

## ORDINANCE NO. 1351

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILL VALLEY AMENDING TITLE 20 “ZONING” AND TITLE 5 “LICENSING AND TAXATION” OF THE MILL VALLEY MUNICIPAL CODE (MVMC) TO: 1) INCORPORATE TEXT AMENDMENTS IDENTIFIED IN HOUSING PROGRAMS 5, 6, 17, 18, 27A, 30 AND 31 OF THE MILL VALLEY GENERAL PLAN 2023-2031 HOUSING ELEMENT; 2) ADD AND INCORPORATE “ADDITIONAL DEVELOPMENT STANDARDS” IDENTIFIED IN CHAPTER 3 OF THE ADOPTED *MULTI-FAMILY RESIDENTIAL, DOWNTOWN RESIDENTIAL AND MIXED-USE DESIGN GUIDELINES AND DEVELOPMENT STANDARDS* INTO THE MVMC**

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

**SECTION 1. Findings.** The City of Mill Valley finds that the text amendments are consistent with the General Plan and the Municipal Code based on the following facts:

1. The Mill Valley 2040 (MV2040) General Plan serves as a basis for actions that affect many aspects of our community's daily life and reflects widely held community values. On October 7, 2013, the City Council adopted the MV2040 General Plan, which includes nine elements, among them the Land Use and Housing Elements.
2. The Housing Element is updated every eight years, on a different schedule from the other elements of the General Plan. On May 15, 2023 and October 16, 2023, City Council adopted a resolution approving an amendment to the Mill Valley 2040 (MV2040) General Plan Land Use Element to require the establishment of three housing overlay zoning districts, as identified in Program 20 of the City's adopted 2023-2031 Housing Element.
3. The proposed text edits comply with direction provided in the Mill Valley 2040 General Plan 2023-2031 Housing Element, Programs 5, 6, 17, 18, 27A, 30 and 31. All of the changes provided in this Ordinance remove constraints to the development of housing for all segments of the population, as identified in the Housing Element. Specifically, this Ordinance streamlines the development of mixed-use residential developments, encourages the development of housing for persons with special needs, and improves enforcement of the City's anti-discrimination provisions.
4. Chapter 4 of the adopted Housing Element specifically contains those Housing Element Programs identified for implementation during the 8-year housing cycle, including but not limited to Programs 5, 6, 17, 18, 27A, 30 and 31 in which the City commits to amending its Municipal Code to update regulations and requirements, particularly as it relates to permitting mixed use in commercial areas (Program 5); revising its definition of “family” (Program 6); revising the City's source of income regulations (Program

- 17); clarifying development and design standards for multi-family and mixed use development (Program 18); clarifying reasonable accommodation and source of income regulations (Programs 27A and 30); and removing the conditional use requirement for all residential care facilities regardless of size in all zoning districts (Program 31).
5. A notice in the local newspaper, the Marin Independent Journal, was published at least ten days prior to the publicly noticed hearings identified below summarizing the proposed Municipal Code amendments and providing meeting and agenda details.
  6. On March 12, 2024, the Planning Commission and the community had the opportunity to review and discuss the proposed amendments to the MCMV contained in the Draft Ordinance. At the meeting Planning Commission unanimously approved the Resolution PC24-02 (5-0 vote) recommending City Council adopt the Draft Ordinance.
  7. On April 15, 2024, the Mill Valley City Council and the community had the opportunity to review and discuss the above-referenced amendments.

**SECTION 2. Amendment to Mill Valley Municipal Code Chapter 5.33.** Chapter 5.33 of the MVMC shall be amended to read as follows, with all other sections of Chapter 5.33 to remain unchanged:

Delete and Replace Section 5.33.040 with the following:

**“5.33.040: Redress.**

- A. Civil injunctive relief. Any aggrieved person may enforce the provisions of this chapter by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of this chapter may be enjoined therefrom by any court of competent jurisdiction. An action for injunction under this section may be brought by any aggrieved person, by the city attorney, county counsel, the district attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class.
- B. Civil liability. Any person who violates any of the provisions of this chapter or who aids in the violation of any provisions of this chapter may be subject to the enforcement penalties and procedures in Chapter 8.02 of this Code. In addition to the enforcement penalties and procedures included in Chapter 8.02, the City may pursue any remedies provided by law.
- C. Criminal penalty. Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor and shall be subject to the penalties identified in paragraph “A” of Section 8.03.030 of this Code.”

Delete and Replace Section 5.33.050 with the following:

**“5.33.050 Liability.**

- A. The City shall not be liable for any damages, costs, or expenses which are the result of any act or omission of or any decision made by any person (e.g., mediator, arbitrator, or court)

concerning an anti-discrimination right claim or a complainant's assertions pertaining to rights granted or conferred by this chapter.

- B. Under no circumstances shall the City have any responsibility or liability to enforce this chapter or to seek any legal redress, civil or criminal, for any decision it or any other person makes concerning an anti-discrimination claim."

**SECTION 3. Amendment to Mill Valley Municipal Code, Chapter 20.08 "Definitions" to Modify Section 20.08.070 "Dwelling".** Section 20.08.070 "Dwelling" of the MVMC shall be amended to read as follows:

**"20.08.070 Dwelling.**

- A. **Single Family Dwelling.** "Single family dwelling" or "single family dwelling unit" means a building on an individual lot, designed for and used as a dwelling unit for one family or housekeeping unit, which is not arranged, or designed, or equipped to permit two or more families or housekeeping units to live independently of each other.
- B. **Multiple Family Dwelling.** "Multiple family dwelling" or "multiple family dwelling unit" means a building or buildings designed for or used as dwelling units for two or more families or housekeeping units living independently of each other, including duplexes, condominiums, apartment houses, flats, rooming, and boarding houses for three or more separate tenants, but not including automobile courts, motels, apartment hotels, rest homes, ADUs, or JADUs.
1. **Duplex.** A "duplex" is a residential development with two primary dwelling units within the massing of a single structure. This use type is distinguished from a residential ADU, which is an accessory dwelling unit as defined by state law and Section 20.80.070(E). A duplex building may consist of two side-by-side units or two stacked units that have separate entrances that face the street with no internal connections between dwelling units.
  2. **Multiplex.** A "multiplex" is three or more dwelling units on a single lot that may be either attached or detached. Typical uses include condominiums and apartment buildings.
  3. **Multi-Family Efficiency.** A "multi-family efficiency unit" (also referred to as "micro-apartment units" or "micro-units") is a small multi-family dwelling unit that includes a full bathroom and kitchen and sleeping quarters and functions as an independent housekeeping unit.
- C. **Live/Work Unit.** Live-Work Unit" is a dwelling unit that is used jointly by the occupant(s) for a non-residential use that is permitted or conditionally permitted under the applicable Zoning District, and for residential purposes, where the residential use of the space is secondary or accessory to the primary place of work."
- D. **Single Room Occupancy Dwelling Unit.** "Single room occupancy dwelling (SRO)" means a residential building consisting of individual secure rooms that are each rented to

one or two persons. Individual rooms within an SRO may share common kitchen facilities and may or may not have private sanitation facilities.

- E. **Accessory Dwelling Unit.** “Accessory dwelling unit” (also “ADU,” “second unit,” or “granny unit”) has the same meaning as defined in the California Government Code Section 65852.2, as amended from time to time, and shall include permanent provisions for independent living from the primary residence including sleeping, eating, cooking, and sanitation.
1. **Attached ADU.** “Attached ADU” means a new ADU is constructed as a physical expansion (i.e., addition) of the primary dwelling and is attached to the single-family dwelling unit by one or more common walls.
  2. **Converted ADU.** “Converted ADU” means an ADU created within the interior of an existing structure that occupies part of the floor area of the existing structure, as defined in this chapter. A converted ADU does not include an ADU that would: (a) increase the height of an existing structure; (b) require removal of more than 50 cubic yards as part of the excavation of an existing structure; or (c) increase the gross floor area of the existing structure by more than 150 square feet beyond its existing physical dimensions for the purpose of accommodating ingress and egress.
  3. **Detached ADU.** “Detached ADU” means a new ADU that is located on the property such that the unit does not share any walls with the single family dwelling unit or multiple family dwelling unit, and the distance between the nearest point of any portion of the unit and the single family dwelling unit or multiple family dwelling unit is six feet or more. An ADU that is attached to the single family dwelling unit or multiple family dwelling unit by a breezeway is considered detached.
- F. **Junior Accessory Dwelling Unit.** “Junior accessory dwelling unit” (also known as “junior ADU” or “JADU”) has the same meaning as defined in the California Government Code Section 65852.22, as amended from time to time.”

**SECTION 4. Amendment to Mill Valley Municipal Code, Chapter 20.08 “Definitions” to Modify Section 20.08.091.5 “Family”.** Section 20.08.091.5 of the MVMC shall be amended to read as follows:

**“20.08.091.5 Family.**

“Family” means two or more persons living together as a single Housekeeping Unit. Family also means the residents and operators of a licensed residential facility as that term is defined in California Health and Safety Code Section 1502(a)(1).”

**SECTION 5. Amendment to Mill Valley Municipal Code, Chapter 20.08 “Definitions” to ADD Section 20.08.133 “Mixed-Use”.** A new Section 20.08.133 shall be added to Chapter 20.08 “Definitions” of the MVMC to read as follows:

**“20.08.133 Mixed-Use.**

“Mixed-use” means: 1) any building containing one or more dwelling units, and one or more non-residential uses that are permitted or conditionally permitted under the applicable Zoning

District, or 2) a site on which residential and non-residential uses permitted or conditionally permitted under the applicable Zoning District are established in separate buildings. A site may include contiguous parcels.”

**SECTION 6. Amendment to Mill Valley Municipal Code Section 20.16.020(C).** Paragraph “C” of Section 20.16.020 of the MVMC shall be amended to read as follows, with all other paragraphs of Section 20.16.020 to remain unchanged:

C. “Residential Facility, small and large”

**SECTION 7. Amendment to Mill Valley Municipal Code Section 20.24.030.** The table in Section 20.24.030 of the MVMC shall be amended to indicate that “Residential Facility, Large” is a Permitted Use (deleting the CUP requirement).

**SECTION 8. Amendment to Mill Valley Municipal Code Section 20.26.020.** The table in Section 20.26.020 of the MVMC shall be amended to indicate that “Residential Facility, Large” is a Permitted Use (deleting the CUP requirement).

**SECTION 9. Amendment to Mill Valley Municipal Code Section 20.36.020.** Section 20.36.020 of the MVMC shall be amended to read as follows:

**“20.36.020 Permitted uses.**

The following uses are permitted:

- A. Administrative and professional offices;
- B. Research laboratories;
- C. Banks;
- D. Title offices;
- E. Insurance offices and real estate offices;
- F. Mixed-Use, where all Floor Area that directly abuts Throckmorton Avenue, Camino Alto or East Blithedale shall consist of non-residential uses permitted by this chapter, or entryways (for businesses and/or residences). Ground floor space that abuts a rear yard may be used for commercial space, shared space (such as restrooms, mail rooms, courtyards or storage) or residential use;
- G. Accessory structures;
- H. Home occupations (subject to Section 20.60.250);
- I. Multi-Family Residential in the following situations only:
  1. As allowed through the Housing Overlay Zoning Districts established by Chapter 20.30; or
  2. As a conversion back to residential use in a building that was originally constructed and permitted for residential use (as verified through prior permitted construction based on the submittal of planning records, approved building permits, and/or tax assessment records) wherein the existing building footprint is not expanded more than 1,000 square feet; or
  3. Residential Facilities (Small and Large), Transitional Housing, Supportive Housing, and Single Room Occupancy Dwellings; or
  4. Deed-restricted affordable housing projects meeting the requirements of Government Code Section 65915(b)(1)(G).”

**SECTION 10. Amendment to Mill Valley Municipal Code Section 20.36.030.** Section 20.36.030 of the MVMC shall be amended to read as follows:

**“20.36.030 Conditional uses.**

The following uses are permitted subject to the securing of a conditional use permit:

- A. Public utility structures;
- B. Other business uses which, in the opinion of the Planning Commission, are of the same general character as the permitted uses;
- C. Live-work units, with work space on the ground floor;
- D. Wireless telecommunications facilities as further outlined in Chapter 20.73.”

**SECTION 11. Amendment to Mill Valley Municipal Code Section 20.36.040(B).** Paragraph “B” of Section 20.36.040 of the MVMC shall be amended as to read follows, with all other paragraphs to remain unchanged:

“B. Development standards for Mixed-Use developments and Multi-Family Residential authorized by Chapter 20.30 shall comply with Chapter 20.48.”

**SECTION 12. Amendment to Mill Valley Municipal Code Section 20.40.020.** Section 20.40.020 of the MVMC shall be amended to revise number 36, and add numbers 37 and 38, to read as follows, with all other paragraphs to remain unchanged:

**20.40.020 Permitted uses.**

“36. Mixed-Use, with all Floor Area on the ground floor that directly abuts Camino Alto, East Blithedale, Miller Avenue, Throckmorton or Redwood Highway Frontage Road shall consist of non-residential uses permitted by this chapter, or entryways (for businesses and/or residences). Ground floor space that abuts a rear yard may be used for commercial space, shared space (such as restrooms, mail rooms, courtyards or storage) or residential use;

37. Multi-Family Residential, in the following situations only:

- a. As allowed through the Housing Overlay Zoning Districts established by Chapter 20.30;  
or
- b. Residential Facilities (Small and Large), Transitional Housing, Supportive Housing, and Single Room Occupancy Dwellings; or
- c. Deed-restricted affordable housing projects meeting the requirements of Government Code Section 65915(b)(1)(G).

38. Any other use which, in the opinion of the Planning Director, is of the same general character as those listed above.”

**SECTION 13. Amendment to Mill Valley Municipal Code Section 20.40.030.** Section 20.40.030 of the MVMC shall be amended to revise items “U”, “V” and “W” to read as follows, with all other paragraphs to remain unchanged:

**20.40.030 Conditionally Permitted uses.**

- “U. (reserved);
- V. (reserved);

W. Live-work units, with work space on the ground floor;”

**SECTION 14. Amendment to Mill Valley Municipal Code Section 20.40.050(B).**  
Paragraph “B” of Section 20.40.050 of the MVMC shall be amended to read as follows, with all other paragraphs to remain unchanged:

“B. Development standards for Mixed-Use developments and Multi-Family Residential authorized by Chapter 20.30 shall comply with Chapter 20.48.”

**SECTION 15. Amendment to Mill Valley Municipal Code Chapter 20.48.** Chapter 20.48 of the MVMC shall be retitled and Section 20.48.010 shall be amended to read as follows:

**“Chapter 20.48”**

**“Property Development Standards for Mixed-Use Development with Residential and Multi-Family Residential in Commercial Districts”**

“Section 20.48.010 Mixed-Use and Multi-Family Residential Development Standards in Commercial Districts

**A. Development standards.** Development standards for mixed-use and multi-family developments in Commercial Zoning Districts are as follows:

| Commercial "Character Areas"   | Downtown   | Near East Blithedale  | Miller Avenue "Main Street"                     | Miller Avenue "Gateway"   | Alto Center               | Redwood Hwy               |
|--|--|---|---|---------------------------|---------------------------|---------------------------|
| Zoning Designation <sup>(5)</sup>  | Downtown Commercial (C-D)  | Limited Commercial (C-L)  | Neighborhood Commercial (C-N)                   |                           | General Commercial (C-G)  |                           |
|  |  |   |   |                           | Alto Center/<br>Gateway   | Redwood Hwy               |
| <b>Development Standards<sup>(5,6,7)</sup></b>   |  |   |   |                           |                           |                           |
| <b>Minimum Useable Outdoor Living Space<sup>(1)</sup></b>                                    |  |   |   |                           |                           |                           |
| Minimum required useable outdoor living space per unit:                                      | 36 s.f.  |   | 136 s.f.  |                           | 36 s.f.                   |                           |
| Of required useable outdoor living space, the minimum Shared Outdoor Living Space per unit:  | n/a  |   | 100 s.f. per unit for developments over 3 units |                           | n/a                       |                           |
| Of required useable outdoor living space, the minimum Private Outdoor Living Space per unit: | 36 s.f. <sup>(2)</sup>   |   | 36 s.f.   |                           |                           |                           |
| <b>Max. Lot Coverage</b>   | 100%   | 50%   | 50%   | 50%                       | 40%                       | 45%                       |
| <b>Floor Area Ratio (FAR)</b>  | Max. = 1.5   | Max. = 1.0  | Max. = 1.0                                      | Max. = 1.0                | Max. = .50                | Max. = .75                |
| <b>Max. Height<sup>(3,4)</sup></b>   |  |   |   |                           |                           |                           |
| Height Limit   | Max. = 35 ft. (3 stories)  | Max. = 2 stories at East Blithedale street frontage; 35 ft. maximum | Max. = 35 ft. (3 stories)                       | Max. = 35 ft. (3 stories) | Max. = 35 ft. (3 stories) | Max. = 35 ft. (3 stories) |
| Front Stepback, above second story <sup>(8)</sup>  | 1:1 ratio  | n/a   | 1:1 ratio                                       | 1:1 ratio                 | n/a                       | n/a                       |
| <b>Minimum Setbacks</b>  |  |   |   |                           |                           |                           |
| Exterior Property Line   | 0 ft.  |   |   |                           |                           |                           |
| Interior Property Line   | 0/15 ft. (0 ft. unless the project shares a property line with Residential Zoning, then the interior property line directly abutting the Residential Zoning shall be 15 ft., and may be reduced to 5 ft. on interior yards if second story includes a stepback). |   |   |                           |                           |                           |
| <b>Parking<sup>(5,6,7)</sup></b>   | Parking shall be provided as specified in Section <u>20.60.090</u> .   |   |   |                           |                           |                           |

**Notes:**

1. Outdoor yard space less than 10 feet in width adjacent to a building or structure, and areas paved for the storage or movement of motor vehicles or bicycles may not be considered useable outdoor living space. Accessory buildings or structures may be located within required useable outdoor area when the principal uses of such buildings or structures are accessory to those of the useable outdoor areas within which they are located.
2. If the private useable outdoor living space is less than 36 square feet, the project shall include 150% of the deficit below 36 square feet per unit of shared outdoor living space per unit. For example, if the applicant provides 20 square feet of private living space per unit, the deficit would be 16 square feet per unit, requiring the applicant to provide at least 24 square feet of shared outdoor living space per unit.
3. The base height in the C-D zone shall be 35 feet. A building may be increased up to a maximum of 38 feet in height to allow for up to a maximum of 18-foot plate height for the ground floor commercial uses. The upper floors shall have a maximum plate height of 10 feet.
4. Height exceptions permitted per Section 20.60.060.
5. Those parcels included in a Housing Overlay Zoning District as identified on the most updated version of the City's adopted Zoning Map are eligible for modified Development Standards established in Chapter 20.30.
6. Modified parking and development standards are available for qualifying mixed-use and multi-family development projects through the State Density Bonus Law.
7. Modified standards may apply, as allowed under 20.40.010(B).
8. Front stepback shall apply to the primary exterior street frontage (not all exterior yards), with stepback beginning at the front property line.



**B. Additional Development Standards include:**

1. Adjusted Floor Area—Parking Exclusions. The first 250 square feet of garage space for each parking space is excluded from the allowable FAR. Underground or partially underground parking is exempt from the FAR calculations if it meets the Basement definition in Section [20.08.038](#).
2. Increased Height in Downtown Commercial (C-D) Zone. The base height in the C-D zone shall be 35 feet. A building may be increased up to a maximum of 38 feet in height to allow for up to a maximum 18-foot plate height for the ground level commercial uses. The upper floors shall have a maximum plate height of 10 feet.
3. Reduced Standards for Narrow Lots. For lots 25 feet wide or less, the following shall apply:
  - a. Interior side and rear setbacks for lots of 25 feet or less in width is a minimum of three feet. A minimum five-foot setback will remain where windows are placed along the setback line. The five-foot setback will apply to the window and a five-foot section of the building wall on each side of the window. Exterior walls along the minimum setback line shall include a recess or offset of at least two feet for every 30 feet of wall (for a minimum of five feet).
  - b. Lots of 25 feet or less in width shall provide parking per dwelling unit as specified in Section [20.60.090\(I\)\(7\)](#), but shall not be required to provide guest parking per Section [20.60.090\(B\)\(7\)](#).
4. Guest Parking. No guest parking is required for lots 25 feet or less in width. When included, guest parking must be on the side or in the rear half of the property.

**C. Design Guidelines and Standards.** Applications that qualify under this Chapter shall comply with the applicable design guidelines and standards contained in the *Multi-Family Residential, Downtown Residential and Mixed-Use Design Guidelines and Development Standards*, as adopted and amended from time to time.

**D. Modified Standards.** Applications may qualify for relaxed or modified development standards under Chapters 20.30 or 20.81.”

**SECTION 16. Amendment to Mill Valley Municipal Code Sections 20.85.040 and 20.85.050.** Section 20.85.040 of the MVMC shall be amended to read as follows, with all other paragraphs to remain unchanged, and Section 20.85.050 shall be amended to read as follows, with all other paragraphs to remain unchanged:

**“20.85.040 Review Authority.**

A. If an application under this chapter is filed without any accompanying application for another approval, permit or entitlement under this title, it shall be heard and acted upon by the Planning Director without a hearing.

**20.85.050 Findings and decision.**

A. Any decision on an application under this chapter shall be supported by written findings addressing the criteria set forth in this subsection. An application under this chapter for a reasonable accommodation shall be granted if all of the following findings are made:

1. The housing, which is the subject of the request, will be used by an individual disabled under the Acts.
2. The requested reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.
3. The requested reasonable accommodation would not impose an undue financial or administrative burden on the City.
4. The requested reasonable accommodation would not require a fundamental alteration in the nature of a City program or law, including, but not limited to, land use and zoning.”

**SECTION 17. 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. On May 5, 2023, the City Council certified the Subsequent Environment Impact Report (SCH No 2013052005), which analyzed the impacts of the amended 2023-2031 Housing Element, including Programs 5, 6, 17, 18, 27A, 30 and 31. The potential environmental impacts of the project, including implementation of these programs, were fully analyzed in the SEIR and mitigated to the extent feasible. The City Council adopted written findings, a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program prepared in accordance with CEQA.

**SECTION 18. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be and remain in full force and effect.

**SECTION 19. Effective Date and Certification of Publication.** The Ordinance shall be effective 30 days following its adoption by the City Council. A summary of this Ordinance shall, within fifteen (15) days after passage, be published in accordance with Section 36933 of the Government Code of the State of California with the names of the City Councilmembers voting for and against it.

**INTRODUCED** at a regular meeting of the City Council of the City of Mill Valley on the 15<sup>th</sup> day of April 2024, and

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Mill Valley on the 6<sup>th</sup> day of May 2024, by the following vote:

**AYES:** Councilmembers: Wickham, Joachim, Perrey, Burke, Carmel.  
**NOES:** None.  
**ABSENT:** None.  
**ABSTAIN:** None.

  
Urban Carmel, Mayor

ATTEST:

  
Hannah Politzer, City Clerk/Management Analyst III