

**SAUSALITO PLANNING COMMISSION
RESOLUTION NO. 2025-08**

**A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING CITY COUNCIL
ADOPTION OF AMENDMENTS TO CHAPTER 10.44 AMENDING SECTION 10.44.010
("PURPOSE AND APPLICABILITY") AND SECTION 10.44.190 ("RESIDENTIAL USE IN
COMMERCIAL DISTRICTS") OF TITLE 10 OF THE SAUSALITO MUNICIPAL CODE**

PROJECT ID: 2025-00056

WHEREAS, Sausalito Municipal Code (SMC) Title 10 Chapter 10.44 Section 10.44.010 addresses the purpose and applicability of Chapter 10.44 (Specific Use Requirements); and

WHEREAS, Sausalito Municipal Code (SMC) Title 10 Chapter 10.44 Section 10.44.190 addresses residential use in commercial districts; and

WHEREAS, the City desires to amend Section 10.44.010 which authorizes waivers of specific use requirements in Chapter 10.44, and the City desires to align such provisions with its variance process which is appropriate for approving the waiver of zoning code requirements; and

WHEREAS, the City further desires to amend Section 10.44.190 to clarify the requirements for residential uses in commercial districts within the City, including aligning the language more closely with the requirements of Ordinance 1022 (Fair Traffic Initiative), requiring affordable units only for projects that are five or more units, and not requiring residential construction for projects that do not include a physical expansion exceeding 1000 square feet, or that involve a historic structure, or where conversion of existing space to residential uses is physically or financially infeasible; and

WHEREAS, SMC Section 10.80.070 allows for amendments to the Zoning Ordinance when it is determined that public necessity, convenience, or welfare would be served; and

WHEREAS, the Planning Commission is responsible for providing a recommendation to the City Council on amendments of the Zoning Ordinance per Sausalito Municipal Code Section 10.80.070 C. and California Government Code Section 65855; and

WHEREAS, the adoption of the proposed ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to the CEQA Guideline Section 15061.b.3; and

WHEREAS, the Planning Commission finds that the adoption of the proposed zoning amendment is in the public interest and is consistent with the City of Sausalito's General Plan; and

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES:

1. The Planning Commission recommends the City Council adopt the proposed amendments to the Sausalito Municipal Code as set forth in the attached draft ordinance, included as Exhibit A.

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Planning Commission on the 9th day of April 2025, by the following vote:

AYES: Commissioner Member: Junius, Feller, Saad, Luxenberg
NOES: Commissioner Member:
ABSENT: Commissioner Member: Marlatt
ABSTAIN: Commissioner Member:



Brandon Phipps
Director of Community and Economic Development

ATTACHMENTS

1. Exhibit A – Draft Ordinance

**SAUSALITO PLANNING COMMISSION
RESOLUTION NO. 2025-08
April 9, 2025
PROJECT ID: 2025-00056**

EXHIBIT A: DRAFT ORDINANCE

ORDINANCE NO. XX – 2025

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO,
CALIFORNIA, AMENDING SECTION 10.44.010 (“PURPOSE AND APPLICABILITY”)
AND AMENDING SECTION 10.44.190 (“RESIDENTIAL USES IN COMMERCIAL
DISTRICTS”) OF TITLE 10 OF THE SAUSALITO MUNICIPAL**

WHEREAS, Sausalito Municipal Code (SMC) Title 10 Chapter 10.44 Section 10.44.010 addresses the purpose and applicability of Chapter 10.44 (Specific Use Requirements); and

WHEREAS, the City desires to amend Section 10.44.010 which authorizes waivers of specific use requirements in Chapter 10.44, and the City desires to align such provisions with its variance process which is appropriate for approving the waiver of zoning code requirements; and

WHEREAS, Section 10.44.190 of the Sausalito Municipal Code addresses residential uses in commercial districts; and

WHEREAS, the City desires to amend Section 10.44.190 to clarify the requirements for residential uses in commercial districts within the City, including aligning the language more closely with the requirements of Ordinance 1022 (Fair Traffic Initiative), require affordable units only for projects that are five or more units, and not require residential construction for projects that do not include a physical expansion exceeding 1000 square feet, or that involves a historic structure, or where conversion of existing space to residential uses is physically or financially infeasible;

NOW, THEREFORE, the City Council of the City of Sausalito, California, does ordain as follows:

SECTION 1. Incorporation of Recitals. The recitals above are true and correct and are hereby adopted as findings as if fully set forth herein.

SECTION 2. Amendment. Sausalito Municipal Code section 10.44.010 and 10.44.190 are amended to read as set forth in Exhibit A (additions in underline, deletions in strikeout).

SECTION 3. CEQA. The Sausalito City Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA

Guidelines 15061(b)(3), which provides that CEQA does not apply it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 4. Severability. If any section, sub-section, sentence, clause, phrase or portion of this Ordinance or the application thereof to any person or circumstances is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, sub-section, sentence, clause, phrase or portion thereof, irrespective of not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

SECTION 5. Effective Date and Posting. This Ordinance shall be effective thirty (30) days following its adoption by the City Council.

SECTION 6. Posting and Publication. The City Clerk shall post and/or publish this ordinance as may be required by Government Code section 36933.

INTRODUCED AND FIRST READ at the meeting of the City Council of the City of Sausalito, California, on _____, and thereafter **ADOPTED** at a regular meeting of the City Council held on the _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

JOAN COX
MAYOR

ATTEST:

WALFRED SOLORZANO
CITY CLERK

EXHIBITS

A. Ordinance Amendment

Chapter 10.44

SPECIFIC USE REQUIREMENTS

Sections:

10.44.010 Purpose and applicability.

...

10.44.190 Residential use in commercial districts.

...

10.44.010 Purpose and applicability.

A. Purpose and Intent. The general purposes of this chapter establishing requirements for specific uses are as follows:

1. To establish special standards for certain land uses that may affect adjacent properties, the neighborhood, or the community, beyond the uniform zoning standards of Chapters 10.20 through 10.28 (Zoning Districts Regulations), 10.40 (General Development Regulations) and 10.42 SMC (Sign and Awning Regulations);
2. To establish appropriate standards for the location, design and operation of specific land uses;
3. To ensure compatibility with adjacent land uses;
4. To avoid incompatibility and hazards stemming from the uses; and
5. To ensure consistency with the general plan.

B. Applicability. All land uses listed in this chapter shall conform to the minimum standards established by this chapter, unless the Planning Commission adopts findings pursuant to subsection E of this section (~~Findings to Waive Specific Use Requirements~~) ~~can be made~~ a variance is approved in accordance with applicable law. All land uses shall also conform to all other applicable requirements of this Zoning Ordinance, including but not limited to the minimum lot area, floor area ratio, building coverage, setbacks, and height limits imposed by the applicable district (Chapters 10.20 through 10.28 SMC, Zoning Districts Regulations), the general development regulations (Chapter 10.40 SMC) and sign and awning regulations (Chapter 10.42 SMC). ~~This chapter regulates the following uses:~~

- ~~1. Accessory uses and structures (SMC 10.44.020);~~
- ~~2. Home occupations (SMC 10.44.030);~~
- ~~3. Noncommercial vehicle and boat repair and storage in residential areas (SMC 10.44.040);~~
- ~~4. Accessory storage (SMC 10.44.050);~~
- ~~5. Mobile home/manufactured housing standards (SMC 10.44.060);~~
- ~~6. Piers, docks, floats and wharves (SMC 10.44.070);~~
- ~~7. Secondary dwellings, existing (SMC 10.44.080);~~
- ~~8. Detached dwelling units (SMC 10.44.090);~~
- ~~9. Child day care (SMC 10.44.100);~~
- ~~10. Religious institutions, private clubs, fraternal organizations (SMC 10.44.110);~~
- ~~11. Senior housing projects (SMC 10.44.120);~~
- ~~12. Arks (SMC 10.44.130);~~

- ~~13. Harbor and marina facilities (SMC 10.44.140);~~
- ~~14. Open water moorings (SMC 10.44.150);~~
- ~~15. Houseboats (SMC 10.44.160);~~
- ~~16. Liveaboards (SMC 10.44.170);~~
- ~~17. Veterinary clinics and kennels (SMC 10.44.180);~~
- ~~18. Residential use in commercial districts (SMC 10.44.190);~~
- ~~19. Recycling collection stations (SMC 10.44.200);~~
- ~~20. Restaurants (SMC 10.44.210);~~
- ~~21. Restaurants — Outdoor eating areas (SMC 10.44.220);~~
- ~~22. Visitor serving stores (SMC 10.44.230);~~
- ~~23. Formula retail (SMC 10.44.240);~~
- ~~24. Office conversions (SMC 10.44.250);~~
- ~~25. Service stations (SMC 10.44.260);~~
- ~~26. Freestanding personal structures (SMC 10.44.270);~~
- ~~27. Offices, temporary (SMC 10.44.280);~~
- ~~28. Storage, accessory (SMC 10.44.290);~~
- ~~29. Temporary outdoor retail sales (SMC 10.44.300);~~
- ~~30. Temporary uses and events (SMC 10.44.310);~~
- ~~31. Medical marijuana dispensaries (SMC 10.44.320).~~

C. Conflicts. Where the provisions of a specific plan conflict with the requirements of this chapter, the specific plan shall prevail. When a use listed in this chapter is subject to conflicting requirements, the following rules apply:

1. Where the provisions of this chapter conflict with those of Chapters 10.20 through 10.28 (Zoning Districts Regulations), 10.40 (General Development Regulations) or 10.42 SMC (Sign and Awning Regulations), this chapter shall control, except where this chapter explicitly states otherwise.
2. Where a site or land use is subject to more than one section of this chapter, the most restrictive standards apply.

D. Additional Conditions of Approval. Where a proposed use is subject to administrative design review, design review, minor use or conditional use permit approval, the granting authority may impose additional conditions of approval that are more restrictive to protect public health, safety, and welfare.

~~E. Findings to Waive Specific Use Requirements. The Planning Commission may waive specific use requirements established by this chapter in special situations when the following finding can be made:~~

- ~~1. Based on the unique project characteristics and location, the specific use requirement is not necessary to meet the purpose and objectives of the underlying zoning district and general plan designation.~~

10.44.190 Residential uses in commercial districts.

A. Purpose and Applicability. Residential uses located in CC, CR and CN zoning districts are subject to the requirements of this section, as provided by SMC 10.24.030 (Allowable land uses, commercial zoning districts). In addition to the general purposes of this chapter, the specific purposes of regulating residential uses in commercial zones are as follows:

1. To further the objectives of the 1985 Traffic Initiative by prohibiting conversion of existing residential uses to commercial uses;
2. To provide valuable opportunities for affordable housing while locating residential land uses adjacent to active commercial areas, to implement the goals and policies of the General Plan and specific programs in the Housing Element;
3. To encourage the retention of existing residential uses in the central commercial (CC), mixed commercial and residential (CR), and neighborhood commercial (CN-1) zoning districts, by prohibiting the conversion of existing upper story residential units to commercial uses; and
4. To encourage a mix of residential and commercial uses in the central commercial (CC), mixed commercial and residential (CR) and neighborhood commercial (CN-1) zoning districts, by retaining commercial use on the first (ground or street) levels and requiring that residential use is the only allowed use on all levels above the ground level in the mixed use commercial districts, as specified in this section.

B. Location When Permitted.

1. Residential uses in the central commercial (CC), mixed commercial and residential (CR), and neighborhood commercial (CN-1 and CN-2) zoning districts are allowed as follows:

a. Central Commercial (CC) Zoning District. ~~Except as otherwise provided by subsection D, All~~ all uses located above the first (street or ground) level of all existing and new structures shall be residential. Existing residential uses located in the CC zoning district may be converted to commercial uses with the issuance of a minor use permit pursuant to Chapter 10.58 SMC (Minor Use Permits). Deed restricted affordable units may not, however, convert to commercial use until expiration of the deed restriction.

b. Mixed Commercial and Residential (CR) Zoning District. All uses located above the first (street or ground) level of all existing and new structures shall be residential. Existing residential uses as of December 1, 1984, located in the CR zoning district are to be preserved ~~may not be converted to other uses— as required by the 1985 Fair Traffic Initiative (Ord.1022). Any commercial use on levels above the street, up to a maximum of 1,000 square feet, permitted pursuant to subsection (C)(5)(a) of this section shall also require a conditional use permit.~~

c. Neighborhood Commercial (CN-1) Zoning District. All uses located above the first (street or ground) level of all existing and new structures shall be residential in the CN-1 zoning districts located in the Second and Main Street area and the Bridgeway and Spring Street area.

d. Neighborhood Commercial (CN-2) Zoning District. Residential uses are not permitted in the CN-2 zoning district located along Bridgeway between Coloma Street and Ebbtide Avenue.

2. Existing residential uses located on the first (street or ground) level of a structure are permitted to remain in their current location.

3. Commercial uses are an allowed use on the first (street or ground) level pursuant to in accordance with SMC 10.24.030.

C. Permit Applications for Residential Units.

1. Development Standards. Development standards shall be those of the base zoning district for residential projects per Table 10.24-2 (Site Development Standards – Commercial Zoning Districts). ~~For residential density bonus and incentives see SMC 10.40.130.~~

2. Requirements for Affordable Units. Except as otherwise provided by subsection D, ~~e~~Each of the following requirements shall be met as a part of any residential project, including new construction and/or conversion of existing building space:

a. ~~Developments of one to five units must provide a minimum of one affordable unit. Developments with six or more units shall require include at least 20 percent of the units as affordable. For fractions of required affordable units, the developer may elect, at his or her option, to construct the next higher whole number of affordable units, or pay the residential affordable housing in-lieu fee in the amount set forth by City Council. When the number of affordable units is calculated to a fractional number, any fraction of less than one half shall be rounded down to the next whole number; any fraction of one half or greater shall be rounded up to the next whole number. In the event that the affordable unit(s) are rental unit(s) the applicant shall enter into an agreement with the City regarding such unit(s). The agreement shall meet the requirements of California Civil Code Section 1954.52(b).~~

b. Affordable units made available as rentals shall be provided to low income (80 percent AMI) households at an affordable rent.

c. Affordable units made available as ownership units shall be sold to moderate income (120 percent AMI) households at an affordable ownership housing cost. Purchasers of affordable units must remain as owner-occupants, and may not rent or lease the unit, unless written approval is first obtained from the Director. The Director may approve the renting or leasing only if all of the following conditions are met: (i) the term is not greater than 12 months and cannot be extended without the Director's written approval; (ii) the owner demonstrates to the Director's reasonable satisfaction that the owner will incur substantial hardship if he or she is not permitted to rent or lease the property or any part thereof to a third party; and (iii) the rent does not exceed the lesser of: (A) 30 percent of the income of the tenant household that is renting the property, or (B) the owner's monthly cost of principal and interest on the first mortgage loan and any second mortgage loan, and property insurance and property taxes associated with property. Affordable units shall be constructed to include a minimum of two bedrooms in order to accommodate families.

d. Affordable units must be deed-restricted for a period of not less than 40 years.

3. Incentives. The following incentives and conditions shall be granted to developers of residential projects under this section, where a project does not otherwise qualify for incentives under Government Code section 65915:

a. Development may permit commercial and residential tenants to share parking, and for tandem and off-site parking leases with a minor use permit. In order to approve a minor use permit for joint use, the applicant shall demonstrate the following:

i. There is no substantial conflict in the principal operating hours of the building or uses for which the joint use of off-street parking facilities is proposed; and

ii. The proposed joint use parking area is conveniently located to the uses to be served.

iii. If the area to be used for parking and the parcel on which the subject land use is located are not the same, then the Zoning Administrator shall consider whether a deed restriction is warranted as a condition of approval. Said deed restriction would stipulate that the shared parking agreement shall remain in effect for the life of the subject land use.

b. Affordable units may be permitted to be smaller in aggregate size and have different interior finishes and features within reason from market-rate units. The interior amenities in affordable units should generally be the same as those of the market rate units in the project. Appliances need not be the same make, model, or type of such item as long as they are of good and new quality and are consistent with current standards for housing. Deviations between market rate and affordable units shall be described in writing by the applicant and shall require written approval by the Director.

~~e. Development and application fees, including plan check and building permit fees, shall be reduced to a rate of 50 percent of the adopted development fees for the affordable portions of the project. The fee reduction shall be calculated on pro rata basis by the Director.~~

4. Access and Facilities. Both market rate and affordable units shall maintain separate entrances from commercial and/or office uses. A minor use permit shall be required to deviate from the separate entrance requirement. In order to approve a minor use permit for joint entrance, the applicant shall demonstrate that the addition of a separate entrance is infeasible due to physical constraints. All residential units shall contain a separate kitchen and bathroom facility.

D. Modification to Residential and Affordable Housing Requirements.

a. Projects proposed within existing buildings or structures shall not be required to create residential units that do not already exist under the following circumstances: (i) the project proposed does not include a physical expansion to the existing buildings or structures, exceeding 1000 square feet, (ii) the proposed project involves a historic structure and a certificate of appropriateness issued for the project pursuant to Chapter 10.46, or (iii) the Planning Commission finds, based on substantial evidence, that the conversion of existing space to residential uses is physically or financially infeasible.

b. Affordable units shall not be required to provide a minimum of two bedrooms upon a finding by the Planning Commission that there are physical site constraints which make infeasible units with two or more bedrooms.

c. An applicant may apply for a reduction, adjustment, or waiver of the affordable housing requirements of this section based upon a showing that applying the requirements of this section would result in an unconstitutional taking of property or would result in any other unconstitutional result. The applicant shall set forth in detail the factual and legal basis for the claim, including all supporting technical documentation, and shall bear the burden of presenting the requisite evidence to demonstrate the alleged unconstitutional result. The planning commission may, based upon legal advice provided by or at the behest of the city attorney, may approve a reduction, adjustment, or waiver if the planning commission determines that applying the affordable housing requirements of this section would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property. The reduction, adjustment, or waiver shall be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, and based on legal analysis and the evidence. If a reduction, adjustment, or waiver is granted, any change in the project shall invalidate the reduction, adjustment, or waiver, and a new application shall be required for a reduction, adjustment, or waiver pursuant to this section.

d. Other modifications to the residential requirements of this section or development standards may be approved by variance in accordance with Chapter 10.68, except that a variance to convert residential uses existing as of December 1, 1984 to other uses may not be approved by variance while the 1985 Fair Traffic Initiative (Ord.1022) remains in effect.

e. If any section of this section conflicts with Government Code Section 65915 or other applicable state law, state law shall supersede the requirements of this section.

~~5. Exceptions to Requirements. Waiver of specific use requirements in this section pursuant to SMC 10.44.010(E) shall only be considered in the following two instances:~~

~~a. To allow for an exception to subsection (B)(1) of this section, which requires that all uses located above the first (street or ground) level of all existing and new structures shall be residential, to allow for upper-level commercial uses. The expansion of an existing business within the same or adjacent site, or the allowance of small commercial uses (up to a maximum 1,000 square feet per parcel) may be special situations considered by the Planning Commission when evaluating an exception to subsection (B)(1) of this section.~~

~~b. To allow for an exception to SMC 10.11.010(E), which requires that affordable units provide a minimum of two bedrooms. To receive an exception from SMC 10.44.010(E), it must be demonstrated that there are physical site constraints which make infeasible units with two or more bedrooms whether affordable or market rate.~~

~~SMC 10.11.010(E) shall not be used to grant any other exceptions from this chapter except for the two instances listed above. [Ord. 1224 § 1, 2011; Ord. 1167 § 2, 2003.]~~