



**TOWN OF TIBURON**  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Planning Commission Meeting  
December 13, 2016  
Agenda Item: **PH-2**

## STAFF REPORT

**To:** Members of the Planning Commission

**From:** Community Development Department

**Subject:** Amendments to Chapter 16 (Zoning) of the Tiburon Municipal Code Regarding Secondary (Accessory) Dwelling Units and Junior Accessory Dwelling Units; Town File MCA2016006

**Reviewed By:** \_\_\_\_\_

## BACKGROUND

The California Legislature passed three bills in 2016 that have substantive effects on the existing regulatory framework for secondary (accessory) dwelling units and upon junior accessory dwelling units. All three bills were signed by the governor. The two bills affecting secondary dwelling units will become effective on January 1, 2017; the bill affecting junior accessory dwelling units went into effect upon its signing by the governor in September. Cities and counties throughout the state are now amending their zoning ordinances in response to the new laws. The general purpose of the legislation was to provide additional opportunities for affordable housing in California.

### Secondary Dwelling Units

Prior to July 1, 2003, secondary dwelling unit applications were subject to a conditional use permit process in the Town of Tiburon. The Town approved 39 such units by conditional use permit between 1984 and 2003. After that date, state law required ministerial or non-discretionary review and approval secondary dwelling units, subject to locally-adopted standards that retained a limited level of local discretion as to their content. The Town has ministerially approved eight secondary dwelling units since 2003.

Under the new state laws, secondary dwelling units are now required to be called “accessory dwelling units” (ADU). They were previously referred to as “second units” in state language, and as “secondary dwelling units” in Town regulations, but are also commonly known as granny units, in-law suites, or carriage houses. Such units are defined generally as independent, self-contained dwelling units, which may be attached or detached from a primary unit and may be constructed in single family residential zones and/or in multi-family residential zones subject to local discretion. ADU are strongly encouraged and facilitated by the state and are supported by the Town through General Plan policies.

### Junior Accessory Dwelling Units

Junior accessory dwelling units (JADU) are a recent phenomenon adopted by relatively few jurisdictions in California thus far. Tiburon and Novato were at the forefront in Marin County, having adopted JADU ordinances in early 2015. To date, no applications for a JADU have been filed in Tiburon. Certain elements of the state legislation are intended to remove some of the obstacles to creation of JADUs that were posed by special district and utility provider requirements, including fire sprinklers throughout the entire residence, separate utility meters, and utility connection fees that can no longer be required in most instances.

## **ANALYSIS**

### *Overview*

Assembly Bill 2299 and Senate Bill 1069 regarding accessory dwelling units were coordinated to contain nearly identical provisions in the event one or the other did not become law. Assembly Bill 2406 authorized adoption by local agencies of a permit process for junior accessory dwelling units and specified the regulatory scope of any such ordinance. Due to the complex nature of the legislation, extensive consultation with the Town Attorney was required during the preparation of the proposed amendments.

### Secondary Dwelling Units

The state legislation requires substantive revisions to the Town's regulations governing secondary dwelling units, including new or modified definitions and clarifications of appeal procedures and time lines for action. However, a virtually complete re-write of the Town Council-adopted "standards" used in the review of these applications is required. The Commission should note that the Town is proposing adoption of these revised standards by "resolution"; the method by which they were originally adopted. The state law suggests that the standards be adopted by ordinance, which would then require a lengthy and cumbersome amendment process. Given the propensity of the state to frequently modify accessory unit laws, and the strong likelihood that subsequent state legislation will be required to clarify ambiguous provisions contained in the new state laws, Town Staff believes adoption of the standards by resolution is a superior approach and poses little risk provided that the adopted standards are in compliance with the statutes.

### Junior Accessory Dwelling Unit Regulations

Assembly Bill 2406 was based on the same general model used to create the Town's ordinance in 2015 and relatively few changes are needed to the ordinance provisions. Modest revisions are required to the "standards" used in the ministerial review of applications. These include appeal provisions that have been clarified and a time limit imposed for action on JADU applications to match that contained in state law. A process for sending "courtesy notices" of a pending JADU application to nearby property owners has also been added, although such notices are not required by state law and the decision on an application must be ministerial and not discretionary in nature.

### *Changes to State Law*

The following is a summary of the changes to local regulation required under the new state laws.

## Secondary (Accessory) Dwelling Units

- Newly-created “Secondary Dwelling Units” must be referred to as “Accessory Dwelling Units” going forward.
- No minimum lot size restriction may be imposed.
- The statute appears to restrict local government regulation of ADU square footage in the ADU standards themselves within specified limits, but allows for local regulation through other discretionary permits (e.g., design review) in instances other than the simple conversion of existing floor space to an ADU. Where additions or new floor area are proposed for an ADU, the Town will apply typical zoning parameters such as height limits, floor area ratio limits, lot coverage limits, minimum setbacks, and the general principles of site plan and architectural review to prevent or ameliorate unreasonable adverse effects that might be caused by construction of additions. However, the Town would have very limited ability to regulate the subsequent conversion of such floor space to an ADU once it is built.
- Either the ADU or the primary unit can still be required to be owner-occupied, although exemptions have been created for units owned by a governmental agency, a land trust, or a housing organization.
- The Town may continue to prohibit rental of ADUs for periods of less than 30 days, in other words as “short term” rentals.
- Local standards regulating the conversion of existing floor space in a single family home or an existing detached accessory building into an ADU are narrowly circumscribed; for instance, no parking can be required for the ADU in such instances. Local agencies retain some latitude (in the form of standards) over accessory dwelling units that require new construction or additions to existing single family dwellings, but less latitude than under the prior state laws.
- Local agencies are now prohibited from imposing parking standards on ADU that are:
  - Located within one-half mile of public transit;
  - Located within an architecturally and historically significant district;
  - In part of an existing primary residence or in an existing detached accessory structure (with no expansion of exterior walls);
  - In areas where parking permits are required but are not offered to the ADU occupant;
  - Within one block of a car sharing vehicle.
- Some of the most substantive changes in the state law have implications for building, fire and utilities that are not necessarily reflected in the proposed zoning amendments, but will be addressed by the applicable Town Departments as appropriate. These changes are summarized below:
  - ADU shall not be required to provide fire sprinklers if they are not required for the primary residence.
  - ADU shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.
  - For ADU created within an existing structure, a local agency shall not require the applicant to install a new or separate utility connection directly between the ADU and the utility or impose a related connection fee or capacity charge.
  - For ADU created through the addition of new floor area, a local agency may require a new or separate utility connection directly between the ADU and the utility.

### Junior Accessory Dwelling Units

As the state did not previously regulate JADUs, there is no basis to compare changes in state law. To summarize, the Town may:

- Limit JADUs to a single family dwelling located in a single family zone.
- Require owner occupancy of the lot on which the JADU is located, unless the lot is owned by a governmental agency, a land trust, or a housing organization.
- Require the utilization of a pre-existing bedroom and require that the unit be located within the existing walls of the primary residence.
- Require that the existing residence complies with current parking standards (no new parking must be created or provided for the JADU itself).
- Require deed restrictions to be recorded that also bind future owners.
- Continue to prohibit rental of ADUs for periods of less than 30 days, in other words as short-term rentals.

### *Specific Town Documents Requiring Amendment*

The Town documents requiring amendment are:

1. Various sections of the Zoning Ordinance (Chapter 16 of the Municipal Code), including definitions, regulations governing secondary dwelling units and junior accessory dwelling units, tables and other miscellaneous sections referencing secondary dwelling units (due to the required name change to “accessory dwelling unit”). State law requires that the Planning Commission hold a public hearing and make its recommendations to the Town Council on these proposed amendments.
2. The Town Council resolutions establishing “standards” for review and approval of secondary dwelling units and junior accessory dwelling units. Due to the nature of the new state laws, there will now be two separate sets of standards for ADU. The first will govern ADUs where new construction or additions are involved; the second will govern exclusive conversion of existing floor space. The latter will have far fewer standards as dictated by state law. State law does not require a public hearing or formal Planning Commission recommendation on the adoption of the “standards”; although it is long-standing Town practice and tradition to do so and is therefore part of this business item.

Accordingly, the Planning Commission recommendations are set forth in separate resolutions (**Exhibit 1 and Exhibit 2**) covering these two areas of recommendation.

State Government Code sections setting forth the text of the new laws are attached as **Exhibits 3 and 4** for accessory dwelling units and junior accessory dwelling units, respectively.

Redline documents depicting the extensive revisions required to existing Town definitions, regulations, and standards are attached as **Exhibits 5, 6, and 7**.

## ENVIRONMENTAL DETERMINATION

The proposed amendments to the zoning ordinance and to the accompanying standards are statutorily exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section 15282, subsection (h) of the CEQA Guidelines.

## RECOMMENDATION

Staff recommends that the Planning Commission:

- 1) Hold a public hearing and consider all testimony.
- 2) Make any revisions as appropriate.
- 3) Move to adopt the attached resolution recommending approval to the Town Council of various zoning text amendments.
- 4) Move to adopt the attached resolution recommending adoption of revised “standards” for accessory dwelling units and junior accessory dwelling units to the Town Council.

## EXHIBITS

1. Draft resolution recommending zoning text amendments to the Town Council.
2. Draft resolution recommending revised standards to the Town Council.
3. Government Code Section 65852.2 governing ADU.
4. Government Code Section 65852.22 governing JADU.
5. Redline showing proposed revisions to zoning definitions related to ADU and JADU.
6. Redline showing proposed revisions to ADU regulations and standards.
7. Redline showing proposed revisions to JADU regulations and standards.

Prepared By: Scott Anderson, Director of Community Development 

**RESOLUTION NO. 2016-DRAFT**

**A RESOLUTION OF THE PLANNING COMMISSION  
OF THE TOWN OF TIBURON RECOMMENDING TO THE TOWN COUNCIL ADOPTION  
OF TEXT AMENDMENTS TO THE TIBURON ZONING ORDINANCE  
RELATING TO ACCESSORY DWELLING UNITS (SECONDARY DWELLING UNITS)  
AND JUNIOR ACCESSORY DWELLING UNITS**

WHEREAS, the Town of Tiburon has proposed text amendments to the Town's Zoning Ordinance, codified as Title IV, Chapter 16 of the Tiburon Municipal Code, in response to recently-enacted state legislation contained in Assembly Bills 2406 and 2299, and in Senate Bill 1069; and

WHEREAS, the Town has proposed amendments to the Town's standards for accessory dwelling units and junior accessory dwelling units; and

WHEREAS, a notice of a public hearing on the proposed amendments described herein was published as a display ad in a newspaper of general circulation within the Town of Tiburon on November 30, 2016 and other noticing was provided as required by law; and

WHEREAS, the Planning Commission did hold a duly noticed and advertised public hearing on December 13, 2016 and considered the proposed amendments and any testimony regarding said amendments during the public hearing; and

WHEREAS, the Planning Commission has considered the preliminary environmental determination that the proposed amendments are statutorily exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section 15282 subdivision (h) of the CEQA Guidelines; and

WHEREAS, the Planning Commission finds that the proposed zoning text amendments are consistent with the goals, policies, and programs of the Tiburon General Plan and any applicable plans and are consistent with the requirements and objectives of the Zoning Ordinance; and

WHEREAS, the Planning Commission finds that the proposed amendments will not be detrimental to the public health, safety or welfare of the Town.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the Town Council adopt the Zoning Ordinance text amendments as set forth in the attached Exhibit "A".

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon held on December 13, 2016, by the following vote:

AYES: COMMISSIONERS:

NAYS: COMMISSIONERS:

ABSENT: COMMISSIONERS:

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ERICA WILLIAMS, CHAIR  
Tiburon Planning Commission

ATTEST:

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SCOTT ANDERSON, SECRETARY

Attachment: Exhibit "A", Zoning Ordinance Amendments

## EXHIBIT “A”

### Zoning Ordinance (Municipal Code Chapter 16) Amendments to Definitions

#### Definition to be Added

“Accessory dwelling unit”. An attached or a detached residential dwelling unit which provides independent living facilities for one or more persons. It shall include permanent provisions for living, eating, sleeping, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes an efficiency unit as defined in Section 17958.1 of the Health and Safety Code, and a manufactured home as defined in Section 18007 of the Health and Safety Code. (See also “Secondary dwelling unit”).

For the purposes of Section 16-52.100, the following defined terms are used in association with accessory dwelling units:

1. “Attached accessory dwelling unit” means an accessory dwelling unit that shares a common wall with the primary unit, either by being constructed as a physical expansion (i.e., addition) of a primary unit, conversion of an existing garage attached to a primary unit, or installation of a new basement underneath an existing primary unit.
2. “Detached accessory dwelling unit” means an accessory dwelling unit that is constructed as a separate structure from the primary unit, or is created through conversion (full or partial) of an existing lawfully-constructed detached accessory building into an accessory dwelling unit.
3. “Floorspace” means the gross floor area as measured to the outside surface of exterior walls, including its living area.
4. “Living area” means the interior habitable area of a dwelling unit including the basement and attics but not including a garage or any accessory building or structure.
5. “Primary unit” means the building (or portion of the building in cases of an attached accessory dwelling unit) in which the principal residential use of the lot takes place. An accessory dwelling unit cannot constitute the primary unit.
6. “Public transit” means a signed and designated bus stop, train stop, ferry terminal or other public transit station.
7. “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

### **Definitions to be Amended**

"Accessory building or structure". A building or structure that is subordinate to the main building on the same site, or the use of which is incidental to the use of the site or the use of the main building on the site. A building that shares a common wall with a main building shall be deemed a part of the main building.

"Accessory use". A use customarily incidental, related, and subordinate to the principal legal use of the parcel or lot and located on the same.

"Junior accessory dwelling unit". A unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

"Secondary dwelling unit". The predecessor to an accessory dwelling unit under local zoning laws. Secondary dwelling unit permits were issued under local zoning laws in effect after February 3, 1984 and prior to January 1, 2017.

### **Definition to be Deleted**

"Legal non-conforming secondary dwelling unit". A secondary dwelling unit that does not currently conform to the regulations for the district in which it is situated but which did conform at the time it was constructed or erected.

## **Zoning Permit Regulations for Accessory Dwelling Units**

Section 16-52.100 - Accessory dwelling unit.

This section provides for the establishment and reasonable regulation of accessory dwelling units in order to encourage housing opportunities for all segments of the population while ensuring the public health, safety, and welfare.

- A. Application and fee. Application for an accessory dwelling unit permit shall be made in compliance with the provisions of division 16-50 (application filing and processing) and shall be accompanied by the appropriate fee.
- B. Director of community development as review authority. Applications for accessory dwelling unit shall be acted upon by the director ministerially without discretionary review or a public hearing. Said action shall occur no more than 120 days following submission of the application. Courtesy notice shall be provided to owners of property within one hundred feet of the subject property, as set forth on equalized county tax assessment rolls, at least ten days prior to a decision by the director.
- C. Grant of accessory dwelling unit permit.
  1. In order to grant an accessory dwelling unit permit for an accessory dwelling unit created through construction of or additions to a detached accessory building or by construction of or additions to a single-family dwelling, the director shall find that the accessory dwelling unit would comply with all of the standards set forth in the current *Standards* for such accessory dwelling units as adopted by council resolution.

2. In order to grant an accessory dwelling unit permit for an accessory dwelling unit created exclusively through conversion of existing floorspace in a primary unit or a detached accessory building, the director shall find that the accessory dwelling unit would comply with all of the standards set forth in the current *Standards* for such accessory dwelling units as adopted by council resolution.
- D. Building permits. A building permit shall be required in conjunction with the issuance of an accessory dwelling unit permit if repair, rehabilitation, or other work otherwise requiring a building permit is necessary.
- E. Approved conditional use permits still valid. Any secondary dwelling unit legally established with an approved conditional use permit prior to July 1, 2003 and in continued existence shall be deemed a legal, conforming dwelling unit. Secondary dwelling units established by any such conditional use permit shall continue to comply with all conditions of the permit approval, and with zoning requirements for secondary dwelling units in effect at the time of permit approval.
- F. Approved secondary dwelling units still valid. Any secondary dwelling unit legally established with an approved secondary dwelling unit permit between July 1, 2003 and January 1, 2017 and in continued existence shall be deemed a legal, conforming dwelling unit. Secondary dwelling units established by any such permit shall continue to comply with all zoning requirements for secondary dwelling units in effect at the time of permit approval.
- G. Premises identification. Any Town-assigned street address number for the accessory dwelling unit shall be plainly visible and legible from the street fronting the property as required by the applicable building code.
- H. Expiration. Accessory dwelling unit permits issued in compliance with this section shall expire and become null and void three years after issuance unless a certificate of occupancy has been issued by the building division.
- I. Revocation. Upon written notice to the holder of an accessory dwelling unit permit or a secondary dwelling unit permit, and a hearing before the director, the director may revoke or modify any accessory dwelling unit permit or secondary dwelling unit permit on any one or more of the following grounds:
1. That the approval was based on false information submitted by the applicant;
  2. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more; or
  3. That the permit granted is being or recently has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law or regulation.
- J. Periodic update. The director shall maintain a record of all legal accessory dwelling units and all legal secondary dwelling units and shall review and update the record every two years.
- K. Reporting of violations. All reporting of accessory dwelling unit permit or secondary dwelling unit permit violations shall be submitted in writing to the director. The director shall notify the owner of record of the property that a complaint has been registered, within ten calendar days from receipt of any such complaint. The director shall investigate and issue a written report to the complainant within thirty days from the date of the issuance of the notice outlining the current status of any alleged violation and the steps that have been requested of the owner of record to remedy the situation.

- L. Violations considered an infraction. Violations of this section shall be punished as infractions or by administrative citation, in the discretion of the director and shall be subject to the provisions of section 16-56.030 (violations and penalties) and/or chapter 31 (enforcement of code). This subsection also applies to violations of conditions of approval or requirements of operation issued in association with any accessory dwelling unit permit or secondary dwelling unit permit.
- M. Violations—Additional remedies—Injunctions. As an additional remedy, the existence and/or maintenance of any accessory dwelling unit or secondary dwelling unit in violation of any provisions herein, or of any conditions of approval or requirements of operation placed thereon, shall be cause for revocation and shall be deemed and is declared to be a public nuisance and may be subject to summary abatement (i.e., including, without limitation, administrative abatement in compliance with chapter 31 [enforcement of code]), and/or restrained and enjoined by a court of competent jurisdiction. In the event legal action is instituted to abate said violation, the town shall be entitled to recover its costs and reasonable attorney's fees incurred in prosecuting said action.
- N. Appeals. The decision of the director granting or denying an accessory dwelling unit permit is a ministerial decision as required by state law, and not subject to a public hearing. Any appeal of the decision shall constitute an administrative review of the objective standards and criteria established by the Town for accessory dwelling units. Any such appeal must be filed within ten calendar days of the date of decision and shall be heard by the Town Council. The appeal shall be heard in a timely manner.
- O. Density. Pursuant to California Government Code Section 68552.2, no accessory dwelling unit approved under these provisions shall be considered in calculating the density of the lot allowed by the land use designation contained in the land use element of the Tiburon General Plan, and accessory dwelling units are deemed a residential use that is consistent with the existing general plan and zoning for the lot.

## **Zoning Permit Regulations for Junior Accessory Dwelling Units**

### 16-52.105- Junior accessory dwelling unit.

This section provides for the establishment and reasonable regulation of junior accessory dwelling units in order to encourage housing opportunities for all segments of the population while ensuring the public health, safety and welfare.

- A. Zoning permit required. No junior accessory dwelling unit shall be established or used unless a junior accessory dwelling unit permit has been issued by the town.
- B. Application and fee. Application for a junior accessory dwelling unit permit shall be made in compliance with the provisions of division 16-50 (application filing and processing) and shall be accompanied by the appropriate filing fee.
- C. Director of community development as review authority. Applications for junior accessory dwelling unit shall be acted upon by the director without discretionary review or a public hearing. Said action shall occur no more than 120 days following submission of the application. Courtesy notice shall be provided to owners of property within one hundred feet of the subject property, as set forth on equalized county tax assessment rolls, at least ten days prior to a decision by the director.

- D. Grant of junior accessory dwelling unit permit. In order to grant a junior accessory dwelling unit permit, the director shall find that the proposed unit would comply with this section and with the current *Standards for Junior Accessory Dwelling Units* as adopted by council resolution.
- E. Building permits. A building permit and a certificate of occupancy shall be required in conjunction with the installation of a junior accessory dwelling unit. Any repair, rehabilitation, or other work associated with the installation of the junior accessory dwelling unit shall also obtain building permits where required by law.
- F. Premises identification. Any Town-assigned street address number for the junior accessory dwelling unit shall be plainly visible and legible from the street fronting the property as required by the applicable building code.
- G. Expiration. Junior accessory dwelling unit permits issued in compliance with this section shall expire and become null and void three years after issuance unless a certificate of occupancy has been issued by the building division.
- H. Revocation. Upon written notice to the holder of a junior accessory dwelling unit permit and a hearing before the director, the director may revoke or modify any such permit, on any one of the following grounds:
  - 1. That the approval was based on false information submitted by the applicant.
  - 2. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more.
  - 3. That the permit granted is being or recently has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law or regulation.
  - 4. For other good cause.
- I. Periodic update. The director shall maintain a record of all authorized junior accessory dwelling units and shall review and update the record every two years. At the review, the owner of record shall verify in writing under penalty of perjury that the junior accessory dwelling unit is in compliance with the standards for junior accessory dwelling units and with all operating requirements of the permit as set forth in applicable ordinances and regulations.
- J. Reporting of violations. All reporting of junior accessory dwelling unit violations shall be submitted in writing to the director. The director shall notify the owner of record of the property that a complaint has been registered within ten calendar days from receipt of any such complaint. The director shall investigate and issue a written report to the complainant within thirty days from the date of the issuance of the notice outlining the current status of any alleged violation and the steps that have been requested of the owner of record to remedy the situation.
- K. Violations considered an infraction. Violations of this section shall be punished as infractions or by administrative citation, in the discretion of the director and shall be subject to the provisions of section 16-56.030 (violations and penalties) and/or Municipal Code chapter 31 (enforcement of code). This subsection also applies to violations of requirements of operation issued in association with any junior accessory dwelling unit approval.
- L. Violations—Additional remedies—Injunctions. As an additional remedy, the existence and/or maintenance of any junior accessory dwelling unit in violation of any provisions herein, or of any requirements of operation placed thereon, shall be cause for revocation

and shall be deemed and is declared to be a public nuisance and may be subject to summary abatement (i.e., including, without limitation, administrative abatement in compliance with Municipal Code chapter 31), and/or restrained and enjoined by a court of competent jurisdiction. In the event legal action is instituted to abate said violation, the town shall be entitled to recover its costs and reasonable attorney's fees incurred in prosecuting said action.

- M. Appeals. The decision of the director granting or denying a junior accessory dwelling unit permit is a ministerial decision as required by state law, and not subject to a public hearing. Any appeal of the decision shall constitute an administrative review of the objective standards and criteria established by the Town for junior accessory dwelling units. Any such appeal must be filed within ten calendar days of the date of decision and shall be heard by the Town Council. The appeal shall be heard in a timely manner.

### **Miscellaneous ADU-Related Zoning (Chapter 16) Amendments**

Table 2-1 of Section 16-21.030 is amended such that the words “Secondary dwelling unit” are replaced by the words “Accessory dwelling unit”.

Table 5-1 of Section 16-50.020 is amended such that the words “Secondary Dwelling Unit Permit” are replaced by the words “Accessory Dwelling Unit Permit”.

Section 16-54.020 is amended such that the words “Secondary Dwelling Unit” are replaced by the words “Accessory Dwelling Unit”.

Section 16-54.040 is amended is amended such that the words “Secondary Dwelling Unit” are replaced by the words “Accessory Dwelling Unit”.

**RESOLUTION NO. 2016-DRAFT**

**A RESOLUTION OF THE PLANNING COMMISSION  
OF THE TOWN OF TIBURON RECOMMENDING TO THE TOWN COUNCIL ADOPTION  
OF REVISED “STANDARDS” TO BE USED IN THE REVIEW OF APPLICATIONS FOR  
ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND  
SUPERSEDING THE PREVIOUSLY-ADOPTED STANDARDS**

WHEREAS, on July 7, 2010, the Town Council adopted Resolution No. 39-2010 setting forth standards to be used in the review of applications for secondary dwelling unit; and

WHEREAS, on February 8, 2015, the Town Council adopted Resolution No. 07-2015 setting forth standards to be used in the review of applications for junior accessory dwelling unit; and

WHEREAS, the State of California has recently passed legislation that requires substantial revisions to Town of Tiburon zoning regulations and to the standards for both secondary dwelling units (now termed “accessory dwelling units” by the State) and junior accessory dwelling units; and

WHEREAS, the Planning Commission has considered the revisions to the zoning regulations and the accompanying standards at a duly-noticed public hearing held on December 13, 2016, has recommended to the Town Council adoption of proposed amendments to the zoning regulations, and has reviewed and considered the proposed standards for accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the Planning Commission has considered the preliminary environmental determination that the proposed revisions to the standards are statutorily exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section 15282, subsection (h) of the CEQA Guidelines; and

WHEREAS, the Planning Commission finds that the proposed revisions to the standards are consistent with state law and with the goals, policies, and programs of the Tiburon General Plan and are consistent with the requirements and objectives of the Zoning Ordinance; and

WHEREAS, the Planning Commission finds that the proposed revisions to the standards will not be detrimental to the public health, safety or welfare of the Town.

NOW THEREFORE BE IT RESOLVED that the Planning Commission does hereby recommend to the Town Council adoption of revised “standards” to be used in the review of applications for accessory dwelling unit and junior accessory dwelling unit, as set forth in attached Exhibit “A”, said standards to supersede previously-adopted Town standards for secondary dwelling units and junior accessory dwelling units as set forth in Town Council Resolutions 39-2010 and 07-2015.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon held on December 13, 2016, by the following vote:

AYES: COMMISSIONERS:

NAYS: COMMISSIONERS:

ABSENT: COMMISSIONERS:

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ERICA WILLIAMS, CHAIR  
Tiburon Planning Commission

ATTEST:

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SCOTT ANDERSON, SECRETARY

Attachment: Exhibit "A", Revised Standards

## EXHIBIT “A”

### STANDARDS FOR ACCESSORY DWELLING UNITS CREATED THROUGH CONSTRUCTION OF OR ADDITIONS TO A DETACHED ACCESSORY BUILDING OR BY CONSTRUCTION OF OR ADDITIONS TO A SINGLE-FAMILY DWELLING

1. Zones. The proposed unit would be located on a lot that contains a single family dwelling located in one of the following residential zones: R-1, R-1-B, RO, or RPD, and cannot be located on a lot that contains more than one unit.
2. One per lot. The proposed unit would be the only *Accessory Dwelling Unit* on the lot and there would be no *Junior Accessory Dwelling Unit* on the lot.
3. Rental. The *Accessory Dwelling Unit* may be rented but may not be rented for a period of less than 30 consecutive days or used as a *Vacation Rental*.
4. Owner occupancy. One of the dwelling units on the site shall be owner-occupied. For purposes of this standard, “ownership” is defined as a majority (i.e., fifty-one percent or greater) interest in the property in question. Property owned in joint tenancy shall be considered a single ownership for any party named. Property owned in tenancy in common shall be considered a single ownership for the party named, unless shares are specified, in which case ownership requires a majority interest.
5. Location on lot. The *Accessory Dwelling Unit* shall either be attached to the existing dwelling or located within the *Living Area* of the existing dwelling, or shall be detached from the existing dwelling and located on the same lot as the existing dwelling. If detached, the *Accessory Dwelling Unit* shall be separated from the *Primary Unit* and any *Detached Accessory Building* a minimum of three feet.
6. Zoning Development Standards. The proposed unit shall comply with development standards for the underlying zone in which it is located, specifically standards for lot coverage, setback, height, and floor area ratio, except as explicitly set forth herein.
7. Separate Kitchen and Bathroom. The proposed *Accessory Dwelling Unit* shall contain a separate kitchen and bathroom; both the *Primary Unit* and the *Accessory Dwelling Unit* shall comply at a minimum with all requirements of the current residential code; and the *Accessory Dwelling Unit* shall comply with the building code at the time it was constructed.
8. Size. The increased floor area of an *Attached Accessory Dwelling Unit* shall not exceed 50 percent of the existing *Living Area*, with a maximum allowable increase in floor area of 1,200 square feet. The total area of floorspace for a newly-constructed *Detached Accessory Dwelling Unit* shall not exceed 1,200 square feet.
9. *Passageway*. No *Passageway* shall be required in conjunction with the construction of an *Accessory Dwelling Unit*.
10. Setback Exceptions. No setback shall be required for a lawfully-constructed garage in existence prior to January 1, 2017 that is converted to an *Accessory Dwelling Unit*, and a setback of no more than five (5) feet from the side and rear lot lines shall be required for an *Accessory Dwelling Unit* that is constructed above a garage.
11. Parking. The application shall comply with parking provisions of Tiburon Municipal Code Chapter 16, including parking setback limitations, except as may be set forth below:
  - A. One on-site parking space shall be required for each bedroom of the proposed *Accessory Dwelling Unit* in addition to those required for the *Primary Unit*. No

- Accessory Dwelling Unit* shall be deemed to have less than one bedroom.
- B. Required parking for the *Accessory Dwelling Unit* may be uncovered.
  - C. Off-street parking for an *Accessory Dwelling Unit* may be in tandem with parking for the *Primary Unit* or may be allowed in the front setback, unless specific findings are made that such is not feasible based on specific site topographical or fire and life safety conditions. All parking spaces shall be on an *Improved Parking Surface*.
  - D. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an *Accessory Dwelling Unit*, and the Town requires that those parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the *Accessory Dwelling Unit*, including, but not limited to, as covered spaces, uncovered spaces, or by the use of mechanical automobile parking lifts.
  - E. Subsections A through D of this Standard 11 shall not apply to a unit described in subsection 11F below.
  - F. On-site parking is not required for an *Accessory Dwelling Unit* in any of the following circumstances:
    - (1) The unit is located within one-half mile of *Public Transit*.
    - (2) The unit is located within an architecturally and historically significant historic district.
    - (3) The unit is part of the existing *Primary Unit* or an existing *Accessory Building*.
    - (4) When on-street parking permits are required but not offered to the occupant of the unit.
    - (5) When there is a car share vehicle located within one block of the unit.
12. Architectural Compatibility. The *Accessory Dwelling Unit* shall comply with the following architectural review standards:
- A. Architectural Style and Form. Architectural style and building form shall match the style and form of the *Primary Unit*.
  - B. Architectural Details. Architectural details, including but not limited to windows, roof pitch, and trim shall match the *Primary Unit*.
  - C. Color and Materials. The color and materials of the *Accessory Dwelling Unit* shall match the *Primary Unit*.
  - D. Lighting. Lighting shall be shielded and/or directed so that it does not produce glare visible from off-site or illuminate onto adjacent or nearby property.
  - E. Privacy. Windows shall be located to avoid line of sight to windows of adjacent or nearby property. Obscured glass and other techniques may be used to address line-of-sight issues.
13. Landscaping. Landscaping, including trees and shrubs, would be installed and maintained as part of the project to minimize the visual impacts of the project, including the screening of parking areas; to provide shade; and to provide a visual buffer between the *Accessory Dwelling Unit* and its surroundings. Proposed trees would comply with provisions of Chapter 15A of the Tiburon Municipal Code. Any tree over 30 inches in circumference, removed in conjunction with the construction of an *Accessory Dwelling Unit*, shall be replaced by a 24 inch box tree in the general area from which it was removed.
14. Feasibility Inspection. Unless the project constitutes new construction, a building

inspection shall be performed by the Town's Building Division at applicant's cost, and a report establishing the feasibility of the project to meet applicable building and residential codes shall be provided to the Director of Community Development prior to approval of an *Accessory Dwelling Unit* permit.

15. Adequate sanitary service capacity for the additional increment of effluent resulting from the *Accessory Dwelling Unit* would be available. If the lot is connected to the public sewer system, the applicant has submitted a letter from the appropriate Sanitary District to that effect. If the lot is not connected to the public sewer system, the applicant has submitted a letter from the County of Marin Environmental Health Department confirming that the individual or alternative sewage disposal system serving the lot has adequate capacity to accommodate the proposed *Accessory Dwelling Unit*.
16. The *Accessory Dwelling Unit* would comply with all applicable Fire District regulations, subject to provisions and limitations set forth in Government Code Section 65852.2.
17. The *Accessory Dwelling Unit* would comply with all applicable Water District regulations, subject to provisions and limitations set forth in Government Code Section 65852.2.

**STANDARDS FOR ACCESSORY DWELLING UNITS CREATED EXCLUSIVELY THROUGH CONVERSION OF EXISTING FLOORSPACE IN A SINGLE-FAMILY DWELLING OR A DETACHED ACCESSORY BUILDING**

1. The unit shall be located in a single-family zone.
2. The unit shall be created within an existing legal structure (a single-family dwelling or a *Detached Accessory Building* appurtenant to a single-family dwelling).
3. The unit shall provide independent exterior access from the *Primary Unit*.
4. The unit has sufficient setbacks to meet fire safety requirements.
5. There shall be no more than one *Accessory Dwelling Unit* on the lot.
6. Rental. The unit may be rented but may not be rented for a period less than 30 consecutive days or used as a *Vacation Rental*.
7. Owner Occupancy. One of the dwelling units on the site (either the *Primary Unit* or the *Accessory Dwelling Unit*) shall be owner-occupied. For purposes of this standard, "ownership" is defined as a majority (i.e., fifty-one percent or greater) interest in the property in question. Property owned in joint tenancy shall be considered a single ownership for any party named. Property owned in tenancy in common shall be considered a single ownership for the party named, unless shares are specified, in which case ownership requires a majority interest.
8. Feasibility Inspection. A building inspection shall be performed by the Town's Building Division at applicant's cost, and a memo establishing the feasibility of the project to meet applicable building and residential codes shall be provided to the *Director of Community Development*, prior to approval of a permit.

*NOTE: Bold and italics indicates a term defined in Title IV, Chapter 16 (Zoning) of the Tiburon Municipal Code.*

## STANDARDS FOR JUNIOR ACCESSORY DWELLING UNITS

1. The proposed junior accessory dwelling unit would be located in a single-family residential zone, including the R-1, R-1-B, RO, or RPD zones.
2. The proposed junior accessory dwelling unit would be the only Junior Accessory Dwelling Unit on the lot and there would be no secondary dwelling unit or accessory dwelling unit on the lot.
3. The junior accessory dwelling unit would be located on a lot that contains only one legal single-family dwelling.
4. Owner occupancy of one of the dwelling units on the site (either the primary residence or the junior accessory dwelling unit) is required, unless the owner is a governmental agency, a land trust, or a housing organization. For purposes of this standard, ownership is defined as a majority (i.e., fifty-one percent or greater) interest in the property in question. Property owned in joint tenancy shall be considered a single ownership for any party named. Property owned in tenancy in common shall be considered a single ownership for the party named, unless shares are specified, in which case ownership requires a majority interest.
5. The junior accessory dwelling unit would be in conformance with the current building codes adopted by the Town. A memo prepared following inspection of the premises by the Tiburon Building Division, documenting the feasibility of the project to meet current building codes, shall be provided to the Director of Community Development prior to approval of a junior accessory dwelling unit permit.
6. The junior accessory dwelling unit would be created within the existing walls of a single-family dwelling and would include the utilization of a pre-existing bedroom.
7. The junior accessory dwelling unit would have a separate exterior entry from that of the primary residence, and internal access to the primary residence is established. A second interior doorway separation may be provided for sound attenuation purposes.
8. The junior accessory dwelling unit shall include an efficiency kitchen, requiring and limited to the following components:
  - a. A sink with a maximum waste line diameter of one-and-a-half (1.5) inches.
  - b. A cooking facility with appliances that do not require electrical service greater than one hundred-twenty (120) volts. Gas appliances are not permitted.
  - c. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
9. The junior accessory dwelling unit would be located on a lot where the primary residence complies with current parking standards for a single-family dwelling.
10. Adequate sanitation (bathroom) facilities are provided, either a) separately for the exclusive use of the junior accessory dwelling unit; or b) shared with the primary residence through internal access from the junior accessory dwelling unit to the primary residence.
11. The junior accessory dwelling unit shall comply with applicable requirements of the fire protection district serving the lot, subject to the provisions of Government Code Section 65852.22(d) or successor sections thereto.
12. The junior accessory dwelling unit shall comply with applicable requirements of the public water agency serving the lot, subject to the provisions of Government Code Section 65852.22(e) or successor sections thereto.
13. The junior accessory dwelling unit may be rented but shall not be rented for less than

thirty (30) consecutive days.

14. The property on which the junior accessory dwelling unit is located shall have deed restrictions recorded upon it as set forth below prior to issuance of a building permit for the unit. Said restrictions shall be reviewed and approved by the Town Attorney and recorded with the Marin County Recorder's Office.
  - a. The junior accessory dwelling unit shall not be sold separately from the primary residence, and shall not be rented for less than thirty (30) consecutive days.
  - b. The junior accessory dwelling unit shall not exceed five-hundred (500) square feet in floor area, shall not be smaller than allowed by applicable building regulations, and shall be entirely contained within an existing single-family structure.
  - c. The junior accessory dwelling unit shall be considered legal only so long as it or the single-family dwelling in which it is located is owner-occupied, unless the owner is a governmental agency, a land trust or a housing organization. Ownership is defined as a majority (i.e., fifty-one percent or greater) interest in the property in question. Property owned in joint tenancy shall be considered a single ownership for any party named. Property owned in tenancy in common shall be considered a single ownership for the party named, unless shares are specified, in which case ownership requires a majority interest.
  - d. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with any provisions of Tiburon Municipal Code Section 16-52.105 (or successor sections) may result in legal action against the property owner, including revocation of any right to maintain a junior accessory dwelling unit on the property.

# ADU State Law

## CHAPTERED CHANGES IN ACCESSORY UNIT PROVISIONS

### 65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and

shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall

not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile of public transit.
  - (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
  - (3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
  - (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
  - (5) When there is a car share vehicle located within one block of the accessory dwelling unit.
- (e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
- (f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
- (2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.
- (A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.
- (B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which 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 single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.



**AB-2406 Housing: junior accessory dwelling units. (2015-2016)**

**Assembly Bill No. 2406**

CHAPTER 755

An act to add Section 65852.22 to the Government Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[ Approved by Governor September 28, 2016. Filed with Secretary of State September 28, 2016. ]

LEGISLATIVE COUNSEL'S DIGEST

AB 2406, Thurmond. Housing: junior accessory dwelling units.

The Planning and Zoning Law authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential areas, as prescribed.

This bill would, in addition, authorize a local agency to provide by ordinance for the creation of junior accessory dwelling units, as defined, in single-family residential zones. The bill would require the ordinance to include, among other things, standards for the creation of a junior accessory dwelling unit, required deed restrictions, and occupancy requirements. The bill would prohibit an ordinance from requiring, as a condition of granting a permit for a junior accessory dwelling unit, additional parking requirements.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 65852.22 is added to the Government Code, immediately following Section 65852.2, to read:

**65852.22.** (a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence already built on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the existing walls of the structure, and require the inclusion of an existing bedroom.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A sink with a maximum waste line diameter of 1.5 inches.

(B) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.

(C) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine whether the junior accessory dwelling unit is in compliance with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For the purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For the purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

**SEC. 2.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow local jurisdictions the ability to promulgate ordinances that create secure income for homeowners and secure housing for renters, at the earliest possible time, it is necessary for this act to take effect immediately.

## Zoning Ordinance Changes to Definitions (Article X)—Redline Version

### Definition to be Added

“Accessory dwelling unit”. An attached or a detached ~~residential~~additional dwelling unit ~~on a single family lot,~~ which provides independent living facilities for one or more persons, ~~not more than three persons, and which has kitchen/cooking, sleeping and sanitation facilities on the same lot as the primary unit is situated. See section 16-52.100 (secondary dwelling unit).~~ It shall include permanent provisions for living, eating, sleeping, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes an efficiency unit as defined in Section 17958.1 of the Health and Safety Code, and a manufactured home as defined in Section 18007 of the Health and Safety Code. (See also “Secondary dwelling unit”).

“Secondary dwelling unit”. ~~The following defined terms~~ are used in association with ~~for~~ accessory~~secondary~~ dwelling units:

1. Attached ~~accessory~~secondary dwelling unit. An accessory-~~secondary~~ dwelling unit that shares a common wall with the primary unit, either by being constructed as a physical expansion (i.e., addition) of a primary unit, conversion of an existing garage attached to a primary unit, or installation of a new basement underneath an existing primary unit.
2. ~~Legal nonconforming secondary dwelling unit. A secondary dwelling unit that currently does not conform to the regulations for the zone in which it is situated but which did conform at the time it was constructed or erected.~~
- 2.3. Detached accessory dwelling unit. An accessory dwelling unit that is constructed as a separate structure from the primary unit, or is created through conversion (full or partial) of an existing lawfully-constructed detached accessory building into an accessory dwelling unit.
4. Floorspace. The gross floor area of a detached accessory dwelling unit as measured to the outside surface of exterior walls, including its living area.
5. Interior accessory dwelling unit. An accessory dwelling unit that is lawfully created entirely within the existing living area of a primary unit, including within an existing basement.
- 3.6. Living area. The interior habitable area of a dwelling unit including the basement and attics but not including a garage or any accessory building or structure.
4. ~~Owner of record. The owner of at least fifty percent interest in the subject real property.~~

~~7. Primary unit. The building (or portion of the building in cases of an attached accessorysecondary dwelling unit) in which the principal residential use of the lot takes place. An accessory-secondary dwelling unit cannot constitute the primary unit.~~

~~5. Principal place of residence. A dwelling unit that is occupied by the owner of record as a primary place of residence.~~

~~6-8. Public transit. A signed and designated bus stop, train stop, ferry terminal or other public transit station.~~

~~8-9. Passageway. A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.~~

### **Definitions to be Amended**

~~“Accessory building or structure”. A building or structure that is subordinate to the main building on the same site, or the use of which is incidental to the use of the site or the use of the main building on the site. A building that shares a common wall with a main building shall be deemed a part of the main building. A building or structure that is used as a secondary dwelling unit is not an accessory building or structure.~~

~~“Accessory use”. A use customarily incidental, related, and subordinate to the principal legal use of the parcel or lot and located on the same. A secondary dwelling unit is not an accessory use.~~

~~“Junior accessory dwelling unit”. A unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. dwelling unit that is accessory to and included within the existing walls of a single-family dwelling and is created by the conversion of an existing bedroom. A junior accessory dwelling unit is an alternate version of a secondary dwelling unit, subject to different standards for approval, which provides independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, and cooking. Cooking and food preparation facilities shall be limited to an efficiency type kitchen as defined in the Town’s *Standards for Junior Accessory Dwelling Units*. Sanitation facilities may be independently provided for the junior accessory dwelling unit or may be shared with occupants of the primary dwelling provided that interior access to the sanitation facilities is available. A junior accessory dwelling unit cannot be sold independently of the primary unit, and cannot be used or rented as a Seasonal Rental Unit, as defined in Article X of this chapter.~~

~~“Secondary dwelling unit”. The predecessor to an accessory dwelling unit under local zoning laws. Secondary dwelling unit permits were issued under local zoning laws in effect after February 3, 1984 and prior to January 1, 2017. An attached or detached additional dwelling unit on a single-family lot, which provides independent living facilities for not more than three persons, and which has kitchen/cooking, sleeping and sanitation facilities on the same lot as the primary unit is situated. See Section 16-52.100 (Secondary Dwelling Unit). The following definitions are used for secondary dwelling units:~~

1. ~~Attached secondary dwelling unit.~~ A secondary dwelling unit that shares a common wall with the primary unit.
2. ~~Legal nonconforming secondary dwelling unit.~~ A secondary dwelling unit that currently does not conform to the regulations for the zone in which it is situated but which did conform at the time it was constructed or erected.
3. ~~Owner of record.~~ The owner of at least fifty percent interest in the subject real property.
4. ~~Primary unit.~~ The building (or portion of the building in cases of an attached secondary dwelling unit) in which the principal residential use of the lot takes place. A secondary dwelling unit cannot constitute the primary unit.
5. ~~Principal place of residence.~~ A dwelling unit that is occupied by the owner of record as a primary place of residence.

#### Definition to be Deleted

~~“Legal nonconforming secondary dwelling unit”.~~ A secondary dwelling unit that currently does not conform to the regulations for the district in which it is situated but which did conform at the time it was constructed or erected.

Section 16-52.100 - ~~Secondary~~ Accessory dwelling unit. (Regulations)

This section provides for the establishment and reasonable regulation of secondary accessory dwelling units in order to encourage housing opportunities for all segments of the population while ensuring the public health, safety, and welfare.

~~A.~~ A. Application and fee. Application for a secondary an accessory dwelling unit permit shall be made in compliance with the provisions of division 16-50 (application filing and processing) and shall be accompanied by the appropriate fee.

~~B.~~ B. Director of community development as review authority. Applications for secondary accessory dwelling ~~units~~ unit shall be acted upon by the director ministerially without discretionary review or a public hearing. Said action shall occur no more than 120 days following submission of the application. Courtesy notice shall be provided to owners of property within one hundred feet of the subject property, as set forth on equalized county tax assessment rolls, at least ten days prior to a decision by the director.

C. Grant of secondary accessory dwelling unit permit.

1. In order to grant a secondary an accessory dwelling unit permit for an accessory dwelling unit created through construction of or additions to a detached accessory building or by construction of or additions to a single-family dwelling, the director shall find that the secondary accessory dwelling unit would comply with all of the standards set forth in the ~~town's~~ current Standards for such accessory dwelling units as adopted by council resolution.

~~C.2.~~ 2. In order to grant an accessory dwelling unit permit for an accessory dwelling unit created exclusively through conversion of existing floorspace in a primary unit or a detached accessory building, the director shall find that the accessory dwelling unit would comply with all of the standards for secondary set forth in the current Standards for such accessory dwelling units as adopted by council resolution.

~~D.~~ D. Building permits. A building permit shall be required in conjunction with the issuance of a secondary an accessory dwelling unit permit if repair, rehabilitation, or other work otherwise requiring a building permit is necessary.

~~E.~~ E. Approved conditional use permits still valid. Any secondary dwelling unit legally established with an approved conditional use permit prior to July 1, 2003 and in continued existence shall ~~continue to be considered~~ deemed a legal, conforming dwelling unit. Secondary dwelling units established by any such conditional use permit shall continue to comply with all conditions of the permit approval, and with zoning requirements for secondary dwelling units in effect at the time of permit approval.

~~Premises identification.~~ F. Approved ~~numbers or addresses~~ shall be provided for ~~each~~ secondary dwelling units still valid. Any secondary dwelling unit legally

established with an approved secondary dwelling unit permit between July 1, 2003 and said numbers or addresses January 1, 2017 and in continued existence shall be deemed a legal, conforming dwelling unit. Secondary dwelling units established by any such permit shall continue to comply with all zoning requirements for secondary dwelling units in effect at the time of permit approval.

~~F.~~ G. Premises identification. Any Town-assigned street address number for the accessory dwelling unit shall be plainly visible and legible from the street fronting the property, as required by the applicable building code.

~~G.~~ H. Expiration. Secondary Accessory dwelling unit permits issued in compliance with this section shall expire and become null and void three years after issuance unless a certificate of occupancy has been issued by the building division.

~~H.~~ I. Revocation. Upon written notice to the holder of an accessory dwelling unit permit or a secondary dwelling unit permit, and a hearing before the director, the director may revoke or modify any accessory dwelling unit permit or secondary dwelling unit permit, on any one or more of the following grounds:

1. That the approval was based on false information submitted by the applicant;
2. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more; or
3. That the permit granted is being or recently has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law or regulation.

~~I.~~ J. Periodic update. The ~~department~~director shall maintain a record of all legal accessory dwelling units and all legal secondary dwelling units and shall review and update the record every two years. ~~At the review, the owner of record shall verify in writing under penalty of perjury that the secondary dwelling unit is in compliance with all conditions of the secondary dwelling unit permit, or with all conditions of the conditional use permit if the secondary dwelling unit was established under a conditional use permit issued prior to July 1, 2003.~~

~~J.~~ K. Reporting of violations. All reporting of accessory dwelling unit permit or secondary dwelling unit permit violations shall be submitted in writing ~~and directed~~ to the ~~department~~director. The director shall notify the owner of record of the property that a complaint has been registered, within ten calendar days from receipt of any such complaint. The director shall investigate and issue a written report to the complainant within thirty days from the date of the issuance of the notice outlining the current status of any alleged violation and the steps that have been requested of the owner of record to remedy the situation.

~~K.~~ L. Violations considered an infraction. Violations of this section shall be punished as infractions or by administrative citation, in the discretion of the director and shall be subject to the provisions of section 16-56.030 (violations and penalties) and/or chapter 31 (enforcement of code). This subsection also applies to violations of conditions of approval or requirements of operation issued in association with any accessory dwelling unit permit or secondary dwelling unit approval permit.

~~L.~~ M. Violations—Additional remedies—Injunctions. As an additional remedy, the existence and/or maintenance of any accessory dwelling unit or secondary dwelling unit in violation of any provisions herein, or of any conditions of approval or requirements of operation placed thereon, shall be cause for revocation and shall be deemed and is declared to be a public nuisance and may be subject to summary abatement (i.e., including, without limitation, administrative abatement in compliance with chapter 31 [enforcement of code]), and/or restrained and enjoined by a court of competent jurisdiction. In the event legal action is instituted to abate said violation, the town shall be entitled to recover its costs and reasonable attorney's fees incurred in prosecuting said action.

~~M.~~ Appeals. ~~Any person aggrieved by any decision involving the approval, denial, or revocation of a secondary dwelling unit permit (or a conditional use permit if the secondary dwelling unit was established under a conditional use permit issued prior to July 1, 2003), may appeal such decision to the town council in compliance with division 16-66 (appeals).~~

N. Appeals. The decision of the director granting or denying an accessory dwelling unit permit is a ministerial decision as required by state law, and not subject to a public hearing. Any appeal of the decision shall constitute an administrative review of the objective standards and criteria established by the Town for accessory dwelling units. Any such appeal must be filed within ten calendar days of the date of decision and shall be heard by the Town Council. The appeal shall be heard in a timely manner.

O. Density. Pursuant to California Government Code Section 68552.2, no secondary ~~accessory~~ dwelling unit approved under these provisions shall be considered in calculating the density of the lot allowed by the land use designation contained in the land use element of the Tiburon General Plan, and accessory dwelling units are deemed a residential use that is consistent with the existing general plan and zoning for the lot.

N.

**STANDARDS FOR SECONDARY ACCESSORY DWELLING UNITS CREATED THROUGH CONSTRUCTION OF OR ADDITIONS TO A DETACHED ACCESSORY BUILDING OR BY CONSTRUCTION OF OR ADDITIONS TO A SINGLE-FAMILY DWELLING**

1. Zones. The proposed **Secondary Dwelling Unit** ~~would be~~ unit would be located on a lot that contains a single family dwelling located in one of the following residential Zones: R-1, R-1-B, RO, or RPD, and cannot be located on a lot that contains more than one unit.
2. One per lot. The proposed **Secondary Dwelling Unit** ~~unit~~ would be the only Secondary Accessory Dwelling Unit on the lot and there would be no Junior Accessory Dwelling Unit on the lot.
3. Rental. The Accessory Dwelling Unit on the Lot may be rented but may not be rented for a period of less than 30 consecutive days or used as a Vacation Rental.
3. ~~The proposed Secondary Dwelling Unit would be located on a Lot with a Lot Area of not less than 10,000 square feet.~~
4. ~~The proposed Secondary Dwelling Unit would be located on the same Lot on which the Owner of Record maintains his or her Principal Place of Residence.~~
5. ~~The proposed Secondary Dwelling Unit, if any portion thereof constitutes new construction or an addition to an existing building (as opposed to the conversion of an existing building) and is not proposed as part of a project for which any other Zoning Permit is required, would:~~
  - a. ~~Not exceed a maximum Floor Area of 500 square feet.~~
  - b. ~~Conform to the minimum required setback regulations for the Zone or Planned Development in which it is located, as set forth in Article 2 of Chapter 16 of the Tiburon Municipal Code. In addition, the Primary Unit and proposed Secondary Dwelling Unit together shall conform to the lot coverage limit and floor area ratio guideline or limit for the Zone or Planned Development in which they are located, as set forth in Article 2 of Chapter 16 of the Tiburon Municipal Code. No variances or floor area exceptions are permitted.~~
  - c. ~~Be single story and would not exceed fifteen (15) feet in Height, as defined in Section 16-30.050 of the Municipal Code.~~
  - d. ~~Not require more than 100 cubic yards of grading (earth movement).~~
6. ~~The proposed Secondary Dwelling Unit, if located in an existing Primary Unit, or if proposed as a part of a project for which at least one other Zoning Permit is required, would not exceed one-third (1/3) of the maximum Floor Area Ratio guideline or limit for the property (as prescribed in Section 16-52.020 (f) of the Municipal Code), or 1,000 square feet of Floor Area (Gross), whichever is less. In no case shall the 1/3 requirement above reduce the floor area allowed below that required to meet the minimum floor area required for an efficiency unit as defined by California Health & Safety Code section 17958.1.~~
7. ~~The proposed Secondary Dwelling Unit, if converted from a lawfully existing detached Accessory Building or Structure and not proposed as part of a project for which any other Zoning Permit is required, would meet all minimum required yard regulations as set forth in Sections 16-21.040(A) and 16-30.030(E)[1] of the Tiburon Municipal Code.~~

8. ~~The proposed **Secondary Dwelling Unit** would provide one (1) off-street **Parking Space** for each bedroom within the **Secondary Dwelling Unit**, but in no case less than one (1) **Parking Space**. The **Parking Spaces** would comply with all Town standards and regulations regarding **Parking Spaces**, including parking in setbacks. Tandem parking is not permitted.~~
9. ~~The required **Parking Spaces** for the proposed **Secondary Dwelling Unit** would be served by the same driveway access to the street as the **Primary Unit**.~~
404. Owner occupancy. One of the dwelling units on the site shall be owner-occupied. For purposes of this standard, "ownership" is defined as a majority (i.e., fifty-one percent or greater) interest in the property in question. Property owned in joint tenancy shall be considered a single ownership for any party named. Property owned in tenancy in common shall be considered a single ownership for the party named, unless shares are specified, in which case ownership requires a majority interest.
5. Location on lot. The **Accessory Dwelling Unit** shall either be attached to the existing dwelling or located within the **Living Area** of the existing dwelling, or shall be detached from the existing dwelling and located on the same lot as the existing dwelling. If detached, the **Accessory Dwelling Unit** shall be separated from the **Primary Unit** and any **Detached Accessory Building** a minimum of three feet.
6. Zoning Development Standards. The proposed unit shall comply with development standards for the underlying zone in which it is located, specifically standards for lot coverage, setback, height, and floor area ratio, except as explicitly set forth herein.
7. Separate Kitchen and Bathroom. The proposed **Accessory Dwelling Unit** shall contain a separate kitchen and bathroom; both the **Primary Unit** and the **Accessory Dwelling Unit** shall comply at a minimum with all requirements of the current residential code; and the **Accessory Dwelling Unit** shall comply with the building code at the time it was constructed.
8. Size. The increased floor area of an **Attached Accessory Dwelling Unit** shall not exceed 50 percent of the existing **Living Area**, with a maximum allowable increase in floor area of 1,200 square feet. The total area of floorspace for a newly-constructed **Detached Accessory Dwelling Unit** shall not exceed 1,200 square feet.
9. **Passageway.** No **Passageway** shall be required in conjunction with the construction of an **Accessory Dwelling Unit**.
10. Setback Exceptions. No setback shall be required for a lawfully-constructed garage in existence prior to January 1, 2017 that is converted to an **Accessory Dwelling Unit**, and a setback of no more than five (5) feet from the side and rear lot lines shall be required for an **Accessory Dwelling Unit** that is constructed above a garage.
11. Parking. The application shall comply with parking provisions of Tiburon Municipal Code Chapter 16, including parking setback limitations, except as may be set forth below:
  - A. One on-site parking space shall be required for each bedroom of the proposed **Accessory Dwelling Unit** in addition to those required for the **Primary Unit**. No **Accessory Dwelling Unit** shall be deemed to have less than one bedroom.
  - B. Required parking for the **Accessory Dwelling Unit** may be uncovered.
  - C. Off-street parking for an **Accessory Dwelling Unit** may be in tandem with parking for the **Primary Unit** or may be allowed in the front setback, unless specific findings are made that such is not feasible based on specific site topographical or fire and life safety conditions. All parking spaces shall be on an **Improved**

**Parking Surface.**

- D. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an **Accessory Dwelling Unit**, and the Town requires that those parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the **Accessory Dwelling Unit**, including, but not limited to, as covered spaces, uncovered spaces, or by the use of mechanical automobile parking lifts.
- E. Subsections A through D of this Standard 11 shall not apply to a unit described in subsection 11F below.
- F. On-site parking is not required for an **Accessory Dwelling Unit** in any of the following circumstances:
  - (1) The unit is located within one-half mile of **Public Transit**.
  - (2) The unit is located within an architecturally and historically significant historic district.
  - (3) The unit is part of the existing **Primary Unit** or an existing **Accessory Building**.
  - (4) When on-street parking permits are required but not offered to the occupant of the unit.
  - (5) When there is a car share vehicle located within one block of the unit.

12. **Architectural Compatibility.** The **Accessory Dwelling Unit** shall comply with the following architectural review standards:

- A. Architectural Style and Form. Architectural style and building form shall match the style and form of the **Primary Unit**.
- B. Architectural Details. Architectural details, including but not limited to windows, roof pitch, and trim shall match the **Primary Unit**.
- C. Color and Materials. The color and materials of the **Accessory Dwelling Unit** shall match the **Primary Unit**.
- D. Lighting. Lighting shall be shielded and/or directed so that it does not produce glare visible from off-site or illuminate onto adjacent or nearby property.
- E. Privacy. Windows shall be located to avoid line of sight to windows of adjacent or nearby property. Obscured glass and other techniques may be used to address line-of-sight issues.

13. **Landscaping.** Landscaping, including trees and shrubs, would be installed and maintained as part of the project to minimize the visual impacts of the project, including the screening of parking areas; to provide shade; and to provide a visual buffer between the **Secondary Accessory Dwelling Unit** and its surroundings. Proposed trees would comply with provisions of Chapter 15A of the Tiburon Municipal Code. Any tree over 30 inches in circumference, removed in conjunction with the construction of an **Accessory Dwelling Unit**, shall be replaced by a 24 inch box tree in the general area from which it was removed.

~~11. The exterior appearance of the proposed **Secondary Dwelling Unit** would closely resemble the architectural style, building materials, and building colors of the **Primary Unit**.~~

~~12. The design of the proposed **Secondary Dwelling Unit** shall include privacy-enhancing techniques to be applied to all windows, doors and other openings that face and are within twenty (20) feet of adjacent property lines, in order to reduce adverse privacy impacts. Such techniques include, but are not limited to, use of frosted windows, window placement at least six (6) feet~~

above floor level, extended roof overhangs, and other permanent structural treatments.

13. ~~The **Secondary Dwelling Unit** would be in conformance with the current building codes adopted by the Town.~~ 14. Feasibility Inspection. Unless the project constitutes new construction or an addition to an existing building (as opposed to the conversion of an existing building), a building inspection shall be performed by the Town's Building Division at applicant's cost, and a ~~memoreport~~ report establishing the feasibility of the project to meet ~~current~~ applicable building and residential codes shall be provided to the Director of Community Development, prior to approval of a ~~Secondary~~ Accessory Dwelling Unit permit.
- 14 15. Adequate sanitary service capacity for the additional increment of effluent resulting from the ~~Secondary~~ Accessory Dwelling Unit would be available. If the ~~Lot~~ lot is connected to the public sewer system, the ~~Applicant~~ applicant has submitted a letter from the appropriate Sanitary District to that effect. If the ~~Lot~~ lot is not connected to the public sewer system, the ~~Applicant~~ applicant has submitted a letter from the County of Marin Environmental Health Department confirming that the individual or alternative sewage disposal system serving the ~~Lot~~ lot has adequate capacity to accommodate the proposed ~~Secondary~~ Accessory Dwelling Unit.
- 15 16. The ~~Secondary~~ Accessory Dwelling Unit would comply with all applicable Fire District regulations, subject to provisions and limitations set forth in Government Code Section 65852.2.
- 16 17. The ~~Secondary~~ Accessory Dwelling Unit would comply with all applicable Water District regulations, subject to provisions and limitations set forth in Government Code Section 65852.2.

NOTE: **Bold and italics** indicates a term defined in Title IV, Chapter 16 (Zoning) of the Tiburon Municipal Code.

16-52.105—Junior accessory dwelling unit. (Regulations)

This section provides for the establishment and reasonable regulation of junior accessory dwelling units in order to encourage housing opportunities for all segments of the population while ensuring the public health, safety and welfare.

- A. Zoning permit required. No junior accessory dwelling unit shall be established or used unless a junior accessory dwelling unit ~~zoning~~ permit has been issued by the town.
- B. Application and fee. Application for a junior accessory dwelling unit permit shall be made in compliance with the provisions of division 16-50 (application filing and processing) and shall be accompanied by the appropriate filing fee.
- C. Director of community development as review authority. Applications for junior accessory dwelling ~~units~~unit shall be acted upon by the director without discretionary review or a public hearing. Said action shall occur no more than 120 days following submission of the application. Courtesy notice shall be provided to owners of property within one hundred feet of the subject property, as set forth on equalized county tax assessment rolls, at least ten days prior to a decision by the director.
- D. Grant of junior accessory dwelling unit permit. In order to grant a junior accessory dwelling unit permit, the director shall find that the proposed unit would comply with this section and with ~~all of the standards set forth in the town's current standards.~~Standards for junior accessory dwelling units, Junior Accessory Dwelling Units as adopted by ~~town~~ council resolution.
- E. Building permits. A building permit and a certificate of occupancy shall be required in conjunction with the installation of a junior accessory dwelling unit. Any repair, rehabilitation, or other work associated with the installation of the junior accessory dwelling unit shall also obtain building permits where ~~applicable~~required by law.
- F. Premises identification. ~~The director shall assign a~~ Any Town-assigned street address number for the junior accessory dwelling unit ~~and said address shall be plainly visible and legible from the street fronting the property as required by the applicable building code.~~
- G. Expiration. Junior accessory dwelling unit permits issued in compliance with this section shall expire and become null and void three years after issuance unless a certificate of occupancy has been issued by the building division.
- H. Revocation. Upon written notice to the holder of a junior accessory dwelling unit permit and a hearing before the director, the director may revoke or modify any such permit, on any one of the following grounds:
  - 1. That the approval was based on false information submitted by the applicant.
  - 2. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more.
  - 3. That the permit granted is being or recently has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law

or regulation.

4. For other good cause.

- I. Periodic update. The ~~department~~director shall maintain a record of all authorized junior accessory dwelling units and shall review and update the record every two years. At the review, the owner of record shall verify in writing under penalty of perjury that the junior accessory dwelling unit is in compliance with the standards for junior accessory dwelling units and with all operating requirements of the permit as set forth in applicable ordinances and regulations.
- J. Reporting of violations. All reporting of junior accessory dwelling unit violations shall be submitted in writing ~~and directed~~ to the ~~department~~director. The director shall notify the owner of record of the property that a complaint has been registered within ten calendar days from receipt of any such complaint. The director shall investigate and issue a written report to the complainant within thirty days from the date of the issuance of the notice outlining the current status of any alleged violation and the steps that have been requested of the owner of record to remedy the situation.
- K. Violations considered an infraction. Violations of this section shall be punished as infractions or by administrative citation, in the discretion of the director and shall be subject to the provisions of section 16-56.030 (violations and penalties) and/or Municipal Code chapter 31 (enforcement of code). This subsection also applies to violations of requirements of operation issued in association with any junior accessory dwelling unit approval.
- L. Violations—Additional remedies—Injunctions. As an additional remedy, the existence and/or maintenance of any junior accessory dwelling unit in violation of any provisions herein, or of any requirements of operation placed thereon, shall be cause for revocation and shall be deemed and is declared to be a public nuisance and may be subject to summary abatement (i.e., including, without limitation, administrative abatement in compliance with Municipal Code chapter 31), and/or restrained and enjoined by a court of competent jurisdiction. In the event legal action is instituted to abate said violation, the town shall be entitled to recover its costs and reasonable attorney's fees incurred in prosecuting said action.
- M. Appeals. ~~Any person aggrieved by any~~ The decision involving of the approval, denial, director granting or revocation of denying a junior accessory dwelling unit ~~may appeal such permit is a ministerial decision as required by state law, and not subject to the town council in compliance with division 16-66 (appeals).~~
- N. ~~Density. Pursuant to California Government Code section 68552.2, no public hearing. Any appeal of the decision shall constitute an administrative review of the objective standards and criteria established by the Town for junior accessory dwelling unit approved under these provisions shall units. Any such appeal must be considered in calculating the density of the lot allowed by the land use designation contained in filed within ten calendar days of the date of decision and shall be heard by the land use element of the Tiburon General Plan.~~

Town Council. The appeal shall be heard in a timely manner.

STANDARDS FOR JUNIOR ACCESSORY DWELLING UNITS

1. The proposed Junior Accessory Dwelling Unit junior accessory dwelling unit would be located in ~~one of the following a single-family residential Zones: zone, including the R-1, R-1-B, RO, or RPD zones.~~
2. The proposed Junior Accessory Dwelling Unit junior accessory dwelling unit would be the only Junior Accessory Dwelling Unit on the ~~Lot~~lot and there would be no Secondary Dwelling Unitsecondary dwelling unit or accessory dwelling unit on the lot.
3. The Junior Accessory Dwelling Unit junior accessory dwelling unit would be located on a lot that contains only one legal single-family dwelling.
- ~~4. The proposed Junior Accessory Dwelling Unit would be located on the same Lot on which the Owner of Record maintains his or her Principal Place of Residence.~~
4. Owner occupancy of one of the dwelling units on the site (either the primary residence or the junior accessory dwelling unit) is required, unless the owner is a governmental agency, a land trust, or a housing organization. For purposes of this standard, ownership is defined as a majority (i.e., fifty-one percent or greater) interest in the property in question. Property owned in joint tenancy shall be considered a single ownership for any party named. Property owned in tenancy in common shall be considered a single ownership for the party named, unless shares are specified, in which case ownership requires a majority interest.
5. The Junior Accessory Dwelling Unit junior accessory dwelling unit would be in conformance with the current building codes adopted by the Town. A memo prepared following inspection of the premises by the Tiburon Building Division, documenting the feasibility of the project to meet current building codes, shall be provided to the Director of Community Development prior to approval of a Junior Accessory Dwelling Unit junior accessory dwelling unit permit.
6. The Junior Accessory Dwelling Unit junior accessory dwelling unit would be created within the existing walls of a single-family dwelling and would ~~be created by~~include the ~~conversion~~utilization of ~~an a~~ pre-existing bedroom.
7. The Junior Accessory Dwelling Unit junior accessory dwelling unit would have a separate exterior entry from that of the primary residence, and internal access to the primary residence is established. A second interior doorway separation may be provided for sound attenuation purposes.
8. The Junior Accessory Dwelling Unit junior accessory dwelling unit shall include an efficiency kitchen, requiring and limited to the following components:
  - a. A sink with ~~maximum width and length dimensions of sixteen (16) inches and with a maximum waste line diameter of one-and-a-half (1.5) inches.~~
  - b. A cooking facility ~~or appliance~~with appliances that ~~does~~do not require electrical service greater than one hundred-~~ten (110)~~twenty (120) volts. Gas appliances are not permitted.
  - c. A food preparation counter and storage cabinets that ~~do not exceed six (6) feet in length~~are of reasonable size in relation to the size of the junior accessory dwelling

unit.

9. The ~~*Junior Accessory Dwelling Unit*~~ junior accessory dwelling unit would be located on a lot where the primary ~~dwelling-unit-residence~~ residence complies with current parking standards ~~and there is adequate on-site or on-street parking to accommodate the additional use, as determined in the reasonable discretion of the Director for a single-family dwelling.~~
10. Adequate sanitation (bathroom) facilities are provided, either a) separately for the exclusive use of the ~~*Junior Accessory Dwelling Unit*~~ junior accessory dwelling unit; or b) shared with the primary residence through internal access from the junior accessory dwelling unit to the primary residence.
11. The ~~*Junior Accessory Dwelling Unit*~~ junior accessory dwelling unit shall comply with applicable requirements of the fire protection district serving the lot, subject to the provisions of Government Code Section 65852.22(d) or successor sections thereto.
12. The ~~*Junior Accessory Dwelling Unit*~~ junior accessory dwelling unit shall comply with applicable requirements of the public water agency serving the lot, subject to the provisions of Government Code Section 65852.22(e) or successor sections thereto.
13. The ~~*Junior Accessory Dwelling Unit*~~ junior accessory dwelling unit may be rented but shall not be rented ~~or used as a Seasonal Rental Unit~~ for less than thirty (30) consecutive days.
14. The property on which the ~~*Junior Accessory Dwelling Unit*~~ junior accessory dwelling unit is located shall have deed restrictions recorded upon it as set forth below prior to issuance of a building permit for the unit. Said restrictions shall be reviewed and approved by the Town Attorney and recorded with the Marin County Recorder's Office.
  - a. The ~~*Junior Accessory Dwelling Unit*~~ junior accessory dwelling unit shall not be sold separately from the primary ~~dwelling-unit-residence~~ residence, and shall not be ~~used or rented as a Seasonal Rental Unit, as defined in Chapter 16 (Zoning) of the Tiburon Municipal Code~~ for less than thirty (30) consecutive days.
  - b. ~~The *Junior Accessory Dwelling Unit*~~ The junior accessory dwelling unit shall not exceed five-hundred (500) square feet in floor area ~~nor, shall not be less than one hundred fifty (150) square feet in floor area~~ smaller than allowed by applicable building regulations, and shall be entirely contained within an existing single-family structure.
  - c. The ~~*Junior Accessory Dwelling Unit*~~ shall be ~~considered lawful only as long as either it or the primary residence is occupied by the Owner of Record as his or her Principal Place of Residence~~ junior accessory dwelling unit shall be considered legal only so long as it or the single-family dwelling in which it is located is owner-occupied, unless the owner is a governmental agency, a land trust or a housing organization. Ownership is defined as a majority (i.e., fifty-one percent or greater) interest in the property in question. Property owned in joint tenancy shall be considered a single ownership for any party named. Property owned in tenancy in common shall be considered a single ownership for the party named, unless shares are specified, in which case ownership requires a majority interest.

d. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance with any provisions of Tiburon Municipal Code Section 16-52.105 (or successor sections) may result in legal action against the property owner, including revocation of any right to maintain a ***Junior Accessory Dwelling Unit*** junior accessory dwelling unit on the property.

NOTE: ***Bold and italics*** typeface indicates a term defined in Title IV, Chapter 16 (Zoning) of the Tiburon Municipal Code.