectCookieSupport=1](http://www.nrchmi.samhsa.gov/(X(1)S(axpyp555dhn54z45qhpgvnj4))/Default.aspx?AspxAutoDetectCookieSupport=1)

The National Coalition for the Homeless – Local Resources in California

<http://www.nationalhomeless.org/resources/local/california.html>

HCD Selected Bibliography on Homeless Issues

<http://www.hcd.ca.gov/hpd/biblio.html>

Building Blocks for Effective Housing Elements

(links to funding resources, data, policy and research on homelessness)

http://www.hcd.ca.gov/hpd/housing_element/index.html

Comparison Matrix—Zoning Standards for Emergency Shelters

	Marin County Jurisdictions*						Other Upper Income Cities	
	Belvedere	Larkspur	Marin Co.	Ross	San Rafael	Tiburon	Agoura Hills	Beverly Hills
Status of By-Right Emergency Shelter Zoning	Adopted	Adopted	Adopted	Adopted	Draft ordinance	Adopted	Adopted	Adopted
Zones Where Permitted By-Right	R (Recreation)	A-P (Administrative Professional) and where A-P uses are permitted (e.g. Planned Development Districts)	C1 (Retail Business) CP (Planned Commercial)	C-D (Civic District)	By right in GC and LI/O (Light Industrial/Office) overlay. CUP in HR, C/O, R/O, I, CCI/O, and LMU zones. CUP in GC and LI/O areas outside overlay.	NC Neighborhood Commercial	By right in CRS (Commercial Retail Service). CUP in CS, CN and CS-MU zones.	Special Needs Housing Overlay Zone
Maximum Capacity Permitted	3 persons	20 persons	40 persons	Not specified	Determined by the occupancy limits est. under Building Code.	10 persons	20 persons	Min floor area of 150 sf/ occupant up to 50 persons
Parking Requirements	1 space per bed	25% of total client beds + staff parking at 10% of total beds	25% of total client beds + staff parking at 10% of total beds	None specified.	<u>Resid zones:</u> 1 space/on duty employee + 1 space per 5 beds <u>Comm/Lt Indus zones:</u> 1 space/on duty employee + 1 space per 10 beds	Not specified	1 space per 250 sf gross floor area, consistent with requirements for commercial retail uses in CRS zone	1 space per 10 beds, plus 0.5 space/ bdrm for families, plus 1 space per employee on duty. 25% parking reduction if w/in 1000' transit stop.

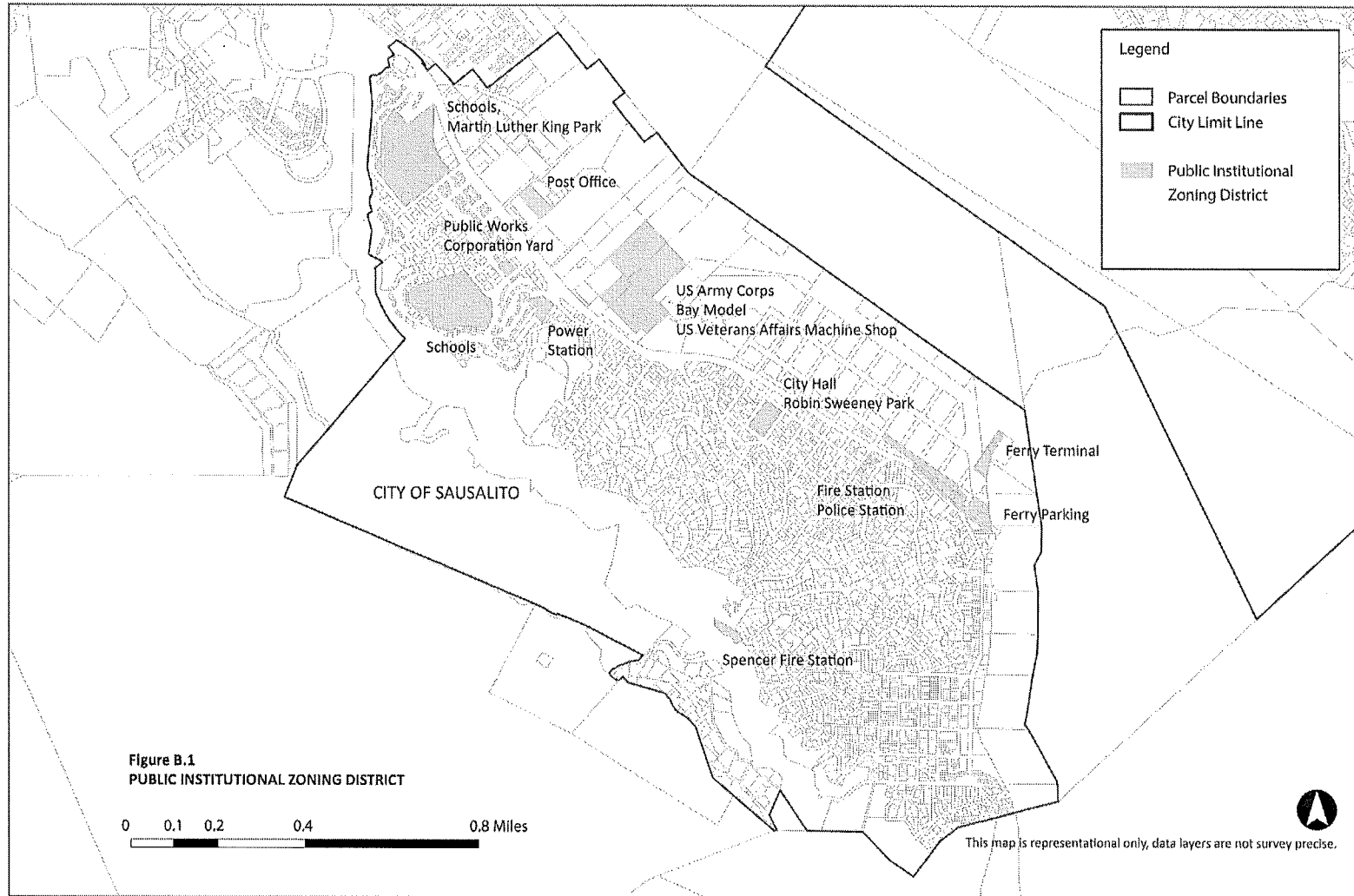
* Note: Marin County cities of San Anselmo, Corte Madera, Fairfax and Novato do not currently specify provisions for emergency shelters within their Municipal Codes, as referenced on each city's website.

ATTACHMENT 2
(1 PAGE)

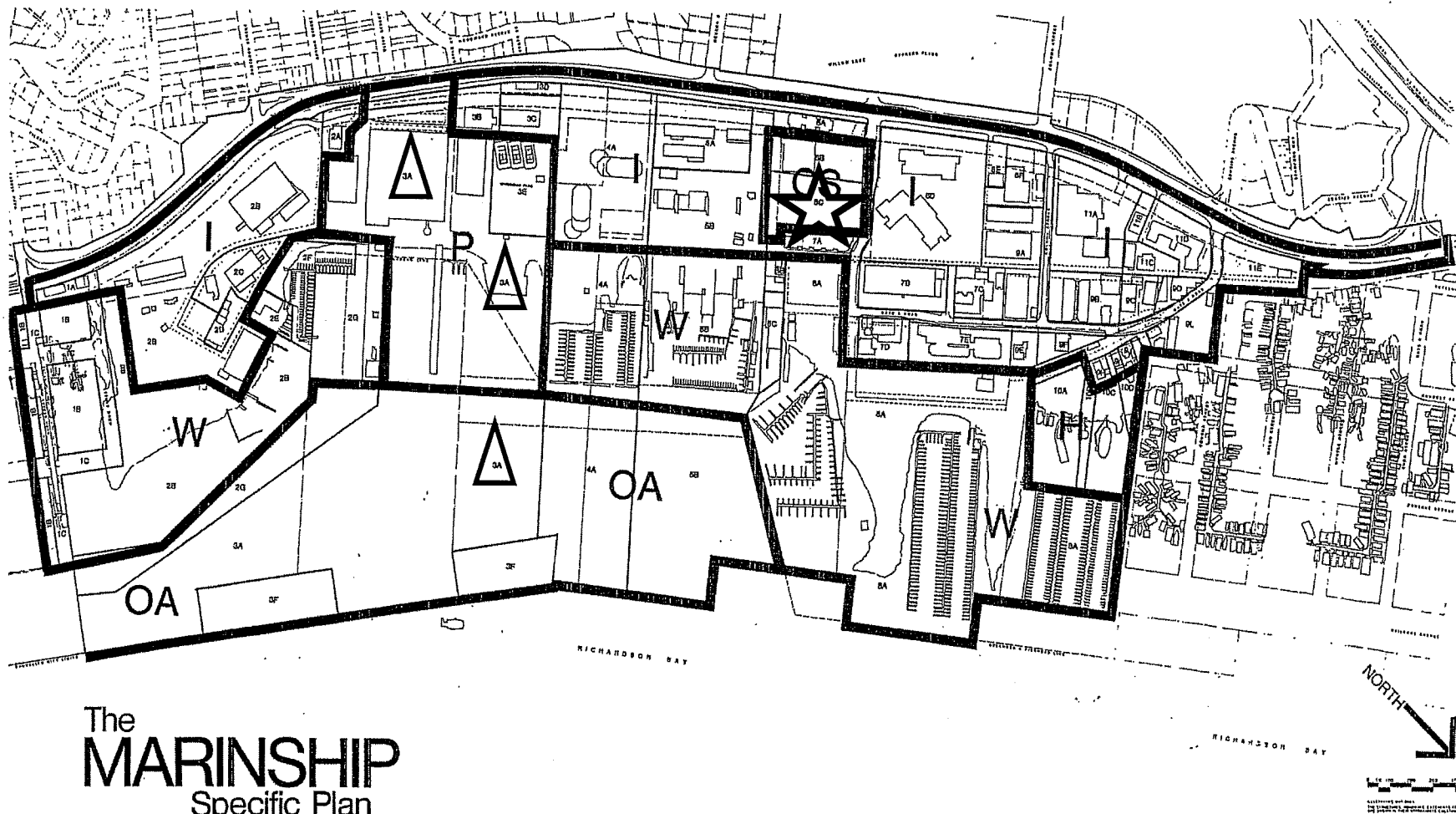
Inventory of Parcels Zoned Public Institutional (PI)

<u>Existing Use</u>	<u>APN</u>	<u>Owner</u>	<u>Address</u>	<u>Parcel Size (SqFt)</u>
Electrical Power Station	064-345-01	PG&E		0
Post Office	064-341-04	SAUSALITO CITY OF	530 NEVADA ST	18,000
Post Office	064-341-10	SAUSALITO CITY OF		7,500
Spencer Fire Station	065-181-44	SAUSALITO CITY OF	300 SPENCER AVE	50,057
Parking	065-073-03	SAUSALITO CITY OF		88,890
Fire Station on Johnson St	065-061-04	SAUSALITO CITY OF		18,771
Fire Station on Johnson St	065-061-05	SAUSALITO CITY OF		4,067
Fire Station on Johnson St	065-061-06	SAUSALITO CITY OF	333 JOHNSON ST	4,300
Parking	065-041-11	SAUSALITO CITY		41,058
Parking	065-073-02	SAUSALITO CITY OF		26,920
Parking	065-073-01	SAUSALITO CITY OF		7,440
Parking	065-042-06	SAUSALITO CITY OF	780 BRIDGEWAY	14,000
Parking	065-042-05	SAUSALITO CITY OF		14,160
Parking	065-042-03	SAUSALITO CITY OF		5,100
Parking	065-042-02	SAUSALITO CITY OF		14,184
Parking	065-042-01	SAUSALITO CITY OF		2,700
Parking	065-021-04	SAUSALITO CITY		89,298
Schools, Martin Luther King Jr Park	063-170-03	SAUSALITO SCHOOL DISTRICT	100 EBBTIDE AVE	740,520
US Veterans Affairs Machine Shop	063-110-14	U S MARITIME COMMISSION		345,430
Post Office	063-130-03	US POSTAL SERVICE	150 HARBOR DR	90,169
Army Corps of Engineers Bay Model	063-100-11	UNITED STATES OF AMERICA	2100 BRIDGEWAY	626,828
City Hall	064-165-12	SAUSALITO CITY OF	420 LITHO ST	0
Bayside Elementary School and Willow Creek Academy School	064-322-01	SAUSALITO SCHOOL DISTRICT	630 NEVADA ST	581,526
Johnson Police Station	065-062-24	SAUSALITO CITY OF	407 JOHNSON ST	5,810
			TOTAL PI ZONING	2,796,728 sq.ft.
				64.2 acres

PI Parcel Map



ATTACHMENT T
(1 PAGE)





The MARINSHIP Specific Plan

PREPARED BY
The City of Berkeley, Planning Department
Walter Raleigh Stewart, AIA
www.wrsai.com

Diagram #3
ZONING MAP

Annotated Marinship Specific Plan Zoning Map

-  Indicates location of parcel 3A (Army Corps)
-  Indicates location of parcel 6C (Post Office)

ATTACHMENT W
(1 PAGE)