

**ORDINANCE NO. 1209**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO  
AMENDING TITLE 10 OF THE SAUSALITO MUNICIPAL CODE TO:  
DELETE CHAPTER 21 (SECOND UNITS), ADD A NEW SECTION 10.44.080  
REGARDING REGULATIONS FOR NEW ACCESSORY DWELLING UNITS  
AND AMNESTY FOR EXISTING UNPERMITTED ACCESSORY DWELLING  
UNITS, MODIFY TABLE 10.22-2 TO ADD REFERENCE TO ACCESSORY  
DWELLING UNITS, AND MODIFY CHAPTER 10.88 TO REMOVE THE  
DEFINITION OF SECONDARY DWELLING AND ADD DEFINITIONS  
RELATED TO ACCESSORY DWELLING UNIT PROVISIONS**

**ZOA 12-055**

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**WHEREAS**, California Government Code Section 65852.2 allows any local agency, by ordinance, to provide for the creation of second units (aka, accessory dwelling units), in single-family and multifamily zoning districts; 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**, from March 2012-August 2012 a subcommittee of the Housing Element Task Force held 11 public meetings on the Accessory Dwelling Unit regulations; and

**WHEREAS**, on September 5, 2012 and September 19, 2012 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 October 9, 2012, October 23, 2012, November 13, 2012 and November 27, 2012 the City Council conducted a duly-noticed public hearing at which time all interested persons were given an opportunity to be heard; and

**WHEREAS**, pursuant to Government Code §65852.2 (e), the City Council finds that the two parking space requirement for an accessory dwelling unit that exceeds 700 square feet is directly related to the use of the accessory dwelling unit and is consistent with existing neighborhood standards. The City has a severe shortage of street parking due to the topography of Sausalito which results in many narrow and winding streets. This parking shortage led to the existing off-street parking requirement of two spaces per dwelling regardless of floor area for a single-family residence (Table 10-40-1 of the Sausalito Municipal Code). As Accessory Dwelling Units with over 700 square feet generally have more than one adult occupying the unit, two parking spaces are required for these units consistent with the existing neighborhood standards applicable to single-family residences; and

**WHEREAS**, the adoption of regulations for second units is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the CEQA which states that the adoption of an ordinance to implement the provision of Section 65852.2 of the Government Code regarding the construction of second units is exempt from CEQA; and

**WHEREAS**, adoption of regulations for accessory dwelling units is consistent with the General Plan, including Housing Element Policies 2.4 and 2.5 regarding legalization of existing accessory dwelling units and creation of new accessory dwelling units.

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

**Section 1.** Chapter 10.21 of the Sausalito Municipal Code is hereby removed in its entirety.

**Section 2.** A new Section 10.44.080 is hereby added to the Sausalito Municipal Code to read as follows:

“10.44.080 Accessory Dwelling Unit Regulations.

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

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

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

**B Applicability.** Accessory dwelling units shall only be allowed in single-family residential (R-1-20, R-1-8, R-1-6), two-family residential (R-2-5, R-2-2.5) and multiple residential (R-3) Zoning Districts. Accessory dwelling units shall be prohibited in all zoning districts in which they are not expressly allowed.

**C Application Process.**

1. An Accessory Dwelling Unit Permit is required to establish a new accessory dwelling unit. Any application for an accessory dwelling unit that meets the location and development standards contained in Section 10.44.080.D shall be approved administratively without discretionary review or public hearing. Accessory dwelling units that do not meet the administrative requirements of Section 10.44.080.D may be approved with a Conditional Use Permit if certain requirements and findings set forth in 10.44.080.F are met.
2. An Amnesty Accessory Dwelling Unit Permit is required to legalize an existing unpermitted accessory dwelling unit in a single-family, two-family, or multiple family residential zoning district. Any complete application received by March 31, 2014 for an accessory dwelling unit that meets the location and development standards contained in Section 10.44.080.E shall be approved administratively without discretionary review or public hearing unless otherwise specified during the amnesty period effective through March 31, 2014 pursuant to Section 10.44.080.E.4.

3. An application for an Accessory Dwelling Unit Permit or Amnesty Accessory Dwelling Unit Permit shall be made by the property owner and filed with the Community Development Department on a form prescribed by the Community Development Director.
  - a. For Accessory Dwelling Unit Permits the submittal shall include fees, a site plan, floor plans, elevations and story pole plan and certification.
  - b. For Amnesty Accessory Dwelling Permits the submittal shall include fees, a site plan, floor plans, elevations and documentation pursuant to Section 10.44.080.E.1.a.
4. The City Council shall establish by resolution from time to time the respective application fees for an Accessory Dwelling Unit Permit and an Amnesty Accessory Dwelling Unit Permit.
5. Notice shall be required for a new attached accessory dwelling unit and for a new detached accessory dwelling unit pursuant to Section 10.82.020.B.

**D Accessory Dwelling Unit Permit Standards.**

An Accessory Dwelling Unit Permit shall be issued by the Community Development Director upon compliance with the following development standards or requirements:

1. **One Accessory Dwelling Unit Per Parcel.** No more than one accessory dwelling unit shall be located on a single primary dwelling unit parcel.
2. **Access.** An accessory dwelling unit shall have a separate entrance. An entrance leading to a foyer with entrances leading from the foyer to the primary dwelling unit and the accessory dwelling unit is permitted.
3. **Kitchen and Bathroom Facilities.** An accessory dwelling unit shall contain its own kitchen facility and bathroom facility separate from the primary dwelling unit. The kitchen facility must include the following features: (a) a sink; (b) a refrigerator of more than five cubic feet capacity; and (c) a range or cooktop.
4. **Building Permits.** An accessory dwelling unit shall comply with the California Building Code, including local amendments adopted by the City.
5. **Building Coverage and Impervious Surfaces.** Construction of an attached or detached accessory dwelling unit shall conform with the building coverage and impervious surfaces regulations applicable to the primary dwelling unit parcel upon which the unit is located.
6. **Setbacks.** An accessory dwelling unit shall conform with the setback regulations applicable to the primary dwelling unit parcel upon which the accessory dwelling unit is located.
7. **Floor Area.** Construction of an accessory dwelling unit shall conform with the floor area regulations applicable to the primary dwelling unit parcel upon which the unit is located.
8. **Unit Size and Number of Bedrooms.** An accessory dwelling unit shall comply with the following maximum unit sizes and number of allowed bedrooms:
  - a. Interior Conversions. The floor area for an interior conversion accessory dwelling unit shall be no less than 275 square feet and no greater than forty

percent (40%) of the primary unit up to a 1,000 square-foot maximum. There shall be no more than two bedrooms in the accessory dwelling unit.

- b. Attached Units. The floor area for an attached accessory dwelling unit shall be no less than 275 square feet and no greater than thirty percent (30%) of the primary dwelling unit up to a 700 square-foot maximum. There shall be no more than one bedroom in the accessory dwelling unit.
- c. Detached Units. The floor area for a detached accessory dwelling unit shall be no less than 275 square feet and no greater than thirty percent (30%) of the primary dwelling unit up to a 700 square-foot maximum. There shall be no more than one bedroom in the accessory dwelling unit.

**9. Height.**

- a. Attached Units. The height of an attached accessory dwelling unit shall comply with the requirements of Chapter 10.40 regarding the height applicable to the primary dwelling unit.
- b. Detached Units. The height of a detached accessory dwelling unit shall be no greater than fifteen (15) feet as measured from the average natural grade.

**10. Design.** An accessory dwelling unit shall have a roof slope, window arrangement, siding materials, colors and architectural style compatible with the primary dwelling unit.

**11. Views.** An accessory dwelling unit shall not block or obstruct primary views, as defined in Chapter 10.88, from neighboring properties.

**12. Privacy.** An accessory dwelling unit shall be designed so that its exterior windows, decks and doors are not directly opposite the exterior living areas (e.g., decks or patios) of adjoining properties and do not overlap windows or doors to interior living areas of adjoining properties. This privacy standard is waived for an interior conversion accessory dwelling unit not involving new windows, decks, doors, or similar exterior features, or where the property owner otherwise demonstrates that there is adequate screening.

**13. Light and Shadows.** An accessory dwelling unit shall be designed so that there are no adverse light/shadow impacts on adjacent properties. If there is the potential for adverse light/shadow impacts, as determined by staff, a shadow study shall be required. In order to determine that there are no adverse light/shadow impacts on adjacent properties the accessory dwelling unit shall be designed such that the incremental light/shadow impact created by the accessory dwelling unit does not impact more than twenty-five percent (25%) of an adjacent parcel more than 30 days per year.

**14. Off-Street Parking.** The design and location of off-street parking for the accessory dwelling unit shall be provided in compliance with Section 10.40.120. Additionally, the following regulations shall apply:

- a. Accessory Dwelling Units 700 Square Feet or Less. One off-street parking space shall be provided for the accessory dwelling unit.
- b. Accessory Dwelling Units Greater than 700 Square Feet. Two off-street parking spaces shall be provided for the accessory dwelling unit.
- c. Off-Street Parking Exemptions

- 1) If it can be demonstrated that it is not feasible to accommodate an unobstructed 9-foot by 20-foot parking space on the primary dwelling unit parcel, tandem parking will be allowed subject to the following conditions:
  - i. The tandem space shall not be located on a driveway shared with another unit other than the primary dwelling unit.
  - ii. The design of the tandem space shall be reviewed by the City Engineer in order to verify that it is provided safely.
  - iii. No portion of the tandem space shall be located in the public right of way unless the space or portion thereof is part of an approved Encroachment Agreement with the City that permits parking on the encroachment.
- 2) Any off-street parking for the accessory dwelling unit may be located in required yard areas, provided the following conditions are met:
  - i. The maximum height of the structure at the property line from the grade directly below the structure to the surface of the parking area is no greater than six (6) feet. When the parking structure is located in any required rear or side yard, the maximum height of the structure at the property line from the grade directly below the structure to the surface of the parking area shall be six (6) feet plus one (1) foot in height for each foot such structure is set back from the rear or side yard. The height measurement does not include a guardrail to meet the requirements of the California Building Code.
  - ii. The parking area in the setback is uncovered.

**15. Owner-occupancy compliance.** In single-family residential (R-1-20, R-1-8, R-1-6), zoning districts the owner of the property shall occupy either the primary unit or accessory dwelling unit as their primary residence. An owner may be absent from the primary or accessory dwelling unit for up to twelve (12) months during any thirty-six (36) month period. A property owner who will be absent for more than twelve (12) months may obtain an additional twelve (12) months absence with the approval of a Minor Use Permit by the Zoning Administrator. In consideration of the Minor Use Permit, the Zoning Administrator may consider the neighborhood impacts such as parking, noise, and property maintenance, in addition to the reason for the requested absence.

**16. Effect of Conversion.** For an accessory dwelling unit, elimination of any of the required access and/or facilities elements (i.e., the separate entrance, kitchen, bathroom facilities), or non-compliance with any requirements shall require the property owner to demonstrate compliance of the property with all applicable development standards in the Zoning Ordinance.

**17. Fees.** Fees as established by City Council resolution shall be paid.

**E Amnesty Accessory Dwelling Unit Permit Standards.**

A permit allowing an amnesty accessory dwelling unit shall be issued by the Community Development Director upon compliance with the following development standards or

requirements during the amnesty period effective through March 31, 2014 pursuant to subsection 4:

1. **Eligibility.** An Amnesty Accessory Dwelling Unit Permit shall be granted by the Community Development Director for an existing non-permitted accessory dwelling unit upon compliance with the following standards.
  - a. **Documentation.** The existing accessory dwelling unit proposed for legalization must have been constructed or established prior to January 1, 2012, as demonstrated by two forms of evidence. Acceptable means of documenting compliance with this standard include, but are not limited to, the following:
    - 1) County Assessor's records;
    - 2) Rental contracts and/or receipts;
    - 3) Income tax records;
    - 4) Utility bills;
    - 5) Contractor's bills; and/or
    - 6) Written affidavits from former owners, tenants, or neighbors, signed and notarized under penalty of perjury.
  - b. **Fees.** Fees as established by City Council resolution shall be paid.
  - c. **Accessory Dwelling Unit Housing Inspection.** An Accessory Dwelling Unit Housing Inspection of the unpermitted accessory dwelling unit shall be conducted by the Building Division and Fire Department. If corrections (i.e. for health and safety) are required, the property owner shall apply for a building permit to make the corrections.
  - d. **One Accessory Dwelling Unit Per Parcel.** No more than one accessory dwelling unit shall be located on the primary dwelling unit parcel.
  - e. **Access.** An amnesty accessory dwelling unit shall have a separate entrance. An entrance leading to a foyer with entrances leading from the foyer to the primary dwelling unit and the accessory dwelling unit is permitted.
  - f. **Kitchen and Bathroom Facilities.** An amnesty accessory dwelling unit shall contain its own kitchen facility and bathroom facility separate from the primary dwelling unit. The kitchen facility must include the following features: (a) a sink; (b) a refrigerator of more than five cubic feet capacity; and (c) a range or cooktop.
  - g. **Owner Restriction.** In single-family residential (R-1-20, R-1-8, R-1-6), zoning districts the owner of the property shall occupy either the primary unit or accessory dwelling unit as their primary residence. An owner may be absent from the primary or accessory dwelling unit for up to twelve (12) months during any thirty-six (36) month period. A property owner who will be absent for more than twelve (12) months may obtain an additional twelve (12) months absence with the approval of a Minor Use Permit by the Zoning Administrator. In consideration of the Minor Use Permit, the Zoning Administrator may consider the neighborhood impacts such as parking, noise

and property maintenance, in addition to the reason for the requested absence.

**h. Development Standards.**

- 1) **Parking.** Existing parking for the amnesty accessory dwelling unit shall be documented by the Community Development Department but not counted in determining if the unit is eligible for amnesty. Any existing parking provided for the amnesty accessory dwelling unit shall be retained for the exclusive use of the amnesty accessory dwelling unit.
- 2) **Floor Area Ratio.** The floor area of the amnesty accessory dwelling units shall be documented by the Community Development Department but not counted in determining if the unit is eligible for amnesty.
- 3) **Building Coverage.** The building coverage of the amnesty accessory dwelling units shall be documented by the Community Development Department but not counted in determining if the unit is eligible for amnesty. The building coverage of the amnesty accessory dwelling unit shall be counted for future development of the primary dwelling unit parcel.
- 4) **Impervious Surface.** The impervious surfaces of the amnesty accessory dwelling unit shall be documented by the Community Development Department but not counted in determining if the accessory dwelling unit is eligible for amnesty. The impervious surfaces of the amnesty accessory dwelling unit shall be counted for future development of the primary dwelling unit parcel.
- 5) **Setbacks.** The setbacks of the amnesty accessory dwelling unit shall be documented by the Community Development Department but not counted in determining if the unit is eligible for amnesty.

2. **Non-conformity Provisions.** Upon final issuance of an Amnesty Accessory Dwelling Unit Permit obtained through the processes established by this Section 10.44.080.E, if the amnesty accessory dwelling unit violates any provisions of the Municipal Code it shall be deemed a legal nonconforming structure which shall be subject to SMC Chapter 10.62 (Nonconformity Use and Structures).
3. **Effect of Conversion.** For any amnesty accessory dwelling unit, elimination of any of the required access and facilities elements (i.e., the separate entrance, kitchen, bathroom facilities) shall require the property owner to demonstrate compliance of the main residence with all applicable development standards in the Zoning Ordinance (taking into account any pre-existing legal non-conformities).
4. **Sunset Provision.** The amnesty period will be in effect through March 31, 2014, before which time the owner of an existing accessory dwelling unit created prior to January 1, 2012 may submit a complete Amnesty Accessory Dwelling Unit Permit application to legalize the accessory dwelling unit. The amnesty provisions only apply to complete applications received through March 31, 2014. The City Council may by resolution extend the conclusion of the amnesty period. An unpermitted accessory dwelling unit created prior to January 1, 2012 shall not be subject to code enforcement action prior to expiration of the amnesty period.

**F Accessory Dwelling Unit with Conditional Use Permit.**

If an application for an Accessory Dwelling Unit Permit does not meet the ministerial requirements set forth in Section 10.44.080.D above, the application shall be considered through the Conditional Use Permit process if one or more of the specific exceptions set forth in 10.44.080.F.1 below are met. An accessory dwelling unit requiring any of these exceptions may be approved by the Planning Commission with the approval of a Conditional Use Permit, as set forth in Section 10.44.080.F.2 below and Chapter 10.60. Accessory dwelling units that do not meet the ministerial criteria set forth in Section 10.44.080.D and one or more exceptions set forth in Section 10.44.080.F.1 are not conditionally permitted in any zoning district and may not be considered through the Conditional Use Permit process.

**1. Exceptions.** An application for an accessory dwelling unit that does not meet all of the requirements in Section 10.44.080.D shall be considered through the Conditional Use Permit process if the accessory dwelling unit meets one or more of the following exceptions:

- a. Floor Area. Floor area on the primary dwelling unit parcel exceeds the applicable regulations up to ten (10) percent of the primary dwelling unit parcel up to a maximum of 500 square feet.
- b. Building Coverage. Building coverage on the primary dwelling unit parcel exceeds the applicable regulations up to five (5) percent of the maximum allowable building coverage on the primary dwelling unit parcel.
- c. Impervious Surfaces. Allowable impervious surfaces on a primary dwelling unit parcel exceeds the applicable regulations up to five (5) percent of the maximum allowable impervious surfaces on the primary dwelling unit parcel.
- d. Side Yard Setbacks. Required side-yard setbacks maintain a minimum setback of three (3) feet.
- e. Height. Height exceeds the fifteen (15) foot height limit.
- f. Design Regulations. With respect to a detached accessory dwelling unit, the architectural style, exterior materials and colors, roof slope, window arrangement, or siding materials differ from the primary dwelling unit.
- g. Views. Views standards are not met.
- h. Light/Shadows. Light/shadow standards are not met.
- i. Privacy. Privacy standards are not met.
- j. Parking. Parking standards for the accessory dwelling unit are not met. For properties where it is feasible to provide parking on the primary dwelling unit parcel for the accessory dwelling unit, and the property owner elects to not accommodate the parking requirement, the property owner records a deed restriction establishing the accessory dwelling unit as an Affordable Rental Unit as set forth below.

1) The property owner shall select the level of affordable rent and associated period of the deed restriction:

<i>Period of Restriction</i>	<i>Affordable Rent</i>
<i>10 years</i>	<i>Very Low</i>



<i>15 years</i>	<i>Low</i>
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2) If the accessory dwelling unit is converted pursuant to Section 10.44.080.D.16, or removed, the deed restriction shall be rescinded.

k. Bedrooms and Size. Units that exceed the number of bedrooms and/or unit size limitations for attached and detached accessory dwelling units exceed up to forty percent (40%) of the primary unit's size up to a maximum of 1,000 square feet, provided the accessory dwelling unit is intended to be deed restricted as an Affordable Rental Unit as set forth below.

1) Prior to deed restriction as an affordable rental unit, the property owner shall select the level of affordable rent and associated period of deed restriction:

<i>Period of Restriction</i>	<i>Affordable Rent</i>
<i>10 years</i>	<i>Very Low</i>
<i>15 years</i>	<i>Low</i>
<i>20 years</i>	<i>Moderate</i>

2) If the accessory dwelling unit is converted pursuant to Section 10.44.080.D.16, or removed, the deed restriction shall be rescinded.

2. **Findings.** The Planning Commission shall consider applications for accessory dwelling units that meet one or more of the exceptions listed in Section 10.44.080.F.1 through the Conditional Use Permit process and shall approve the Accessory Dwelling Unit Permit and Conditional Use Permit if the following findings and the Conditional Use Permit findings are met.

- a. The exception will not create a significant adverse impact on any adjacent property, the surrounding neighborhood, or the general public good.
- b. The parcel and the arrangement of existing and proposed physical improvements on the parcel can accommodate the exception without significantly adversely affecting the views, privacy, or access to light and air of neighboring properties.
- c. Any modifications to site drainage have been designed by a licensed engineer and result in no significant net increase to the rate or volume of peak runoff from the site compared to pre-project conditions.
- d. Any new mechanical pumps or equipment shall comply with applicable noise regulations.
- e. With respect to a view exception, the project has been located and designed to minimize obstruction of views from surrounding properties, and particular care has been taken to protect primary views, consistent with required Design Review Permit findings in Section 10.54.050.
- f. With respect to a light/shadow exception, the project has been designed and located to provide adequate light for the site, adjacent properties and the general public, consistent with required Design Review Permit findings in Section 10.54.050.
- g. With respect to a privacy exception, the project provides a reasonable level of privacy to the site and adjacent properties, taking into consideration the density of the neighborhood, by appropriate landscaping, fencing, and

window, deck and patio configurations, consistent with required Design Review Permit findings in Section 10.54.050.

- h. With respect to a parking exception:
  - 1) Where it is infeasible to accommodate a parking space on the primary dwelling unit parcel, it has been demonstrated that (i) it is not feasible to accommodate a parking space on the primary dwelling unit parcel; and (ii) it has also been demonstrated with a professionally prepared parking study that shows the availability of reasonably adjacent on-street parking during daytime and nighttime hours of at least one on-street parking space if the accessory dwelling unit is 700 square feet or less, or at least two on-street parking spaces reasonably adjacent to the accessory dwelling unit if the accessory dwelling unit is more than 700 square feet. To receive this exception, the primary dwelling unit shall meet all applicable parking requirements.
  - 2) Where it is feasible to accommodate a parking space on the primary dwelling unit parcel, the property owner shall record a deed restriction against the property in a form approved by the City Attorney, restricting the use and rental of the Accessory Dwelling Unit to the applicable level of affordability for 10 or 15 years, pursuant to Section 10.44.080.F.1.j.1. To receive this exception, the primary dwelling unit shall meet all applicable parking requirements.
- i. With respect to bedroom or size exceptions, the property owner shall record an Affordable Housing Covenant against the property in a form approved by the City Attorney, restricting the use and rental of the accessory dwelling unit to the applicable level of affordability for 10, 15, or 20 years, as applicable.
- j. With respect to a floor area exception, the property owner shall record a deed restriction in a form approved by the City Attorney stating that if the accessory dwelling unit is removed any floor area waiver received on floor area for the accessory dwelling unit will be credited back to the parcel. The restriction will stipulate that if this causes the primary dwelling unit parcel to exceed the maximum floor area ratio allowed on the primary dwelling unit parcel the property owner shall obtain the approvals necessary to demonstrate compliance with the floor area ratio allowances.”

**Section 3.** Table 10.22-2 of the Sausalito Municipal Code is hereby amended as follows<sup>1,2</sup>:

<b>Table 10.22-1 LAND USES ALLOWED IN RESIDENTIAL DISTRICTS*</b>							
<b>LAND USE</b>	<b>RESIDENTIAL ZONING DISTRICTS</b>						<b>SEE SECTION</b>
	<b>R-1</b>	<b>R-2</b>	<b>PR</b>	<b>R-3</b>	<b>H</b>	<b>A</b>	

<sup>1</sup> Only the pertinent sections of Table 10.22-2 have been shown. The remainder of Table 10.22-2 remains unchanged.

<sup>2</sup> The text to be added is printed double-underlined and the text to be removed is printed ~~double-strikeout~~.

<del>Secondary dwellings, existing</del> <u>Accessory Dwelling Units</u>	<u>P or</u> <u>CUP</u>	<u>P or</u> <u>CUP</u>		<u>P or</u> <u>CUP</u>			10.44.080 <del>(Secondary</del> <del>Dwellings,</del> <del>Existing)</del> <u>(Accessory</u> <u>Dwelling</u> <u>Units)</u>
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**Section 4.** The definition of “Secondary Dwellings” in Section 10.44.080 of the Sausalito Municipal Code is hereby removed.

**Section 5.** Section 10.44.080 of the Sausalito Municipal Code is hereby amended to add the following definitions:

**Primary Dwelling Unit:** A Primary Dwelling Unit is a dwelling unit to which the Accessory Dwelling Unit is accessory.

**Primary Dwelling Unit Parcel:** A Primary Dwelling Unit Parcel is a single parcel on which the primary dwelling unit is situated.

**Accessory Dwelling Unit.** An accessory dwelling unit is a permanent dwelling that is accessory to a primary dwelling unit on a primary dwelling unit parcel. An accessory dwelling unit may be either a detached or attached dwelling unit that provides complete, independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary dwelling unit.

**Detached Accessory Dwelling Unit:** A detached accessory dwelling unit is a new or existing accessory dwelling unit that occupies a new or existing structure physically separate from the primary dwelling unit with no shared walls.

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

**Interior Conversion Accessory Dwelling Unit:** An interior conversion accessory dwelling unit is a new or existing accessory dwelling unit that has been created by converting a portion of an existing primary dwelling unit into an accessory dwelling unit. This type of conversion involves no exterior modifications other than the creation of new windows and/or doors.

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

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

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

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

**Section 6.** The adoption of this ordinance is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the CEQA Guidelines.

**Section 7.** This ordinance shall be liberally construed to achieve its purposes and preserve its validity. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**Section 8.** This Ordinance shall be in full force and effect thirty (30) days after the date of its adoption.

**Section 9.** 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 13<sup>th</sup> day of November 2012, and was adopted at a regular meeting of the City Council on the 27<sup>th</sup> day of November, 2012 by the following vote:

AYES:	Councilmember:	Ford, Leone, Pfeifer, Weiner and Mayor Kelly
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None
ABSTAIN:	Councilmember:	None

  
MAYOR OF THE CITY OF SAUSALITO

ATTEST:

  
CITY CLERK



**SUMMARY OF  
ORDINANCE NO. 1209**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO AMENDING TITLE 10 OF THE SAUSALITO MUNICIPAL CODE TO: DELETE CHAPTER 21 (SECOND UNITS), ADD A NEW SECTION 10.44.080 REGARDING REGULATIONS FOR NEW ACCESSORY DWELLING UNITS AND AMNESTY FOR EXISTING UNPERMITTED ACCESSORY DWELLING UNITS, MODIFY TABLE 10.22-2 TO ADD REFERENCE TO ACCESSORY DWELLING UNITS, AND MODIFY CHAPTER 10.88 TO REMOVE THE DEFINITION OF SECONDARY DWELLING AND ADD DEFINITIONS RELATED TO ACCESSORY DWELLING UNIT PROVISIONS**

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

**Section 1.** Chapter 10.21 of the Sausalito Municipal Code is hereby removed in its entirety.

**Section 2.** A new Section 10.44.080 is hereby added to the Sausalito Municipal Code to read as follows:

Accessory Dwelling Unit Regulations.

**Purpose.** The City of Sausalito finds and declares that accessory dwelling units are a valuable form of housing. It is the intent of the City to encourage accessory dwelling units and to impose standards to enable homeowners to create accessory dwelling units that will not aggravate or create neighborhood problems. Additionally,

it is the intent of the City to encourage the legalization of existing accessory dwelling units that were not built or established with proper permits and to ensure that existing accessory dwelling units are safe and habitable.

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

**Applicability.** Accessory dwelling units shall only be allowed in single-family residential (R-1-20, R-1-8, R-1-6), two-family residential (R-2-5, R-2-2.5) and multiple residential (R-3) Zoning Districts. Accessory dwelling units shall be prohibited in all zoning districts in which they are not expressly allowed.

**Application Process.** An Accessory Dwelling Unit Permit is required to establish a new accessory dwelling unit. Any application for an accessory dwelling unit that meets the location and development standards contained in Section 10.44.080.D shall be approved administratively without discretionary review or public hearing. Accessory dwelling units that do not meet the administrative requirements of Section 10.44.080.D may be approved with a Conditional Use Permit if certain requirements and findings set forth in 10.44.080.F are met.

An Amnesty Accessory Dwelling Unit Permit is required to legalize an existing unpermitted accessory dwelling unit in a single-family, two-family, or multiple family residential zoning district. Any complete application received by March 31, 2014 for an accessory dwelling unit that meets the location and development standards contained in Section 10.44.080.E shall be approved administratively without discretionary review or public hearing unless otherwise specified during the amnesty period effective through March 31, 2014 pursuant to Section 10.44.080.E.4.

**Accessory Dwelling Unit Permit Standards.** An Accessory Dwelling Unit Permit shall be issued by the Community Develop-

ment Director upon compliance with the following development standards or requirements:

\* One accessory dwelling unit per parcel

\* An accessory dwelling unit shall have a separate entrance

\* An accessory dwelling unit shall contain its own kitchen facility and bathroom facility

\* A kitchen facility must include a sink, refrigerator of more than 5 cu.ft.; and a range or cooktop

\* Construction of an attached or detached accessory dwelling unit shall conform with the building coverage and impervious surfaces regulations applicable to the primary dwelling unit parcel upon which the unit is located

\* An accessory dwelling unit shall conform with applicable setback regulations and floor area regulations

\* An accessory dwelling unit shall comply with the following maximum unit sizes and number of allowed bedrooms:

—Interior Conversions shall be no less than 275 square feet and no greater than forty percent (40%) of the primary unit up to a 1,000 square-foot maximum. There shall be no more than two bedrooms.

- Attached Units shall be no less than 275 square feet and no greater than thirty percent (30%) of the primary dwelling unit up to a 700 square-foot maximum. There shall be no more than one bedroom.

- Detached Units shall be no less than 275 square feet and no greater than thirty percent (30%) of the primary dwelling unit up to a 700 square-foot maximum. There shall be no more than one bedroom.

\* Additional standards for height, design, views, privacy, light and shadow shall be complied with according to the ordinance

\* Off street parking shall be provided in compliance with Section 10.40.120. Additionally, the following regulations shall apply:

- Units of 700 sq.ft. or less shall provide one off-street parking space

—Units greater than 700 sq.ft. shall provide two off-street parking spaces

—Exemptions to the off-street parking requirements may be applicable pursuant to certain conditions of the ordinance

\* The owner of the property shall occupy either the primary unit or accessory dwelling unit as their primary residence.

An owner may be absent from the primary or accessory dwelling unit for up to twelve (12) months during any thirty-six (36) month period. A property owner who will be absent for more than twelve (12) months may obtain an additional twelve (12) months absence with the approval of a Minor Use Permit by the Zoning Administrator. In consideration of the Minor Use Permit, the Zoning Administrator may consider the neighborhood impacts such as parking, noise, and property maintenance, in addition to the reason for the requested absence.

**Amnesty Accessory Dwelling Unit Permit Standards.**

A permit allowing an amnesty accessory dwelling unit shall be issued by the Community Development Director upon compliance with pertinent requirements/documentation during the amnesty period effective through March 31, 2014.

The amnesty period will be in effect through March 31, 2014, before which time the owner of an existing accessory dwelling unit created prior to January 1, 2012 may submit a complete Amnesty Accessory Dwelling Unit Permit application to legalize the accessory dwelling unit. The amnesty provisions only apply to complete applications received through March 31, 2014. The City Council may by resolution extend the conclusion of the amnesty period. An unpermitted accessory dwelling unit created prior to January 1, 2012 shall not be subject to code enforcement action prior to expiration of the amnesty period.

**Accessory Dwelling Unit with Conditional Use Permit.**

If an application for an Accessory Dwelling Unit Permit does not meet the ministerial requirements set forth in Section 10.44.080.D above, the application shall be considered through the Conditional Use Permit process if one or more of the specific exceptions set forth in 10.44.080.F.1. An accessory dwelling unit requiring any of these exceptions may be approved by the Planning Commission with the approval of a Conditional Use Permit, as set forth in Section 10.44.080.F.2 and Chapter 10.60. Accessory dwelling units that do not meet the ministerial criteria set forth in Section 10.44.080.D and one or more exceptions set forth in Section 10.44.080.F.1 are not conditionally permitted in any zoning district and may not be considered through the Conditional Use Permit process.

**Section 3.** Table 10.22-2 of the Sausalito Municipal Code is hereby amended

**Section 4.** The definition of "Dwellings" in Section 10.44.080 of the Sausalito Municipal Code is hereby removed.

**Section 5.** Section 10.44.080 of the Sausalito Municipal Code is hereby amended

**THE FOREGOING ORDINANCE** was read at a regular meeting of the Sausalito City Council on the 13th day of November 2012, and was adopted at a regular meeting of the City Council on the 27th day of November, 2012 by the following vote:

**AYES:** Councilmember: Ford, Leone, Pfeifer, Weiner and Mayor Kelly

**NOES:** Councilmember: None

**ABSENT:** Councilmember: None

**ABSTAIN:** Councilmember: None

**/s/ D. MICHAEL KELLY**  
MAYOR OF THE CITY OF SAUSALITO

**ATTEST:**  
**/s/ DEBBIE PAGLIARO**

CITY CLERK #2163