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ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF MILL VALLEY MODIFYING MILL VALLEY
MUNICIPAL CODE CHAPTER 20 “ZONING” TO ADD
REGULATIONS RELATED TO TWO-UNIT PROJECTS
PERMITTED IN SINGLE-FAMILY ZONING DISTRICTS AS
ALLOWED UNDER SENATE BILL 9**

THE CITY COUNCIL OF THE CITY OF MILL VALLEY does ordain as follows:

SECTION 1. Findings. The City Council finds as follows:

- a) On September 16, 2021 California Governor Gavin Newsom signed Senate Bill 9 into law, which establishes a series of new regulations to allow for ministerial approval of two units on parcels located in single-family residential zones as outlined in Government Code Section 65852.21.
- b) The City of Mill Valley is interested in clarifying the objective zoning and design standards that will apply to the ministerial review of qualifying “two-unit projects” in the Single Family “RS District”.
- c) Planning Commission, along with the community, had the opportunity to review and discuss the Draft Ordinance to formally amend and update the City of Mill Valley’s Zoning Code set forth in ATTACHMENT 2/EXHIBIT A, and the addendum of objective design standards for qualifying projects set forth in ATTACHMENT 3, at the following publicly noticed meetings: October 12, 2021.
- d) On October 12, 2021 Planning Commission unanimously adopted Resolution PC21-06 recommending that City Council adopt the Draft Two-Unit/Duplex Ordinance as set forth in ATTACHMENT 2/EXHIBIT A.
- e) On November 1, the City Council approved by motion an addendum to the Single-Family Design Guidelines, adopting objective design guidelines that will be applicable to qualifying two-unit/duplex projects.
- f) The Draft Ordinance to regulate and permit qualifying two-unit projects under Senate Bill 9 is exempt from the California Environmental Quality Act (CEQA) pursuant to Government Code Section 65852.21(j) effective January 1, 2022.

SECTION 2. Amendment to Mill Valley Municipal Code, Chapter 20 “Zoning”. That amendments to the Zoning Code (Chapter 20) of the Mill Valley Municipal Code shall hereby be revised to read as outlined in ATTACHMENT 2/EXHIBIT A.

SECTION 3. CEQA. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council hereby finds and

48 determines that the Draft Ordinance is exempt from the California Environmental Quality Act
49 (CEQA) pursuant to Government Code Section 65852.21(j) effective January 1, 2022.

50
51 **SECTION 4. Severability.** If any section, subsection, subdivision, sentence, clause,
52 phrase, or portion of this Ordinance or the application thereof to any person or place, is for any
53 reason held to be invalid or unconstitutional by the final decision of any court of competent
54 jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

55
56 **SECTION 5. Effective Date and Certification of Publication.** This Ordinance shall be
57 effective 30 days following its adoption by the City Council. The City Clerk shall certify to the
58 passage and adoption of this Ordinance and shall cause the same or a summary thereof to be
59 published and posted in the manner required by law.

60
61 **INTRODUCED** at a regular meeting of the City Council of the City of Mill Valley on the
62 **1st** day of **November 2021**, and

63
64 **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Mill
65 Valley on this ____ day of _____, 2021, by the following vote:

66
67 **AYES:**
68 **NOES:**
69 **ABSENT:**
70
71 **ABSTAIN:**

72
73
74
75 _____
76 John McCauley, Mayor

77 **ATTEST:**
78
79
80 _____
81 Kelsey Rogers, City Clerk

82
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85

86 **ATTACHMENT 2/EXHIBIT A**
87 **Draft Two-Unit Ordinance**
88 **(New Chapter 20.91 “Two Unit Projects in Single Family Zones” and Permitted Used for RS**
89 **Districts in 20.16.020)**

92 **Modify 20.16.020 RS Districts “Permitted uses”:**

93
94 “The following uses are permitted:

- 95 A. One single family dwelling, including transitional and supportive housing structured as
96 single family dwelling;
97 B. No more than two roomers per single family dwelling;
98 C. Residential facility, small;
99 D. Home occupation;
100 E. Accessory structures;
101 F. Residential Accessory Dwelling Units, as authorized under Chapter 20.90; and
102 G. Two units, as authorized under Chapter 20.91.”

103
104 **Add Section 20.91 in its entirety with the following:**

105
106 **“20.91**
107 **Two-Unit Projects in Single Family Zones**

108
109 **Sections:**

- 110 **20.91.010 Purpose.**
111 **20.91.020 General Requirements and Restrictions.**
112 **20.91.030 Process, Review and Fees.**
113 **20.91.040 Development Standards and Objective Design Guidelines.**
114 **20.91.050 Termination of Use.**
115 **20.91.060 Violations and Enforcement.**

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118 **20.91.010 Purpose.**

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- A. It is the intent of these regulations to provide opportunities for two units on one legal parcel in the RS Zoning District, consistent with state law and local regulations. In the event of an inconsistency between this Chapter and Government Code Section 65852.21, Government Code Section 65852.21 shall prevail.

- B. A two-unit project shall not be permitted under this Chapter in any of the following circumstances:
 - 1. Parcels located in:
 - a. the coastal zone;
 - b. wetlands;
 - c. very high fire severity zones, except if the site has adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development;
 - d. a hazardous waste site, unless site has been cleared by the State for residential use;
 - e. delineated earthquake fault zones, unless the development complies with applicable seismic protection building code standards;
 - f. special flood hazard areas (100-year flood zones), unless the site has been subject to a FEMA Letter of Map Revision issued to the City or the site meets FEMA requirement necessary to meet minimum flood plain management criteria of the National Flood Insurance Program;
 - g. a regulatory floodway identified in a FEMA map, unless the development has received a no-rise certification;
 - h. lands identified for conservation in an adopted natural resource protection plan, habitat for protected species, or under a conservation easement; and
 - i. a historic district or property designated pursuant to a local ordinance or included on the State Historic Resources Inventory.

 - 2. The proposed development would require demolition or alteration of any of the following types of housing:
 - a. housing that is subject to a recorded covenant, ordinance, or law that restricts rents to moderate, low, or very low incomes;
 - b. a rent controlled unit;
 - c. a unit that has been occupied by a tenant within the past three years;

- 154 d. housing units removed from the rental market within the past 15 years under
155 the Ellis Act.
- 156
- 157 3. The proposed development would result in the demolition of more than 25
158 percent of the existing exterior structural walls, unless the site has not been
159 occupied by a tenant in the last three years.
- 160
- 161 4. The building official finds that the proposed development would have a specific,
162 adverse impact on public health and safety or the physical environment that
163 cannot be feasibly mitigated or avoided.
- 164

165 **20.91.020 General Requirements and Restrictions.**

166

- 167 C. **General Requirements.** A proposed two-unit project shall comply with the following
168 requirements:
- 169 1. A two-unit project shall be considered a permitted use on a parcel in the RS
170 Zoning District, subject to the requirements of this Chapter.
- 171 2. A two-unit project located in the Floodplain shall comply with Title 18 of this
172 Code.
- 173 3. If the construction of a two-unit project is proposed within thirty (30) feet of the
174 top of the bank for any watercourse identified in Section 20.76, the applicant shall
175 provide the Building Department with all applicable permits from outside
176 agencies, including but not limited to, the San Francisco Bay Regional Water
177 Quality Control Board, California Department of Fish and Wildlife, The Army Corps
178 of Engineers, State Water Resources Control board and/or U.S. Fish and Wildlife
179 Service.
- 180 4. A permanent address is required for each Dwelling Unit.
- 181 5. Prior to receiving a building permit, the local water or sewer agency shall submit
182 letters of service availability for water and sewer disposal to the Building Official.
- 183 6. Any two-unit project legally created shall be governed by the Zoning regulations in
184 effect at the time of approval.
- 185
- 186 D. **Restrictions.** A qualifying two-unit project shall be subject to the following restrictions:
- 187 1. The development and use of the Dwelling Units shall only be valid and permitted
188 based on the terms established in the Chapter.
- 189 2. The dwelling unit(s) shall not be rented for a period of less than 30 consecutive
190 days.

- 191 3. Any Owner wishing to modify the number of units must request termination of a
192 Dwelling Unit under this Chapter, satisfying all Zoning and development standards
193 such as setbacks, Floor Area and Lot Coverage.
- 194 4. The Owner and all successors in interest in the subject property shall agree to
195 respond to any City of Mill Valley survey of Owners of all Dwelling Units to
196 determine use, code consistency and for reporting purposes to the State
197 Department of Housing and Community Development (HCD).
- 198 5. The Owner and all successors in interest in the subject property shall maintain the
199 Dwelling Units in accordance with all applicable regulations established in this
200 Chapter. Violations and lack of compliance with any provisions of this Section may
201 result in legal action against the property Owner, including revocation of any right
202 to maintain the Dwelling Units on the property as outlined in 20.91.050-060, and
203 shall be subject to administrative fines and penalties as contained in Chapter 8.02
204 of the Mill Valley Municipal Code.

205
206 **20.91.030 Process, Review and Fees.**

207
208 **A. Two-Unit Projects Subject to Ministerial Planning Director Approval**

- 209 1. The Planning Director or his/her designee shall ministerially review and approve
210 a two-unit application and shall not require a public hearing, provided that the
211 submitted application is complete and demonstrates that the two-unit project
212 complies with the requirements contained in this Title 20 and qualifies under
213 Government Code Section 65852.21(a).
- 214
- 215 2. Where an qualified two-unit application is submitted with an application for
216 other redevelopment work that is subject to Design Review under Chapter 20.66,
217 the application will be considered separately without discretionary review or a
218 public hearing, following action on the portion of the project subject to Section
219 20.66.
- 220
- 221 3. In addition to obtaining planning approval for the two-unit project, the applicant
222 shall be required to obtain a building permit, tree removal permit if applicable,
223 and other applicable construction permit requirements prior to the construction
224 of the Dwelling Units.
- 225
226
227

228 **20.91.040 Development Standards and Objective Design Guidelines.**

229 Proposed two-unit applications that comply with Government Code Section 65852.21 are
230 subject to the development standards in this section and the objective design guidelines
231 established in the City of Mill Valley’s Single-Family Design Guidelines, as adopted and amended
232 from time to time.

233

234 **A. Development Standards**

235

236 1. A two-unit project shall conform to all objective zoning, subdivision, and design
237 standards applicable to the RS Zoning District, except as expressly provided in
238 this Chapter. Notwithstanding the above, if the application of an objective
239 standard would require one or both units to be less than 800 square feet, such
240 standard shall be waived to the extent necessary to allow construction of a
241 unit(s) of at least 800 square feet.

242

243 2. See 20.16.040(A) for Adjusted Floor Area allowances, except as follows: those
244 parcels that are less than 6,000 square feet may not apply deductions under
245 20.16.040(A)(1)(b).

246

247 3. Maximum height of a two-unit project is 25’ above natural grade to the highest
248 point of the roof. Buildings may be built up to 35’ within the lot area, should the
249 two-units be consolidated within one structure and comply with the allowable
250 setbacks granted under the Single-Family Zoning District.

251

252 4. Maximum lot coverage is based on 20.16.040(D), which includes the total
253 footprint of all structures, including but not limited to the Duplex, garage, all
254 accessory buildings and decks over 18 inches above grade.

255

256 5. A two-unit project shall include two primary dwelling units where either:
257 a. both units are greater than 1,000 square feet; or
258 b. the square footage ratio between the two units are no greater than 2:3 (for
259 example, if one unit were 900 square feet, the other would need to be at
260 least 600 square feet).

261

262 6. One-bedroom Dwelling Units may not exceed 850 square feet of Gross Floor
263 Area.

264

- 265 7. Useable outdoor living space shall be a split equally between each unit. Areas
266 paved for the storage or movement of motor vehicles or bicycles cannot be
267 considered usable outdoor living space.
268
- 269 8. Front Exterior Yard Setback shall be 15 feet from the street property line, with
270 exemptions granted for parking structures on sloped lots, see 20.60.080.
271
- 272 9. Setbacks from the side and rear lot property lines shall be no less than four feet,
273 except in the case of existing structures or structures constructed in the same
274 location and to the same dimensions as an existing structure. Double frontage
275 and corner lots shall use the following criteria to determine rear and side yard
276 setbacks.
- 277 a. Double frontage, through lots shall maintain a front Exterior Yard Setback for
278 the primary frontage containing either the driveway encroachment or in
279 association with the orientation of the home. The opposite frontage shall be
280 considered the rear yard.
- 281 b. Corner lots with frontage on two streets shall maintain a front Exterior Yard
282 Setback for the primary frontage containing either the driveway or
283 orientation of the home. The remaining street frontage shall be considered
284 the side yard.
285

286 **B. Building Form**

- 287 1. Dwelling Units shall include permanent provisions for living, eating and sleeping,
288 including a Kitchen and bedroom closet or other storage.
289
- 290 2. Dwelling Units shall have separate exterior entries facing the street and may not
291 have an internal connection between units.
292
- 293 3. A permanent foundation shall be required.
294

295 **C. Off-Street Parking**

- 296 1. One off-street parking space is required per Dwelling Unit, unless the parcel is
297 located within one-half mile of a high-quality transit corridor as *defined in*
298 *subdivision (b) of Section 21155 of the Public Resources Code* or major transit
299 *stop as defined in Section 21064.3 of the Public Resources Code* or there is a car
300 share vehicle located within one block of the parcel.
301

- 302 2. The location of the required parking space(s) shall not obstruct the required
303 parking of each Dwelling Unit and shall be a minimum of 20 feet in length.
304
305 3. Tandem parking is prohibited between units.
306
307 4. The required parking spaces must be covered and may encroach in the within
308 the front setback based on Section 20.60.080.
309

310 **20.91.50 Termination of Permit and Use.**

- 311
312 A. No building permit shall be issued to remove permanent features of the two-unit
313 project, including the provisions for eating, cooking and sanitation, and separate
314 exterior entrance until written approval to terminate the use of living space is granted
315 by Planning Department.
316
317 B. At its discretion, the Planning Director may grant an Owner’s written request to
318 terminate the use of a Dwelling Unit. The Planning Director shall consider the length of
319 time such permit has been in force, the conditions of approval, the exceptions granted
320 for the Duplex, and the impact on the City’s affordable housing supply.
321
322 C. As a condition of termination, the Planning Director shall require the Owner to make
323 modifications to the property to comply with: 1) current building code requirements
324 and 2) current development standards in effect at the time the request is made to
325 terminate use, including but not limited to, setbacks, heights, parking and Adjusted
326 Floor Area. The Owner shall apply for a building permit to make such modifications as
327 required by the City’s building and fire codes.
328
329 D. In no case shall the Dwelling Unit be terminated, if the proposed termination would
330 require a variance to exceed Adjusted Floor Area for the Single-Family Dwelling Unit.
331

332 **20.91.60 Violations and Enforcement.**

- 333
334 A. It is unlawful for any person to violate any provision or to fail to comply with any of the
335 requirements of this Chapter. A property will be found in violation of this Chapter
336 when the Dwelling Unit has been created without the required City approvals or does
337 not comply with standards and deed restrictions established in this Chapter. Violations
338 are subject to the enforcement penalties and procedures of Chapter 8.02 of this Code.
339

- 340 B. In addition to the enforcement penalties and procedures included in Chapter 8.02 of
341 this Code, the City may pursue any remedies provided by law against the Owner found
342 to be in violation of this Chapter, or a property not maintained in conformance with
343 this Chapter including:
- 344 1. Revocation of the livable space as two-units;
 - 345 2. Where a Dwelling Unit has been improperly terminated and is being used as
346 habitable space for a single primary Dwelling Unit, removal of the Floor Area
347 serving as habitable space may be required; and
 - 348 3. In any civil enforcement action, the City is entitled to recover attorneys' fees
349 and costs from an Owner who is determined to have an illegal Dwelling Unit or
350 is in violation of this ordinance."