TITLE 20

ZONING

Chapters:

20.04 Title--Purpose and Interpretation
20.08 Definitions
20.12 Districts Generally
20.16 RS Districts
20.18 R-P Districts
20.20 Planned Residential Districts
20.24 RM Districts--Multiple Family
20.36 P-A Districts--Professional Administrative Office Districts
20.40 C-G Districts--General Commercial Districts
20.42 C-N Districts--Neighborhood Commercial Districts
20.52 C-R Districts--Commercial Recreation Districts
20.54 H-O Districts--Historic Overlay Districts
20.55 C-F Districts--Community Facilities Districts
20.56 O-A Districts--Open Area Districts
20.57 Planned Development Combining District
20.58 U Districts--Unclassified Districts
20.59 Condominium Projects
20.60 General Provisions and Exceptions
20.62 Zoning Administrator
20.64 Use Permits and Variances
20.65 Outdoor Dining Areas and Outdoor Merchandise Displays
20.66 Design Review
20.67 Preservation of Heritage Trees and Habitat
20.68 Enforcement, Penalties and Legal Procedure
20.70 Residential Building Record
20.74 Signs
20.76 Creek Setback Ordinance
20.80 Inclusionary Housing Requirements
20.85 Requests for Reasonable Accommodation under the Fair Housing Acts
20.90 Residential Second Units
20.95 Green Building Requirements
20.100 Appeals

Chapter 20.04

Title--Purpose and Interpretation

Sections:

20.04.010 Purpose of title.
20.04.020 Interpretation of title.
20.04.030 Repeal and saving clause.
20.04.032 Title and Reference.
20.04.036 Compliance with zoning ordinance.
20.04.040 Certificate of occupancy required.
20.04.042 Permit issued contrary to law is void.
20.04.044 Public utilities exempt.
20.04.046 Building permits during rezoning proceedings.
20.04.050 Severability.

20.04.010 Purpose of title. The purpose of this Title is to regulate the use and improvement of land, buildings, and other structures in order to insure that the growth and development of the City of Mill Valley occurs in an orderly and desirable manner; to encourage the most appropriate use of land throughout the City; to control the proliferation of any given land uses; to provide adequate light, air, and reasonable access; to secure safety from fire and other dangers; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewage, schools, parks, and other public improvements; to protect the character, integrity and viability of residential, commercial and other areas within the City; to ensure the conservation of energy and to promote and encourage the use of solar energy systems; and in general to promote the public health, safety, peace, quiet, convenience, comfort, and welfare. (For definition of Solar Energy System refer to Section 20.08.163) (Ord. 742, Sec. 1; Ord. 999, Sec. 6 (part); November 15, 1982.)

20.04.020 Interpretation of title. The provisions of this Title are held to be the minimum requirements to accomplish its purpose. Except where provided, it is not intended by the adoption of this Title to repeal or in any way to impair or interfere with any existing provisions of law, ordinance, rules, regulations or permits previously adopted or issued, or which shall be adopted or issued, or which shall be adopted or issued pursuant to law relating to the erection, construction, establishment, moving, alteration or enlargement of any building or improvement; nor is it intended by this Title to interfere with, or annul any easement, covenant or other agreement between parties; provided, however, that in cases in which this Title imposes a greater restriction than is imposed or required by the provisions of any other law, ordinance, rules, regulations or permits, then in such cases the provisions of this Title shall control.

This Title is not intended to legalize or give validity to any use of any land or building in the City of Mill Valley existing and maintained in violation of any prior law, rule or regulation or to bar any criminal or civil action for violation of any prior law, rule or regulation and all such civil and criminal actions are declared, saved and preserved.

20.04.030 Repeal and saving clause. All other ordinances and parts of ordinances of the City in conflict with this Title, to the extent of such conflict and not further, are repealed, provided that nothing contained shall be deemed to repeal or amend any ordinance of the City requiring a permit or license, or both, to cover any business, trade or occupation.

20.04.032 Title and reference. This Title shall be known and cited as the Zoning Ordinance of the City of Mill Valley. Reference to section numbers herein are to the sections of this Title. (Ord. 1182, Sec. 2 (part), April 2, 2002.)

20.04.036 Compliance with Zoning Ordinance. No buildings or structures shall be erected, reconstructed, moved or structurally altered in any manner, nor shall any buildings, other structures or land be used or designed for any purpose or in any manner other than as permitted by and in conformance with this Title. (Ord. 1182, Sec. 2 (part), April 2, 2002.)

20.04.040 Certificate of occupancy required. It is unlawful to use or occupy, or permit the use of, or occupancy of, any lot or part thereof, or any structure hereafter erected, altered, or converted wholly or in part, until a Certificate of Occupancy has been issued. The Building Official shall issue a Certificate of Occupancy when a project complies with all provisions of this Title and all other titles applicable thereto, including all health laws, and all conditions of any permits have been met.

No change of uses shall be made pertaining to any lot, or part thereof, nor in any structure now or hereafter erected, or altered, that is not consistent with the provisions of this Title. (Ord. 1182, Sec. 2 (part), April 2, 2002.)

20.04.042 Permit issued contrary to law is void. No building permit or Certificate of Occupancy shall be issued by the Building/Zoning Code Inspector for the use of any lot, or part thereof, nor for the use, erection or alteration of any building or structure, contrary to the provisions of this Title. Any building permit

or Certificate of Occupancy issued contrary to the provisions of this Title shall be null and void. (Ord. 1182, Sec. 2 (part), April 2, 2002.)

20.04.044 Public utilities exempt. The provisions of this Title are not applicable to public utility transmission and distribution lines, pipelines, and towers, poles, and similar installations adjunct thereto, except that utility substations, generating plants, service yards, buildings, and similar uses shall be required to conform to this Title. (Ord. 1182, Sec. 2 (part), April 2, 2002.)

20.04.046 Building permits during rezoning proceedings. No application for a building permit on any property or for any other permit or license for a new use of any property shall be approved by the various City departments while proceedings are pending for the reclassification of such property or for the establishment or change of a building setback line thereon unless the construction and use proposed under that permit or license would conform both to the existing classification of such property or setback line thereon and also to the different classification or setback line under consideration in those proceedings. (Ord. 1182, Sec. 2 (part), April 2, 2002.)

20.04.050 Severability. If any section, subsection, sentence, clause or phrase of this Title is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Title. The City Council declares that it would have passed this Title and each section, subsection, sentence, clause and phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid.

Chapter 20.08

Definitions

Sections:

20.08.010 Definitions generally.
20.08.020 Accessory building or structure.
20.08.030 Accessory use.
20.08.032 Adjusted floor area.
20.08.035 Automobile service station.
20.08.040 Building.
20.08.050 Building height.
20.08.060 Building--Main or principal.
20.08.065 Clustered or grouped single family housing development.
20.08.066 Collector.
20.08.070 Dwelling.
20.08.080 Dwelling unit.
20.08.090 Effective lot area.
20.08.095 Gasoline service station.
20.08.097 Large Family Day Care Homes.
20.08.100 Legal Nonconforming Residential Second Unit
20.08.110 Loading space--Off-street.
20.08.120 Lot.
20.08.130 Master streets and highways plan.
20.08.133 Medical Marijuana Dispensary
20.08.135 Nonconforming Residential Second Unit
20.08.140 Official plan line.
20.08.150 Parking area--Parking lot--Public or private.
20.08.158 Parking space defined.
20.08.160 Residential Second Unit
20.08.161 Solar access.
20.08.162 Solar easement.
20.08.163 Solar energy system.

20.08.164 Southroof.
20.08.165 Southwall.
20.08.170 Street.
20.08.180 Street grade.
20.08.190 Swimming pool.
20.08.195 True south.
20.08.200 Yard.
20.08.210 Usable open space.

20.08.010 Definitions generally. For the purpose of this Title, unless the context otherwise requires, the following definitions shall be used in the interpretation of this Title.

20.08.020 Accessory building or structure. Accessory buildings or structures are functional, manmade features, enclosures, covers or buildings which are subordinate to the main building, the use of which is incidental to the permissible use of the main building on the same lot. Accessory structures shall include patio covers, potting sheds, storage sheds, workshops, pool equipment enclosures, swimming pools, patio decks 18 inches or greater above grade, stables, gazebos, detached Residential Second Units above, below or within new or existing garages, detached garages, detached carports, and fences exceeding seven feet in height in required interior yards and fences exceeding four feet in height in required exterior yards, or within 15 feet of the street corner of a corner lot. (Ord. 1188, Sec. 1, June 2, 2003.)

20.08.030 Accessory use. "Accessory use" means a use incidental and subordinate to the principal use.

20.08.032 Adjusted floor area. “Adjusted floor area” is the sum of the gross horizontal areas of all floors of all principal and accessory buildings measured from the exterior faces of the exterior walls of the building(s), and all other enclosed volumes which could be utilized as floor area and have minimum dimensions of 8 feet by 10 feet and 7 1/2 feet head room, without additional excavation. Adjusted floor area excludes all unenclosed horizontal surfaces such as balconies, decks or porches, the first 500 square feet of garage space, the first 500 square feet of any new Residential Second Unit approved with a Second Unit Permit on a lot over 8,000 sq.ft. where the unit is not internally connected to the primary residence, the first 500 square feet of any existing Residential Second Unit previously approved with a Conditional Use Permit, or any areas below or predominately below both the natural and finished grade, measured at the perimeter of the building, which in the opinion of the Director of Planning and Building will not add to the visual mass of the building. Interpretations of what constitutes adjusted floor area shall be made by the Director of Planning and Building and may be appealed to the Planning Commission as specified in Chapter 20.100. (Ord. 1199, Sec. 1, March 1, 2004.)

20.08.035 Automobile service station. "Automobile service station" means an enterprise which provides all of the following:

A. Gasoline and motor oil dispensing services provided by attendants on at least one-half of the gasoline pump island;

B. An operating lube bay;

C. Minor automobile mechanical services;

D. Related sale of automotive parts, tires, batteries, and accessories. (Ord. 891, Sec. ; April 18,1977).

20.08.040 Building. "Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The term building shall include mobile homes certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401, et seq.) and placed on a foundation system, pursuant to Section 18551 of the Health and Safety Code. (Ord. 1002, Sec. 1, March 21, 1983.)

20.08.050 Building height. "Building Height" means the vertical distance from the natural grade to the highest point of the structure. Maximum height is measured from natural grade to an imaginary plane located the allowed number of feet above and parallel to the natural grade. Any structure built prior to the effective date of this ordinance shall be exempt from becoming nonconforming, with respect to height, by application of this section. Any proposed addition to an existing structure shall conform to the provisions of this section. (Ord. 1036, Sec. 1, June 17, 1985.)

20.08.060 Building--Main or principal. "Main or Principal Building" means a building in which is conducted the main or principal use of the building site on which it is situated.

20.08.065 Clustered or grouped single family housing development. "Clustered or grouped single family housing development" means a residential development within which single family dwellings are situated more densely on certain portions of the property in order to have other portions free of buildings and within which the total number of dwelling units does not exceed the acreage divided by the minimum lot size set forth in Section 20.16.040. (Ord. 841, Sec. 2; April 30, 1975).

20.08.066 Collector. "Collector" means any of a wide variety of devices used to collect the sun's energy for heating, electric generation, or to dissipate heat for natural cooking. (Ord. 999, Sec. 6 (part); November 15, 1982).

20.08.070 Dwelling.

A. Single family dwelling. "Single family dwelling" means a building used as a dwelling for one family not arranged, or designed, or equipped to permit two or more persons or groups of persons to live independently of each other.

B. Multiple family dwelling. "Multiple family dwelling" means a building designed for or used as a residence for two or more families living independently of each other, including apartment houses, flats, rooming and boarding houses for three or more separate tenants, but not including automobile courts, motels, apartment hotels, or rest homes.

C. Combined residential, commercial and/or business and professional office building. "Combined residential, commercial and/or business and professional office building" means any building containing one or more dwelling units, together with commercial and/or business and professional office use. (Amended by Ord. 866, Sec. 1; April 5, 1976).

20.08.080 Dwelling unit. "Dwelling unit" means any building or buildings or portion thereof designed, intended or used as a separate dwelling accommodation and having its own kitchen. A building or buildings designed or intended to be a single family residence shall constitute one dwelling unit. Each separate room, apartment or unit of a hotel, motel, apartment house, rooming house, duplex, or boarding house having its own kitchen facilities shall constitute a separate dwelling unit.

20.08.090 Effective lot area. "Effective lot area" is the gross horizontal area of a lot minus any portion of the lot encumbered by a trail easement or recorded driveway or roadway easement. (Ord. 1182, Sec. 3 (part), April 2, 2002.)

20.08.095 Gasoline service station. "Gasoline service station" means an enterprise which provides gasoline and motor oil dispensing services, but which is not an automobile service station as defined in Section 20.08.035 (Ord. 891, Sec. 2; April 18, 1977).

20.08.097 Large Family Day Care Homes. As defined in the California Health and Safety Code.

20.08.100 Legal Non-conforming Residential Second Unit. A residential second unit which currently does not conform to the regulations for the district in which it is situated, but did conform at the time

it was constructed or erected. The unit shall be considered to conform to requirements of this Title, until the same is thereafter removed or destroyed. (Ord. 1188, Sec. 3, June 2, 2003.)

20.08.110 Loading space--Off-street. "Off-street loading space" means an open area, a minimum of ten by twenty-five feet, other than a street or other public way used for the loading or unloading of goods, and located on the lot where the building or use which it serves is located.

20.08.120 Lot. "Lot" shall mean land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as may be required under the provisions of this Title having not less than the minimum area required by this Title for a building site in the district in which such lot is situated, and having its principal frontage on a street. Any parcel of land which has been created in violation of any ordinance regulating the division of land or the creation of building parcels shall not be deemed a "lot" within the meaning of this Title.

20.08.130 Master streets and highways plan. "Master streets and highways plan" shall mean the section of the "Master Plan of the Mill Valley Community" which includes the streets and highways plan map and the select street system map.

20.08.133 Medical Marijuana Dispensary. “Medical marijuana dispensary” means any location, structure, vehicle, store, co-op, residence, or similar facility used, in full or in part, as a place at or in which marijuana is sold, traded, exchanged, or bartered for in any way. “Medical marijuana dispensary” shall include but not be limited to facilities which make available and/or distribute marijuana in accordance with California Health and Safety Code Section 11362.5 et seq. “Medical marijuana dispensary” shall not include the following uses, as long as the location of such uses are otherwise regulated by this code or applicable law: a pharmacy regulated by Chapter 9, Division 2 of the Business & Professions Code and/or the Federal Controlled Substances Act of 1970 and its implementing regulations, a clinic licensed pursuant to Chapter 1 of Division 2 of the Health & Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health & Safety Code, a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health & Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health & Safety Code, a residential hospice licensed pursuant to Chapter 8.5 of Division 2 of the Health & Safety Code, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health & Safety Code, as long as any such use complies strictly with applicable law, including, but not limited to, Health & Safety Code Sections 11362.5 et seq. (Ord. 1219, Sec. 1, July 2, 2007).

20.08.135 Non-conforming Residential Second Unit. A residential second unit which was constructed on a parcel of land in a manner which did not conform to the regulations for the district in which it is situated at the time of construction. (Ord. 1188, Sec. 4, June 2, 2003.)

20.08.140 Official plan line. "Official plan line" shall mean a line set forth by legal description and delineated on a map, which has been officially adopted as a line across any property which establishes the future right-of-way width for a street.

20.08.150 Parking area--Parking lot--Public or private. "Parking area or parking lot" (public or private) shall mean an open area or lot, other than a street or other public way, used for the parking of vehicles and available whether for a fee, free, or as an accommodation for clients, customers, employees or the general public, and shall not include loading space, nor shall it include the area used to display or store vehicles for sale.

20.08.158 Parking space defined. "Parking space" shall mean a space of at least 9 x 20 feet located entirely off the street right-of-way and on the lot where the building or use which it serves is located. (Ord. 1188, Sec. 5, June 2, 2003.)

20.08.160 Residential Second Unit. Is an attached or detached dwelling unit in addition to the primary unit allowed in all residential zoning districts and provides complete independent living facilities for one or more persons and which may include a kitchen or cooking area, sleeping area or sanitation

facilities on the same parcel as the primary unit. A residential second unit may not be less than 150 sq.ft. nor more than a maximum of 1,000 sq.ft. (Ord. 1188, Sec. 6, June 2, 2003.)

20.08.161 Solar access. "Solar access" means provision of needed sunlight for successful operation of solar systems. (Ord. 999, Sec. 6 (part); November 15, 1982).

20.08.162 Solar easement. "Solar easement" means the right of receiving sunlight across real property of another for any solar energy system. (Ord. 999, Section 6 (part); November 15, 1982).

20.08.163 Solar energy system. "Solar energy system" means any solar collector, other solar energy device or any structural design feature of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, water heating or generation of electricity. (Ord. 999, Sec. 6 (part); November 15, 1982.)

20.08.164 Southroof. "Southroof" means the plane representing that portion of a roof which faces ± 40 degrees to true south. In the case of flat roof surfaces, that portion of the roof used to support solar collectors or other solar devices for the collection, storage, or distribution of solar energy. (Ord. 999, Sec. 6 (part); November 15, 1982.)

20.08.165 Southwall. "Southwall" means the plan representing the wall of a structure which faces ± 40 degrees of true south. (Ord. 999 Sec. 6 (part); November 15, 1982).

20.08.170 Street. "Street" shall mean a public right-of-way which affords a means of vehicular access to an abutting property adequate to permit the servicing of said abutting property by police, fire, and other emergency vehicles.

20.08.180 Street grade. "Street grade" shall mean the top of the established street grade in front of the property involved, measured at the center of such frontage.

20.08.190 Swimming pool. A swimming pool shall be considered a structure.

20.08.195 True South. "True South" means the direction of the south terrestrial pole. (Ord. 999, Sec. 6 (part); November 15, 1982)

20.08.200 Yard. "Yard" shall mean an open space, unoccupied and unobstructed from the ground upward, except by a fence not exceeding 7 feet in height in required interior yards and four feet in height in required exterior yards or within 15 feet of the street corner of a corner lot, lying between the main bearing wall of any buildings or structures and the nearest properly line or official plan line. The dimensions herein required with respect to exterior and interior yards shall be measured on a horizontal plane from the main bearing wall of the building or structure to the nearest point on the property line or official plan line.

A. Yard, exterior. Any yard adjacent to a lot line separating a lot from a street to which that lot has legal access. Also referred to in this Title as “exterior setback.”

B. Yard, interior. Any yard not an exterior yard. Also referred to in this Title as “interior setback.” (Ord. 996, Sec. 1; November 1, 1982; Ord. 1182, Sec. 3 (part), April 2, 2002.)

20.08.210 Usable Open Space. An area or a series of areas on a lot of such shape or shapes that it or they can be efficiently utilized for recreation and outdoor living. Required yards less than 10 feet in width adjacent to a building or structure, and areas paved for the storage or movement of motor vehicles may not be considered usable open space. Unenclosed balconies, porches, or roof decks, not less than 6 feet by 11 feet 9 inches in size when properly developed and equipped for the above-mentioned purposes, and swimming pools may be considered usable open space. Accessory buildings or structures may be located within required usable open spaces when the principal uses of such buildings or structures are accessory to those of the usable open spaces within which they are located.

Chapter 20.12

Districts Generally

Sections:

20.12.010 Districts designated and named.
20.12.020 Location--Boundaries--Classifications of districts.
20.12.030 Determination of boundary discrepancies.
20.12.040 Annexed areas--How and when classified.

20.12.010 Districts designated and named. The several districts into which the City of Mill Valley is divided are designated as follows:

A. Residential Districts:

RS single family residential district,
RM multiple family residential district,
R-P- planned residential district;

B. Commercial Districts:

P-A professional-administrative district,
C-G general commercial district,
C-R commercial-recreation district,
C-F community facilities district,
C-N neighborhood commercial district;

C. Other Districts:

O-A open area district,
U unclassified district--newly annexed areas,
PD planned development district,
H-O historic overlay district,
(Amended by Ord. 787 Sec. 1; Ord. 972 Sec. 2, December 15, 1980.)

20.12.020 Location--Boundaries--Classifications of Districts. Locations, boundaries, designations and classifications of the districts hereinabove established are delineated upon the map entitled, "Zoning Map City of Mill Valley," dated April 3, 1975, and as amended from time to time, which map is on file with the Planning Department and is made part of this title. (Ord. 842, Sec. 1, April 3, 1975; Ord. 1051, Sec. 1, April 21, 1986; Ord. 1182, Sec. 4 (part), April 2, 2002; Ord 1232, May 5, 2008).

20.12.030 Determination of boundary discrepancies. Where uncertainty exists as to minor discrepancies in boundaries of any zoning district as they appear on the zoning map, the Planning Commission, upon its own initiative or upon written application, shall determine the location of such boundaries.

20.12.040 Annexed areas--How and when classified. Areas which shall hereafter be annexed to the City of Mill Valley shall, immediately upon annexation, be automatically classified as U Districts until their proper classifications are determined pursuant to the regular procedures for rezoning as required by law. The Planning Commission shall initiate rezoning procedures to place the newly annexed area into a precise zoning district. Such procedures for proper classification shall be initiated within three months following the date of annexation.

Chapter 20.16

RS Districts

Sections:

20.16.010 Scope of regulations.
20.16.020 Permitted uses.
20.16.025 Building permit--Conditions for issuance.
20.16.030 Conditional uses.
20.16.035 Large Family Day Care Homes.
20.16.040 Property development regulations
20.16.050 Other regulations.

20.16.010 Scope of regulations. The following regulations shall apply with respect to each lot in all RS districts.

20.16.020 Permitted uses. The following uses are permitted:

A. One single family dwelling;

B. No more than two roomers per dwelling;

C. Home occupation;

D. Accessory structures. (Ord. 1182, Sec. 5 (part), April 2, 2002.)

E. Residential Second Units authorized under Chapter 20.90. (Ord. 1188, Sec. 7, June 2, 2003.)

20.16.025 Building permit--Conditions for issuance. Prior to the issuance of a building permit in any RS-3A, RS-5A and RS-10A zoning district, the Planning Commission shall approve a site development plan fixing the location of all structures, roads, utilities and other improvements including site grading and landscaping. (Ord. 841 Sec. 3; April 30, 1975.)

20.16.030 Conditional uses. The following uses are permitted subject to the securing of a Conditional Use Permit:

A. Schools, public and private, including kindergartens, nursery schools and day care centers. The term "day care center", as used in this section, means any institution, boarding home, day nursery or other place required to obtain a license under the provisions of Division 9, Part 4, Chapter 1 of the Welfare and Institutions Code of the State of California;

B. Church;

C. Private park or playground;

D. Public utility structure;

E. Parking lots when the lot is contiguous to any C district;

F. Clustered or grouped single family housing developments in the RS 3A, RS 5A, RS-10A zoning districts, provided, however, that the number of dwelling units shall not exceed the total acreage of the development divided by the minimum lot size set forth in Section 20.16.040. (As amended by Ord. 784 Sec. 1; February 20, 1973; Ord. 841 Sec. 4; April 30, 1975; Ord. 1188, Sec. 8, June 2, 2003.)

20.16.035 Large Family Day Care Homes.

Notwithstanding sections 20.16.020 and 20.16.030 of this article, a large family day care home may be permitted in the RS district pursuant to a use permit issued under the authority of this section.

A. Standards: The Director of Planning and Building shall issue a use permit to a large family day care home if the day care home meets the following standards and requirements as prescribed by state law:

1. There shall be a minimum distance of five hundred feet (500') between the exterior property line of the site on which the large family day care home is located and the exterior property line of the nearest other licensed large family day care home.

2. The operation of the large family day care home shall comply with all applicable noise regulations of this Code or the General Plan. The use of amplified music which can be heard from a public right of way or neighboring property is prohibited during hours of operation.

3. In addition to the parking otherwise required for a single-family home, one paved parking space, which may be tandem, shall be provided for each nonresident employee, nonresident aide and any other nonresident person engaged in the operation of the day care home. Unless such spaces are located in an existing driveway, such spaces shall be located on the premises outside of the exterior yard setback and shall conform to the requirements of section 20.60.090 of this Chapter.

4. There shall be adequate parking for the loading and unloading of children. Loading and unloading shall be on site, or on the street side adjacent to premises. The applicant's driveway shall be sufficient for this purpose provided that the use of the driveway will not block the public right-of-way and all traffic laws are obeyed. Where street parking is available for residential uses, that shall be sufficient for this purpose provided that all traffic and parking regulations are obeyed and double parking is prohibited.

B. Procedure: An application for a permit to operate a large family day care home shall be filed with the Director of Planning and Building in a form provided by the Director. Such application shall be processed pursuant to the following procedures as required by state law.

1. Notice: Notice of the Director's decision to approve or deny a large family day care home shall be shall be mailed, by United States mail, postage prepaid, to the applicants and all owners shown on the last equalized assessment roll as owning real property within one hundred feet (100') of the exterior boundaries of the proposed large family day care home ten days prior to the effective date of the decision.

2. Hearing: No public hearing on the application shall be held unless a hearing is requested in writing by the applicant or by an affected party owning real property within one hundred feet (100') of the exterior boundaries of the proposed large family day care home. The hearing, if requested, shall be conducted by the Zoning Administrator.

3. Appeal: The applicant or any interested party may appeal the decision of the Director to the Planning Commission. (Ord. 1215, Sec. 2, Nov. 20, 2006)

20.16.040 Property development regulations.

A. Maximum Adjusted Floor Area. (The Maximum Adjusted Floor Area may be reduced through Design Review pursuant to Section 20.66.045.)

1. Lots with less than 8,000 square feet of effective lot area - 35 percent of the effective lot area.

2. Lots with 8,000 to 20,000 square feet of effective lot area - 10 percent of the effective lot area plus 2,000 square feet.

3. Lots with more than 20,000 square feet of effective lot area - 5 percent of the effective lot area plus 3,000 square feet, to a maximum of 7,000 square feet.

On any lot where the adjusted floor area which existed on May 6, 1991, exceeded or was within 100 square feet of the maximum adjusted floor area specified in this section; a building permit may be obtained for up to 100 square feet of additional adjusted floor area, without requiring a Variance, where the proposed addition complies with all other provisions of this Title.

B. Maximum Building Height for dwelling:

Twenty-five (25) feet above natural grade

Any single family dwelling, or portions of a single-family dwelling, with more than twice all required yard setbacks may extend up to 35 feet above the natural grade.

Other exceptions to maximum height: See Section 20.60.060

C. Minimum Yard Setbacks.

Exterior: 15 feet
Interior: One foot for every 1,000 square feet of effective lot area, but no less than 5 feet or more than 15 feet

Exceptions to minimum yard setbacks: See Section 20.60.070.

D. Minimum lot size and width and maximum lot coverage.

Zoning District	Minimum * Lot Size	Minimum * Lot Width	Maximum Lot Coverage %
RS-6	6000	60	40
RS-7.5	7500	60	40
RS-10	10000	80	40
RS-15	15000	80	35
RS-20	20000	100	35
RS-30	30000	100	30
RS-43	43560	150	25
RS-3A	3 acres	150	10
RS-5A	5 acres	150	7
RS-10A	10 acres	150	4

*See also Section 21.08.200 for minimum lot area and width requirements for lots with over 10% lot slope. (Ord. 1182, Sec. 5 (part), April 2, 2002.)

20.16.050 Other regulations

A. Design Review shall be required pursuant to Chapter 20.66.

B. Off-street parking is required pursuant to Section 20.60.090.

C. Garages, fences and other accessory structures shall be permitted pursuant to the provisions of Chapter 20.60. (Ord. 1182, Sec. 5 (part), April 2, 2002.)

Chapter 20.18

R-P Districts

Sections:

20.18.010 Purpose.
20.18.020 Procedure for obtaining planned development approval.
20.18.030 Division of property.
20.18.040 Uses permitted without planned development approval.
20.18.050 Uses permitted with planned development approval.
20.18.060 Land capacity determination.
20.18.070 General development criteria.
20.18.080 Master plan approval.
20.18.090 Precise development plan approval.
20.18.100 Special regulations.
20.18.110 Application and fees.

20.18.010 Purpose. The purpose of this Chapter is to effect the development of attractive residential properties in keeping with the character of the community with minimum disturbance to the quality of the neighborhoods and of the natural features of the landscape by requiring the approval of specific plans showing site design and overall design character prior to development.

In establishing R-P districts, the City of Mill Valley intends to make possible development in which the size and shape of buildings, building heights, and the open spaces surrounding buildings or groups of buildings may be varied. Density shall be set at a level or range of dwelling units which is consistent with limitations imposed by on-site, natural resource, topographic and geologic conditions and by the level of public services and road access that can be reasonably provided. The development approval process for R-P Districts is intended to allow for continuous refinement of the permitted density as additional information is acquired regarding the capacity of the land. (Ord. 660 Sec. 1 (part); Ord. 672 Sec. 1 (part); Ord. 709 Sec 1; Ord. 884 Sec. 1 (part); December 20, 1976; Ord. 1015 Sec. 1; November 21, 1983).

20.18.020 Procedure for obtaining planned development approval. Except for uses listed in Section 20.18.040, land zoned R-P may not be used, developed or graded for purposes of development until plans for development have been approved by the City. The procedural steps in obtaining plan approval of lands zoned R-P are as follows:

A. A determination of land capacity (development density) must be obtained pursuant to Section 20.18.060. This land capacity determination is made by the Planning Commission, subject to appeal by the City Council, after public hearing. A technical Land Capacity Report, paid for by the applicant and prepared by a person or firm mutually acceptable to the applicant and the City, and submitted by the applicant, is used by the City as an aid in making the land capacity determination. The land capacity determination is intended as a guide to be used by the applicant and the City in preparation and review of a master plan and precise development plan for the property. However, if justified by subsequent information, the City may permit a greater or require a lesser density when a master plan is approved for the property. (Ord. 1015, Sec. 2; November 21, 1983.)

B. A master plan must be approved for development of the land pursuant to Section 20.18.080. The general development criteria contained in Section 20.18.070 govern the preparation of the master plan. (Ord. 1015, Sec. 2; November 21, 1983.)

C. Following approval of the master plan, a precise development plan must be approved pursuant to Section 20.18.090. (Ord. 660 Sec. 1 (part); Ord. 672 Sec. 1 (part); Ord. 884 Sec. 1 (part); December 20, 1976; Ord. 1015, Sec. 2; November 21, 1983.)

D. Since the master plan and precise development plan involve a more detailed study of the property, including its geology, accessibility, and other characteristics, information may come to light at these

stages which may cause the City to either increase or decrease the allowed development density previously contained in the land capacity determination. (Ord. 1015, Sec. 2; November 21, 1983.)

20.18.030 Division of property. No real property zoned R-P shall be divided so as to create a parcel of less than ten contiguous acres unless and until such subdivision is permitted under a planned development, which has been approved pursuant to this Chapter. (Ord. 660 Sec. 1 (part); Ord. 672 Sec. 1 (part); Ord. 884 Sec. 1 (part); December 20, 1976).

20.18.040 Uses permitted without planned development approval. The following uses are permitted without planned development approval as required in this Chapter:

A. Agriculture.

B. One single-family dwelling on any single holding of land zoned R-P.

C. Accessory structures.

(Ord. 660 Sec. 1 (part); Ord. 672 Sec. 1 (part); Ord. 709 Sec. 2; Ord. 884 Sec 1 (part); Ord. 976 Sec. 1, April 20, 1981.)

20.18.050 Uses permitted with planned development approval. The following uses are permitted upon obtaining planned development approval as required in this Chapter; provided, however, that all uses other than dwellings shall be distinctly secondary and accessory to the residential use of the R-P District and surrounding property and shall not change the basic residential character of the R-P District.

A. Attached and detached dwellings

B. Commercial uses

C. Home occupations

D. Public and private country clubs

E. Golf courses

F. Tennis courts

G. Other non-commercial recreation facilities

H. Public and private schools, including nursery schools, kindergartens and day care centers.

I. Churches

J. Public and private parks or playgrounds

K. Public utility structures

L. Accessory structures

(Ord. 660 Sec. 1 (part); Ord. 672 Sec. 1 (part); Ord. 709 Sections 3 and 4; Ord. 884 Sec. 1 (part); Ord. 976 Sec. 2, April 20, 1981.)

20.18.060 Land capacity determination. The land capacity shall be expressed in terms of dwelling units per land area and shall be directly related to the natural features of the land. The procedures for land capacity determination shall be as follows:

A. The applicant shall submit the following data to be used in the preparation of a land capacity report:

1. A base map of the site and all adjoining properties within 150 feet of the site at a scale of one inch equals 100 feet or larger with a minimum contour interval of 5 feet showing slope bands in the ranges of one to ten percent, eleven to fifteen percent, sixteen to twenty percent, twenty-one to thirty percent, thirty-one to forty percent, forty-one to fifty percent, and over fifty percent. (Ord. 1015, Sec. 2; November 21, 1983.)

2. A tabulation of the land area in square feet by the slope categories specified in part 1 above.

3. An explanation of the methods used to compute percent slope in the land areas by means sufficient to permit adequate review.

B. The City Engineer shall certify the calculations required by Subsection A above, prior to the preparation of the land capacity report.

C. Determination of land capacity --Land Capacity Report. To ensure that land development is established at a level consistent with the capacity of the land, applicants for planned development approval shall furnish a land capacity report prepared by a person or firm mutually acceptable to the applicant and the City, which person or firm is qualified by training and experience to have expert knowledge of the development criteria. The land capacity report is, in part, an environmental assessment and will serve as a data base for an environmental impact report. The land capacity report shall consist of the following components:

1. Natural and manmade site features. This portion of the report shall describe the land features and environmental resources, including an identification and/or analysis of the following:

   (a) Topography;
   (b) Geologic and soils conditions;
   (c) Hydrology;
   (d) Vegetation;
   (e) Scenic areas;
   (f) Cumulative natural hazards;
   (g) Public utilities;
   (h) Roadways and existing levels of service;
   (i) Primary resources such as archaeological, historical, etc.

2. Land Capacity Calculation.

   (a) Excluded lands. Lands with any of the following characteristics shall not be included in the land area of the proposed development for the purposes of land capacity determination (Ord. 1015, Sec.5, November 21, 1983.):

      (1) Lands with greater than fifty percent slope;

      (2) Lands which are hazardous to life and property due to soils, geological, seismic or hydrological factors (if left in their natural state or if built upon without remedial work) unless such hazardous conditions can be eliminated with minimal grading and disturbance to existing land forms and vegetation. The determinations on what is hazardous land must be based on the

analysis of a licensed engineering geologist. (Ord. 1015, Sec. 6 (part); November 21, 1983.)

(3) Lands accessible only by roads passing through lands categorized as hazardous to life and property in part (2) above;

(4) Lands that can be served only by a cul-de-sac of 800 feet or more. (As used in this Chapter, the term "cul-de-sac" shall mean any street or street system within the planned development having only one point of vehicular access.)

(b) Buildable lands. The building portions of the site shall be evaluated as follows:

(1) The base density of all lands shall be set according to their slope as follows:

Percent Slope	Land Area Per Dwelling Unit
0-10	7, 500 sq. ft.
11-15	10,000 sq. ft.
16-20	15,000 sq. ft.
21-30	20,000 sq. ft.
31-40	40,000 sq. ft.
Over 40	10 acres

Lot slope shall be measured at right angles to the natural contours. Percentage slope equals the vertical rise in feet between two points, divided by the horizontal distance between the two points multiplied by 100. (Ord. 984 Sec. 1; November 2, 1981.)

(2) Lands falling within an area of high fire hazard shall be limited to a density of one dwelling unit per five acres regardless of slope. High fire hazard areas are defined as those highly fire-prone brush assemblages known as chaparral formations which, among others, are composed of manzanita, chamise, chaparral, oak, huckleberry, chaparral pea, toyon, tree poppy, and chinquapin. The general locations of such high fire hazard areas are shown in the adopted Mill Valley General Plan, but are not necessarily limited to those locations.

(3) Densities for lands excluded under Section C (2) (a), Excluded Lands, parts (3) and (4), of this section, may be calculated in the same manner as the remaining lands with ten percent (10%) of the resulting density being transferred to the remaining lands, other than lands within high fire hazard areas. Any fraction of a full unit or aggregate fraction less than a full unit shall be counted as a full unit. (Ord. 1015, Sec. 7, November 21, 1983.)

3. Land Capacity Hearing and Determination. Within thirty (30) days following receipt of the land capacity report, the Planning Commission shall hold a public hearing to consider the land capacity report and its recommended land capacity determination. The Planning Commission shall approve, conditionally approve, or disapprove the proposed land capacity determination and notify the applicant of its action in writing, including the reasons for its decision. Should the Planning

Commission disapprove of the proposed land capacity determination, the Commission shall inform the applicant of what it believes to be the correct land capacity determination. Plans thereafter submitted for the planned development, whether by the same or another applicant, shall be in accordance with the land capacity determination. Plans thereafter submitted for the planned development, whether by the same or another applicant, shall be in accordance with the land capacity determination. However, the applicant may also submit alternative plans for lesser or greater density if the applicant believes that new information regarding the land justifies a change in density. The land capacity determination represents the number of dwelling units allowable on the land based upon the site characteristics as documented and analyzed in the land capacity report. However, the Planning Commission and/or City Council may require a lesser or permit a greater number of dwelling units when necessary or appropriate under the general development criteria established in Section 20.18.070. Such determination shall be made in the master plan or precise development plan approval process contained in Sections 20.18.080 and 20.18.090. Appeal of the Planning Commission decision on the land capacity determination may be made in accordance with the provisions of Section 20.64.100. (Ord. 660 Sec. 1 (part); Ord. 672 Sec. 1 (part) Ord. 709 Sec. 5; Ord. 884 Sec. 1 (part); December 20, 1976; Ord. 1015 Sec. 9; November 21, 1983.)

20.18.070 General development criteria. All planned developments under this Chapter shall conform to the following general development criteria:

A. Minimum area. The minimum area required for a planned development shall be ten acres of contiguous property unless the Planning Commission finds that property of less than ten acres is suitable for planned development in accordance with all the provisions of this Chapter.

B. Assembly of land. Where contiguous properties proposed for a planned development in accordance with the provisions of this Chapter are under separate ownership, written consent of all participating property owners shall be filed with the Director of Planning and Building before any application for a planned development can be accepted by the City.

C. Conformance to the General Plan. All planned development to which this Chapter applies must conform to the adopted Mill Valley General Plan or to any adopted precise plan applicable to the area under consideration.

D. Maximum height of structures. No structure shall exceed thirty feet in height pursuant to the building height definitions contained in Section 20.08.050.

E. Environmental quality criteria.

1. All development should be designed and located to conserve energy resources. Such efforts might include, but are not limited to, the clustering or location of development to reduce driving time, and structural designs which maximize use of solar energy and reduce the use of electricity and fossil fuels.

2. Clustering to reduce paving, grading, runoff and changes in vegetative cover shall be encouraged. When a significant change in vegetative cover is proposed, it must be demonstrated that restoration measures will provide for minimal adverse impact and for equal protection from erosion as that provided by vegetation before grading.

3. Development should be so designed as to minimize adverse impact on primary wildlife resources and to achieve a high degree of compatibility with wildlife habitat areas.

4. Any lands whose sole means of access is via existing residential streets shall be limited to densities which will not produce substantial increases in traffic volumes on those streets. Traffic volumes exceeding twenty percent of existing volumes shall generally be considered substantial. Where more than one undeveloped site would contribute vehicular traffic to the street, the aggregate densities should not exceed the twenty percent level. The twenty-percent level shall be used as a general guideline and is intended to minimize adverse traffic impacts on existing neighborhood streets. Densities may be approved which would produce lesser or greater traffic volumes depending upon the particular impact as may be identified in any environmental impact report prepared for the planned development.

F. Site design criteria.

1. All roads, buildings, and other structural improvements or land coverage shall be located, sited and designed to fit the natural topography and shall minimize grading and modification of existing land forms and natural characteristics.

2. Lands to which it is necessary to provide access by constructing a roadway or roadways traversing slopes in excess of thirty percent grade for a total cumulative distance of 300 feet shall be considered unbuildable unless it can be demonstrated that any adverse impact, including visual impact, is insignificant or can be satisfactorily mitigated.

3. Development shall be designed to minimize detraction from the scenic and visual quality of the City and the natural characteristics of scenic ridge lines, existing major water courses, established trees, dominant vegetative communities and primary wildlife habitats.

4. Lands that can be served only by a cul-de-sac of 800 feet or more shall not be considered buildable unless it can be demonstrated that adequate provision can be made for public safety and/or emergency access.

5. Vegetation for the stabilization of graded areas or for replacement of existing vegetation shall be compatible with surrounding vegetation and shall recognize climatic, soil and ecological characteristics of the region.

6. Underground utility lines shall be required, except where such undergrounding would result in significant adverse environmental impact.

7. It must be demonstrated that sufficient storm drainage, sewerage capacity and domestic water supply are available and that adequate fire, police, and school facilities either exist, or can be reasonably supplied to the development.

G. Natural hazards and public safety criteria.

1. Areas of slope instability. Development in areas of slope instability shall not be permitted unless detailed geotechnical and hydrological studies demonstrate that reasonable safeguards have been provided for public safety. Studies made by licensed engineering geologists and/or engineers specializing in soils problems must show that both static and dynamic hazardous conditions either do not exist or can be overcome by site preparation measures and/or engineering design which are not contrary to the purposes of this Chapter.

2. Areas of steep topography. Any portion of a site over fifty percent grade shall not be considered buildable unless it can be demonstrated that the placing of structures thereon will not require undue disruption of the existing ground surfaces and vegetation, and unless it can be demonstrated that roads and utilities to the site can be provided in a manner which does not cause geologic instability, undue disruption or damage to any existing roads, soils, vegetation and utilities due to earth movement, and in a manner which ensures adequate access for public safety vehicles. Any such lands which do not meet these criteria, or the criteria in subsection F 2, above, and are, therefore, declared unbuildable may have ten percent of their otherwise allowable density transferred to buildable lands. Any fraction of a full unit or aggregate fraction less than a full unit shall be counted as a full unit.

3. Seismic hazards. With all areas of Mill Valley being subject to the severe effects of seismic shaking, all developments shall be subject to the following criteria:

   (a) All new buildings shall conform to the latest seismic structural standards of the Uniform Building Code.

   (b) All lands shall be evaluated for the presence of faults or seismic shaking related conditions and their implications for structural design. Any particular seismic hazard characteristics disclosed by such evaluation shall be made public.

4. Fire hazard areas. Development in high fire hazard areas (as defined in subsection (2) of Section 20.18.060) shall be limited to a density of one dwelling unit per five acres. (Ord. 660 Sec. 1 (part); Ord. 709 Sec. 6; Ord. 884 Sec. 1 (part); December 20, 1976).

20.18.080 RP Districts - Master plan approval. A. The applicant shall submit to the Planning Commission of the City of Mill Valley an application for approval of a master plan for the entire area of a proposed planned development.

B. The master plan shall include the following drawings and documents presented in sufficient detail for the City Council, Planning Commission and its advisory agencies to make adequate decisions:

1. A base map, at a scale of one inch equals forty feet, with contour intervals of not more than five feet showing survey data, existing features of the property, including structures, streets, easements, utility lines, trees and land use;

2. A master plan map, at a scale of one inch equals forty feet, showing lot design and streets, highways, walkways, hiking and riding trails and other circulation system alignments;

3. A statement of proposed scheduled staging of development;

4. A statement of proposed design and development standards, with indications of the following: land coverage; immediate or future building locations on all parcels, with designations of building heights and setback dimensions; public and semi-public areas; proposed related public improvements; and general type and character of building design, including any energy conserving features or solar energy applications. (Ord. 999, Sec. 6 (part); November 15, 1982).

5. Facilities required to provide flood control, adequate storm drainage, sewage disposal and public utilities for the planned development;

6. A statement of methods to be employed to assure maintenance of landscaping facilities to be provided and to assure development of properties to standards established by the master plan for the planned development.

C. Within 60 days following receipt of the application for master plan approval, the Planning Commission shall schedule such public hearing or hearings thereon as may be required by the Planning and Zoning Law of the State of California for the approval of a general plan.

D. Prior to taking action on the master plan, the Planning Commission may reconsider the land capacity determination taking into consideration a detailed soils report and proposed site design. (Ord. 1015, Sec. 9; November 21, 1983.)

E. In order to approve, conditionally approve, or recommend approval or conditional approval of a master plan, the Planning Commission shall find that:

1. A final subdivision map for the proposed planned development can be recorded within two years of the expected date of adoption of the master plan for the planned development;

2. The proposed planned development is an environment of sustained desirability and stability;

3. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and proposed densities will not generate traffic in such amounts as to overload the street network outside the development;

4. The area surrounding the planned development can be planned in coordination and compatibility with the proposed planned development;

5. The planned development is substantially in conformance with the adopted Mill Valley General Plan and any applicable precise plans;

6. Existing or proposed utility services and facilities and other public improvements are adequate for the population densities proposed.

F. If the Planning Commission cannot make the necessary findings, it shall recommend denial of the proposed master plan.

G. Within 30 days following the completion of its hearings thereon, the Planning Commission shall report its recommendations regarding the master plan application to the City Council for final action. The decision of the City Council shall be final. For developments with less than ten (10) units, approval by the Planning Commission shall constitute final action on the master plan subject to appeal to the City Council in the manner provided in Chapter 20.100. The giving of public notice and the holding of public hearings by the City Council shall be the same as provided in the Planning and Zoning Law of the State of California for the approval of a general plan.

H. The City Council may approve or deny the master plan for the proposed planned development. Approval of the master plan by the City Council shall be by resolution adopted by a majority of the members thereof. The resolution shall include, but not be limited to, the following stipulations:

1. The development, maintenance and use of the property included within the scope of the master plan shall be carried on in conformance with the approved master plan drawings and documents and this Chapter;

2. Approval of the master plan is not to be interpreted as waiving the requirements for compliance with provisions of Title 21;

3. The approved master plan drawings and documents shall be filed with the office of the City Clerk of the City of Mill Valley after written authorization of such filing has been secured from the owner or owners of the lands involved. Such authorization shall be construed to constitute the owner's acceptance of the provisions set forth in the resolution;

4. No building shall be constructed, maintained or used, nor shall any land be developed or used except as permitted by the approved master plan drawings and documents as filed. (Ord. 660 Sec. 1 (part); Ord. 672 Sec. 1 (part); Ord. 884 Sec. 1 (part); Ord. 901 Sec. 1; Ord. 951; December 3, 1979.)

20.18.090 Precise development plan approval.

A. Following adoption of a master plan, no development, improvement or building construction within the planned development area covered by the adopted master plan shall be commenced until the Planning Commission shall have approved a precise development plan for the entire planned development.

B. Within one year following the adoption of the master plan for the proposed planned development, the applicant shall submit to the Planning Commission an application for approval of a precise development plan for the proposed planned development consisting of the following:

1. A topographic map, at a scale of one inch equals forty feet, showing all cut and fill banks, precise drainage and flood control and boundary survey data;

2. A site plan or plans showing location, width, grades, and types of improvements proposed for all streets, parking areas, driveways, walkways, trails, utilities, and other public improvements, indicating buildings and distances from property lines and rights-of-way.

3. A landscaping plan;

4. A map showing proposed division of property for the sale of individual parcels, if any;

5. Public or semi-public areas, including, but not limited to, schools, parks, playgrounds and parking areas;

6. A statement setting forth a program for installation and continued maintenance of parking areas, lighting, courts, public and private grounds, landscaping, streets, utilities, parks, playgrounds, or public or semi-public community buildings and facilities;

7. Information necessary for evaluation and assignment of fire zone designation.

C. Within 60 days following receipt of the application for precise development plan approval, the Planning Commission shall schedule a public hearing to consider the precise development plan in the same manner as provided for in Section 20.60.200. (Ord. 1041, Sec. 5; September 3, 1985.)

D. The Planning Commission shall approve, approve conditionally, or disapprove the proposed precise development plan and shall notify the applicant in writing.

E. Planning Commission approval of a precise development plan shall become null and void unless action is taken to file a tentative subdivision map on property covered by the precise development plan within one year after approval of precise development plan. (Ord. 660, Sec. 1 (part); Ord. 672, Sec. 1 (part); Ord. 788, Sec. 11; Ord. 884, Sec. 1 (part); December 20, 1976.)

20.18.100 Special regulations. In addition to the other requirements governing R-P districts, the following shall apply:

A. Major changes in an approved master plan of a planned development shall be required to be made in accordance with the provisions of this Chapter.

B. Failure on the part of the applicant to submit a precise development plan within one year of a master plan approval by the Council, or failure to record a final subdivision map, if required, to effectuate an approved R-P precise development plan for a planned development within two years after the master plan approval by the City Council, shall render null and void the actions taken by the Planning Commission and the City Council, and the zoning shall revert to its former status permitting only those uses specified in Section 20.18.040 (Ord. 884, Sec. 1 (part); December 20, 1976.)

20.18.110 Application and fees. Application for approval of a planned development in accordance with the provision of this Chapter shall be made by the owner or owners of the land involved, or any agent thereof, on forms prescribed by the City and shall be accompanied by fees to be established by resolution adopted by the City Council. (Ord. 884, Sec. 1(part), December 20, 1976.)

Chapter 20.20

Planned Residential Districts

Sections:

20.20.010 Purpose.
20.20.020 Procedure for obtaining planned development approval.
20.20.030 Division of property.
20.20.040 Uses permitted without planned development approval.
20.20.050 Uses permitted with planned development approval.
20.20.060 Density designation.
20.20.070 General development criteria.
20.20.080 Master plan approval.
20.20.090 Precise development plan approval.
20.20.100 Special regulations.
20.20.110 Application and fees.

20.20.010 Purpose. The purpose of this Chapter is to create attractive residential developments which complement the character of the community, result in minimum disturbance to adjacent neighborhoods and preserve significant natural features of the sites. In establishing Planned Residential Districts, the City of Mill Valley intends to make possible development in which lot sizes, the size and shape of buildings, the location of buildings on lots, building heights, and the open spaces surrounding buildings or groups of buildings may be varied consistent with limitations imposed by on-site natural resource, topographic and geologic conditions and by the level of public services and road access that can be reasonably provided. The development approval process for Planned Residential Districts is intended to allow for continuous refinement of the development plan as additional information is acquired regarding the specific characteristics of the land.

20.20.020 Procedure for obtaining planned development approval. Except for uses listed in Section 20.20.040, land zoned Planned Residential may not be used, developed nor graded for purposes of development until plans for development have been approved by the City. The procedural steps in obtaining plan approval of lands zoned Planned Residential are as follows:

A. A master plan must be approved for development of the land pursuant to Section 20.20.080. The general development criteria contained in Section 20.20.070 shall govern the preparation of the master plan.

B. Following approval of the master plan, a precise development plan must be approved pursuant to Section 20.18.090.

C. Since the master plan and precise development plan involve a more detailed study of the property, including its geology, accessibility, and other characteristics, information may come to light at these stages which may cause the City to modify the location or decrease the development density specified in the City General Plan.

20.20.030 Division of property. No real property zoned Planned Residential shall be divided unless and until such subdivision is permitted under a planned development, which has been approved pursuant to this Chapter.

20.20.040 Uses permitted without planned development approval. The following uses are permitted without planned development approval as required in this Chapter:

A. Agriculture.

B. One single-family dwelling on each legal lot of record zoned Planned Residential.

C. Accessory structures.

D. One Residential Second Unit on an existing lot of record as authorized by Chapter 20.90.

E. Other projects which the Director of Planning and Building determines are minor or incidental in nature and are consistent with the intent and objectives of this Chapter. (Ord. 1075, Sec. 1, February 1, 1988; Ord. 1188, Sec. 9, June 2, 2003.)

20.20.050 Uses permitted with planned development approval. The following uses are permitted upon obtaining planned development approval as required in this Chapter; provided, however, that all uses other than dwellings shall be distinctly secondary and accessory to the residential use of the Planned Residential District and surrounding property and shall not change the basic residential character of the Planned Residential District.

A. Single family detached dwellings on both RSP (Residential, One Family Planned District) and RMP (Residential, Multiple Planned District) designated parcels.

B. Attached dwellings on RMP (Residential, Multiple Planned District) designated parcels.

C. Home occupations

D. Non-commercial recreation facilities

E. Public and private parks or playgrounds

F. Public utility structures

G. Accessory structures

20.20.060 Density designation. The ordinance adopting a Planned Residential District shall specify the maximum number of dwelling units per gross acre which will be allowed within the District and this density shall be combined with the zoning designation. The density thus computed shall in fact be the maximum number of dwelling units allowed per gross acre.

20.20.070 General development criteria. All planned developments under this Chapter shall conform to the following general development criteria:

A. Assembly of land. At a minimum, any planned development shall include all contiguous land under the applicant's ownership. Where contiguous properties proposed for a planned development in accordance with the provisions of this Chapter are under separate ownership, written consent of all participating property owners shall be filed with the Department of Planning and Building, before any application for a planned development can be accepted by the City.

B. Conformance to the General Plan. All planned development to which this Chapter applies must conform to the adopted Mill Valley General Plan and any adopted specific plan applicable to the area under consideration.

C. Maximum height of structures. No structure shall exceed thirty feet in height pursuant to the building height definitions contained in Section 20.08.050 or any such more restrictive height limit(s) established as a condition of the Master Plan approval.

D. Environmental quality criteria.

1. All development should be designed and located to conserve energy resources. Such efforts might include, but are not limited to, the clustering or location of development to reduce driving time, and structural designs which maximize use of solar energy and reduce the use of electricity and fossil fuels.

2. Clustering to reduce paving, grading, runoff and changes in vegetative cover shall be encouraged. When a significant change in vegetative cover is proposed, it must be demonstrated that restoration measures will provide for minimal adverse impact and for equal protection from erosion as that provided by vegetation before grading.

3. Development should be so designed as to minimize adverse impact on primary wildlife resources and to achieve a high degree of compatibility with wildlife habitat areas.

E. Site design criteria.

1. All roads, buildings, and other structural improvements or land coverage shall be located, sited and designed to fit the natural topography and shall minimize grading and modification of existing land forms and natural characteristics.

2. Lands to which it is necessary to provide access by constructing a roadway or roadways traversing slopes in excess of thirty percent grade for a total cumulative distance of 300 feet shall only be developed if it can be demonstrated that any adverse impact, including visual impact, is insignificant or can be satisfactorily mitigated.

3. Development shall be designed to minimize detraction from the scenic and visual quality of the City and the natural characteristics of scenic hillsides and ridge lines, water courses, significant trees, and other important vegetative communities and wildlife habitats.

4. Lands that can be served only by a cul-de-sac of 800 feet or more shall only be developed if it can be demonstrated that adequate provision can be made for public safety and/or emergency access.

5. Vegetation for the stabilization of graded areas or for replacement of existing vegetation shall be compatible with surrounding vegetation and shall recognize climatic, soil and ecological characteristics of the particular location.

6. Underground utility lines shall be required, except where such undergrounding would result in significant adverse environmental impact.

7. It must be demonstrated that sufficient storm drainage, sewerage capacity and domestic water supply are available and that adequate fire, police, and school facilities either exist, or can be reasonably supplied to the development.

F. Natural hazards and public safety criteria.

1. Areas of slope instability. Development in areas of slope instability shall not be permitted unless detailed geotechnical and hydrological studies demonstrate that reasonable safeguards have been provided for public safety. Studies made by licensed engineering geologists and/or engineers specializing in soils problems must show that both static and dynamic hazardous conditions either do not exist or can be overcome by site preparation measures and/or engineering design which are not contrary to the purposes of this Chapter.

2. Areas of steep topography. Any portion of a site over fifty percent grade shall be developed only if it can be demonstrated that the placing of structures thereon will not require undue disruption of the existing ground surfaces and vegetation, and only if it can be demonstrated that roads and utilities to the site can be provided in a manner which does not cause geologic instability, undue disruption or damage to any existing roads, soils, vegetation and utilities due to earth movement, and in a manner which ensures adequate access for public safety vehicles.

3. Seismic hazards. Since Mill Valley may be subject to the severe effects of seismic hazards, all developments shall be subject to the following criteria:

a) All new buildings shall conform to the latest seismic structural standards of the Uniform Building Code.

b) All lands shall be evaluated for the presence of faults or seismic shaking related conditions and their implications for structural design. Any particular seismic hazard characteristics disclosed by such evaluation shall be made public.

4. Fire hazard areas. Development in high fire hazard areas shall be designed to minimize threat to life, safety and property

20.20.080 Master plan approval. A. The applicant shall submit to the Department of Planning and Building of the City of Mill Valley an application for approval of a master plan for the entire area of a proposed planned development.

B. The master plan shall include the following drawings and documents presented in sufficient detail for the City Council, Planning Commission and other review bodies and agencies to make adequate decisions:

1. A base map, at a scale of one inch equals forty feet, with contour intervals of not more than five feet showing survey data, existing features of the property, including existing structures, streets, easements, utility lines, trees and land use;

2. A master plan map, at a scale of one inch equals forty feet, showing lot design and streets, walkways, hiking and riding trails and other circulation system alignments;

3. A preliminary landscape plan (may be combined with site plan) showing:

   a) All existing trees spaced more than thirty feet apart by common name and spread. Trees to be removed shall be indicated;

   b) In more densely wooded areas or in tree clusters, only the outline need be shown; however, outstanding trees within the clusters need be shown, if they are to be removed;

   c) A conceptual plan for proposed trees and other plant material.

4. A statement of proposed design and development standards, with indications of the following: land coverage; immediate or future building locations on all parcels, with designations of building heights and setback dimensions; public and semi-public areas; proposed related public improvements; and general type and character of building design, including any energy conserving features or solar energy applications.

5. An indication of the facilities proposed to provide flood control, adequate storm drainage, sewage disposal and public utilities for the planned development;

6. A statement of methods to be employed to assure maintenance of landscaping facilities to be provided and to assure development of properties to standards established by the master plan for the planned development.

7. A statement of proposed scheduled staging of development;

8. A preliminary geological reconnaissance report prepared by a registered civil engineer or a registered engineering geologist.

9. A statement from the applicant indicating that the proposed project is consistent with the Mill Valley General Plan.

10. Any other information which the Director of Planning and Building determines is required to describe clearly and accurately the proposed development and its effect on the terrain and existing improvements.

11. A filing fee as established by resolution by the Mill Valley City Council.

C. The Planning Commission shall schedule such public hearing or hearings thereon as may be required by the Planning and Zoning Law of the State of California for the approval of a general plan.

D. Prior to taking action on the master plan, the Planning Commission may review the assumptions upon which the General Plan density designations were based taking into consideration any significant new information available from the detailed site specific soils report, other environmental information, and the proposed site design.

E. In order to approve, conditionally approve, or recommend approval or conditional approval of a master plan, the Planning Commission shall find that:

1. The proposed planned development will create an attractive residential development which complements the character of the community, results in

minimal disturbance to adjacent neighborhoods and preserves the significant natural features of the site.

2. The proposed planned development has been designed to minimize or avoid public safety risks and City liability caused by landslide or other geologic hazards and drainage and flooding problems.

3. The proposed new streets are adequate to carry anticipated traffic, and the proposed density will not generate traffic in such amounts as to cause safety problems on or overload the existing the street network outside the development.

4. The proposed planned development conforms to the adopted Mill Valley General Plan and any applicable specific plans;

5. Existing or proposed utility services and facilities and other public improvements are adequate for the population density proposed.

6. The proposed planned development conforms to the general development criteria contained in Section 20.20.070.

F. If the Planning Commission cannot make the necessary findings, it shall recommend denial of the proposed master plan.

G. Following the completion of its hearings thereon, the Planning Commission shall report its recommendations regarding the master plan application to the City Council for final action. The decision of the City Council shall be final.

H. The City Council may approve or deny the master plan for the proposed planned development. Approval of the master plan by the City Council shall be by resolution adopted by a majority of the members thereof. The resolution shall include, but not be limited to, the following stipulations:

1. The development, maintenance and use of the property included within the scope of the master plan shall be carried on in conformance with the approved master plan drawings and documents and this Chapter;

2. Approval of the master plan is not to be interpreted as waiving the requirements for compliance with provisions of Title 21;

3. No building shall be constructed, maintained or used, nor shall any land be developed or used except as permitted by the approved master plan drawings and documents.

20.20.090 Precise development plan approval.

A. Following adoption of a master plan, no development, improvement or building construction within the planned development area covered by the adopted master plan shall be commenced until the Planning Commission has approved a precise development plan for the entire planned development.

B. Within one year following the adoption of the master plan for the proposed planned development, the applicant shall submit to the Planning Commission an application for approval of a precise development plan for the proposed planned development consisting of the following:

1. A description of the proposed project including: the proposed use of the site; the site area in square feet or acres; the individual and total building areas; the percentage of total site to be covered by buildings, parking, roads, and landscaping; the building height and number of stories; the number of off-street

parking spaces, covered and open; and total number of living units, gross floor area, and number of bedrooms.

2. A topographic map, at a scale of one inch equals forty feet, showing all cut and fill banks, precise drainage and flood control improvements, easements and boundary survey data.

3. A site plan or plans showing the location, width, grades, and types of improvements proposed for all streets, parking areas, driveways, walkways, trails, utilities, and other public improvements, and showing proposed locations for dwellings and other structures, indicating building locations and distances from property lines and rights-of-way.

4. A Tentative Subdivision Map showing proposed division of property for the sale of individual parcels, if any.

5. Floor plans and elevations for all structures, and perspective drawings sufficient to illustrate the design features of the proposed development.

6. A landscape plan showing the types of all impervious ground surfaces, walls, fences, screens, shelters, water features, lighting, benches or other types of outdoor fixtures proposed. A planting plan showing location, number, and types of trees, shrubs, groundcover, and other plant materials.

7. A statement setting forth a program for installation and continued maintenance of parking areas, lighting, public and private grounds, landscaping, streets, utilities, parks, playgrounds, or public or semi-public community buildings and facilities. For multiple residential developments, the statement should include details on condominium status, if applicable.

8. A color and materials palette containing reasonably sized samples of color, materials, textures, tones or other representations of proposed architectural treatment. (Ord. 1123, Sec. 4, August 2, 1993.)

NOTE: For land subdivisions, the information specified in Items 5, 6, 7, and 8 above may be submitted as part of the Design Review applications for the individual homes.

9. Information necessary for evaluation and assignment of fire zone designation.

10. Any other information which the Director of Planning and Building determines is required to describe clearly and accurately the proposed development and its effect on the terrain and existing improvements.

11. A filing fee as established by resolution by the Mill Valley City Council.

C. The Planning Commission shall schedule a public hearing to consider the precise development plan in the same manner as provided for in Section 20.60.200.

D. The Planning Commission shall approve, approve conditionally, or disapprove the proposed precise development plan and shall notify the applicant in writing.

E. Planning Commission approval of a precise development plan shall become null and void unless action is taken to file a tentative subdivision map on property covered by the precise development plan within one year after approval of precise development plan.

20.20.100 Special regulations. In addition to the other requirements governing Planned Residential zoning districts, the following shall apply:

A. Major changes in an approved master plan of a planned development shall be required to be made in accordance with the provisions of Section 20.20.080 of this Chapter.

B. Failure on the part of the applicant to submit a precise development plan within one year of a master plan approval by the Council, or failure to submit a tentative subdivision map, if required, to effectuate an approved precise development plan for a planned development within two years after the master plan approval by the City Council, shall render null and void the actions taken by the Planning Commission and the City Council, and only those uses specified in Section 20.20.040 may be permitted.

20.20.110 Application and fees. Application for approval of a planned development in accordance with the provision of this Chapter shall be made by the owner or owners of the land involved, or any agent thereof, on forms prescribed by the City and shall be accompanied by fees to be established by resolution adopted by the City Council. (Ord 1075; February 1, 1988).

Chapter 20.24

RM Districts-Multiple Family

Sections:

20.24.010 Permitted uses.
20.24.020 Conditional uses.

20.24.010 Permitted uses. The following uses are permitted:

A. One single family dwelling on any single holding of land;

B. Multiple family dwellings as shown in the following table

		1.5	2.0	2.5	3.0	3.5	4.5	5.5
1.	Minimum land area per dwelling unit(square feet)	1,500	2,000	2,500	3,000	3,500	4,500	5,500
2.	Maximum lot coverage (percent)	50	50	50	50	50	45	40
3.	Minimum yards (setbacks)							
	(a) Exterior	---------- 15 feet ----------						
	b) Interior	1 foot per 1,000 square feet of lot area from a minimum of 5 to a maximum of 10 feet.						
4.	Maximum building height:							
	(a) At required setbacks to twice all required setbacks	---------- 25 feet ----------						
	(b) More than twice all required setbacks	---------- 35 feet ----------						
5.	Minimum usable open space (square feet per dwelling unit)							
	(a) One or no bedrooms	100	125	150	200	450	500	500
	(b) 2 bedrooms	150	175	200	300	450	500	500
	(c) 3 or more bedrooms	200	250	300	450	450	500	500

6. Densities shown herein are the maximum allowable and the City may require lower densities when necessary to meet development constraints contained in any applicable general or specific plan, any environmental documents prepared under the California Environmental Quality Act, or any other provisions of this Code or state law. (Ord. 872, Sec. 1; August 16, 1976; Ord. 1093, Sec. 5; March 19, 1990.)

C. Accessory structures. (Ord. 975, Sec. 1; April 20, 1981.)

D. A Residential Second Unit as authorized by Chapter 20.90. (Ord. 1188, Sec. 10, June 2, 2003.)

20.24.020 Conditional uses. The following uses are permitted in all RM districts subject to the securing of a conditional use permit:

1. office buildings;
2. hospitals, clinics for the treatment of human ailments;
3. funeral parlors;
4. community centers;
5. social halls, lodge and club buildings;
6. horticultural nurseries;
7. nursing or rest homes;
8. public utilities structures;
9. day care centers for children;
10. combined residential, commercial and/or business and professional office building;
11. parking lots are permitted in all RM districts on lots contiguous to any C district upon the securing of a conditional use permit. (Ord. 749, Sec. 1, March 15, 1972; Ord. 865, Sec. 1, April 5, 1976; Ord. 867, Sec. 1, May 17, 1976; Ord. 872, Sec. 2, August 16, 1976; Ord. 1188, Sec. 11, June 2, 2003.)

Chapter 20.36

P-A Districts--Professional Administrative Office Districts

Sections:

20.36.010 Scope of regulations.
20.36.020 Permitted uses.
20.36.030 Conditional uses.
20.36.040 Property development standards.

20.36.010 Scope of regulations. The following regulations shall apply with respect to each lot in all P-A districts.

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. residences an integral part of office building; and

G. accessory structures. (Ord. 975, Sec. 2, April 20, 1981.)

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

A. Public utility structures;

B. Multiple-family residences subject to densities to be determined by the Planning Commission and subject to the property development standards of the RM multiple-family residential district;

C. Other business uses which, in the opinion of the Planning Commission, are of the same general character as the permitted uses; and

D. Combined residential, commercial and/or business and professional office buildings. (Amended by Ord. 867, Sec. 2, May 17, 1976.)

20.36.040 Property development standards.

A. Building height. The maximum height shall be thirty-five feet.

B. Yard, exterior. There shall be no exterior yard required, except where the frontage in the block is partially in an R district or the property is subject to an established official plan line, then the exterior yard of the R district or the official plan line, whichever is more restrictive, shall apply.

C. Yard, interior. There shall be no interior yards required except that where the boundary of a commercially-zoned lot abuts on any R district, that yard shall be not less than as required in such R district. (Ord. 820, Sec. 2, June 3, 1974.)

Chapter 20.40

C-G Districts--General Commercial Districts

Sections:

20.40.010 Scope of regulations.
20.40.020 Permitted uses.
20.40.030 Conditionally permitted uses.
20.40.040 Prohibited uses.
20.40.050 Property development standards.
20.40.060 Shopping center signs--Use permit.

20.40.010 Scope of regulations. The following regulations shall apply with respect to each lot in all C-G districts. (Ord. 820, Sec. 3 (part), June 3, 1974.)

20.40.020 Permitted uses. The following uses are permitted provided they do not occupy more than 1,500 square feet of floor area (exclusive of storage and non-public areas) and provided that the use is entirely enclosed within a building unless an outdoor dining area or outdoor merchandise permit is obtained in accordance with the provisions of Chapter 20.65:

A. art galleries and interior decorating and photography studios;

B. automotive part stores;

C. barber and beauty shops;

D. bookstores;

E. card and stationery shops;

F. catalogue sales with warehouse facilities not exceeding an additional 1,500 sq. ft;

G. Chamber of Commerce offices and community service organizations;

H. cleaners without processing facilities on site;

I. clothing and shoe stores;

J. computer, video, radio, TV and other electronic equipment - rental, sales and service stores;

K. copying, fax, postal box and packaging facilities;

L. dressmaking, millinery, sewing, shoe repair and tailor shops;

M. drug and variety stores;

N. florists;

O. furniture and home furnishing stores;

P. hardware, paint and art supply stores;

Q. hobby, toy and bike shops;

R. jewelry, watch and clock sales and repair;

S. linen, yarn, yardage, drapery and window covering stores;

T. luggage stores;

U. music shops;

V. optical sales;

W. pet and pet supply stores (not including kennels);

X. photographic supply and processing shops;

Y. plumbing and appliance supplies and service;

Z. political campaign offices;

AA. professional and administrative offices located on other than the street level;

BB. public utility offices;

CC. real estate offices;

DD. sporting goods stores;

EE. travel agencies;

FF. one or two commercial amusement devices. Commercial amusement device means any game, including but not limited to video or electronic games, available for temporary hire on the premises as a form of entertainment; and

GG. any other use which, in the opinion of the Planning Director, is of the same general character as those listed above. (Ord. 1106, Sec. 1, April 20, 1992; Ord. 1203, Sec. 2, May 16, 2005.)

20.40.030 Conditionally permitted uses. The following uses are permitted subject to the securing of a conditional use permit or by obtaining an outdoor dining area or outdoor merchandise display permit in accordance with the provisions of Chapter 20.65:

A. automotive repair facilities;

B. bakeries;

C. banks and automatic bank machines not in conjunction with a bank;

D. bars;

E. car wash facilities;

F. coffee shops and cafes;

G. collection facilities for recyclable materials or donations to non-profit organizations;

H. cookie and candy stores;

I. dance or exercise studios;

J. delicatessens;

K. food stores;

L. gasoline stations;

M. ice cream and yogurt shops;

N. liquor stores;

O. meeting facilities;

P. professional and administrative office uses located at street level;

Q. restaurants (sit down and take-out);

R. all other commercial, administrative, professional and light industrial uses not otherwise prohibited, including those uses specified in section 20.40.020 which occupy more than 1,500 square feet of floor area (exclusive of storage and non-public areas) and those which are conducted at least partially outside unless an outdoor dining area or outdoor merchandise display permit is obtained in accordance with the provisions of Chapter 20.65;

S. buildings occupied by two or more independent retail specialty shops where each shop does not have separate and direct customer access to the street;

T. division of an existing retail space with at least 4,000 square feet of floor area (exclusive of storage and non-public areas) into two or more smaller retail spaces. In addition to the finding specified in Chapter 20.64 of this Title, the Commission must also find that the loss of the particular large commercial space will not adversely effect the opportunity to retain a mix of commercial uses within the community;

U. residential units. At the time of approval of the conditional use permit for residential units, the Planning Commission shall establish the property development standards that apply;

V. mixed use projects which combine residential, commercial and/or business and professional office uses;

W. the conversion of an automobile service station to a self-serve only station or the addition of a mini-market or car wash; and

X. all businesses seeking to provide three or more commercial amusement devices. In addition to the guidelines set forth in Chapter 20.64 of this Title, relative to conditional use permits, the Planning Commission shall review each application for a use permit according to the following criteria:

1. noise generation;

2. traffic from employees, customers and clients, and availability of parking spaces for both vehicles and bicycles:

   a. one vehicular parking space shall be provided for every five commercial amusement devices

   b. one on-site bicycle space shall be provided for every two commercial amusement devices. Bicycle parking shall be in bicycle racks or stands and shall not obstruct required exits. Bicycle parking may be required inside buildings if no acceptable outside area exists on site.

3. hours of operation;

4. proximity to schools;

5. supervision;

6. potential for serving alcoholic beverages;

7. loitering; and

8. comments from the Police Department.

Y. the addition of "off-sale", "beer and wine" or "general" liquor sales to any existing or otherwise permitted use. (Ord. 1106, Sec. 2, April 20, 1992; Ord. 1203, Sec. 3, May 16, 2005.)

<u>20.40.040 Prohibited uses.</u> The following uses are prohibited:

A. manufacturing and heavy industrial uses;

B. incineration or reduction of garbage, dead animals or refuse;

C. storage or baling of scraps, paper, rags or junk;

D. cargo containers and trailer coach (as defined in California Vehicle Code Section 635) for office use, storage use or for any other purpose;

E. medical marijuana dispensaries; (Ord. 1219, Sec. 2, July 2, 2007)

F. any other enterprise or use which, in the opinion of the Planning Commission, may constitute a nuisance or which may be noxious or offensive by reason of emission of odor, dust, smoke, gas or noise; and

G. any uses not enumerated in Section 20.40.020 and for which no conditional use permit could be issued under Section 20.40.030. (Ord. 1106, Sec. 3, April 20, 1992.)

20.40.050 Property development standards.

A. Building height. The maximum building height shall be thirty-five feet.

B. Yard, exterior. There shall be no exterior yard required, except where the frontage in the block is partially in an R district or the property is subject to an established official plan line, then the exterior yard of the R district or the official plan line, whichever is more restrictive, shall apply; provided further, that in those C-G districts on Miller Avenue between Park Avenue and Camino Alto, the exterior yard shall be eighteen feet.

C. Yard, interior. There shall be no interior yards required, except that where the boundary of a commercially zoned lot abuts on any R district, that yard shall not be less than as required in such R district.

D. Hours of operation. The hours of operation for all commercial uses abutting R districts shall be limited to between the hours of 8:00 a.m. and 8:00 p.m. A request to allow commercial activities to exceed the 8:00 a.m. to 8:00 p.m. hours of operation shall be considered by the Planning Commission only after a public hearing. Applications for extended hours should be filed on a form prescribed by the Planning Commission and shall be accompanied by the reasons for the modifications. The request shall be noticed as per Section 20.60.200. (Ord. 820, Sec. 3(part); Ord. 888, Sec. 1; March 21, 1977.)

20.40.060 Shopping center signs--Use permit. No shopping center identification signs shall be permitted unless a use permit is first secured. In considering the application for such use permit, the total signing plan for the shopping center shall be reviewed and, notwithstanding the provisions of Chapter 20.74 of this Title, any reasonable conditions may be imposed regarding the number, size, color or design of signs in the shopping center. For purposes of this section, a "shopping center identification sign" is defined as a sign used or intended for the purpose of collective identification of a group of independent, retail commercial establishments, which have separate outside customer entrances, and which have common parking or circulation facilities. (Ord. 820, Sec. 3(part); June 3, 1974.)

Chapter 20.42

C-N Districts--Neighborhood Commercial Districts

Sections:

20.42.010 Scope of regulations.
20.42.020 Permitted uses and regulations.

20.42.010 Scope of regulations. The following regulations shall apply with respect to each parcel of land in all C-N districts.

20.42.020 Permitted uses and regulations. All provisions of Chapter 20.40 relating to C-G (General Commercial) districts shall apply in all C-N districts, except that no establishment which provides live entertainment and/or dancing shall be permitted except upon the issuance of a conditional use permit pursuant to the procedures and standards set forth in Chapter 20.64. The findings and conditions set forth in Sections 20.64.045 and 20.64.046 shall be strictly applied with respect to any proposed establishment which involves live entertainment and/or dancing and is located within a C-N district with particular consideration given to the impact of noise associated with such an establishment upon residential areas of the City. The conditional use permit shall specify the hours during which live entertainment and/or dancing may occur. In no case shall these hours be before 10 AM nor after 10 PM Sunday through Thursday and 11 PM Friday and Saturday. Cultural, social, educational and philanthropic organizations holding occasional events involving live entertainment and/or dancing are exempt from this section. (Ord. 952, Sec. 1, December 17, 1979; amended by Ord. 1132, March 23, 1995)

Chapter 20.52

C-R Districts--Commercial Recreation Districts

Sections:

20.52.010 Purpose.
20.52.020 Uses permitted.
20.52.030 Accessory uses.
20.52.040 Signs.
20.52.050 Property development standards--Area size.

20.52.010 Purpose. It is the purpose of this district to recognize and maintain those areas which are particularly well suited for recreational or resort purposes, public or private, and which constitute some important social, aesthetic or economic asset to fulfill the objectives of the City's General Plan.

20.52.020 Uses permitted. No improvement, land or road grading or subdivision of lands shall take place in a C-R district until a P.U.D. approval has been obtained. The following uses are permitted subject to the planned unit development provisions of this Title:

A. small craft harbors (including docking, berthing and launching facilities);

B. restaurant and bar facilities;

C. hotels and motels;

D. vacation cabins and cottages for short-term occupancy;

E. recreation clubs (yacht, boat, beach, swim, tennis, riding, gun, country) and golf courses;

F. parks, playgrounds, and beaches;

G. public utility structures; and

H. any other use which, in the opinion of the Planning Commission, is of the same general character as those listed above.

20.52.030 Accessory uses. The following accessory uses are permitted when found to be an integral part of and subordinate to any commercial-recreational use permitted:

A. specialty shops including personal service shops;

B. marine sales and services;

C. auto or marine service station;

D. refreshment stands and vending facilities;

E. multiple-family dwellings;

F. neighborhood shopping centers; and

G. any other accessory use which, in the opinion of the Planning Commission is of the same general character as those listed above.

20.52.040 Signs. All signs shall be subject to the provisions of Chapter 20.74 of this Title. The Planning Commission and City Council may modify the provisions of Chapter 20.74 upon approval of a comprehensive signing program when such a program is part of the Planned Unit Development permit application.

20.52.050 Property development standards--Area size. No C-R district may be established on a parcel or parcels of land less than two acres in area. The four-acre minimum area of the Planned Unit Development provisions is waived for commercial recreation districts.

Chapter 20.54

H-O Districts -- Historic Overlay Districts

Sections:

20.54.010 H-O Overlay district--Creation.
20.54.020 Powers and duties of Planning Commission.
20.54.030 H-O District regulations

20.54.010 H-O Overlay district--Creation. There is hereby created an Overlay Zoning District to be known as H-O Historic Overlay District which may be combined with any of the basic zoning districts designated in this Title and applied to any individual property or group of properties. The addition of the H-O Historic Overlay District designation to any basic district shall not operate to reduce or eliminate any requirements established by the basic district regulations or other requirements contained in this Title applicable to any district to which the H-O Historic Overlay District is added, unless expressly provided herein; provided, however, that if any of the regulations specified in this Chapter for the H-O Historic Overlay District conflict with the basic district regulations, then the regulations of this Chapter shall apply.

The purpose of the H-O Historic Overlay District is to promote the general welfare of the public through:

A. The protection, enhancement, perpetuation and use of structures, sites and areas that are reminders of people, events, or eras, or which provide significant examples of architectural styles and physical surroundings in which past generations lived;

B. The development and maintenance of appropriate settings for such structures, site or areas;

C. The enhancement of property values, the stabilization of neighborhoods and the increase of economic and financial benefits to the City and its residents;

D. The enrichment of the cultural and educational dimensions of human life by encouraging study and enjoyment of our historical heritage. (Ord. 972, Sec. 1; December 15, 1980.)

20.54.020 Powers and duties of Planning Commission. The Planning Commission:

A. On its own initiative or upon application of any person (whether the owner of the property or not) and payment of the fee established by resolution of the City Council, the Planning Commission shall

hold public hearings and make recommendations to the City Council on the creation of H-O Historic Overlay Districts;

B. May establish and maintain a list of structures and other landmarks deserving official recognition although not designated as Historic Overlay Districts, and take appropriate measures which, although not constituting mandatory regulations, will encourage the continued preservation of such structures or landmarks;

C. May, upon request of the property owner, advise with respect to any proposed work not requiring a City permit within an H-O Overlay District. Such work may include, but is not limited to, painting and repainting of exterior surfaces, roofing, fencing, landscaping, glazing and installation of lighting fixtures. Such advice, although not mandatory, shall be designed to preserve the historic characteristics of the property.

20.54.030 H-O District regulations.

A. All applications for construction, alteration, demolition or sign permits within any H-O Historic Overlay District shall be subject to Design Review as provided in Chapter 20.66 of this Title, if such permit involves the construction of any new structure, the demolition of any existing structure, exterior alterations or any interior alterations which would affect the exterior of any structure. In addition to other matters set forth in this Title, the United States Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," GPO 937-843, with its latest revisions, subject to such considerations as may be appropriate for local Mill Valley conditions, shall be utilized as guidelines in exercising Design Review.

B. The Zoning Administrator may approve any application referred to in paragraph A of this Section, or may suspend the action of all City departments on such application for a period not to exceed 180 days. The City Council may extend the suspension for an additional period not to exceed 180 days, if such extension is made not more than 90 days and not less than 30 days prior to the expiration of the original 180-day period. During such suspension, the Zoning Administrator shall consult with civic groups such as the Mill Valley Historical Society, historic preservation organizations, public agencies, and interested citizens and shall make recommendations to the City Council for acquisition of the property by public or private bodies or agencies, explore the possibility of moving one or more structures, and take any other reasonable measures necessary to further the purposes of this Chapter. If, at the expiration of the suspension period, the City has not taken such action as will legally preclude the issuance of the permit applied for, then the application shall be processed.

C. If the applicant presents facts clearly demonstrating to the satisfaction of the Zoning Administrator that failure to approve the application will work immediate and substantial hardship because of the conditions peculiar to a particular structure or other feature of the property, and such hardship has not been created by an act of the owner in anticipation of action under this Chapter, the Zoning Administrator may approve such application even though it does not meet the standards set forth herein. Personal, family or financing difficulties, loss of prospective profits and neighboring violations are not justifiable hardships.

D. None of the provisions of this Chapter shall prevent any reasonable measures of construction, alteration or demolition necessary to correct any condition which has been declared unsafe or dangerous by the City and where the proposed corrective measures have been declared necessary by the City.

E. The owner, lessee and any other person in actual charge or possession of any property within an H-O Historic Overlay District shall keep in good repair all exterior portions of any structure on such property and all interior portions, the maintenance of which may be necessary to prevent deterioration of any exterior portion. Building permit fees for such maintenance and repair shall be waived.

F. The Building/Zoning Code Inspector may apply the provisions of regular building standards and building regulations adopted pursuant to California Health and Safety Code Section 18958, or any combination of regular and alternative building standards and building regulations, in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving or continued use of an historical building or structure. (Ord. 972, December 15, 1980; Ord. 1123, Sec. 5, August 2, 1993.)

Chapter 20.55

C-F Districts--Community Facilities Districts

Sections:

20.55.010 Scope of regulations.
20.55.020 Uses permitted.
20.55.025 Uses prohibited.
20.55.030 Plan review.
20.55.040 Application of district.

20.55.010 Scope of regulations. The following regulations shall apply with respect to each parcel of land in all C-F districts. (Ord. 971, October 6, 1980.)

20.55.020 Uses permitted. All uses, excluding those uses prohibited in Section 20.55.025 of this Chapter, seeking to locate in a C-F district must secure a conditional use permit. A public school use is permitted without the issuance of a conditional use permit.

In addition to the guidelines set forth in Chapter 20.64 of this Title, relative to conditional use permits, the Planning Commission shall review each application for a use permit utilizing the following factors:

A. Noise generation.

B. Traffic generation of employees and clients and availability of parking spaces.

C. Safety in relation to existing school activities.

D. Generation, storage or use of any noxious, flammable or hazardous substance.

E. Hours of operation.

F. Storage of materials. (Ord. 971; Ord. 974; April 6, 1981.)

20.55.025 Uses prohibited. The following uses are prohibited in any C-F district:

A. Retail commercial or industrial uses.

B. Uses involving the medical care or treatment of animals or humans.

C. Laboratories or manufacturers of acid, explosives or corrosives.

D. Banks, mortgage companies, real estate companies, or savings and loan offices.

E. Residential uses, including motels and bed-patient medical facilities, except as related to child day care centers and school related accommodations for teachers or custodial staff.

F. Bakeries, bottling works, canning or packing plants, restaurants, and food distributing stations.

G. Automobile assembly or repair, electric welding, electroplating, machine shops, plumbing shops, stone cutting, paint mixing, dying or cleaning work.

H. All other uses which, in the opinion of the Planning Commission are similarly objectionable by reason of odor, dust, smoke, gas, noise, traffic or vibration, or would impose a hazard to health and property in the neighborhood. (Ord. 971; Ord. 974, April 6, 1981.)

20.55.030 Design review. All new or exteriorly modified structures located in a C-F district, excluding maintenance and repair of such structures, shall be subject to Design Review procedures as set forth in Chapter 20.66 of this Title. (Ord. 971; October 6, 1980.)

20.55.040 Application of district. C-F districts shall be limited to lands owned by public school districts and presently occupied by structures originally designed and intended for public school use. Leased space in a C-F district for non-school related uses shall not exceed fifty per cent of the usable classroom space of the school buildings. If a parcel zoned C-F is sold by the school district, or if a school use on the site is terminated for any reason, the property shall require rezoning prior to any development approval. (Ord. 971; Ord. 974, April 6, 1981.)

Chapter 20.56

O-A Districts--Open Area Districts

Sections:

20.56.010 Scope of regulations.
20.56.020 Permitted uses.
20.56.030 Conditional uses.
20.56.040 Uses prohibited.
20.56.050 Plan review.
20.56.060 Application of district.

20.56.010 Scope of regulations. The following regulations shall apply with respect to each parcel of land in all O-A districts.

20.56.020 Permitted uses. The following uses are permitted:

A. Public parks, playgrounds and recreation areas.

B. Crop farming, truck gardening and grazing.

C. Golf courses, country clubs, forest preserves, wildlife reserves, equestrian and hiking areas.

D. Accessory structures. (Ord. 975, Sec. 3, April 20, 1981.)

20.56.030 Conditional uses. The following uses are permitted after the securing of a conditional use permit:

A. Public or private schools.

B. Public or civic buildings.

C. Private Recreational Uses.

D. Necessary residential accommodations for teachers or custodial staff.

E. Residences clearly accessory to the primary use of property for agricultural purposes.

F. stable and riding academies.

G. Public utility or public service uses.

20.56.040 Uses prohibited. Any other use of land is prohibited (including commercial woodcutting or logging).

20.56.050 Design review. All plans shall be subject to the Design Review procedures of Chapter 20.66 of this Title.

20.56.060 Application of district. O-A districts shall be limited to lands of a public agency such as county, school district, municipal corporation or political subdivision of the State of California, lands encumbered with a public easement or other right of public use, and private lands for which the owner has requested O-A classification.

Chapter 20.57

Planned Development Combining District

Sections:

20.57.010 Combining district--Creation.
20.57.020 Permit required.
20.57.030 Uses to comply with permit.
20.57.040 Permit conditions.
20.57.050 Permit--application.
20.57.060 Submission of plan--Contents.
20.57.070 Planning Commission action.
20.57.080 When conditional use permit or variance not required.
20.57.090 Permit--When void.
20.57.100 Permit--revocation.
20.57.110 Appeals.

20.57.010 Combining district--Creation. There is created a combining district to be known as PD planned development district, which may be combined with any of the basic zoning districts designated in this Title and applied to any individual property.

The purpose of the PD district is to provide the City with a tool to review, guide and promote the orderly and beneficial development of those areas which may be of particular impact, value and benefit to the entire community.

The addition of a PD district designation to any basic zoning district shall not operate to reduce or eliminate any requirements established by the basic district regulations or other requirements contained in this Title applicable to any district to which the PD district is added unless expressly provided herein; provided, however, that if any of the regulations specified in this Chapter for a PD district conflict with the basic district regulations, then the regulations for the PD district shall apply. (Ord. 787, Sec. 2(part), February 20, 1973.)

20.57.020 Permit required. No use shall be established or changed, or any building or structure constructed or altered, upon property in any zoning district with which a PD district is combined unless a special development permit is first issued by the Planning Commission or City Council. Unless a finding is

made that the conditions set forth in Section 20.57.070 are met, neither the Planning Commission nor the City Council shall approve a special development permit even though the use for which such permit is sought is otherwise authorized by the basic district zoning regulations. (Ord. 787, Sec. 2(part); February 20, 1973.)

20.57.030 Uses to comply with permit. Following issuance of a permit:

A. No use shall be established or changed, or any building or structure constructed or altered, upon property in any zoning district with which a PD district is combined except in strict conformity with the permit and any conditions or requirements attached thereto; and

B. No use shall be established or changed, or any building or structure constructed or altered, in a manner which would not comply with the regulations of the zoning district with which the PD district is combined except for the modifications authorized by the permit. (Ord. 787, Sec. 2 (part); February 20, 1973.)

20.57.040 Permit conditions. In connection with the issuance of any special development permit, the Planning Commission or City Council may attach such conditions or requirements as the Planning Commission or City Council finds necessary to attain the objectives and purposes of this Title, any applicable general or specific plan, and to insure that the general appearance of buildings and structures, and the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of properties. (Ord. 787, Sec. 2(part), February 20, 1973.)

20.57.050 Permit--Application. Applications for a special development permit shall be filed with the Planning and Building Department on forms furnished for this purpose, and shall be accompanied by payment of the fee established for such applications by resolution of the City Council. (Ord. 787, Sec. 2(part), February 20, 1973.)

20.57.060 Submission of Plan--Contents. A site development plan shall be submitted in connection with each application at such scale and in such number of copies as may be required by the Director of Planning and Building, containing sufficient information to identify the following:

A. Each proposed use.

B. Location and type of:

1. Proposed buildings and structures, including height, bulk, exterior elevations, and types of exterior materials and colors.

2. Traffic and pedestrian ingress and egress and circulation.

3. Off-street parking and loading facilities.

4. Easements.

5. Exterior signs.

6. Landscaping, including tree preservation.

7. Exterior lighting.

8. Walls and fences or other devices used for screening or separation.

9. Property boundary lines.

10. Proposed reshaping of the earth.

11. Location map.

12. Any other supporting data required by the Director of Planning and Building to achieve the purposes of this Chapter. (Ord. 787, Sec. 2(part), February 20, 1973.)

20.57.070 Planning Commission action. The Planning Commission shall hold a public hearing on each application as provided in Section 20.60.200. No special development permit shall be approved unless a finding is made that the establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort or general welfare of the persons residing or working in the neighborhood of such proposed use, not be detrimental or injurious to property and improvements in the neighborhood. Unless an appeal is filed, the action of the Planning Commission shall be final. (Ord. 787, Sec. 2(part), February 20, 1973; Ord. 1123, Sec. 6, August 2, 1993.)

20.57.080 When Conditional Use Permit or Variance not Required. Notwithstanding any other provisions contained in this Chapter:

A. No conditional use permit, otherwise required by the regulations of the basic zoning district with which a PD district is combined, shall be required for uses, buildings or structures permitted in an approved special development permit;

B. At the time of approving a special development permit, the Planning Commission or City Council may allow lot area, lot width, yard, height, bulk and space, and parking space requirements varying from and different from those which would otherwise apply in the basic zoning district with which the PD district is combined, and in such instances, no variance from the basic zoning district shall be required. (Ord. 787, Sec. 2(part), February 20, 1973.)

20.57.090 Permit--When void. An approved special development permit shall expire and become null and void if the permit has not been used within one year after the date such permit was approved. Commencement of construction of the buildings or structures, or the establishment of the use, which are the subject of the permit, constitutes commencement of the use of the permit. (Ord. 787, Sec. 2(part); February 20, 1973.)

20.57.100 Permit--Revocation. A special development permit may be revoked by the Planning Commission or City Council after a public hearing thereon when the Planning Commission finds a violation of or a non-compliance with any conditions of the permit. (Ord. 787, Sec. 2(part); February 20, 1973.)

20.57.110 Appeals. The Planning Commission action on a special development permit may be appealed to the City Council as specified in Chapter 20.100.

The action of the City Council in the case of an appeal shall be final. (Ord. 787, Sec. 2(part); February 20, 1973.)

Chapter 20.58

U Districts--Unclassified Districts

Sections:

20.58.010 Scope of regulations.
20.58.020 Conditional uses.

20.58.010 Scope of regulations. The following regulations shall apply with respect to each lot in all U districts.

20.58.020 Conditional uses. All uses shall require a conditional use permit.

Chapter 20.59

Condominium Projects

Sections:

20.59.010 Purpose.
20.59.020 Condominium defined.
20.59.030 Condominium conversion defined.
20.59.040 Condominium project defined.
20.59.050 Community apartment defined.
20.59.060 Use permit for condominium conversion.
20.59.070 Intent.
20.59.080 Condominium standards.
20.59.090 Filing of an application.
20.59.100 Structural report.
20.59.110 Special considerations.
20.59.120 Findings.
20.59.130 Other regulations--Compliance.

20.59.010 Purpose. The purpose of this Chapter is to provide consumer protection for prospective purchasers and existing tenants and to protect the availability of rental units within the City of Mill Valley. (Ord. 890, Sec. 2(part); April 4, 1977.)

20.59.020 Condominium defined. As used in this Chapter, "condominium" shall have the meaning set forth in California Civil Code Section 783 except that the definition shall not apply to proposed commercial or industrial condominiums. As used in this Chapter, "condominium" includes community apartment. (Ord. 890, Sec. 2(part); April 4, 1977.)

20.59.030 Condominium conversion defined. As used in this Chapter, "condominium conversion" means the conversion of an existing structure or structures to a condominium project, regardless of the present or prior use of such land and structures, and regardless of whether substantial improvements have been made to such structures. (Ord. 890, Sec. 2(part); April 4, 1977.)

20.59.040 Condominium project defined. As used in this Chapter, "condominium project" means the entire parcel of real property including all structures thereon, to be subdivided into two or more units for the purpose of converting existing structures to condominium units. (Ord. 890, Sec. 2(part); April 4, 1977.)

20.59.050 Community apartment defined. As used in this Chapter, "community apartment" means a development in which an undivided interest in the land is coupled with the right of exclusive occupancy of any apartment located thereon. Community apartments shall be subject to the same restrictions and conditions as condominiums. (Ord. 890, Sec. 2(part); April 4, 1977.)

20.59.060 Use permit for condominium conversion. The conversion of any existing building to a condominium or condominium project or community apartment project shall require the issuance of a conditional use permit. The procedures, considerations, findings and requirements set forth in this Chapter and in Chapter 20.64, Use Permits and Variances, shall govern the issuance of a condominium conditional use permit. (Ord. 890, Sec. 2(part); April 4, 1977.)

20.59.070 Intent. It is the intent of this Chapter to accomplish the following:

A. To insure the performance of maintenance responsibilities in condominiums and to avoid public nuisances and to avoid hazards to public health and safety in condominiums.

B. To insure that rental apartments being converted to condominiums meet reasonable physical standards as required by all applicable laws, ordinances and regulations.

C. To maintain the availability of an adequate supply of rental housing. (Ord. 890, Sec. 2(part); April 4, 1977.)

D. To insure that rental apartments being converted to condominiums shall conform to California Administrative Code, Title 24: Energy Conservation Standards for New Residential Buildings and Non-Residential Buildings. (Ord. 890, Sec. 2(part); Ord. 999, Sec. 6(part); November 15, 1982.)

20.59.080 Condominium standards. In addition to the requirements set forth in Chapter 20.64, a condominium conditional use permit shall not be approved or conditionally approved in whole or in part without the following conditions:

A. The condominium project shall conform to all applicable laws, ordinances, and regulations for existing buildings including, but not limited to, those pertaining to housing, building, fire, subdivision, and zoning. In addition, the noise transfer standards for new buildings as contained in the latest Uniform Building Code shall apply. (Ord. 1001, Sec. 1; March 21, 1983.)

B. Each dwelling unit shall have space and connections for the installation and operation of laundry equipment for the private use of the occupants of that unit.

In addition, each dwelling unit shall be provided with enclosed and secure personal storage space to be located on-site, but not within the defined air space of the condominium unit. The amount of space shall be equal to one cubic foot of storage area for each three feet of gross floor area. (Ord. 1001, Sec.1; March 21, 1983.)

C. The City shall approve the declaration of restrictions required by California Civil Code Section 1355 for the project, which document shall set forth the occupancy and management policies for the project and shall contain provisions satisfactory to the City regarding the following:

1. Maintenance of all common areas and payment of all assessments and taxes;

2. Provision for the City to make any repairs or engage in any maintenance necessary to abate any nuisances, health or safety hazards and assess the owners of the condominium units for such repair or maintenance; and

3. Provision that an individual owner cannot avoid liability for his prorated share of the expenses for the common area by renouncing rights in the common areas.

4. Provisions limiting the resale of low income and moderate income units (provided in accordance with Subdivision D of the section) to low and moderate income households. (Ord. 1001, Sec. 1; March 21, 1983.)

D. In projects of ten or more units, 15 percent of all units must be sold or rented at prices affordable to low income households as defined in the latest Mill Valley General Plan Housing Element. An additional 10 percent of all units must be offered for sale to moderate income households at prices affordable to such households as defined in the Mill Valley General Plan Housing Element. (Ord. 1001, Sec. 1; March 21, 1983.)

E. Existing tenants who are low income, 65 years of age or older or the handicapped must be awarded lifetime leases on reasonable terms to be approved by the City of Mill Valley. Annual rent increases for tenants awarded lifetime leases may not exceed a rate equal to one-half the annual Bay Area

inflation rate as determined by the Consumer Price Index for all Urban Consumers for the San Francisco-Oakland Metropolitan area -- All Items. (Ord. 1001, Sec. 1; March 21, 1983.)

F. Evidence shall be submitted that at least 120 days' notice of termination has been provided to existing tenants and at least a 60-day exclusive right of first purchase for existing tenants. (Ord. 1001, Sec. 1; March 21, 1983.)

G. An initial capital improvement fund not exceeding $200.00 per unit shall be provided to be available for any unforeseen repair and replacement costs to the areas held in common. (Ord. 890, Sec. 2(part), April 4, 1977; Ord. 1001, Sec. 1, March 21, 1983.)

20.59.090 Filing of an application. In addition to the filing requirements set forth in Chapter 20.64, an application for a condominium conditional use permit shall include a map showing the boundaries of all units for information purposes, and a report containing the following information regarding current tenants:

A. length of occupancy;

B. current rents, any utilities included in rent, date and amount of last rental increase;

C. expiration date of any current lease agreements;

D. approximate effective housing cost of representative sales units after taxes (including maintenance fees and homeowners' association dues) given a thirty-percent tax bracket. (Ord. 890, Sec. 2(part); April 4, 1977.)

20.59.100 Structural report. Prior to conclusion of its public hearing on an application for a condominium conditional use permit, the Planning Commission shall obtain a report from the Building/Zoning Code Inspector on the general conditions of all buildings, listing all code violations. (Ord. 890, Sec. 2(part); April 4, 1977.)

20.59.110 Special considerations. The desire of current tenants to either purchase prospective condominium units or maintain rental status may be a consideration in a review of the effects on the general welfare of persons residing in the neighborhood. (Ord. 890, Sec. 2(part); April 4, 1977.)

20.59.120 Findings. In addition to requirements set forth in Section 20.64.040, the City shall find that approval of the proposed condominium project will not affect the provision of rental housing in the community and that adequate replacement housing for displaced tenants is available. (Ord. 890, Sec. 2(part); April 4, 1977.)

20.59.130 Other regulations--Compliance. Nothing contained in this Chapter shall be interpreted as authorizing a condominium, condominium conversion, or condominium project in any zoning district where such use would be otherwise prohibited; nor shall anything contained in this Chapter be interpreted as waiving compliance with the provisions of Title 21 of this Code or any other applicable statutes, ordinances, or regulations. (Ord. 890, Sec. 2(part); April 4, 1977.)

Chapter 20.60

General Provisions and Exceptions

Sections:

20.60.060 Height limits--Exceptions.
20.60.065 Fences.
20.60.070 Projections, encroachments--Yards measured from official plan line.
20.60.075 Regulations for accessory building or structure.
20.60.080 Garages--Carports--Lot location regulated.
20.60.090 Parking space and car storage.

20.60.095 Payments in lieu of providing off-street parking.
20.60.100 Loading space--Off-street parking.
20.60.140 Non-conforming uses--Existing uses and buildings.
20.60.150 Non-conforming structures--Restoration.
20.60.160 Non-conforming structures--repairs--alterations.
20.60.165 Non-conforming uses--definition.
20.60.166 Non-conforming structure--Definition.
20.60.170 Current construction permits valid.
20.60.180 Planned unit development approval.
20.60.190 Existing lots of record--Area required.
20.60.200 Notice of public hearing.
20.60.250 Home Occupations.
20.60.300 Water conserving landscaping.
20.60.400 Medical Marijuana Dispensaries--Prohibited

20.60.060 Height limits--Exceptions. Church spires, belfries, cupolas and domes, observation towers, distribution and transmission towers, flag poles, radio towers, masts and aerials, elevator penthouses, chimneys and other accessory units mounted on buildings shall not exceed 10 feet above the height limit for said building.

20.60.065 Fences.

A. Purpose: The City has determined that controls and limitations on fencing are necessary to preclude fencing from adversely affecting the appearance and character of the community and the health, safety, welfare and enjoyment of its citizens.

The limitations contained in this section are intended to provide reasonable surety that fencing does not unreasonably restrict views, natural animal movements, air circulation or sunlight; impair safe sight distances related to vehicular, pedestrian or other types of circulation or become undesirable physical features of the community.

B. Definitions:

1. Fencing: Fencing is defined as any manmade barrier, barricade, or boundary marker serving as screening, restriction to access, definition of boundaries, privacy screen, method of confinement or security screen.

2. Measurement of Height: The height of fencing shall be the vertical distance between finished grade at the base of the fence and the top edge of fence material. Fencing on top of masonry, concrete, stone or wood walls or on an artificially built up ground surface which faces an adjacent property or public right-of-way, shall be measured to the base of the wall or the natural grade.

C. When a Fence Permit is required: Fencing located entirely on a private property outside the required setbacks or within the required interior yard setbacks and not exceeding 7 feet in height or within the required exterior yard setbacks and not exceeding four feet in height may be constructed without obtaining a permit from the City.

Fencing located within public right-of-ways or which exceeds the four-foot and seven-foot height limits require a Fence Permit from the Planning and Building Department.

D. Application requirements for a Fence Permit: A request for a Fence Permit shall be submitted to the Planning and Building Department and shall include a completed application form, the fee as set by resolution of the City Council and plans adequately indicating the location and design of the proposed fence.

E. Fences located in public right-of-way. Prior to granting a permit for any fence located entirely or partially within a public right-of-way, the application shall be referred to the Department of Public Works for its review and recommendations and intended action on the separately required Revocable Encroachment Permit. (Ord. 1123, Sec. 7, August 2, 1993.)

F. Findings required to approve any Fence Permit. In approving any application for a Fence Permit the following findings must be made:

1. The fence will not impair vehicular and pedestrian movements and sight lines;

2. The fence will be structurally sound; and,

3. The fence will be aesthetically attractive to the community and adjacent residents by incorporating design features such as lattice or trellis work or consisting of open wire fabric.

4. The fence will not unreasonably restrict natural animal movement.

G. Additional findings required to approve any fencing located in a public right-of-way. In addition to the findings specified above, the following additional findings must be made in approving any application for fencing located within a public right-of-way:

1. The portion of the public right-of-way being enclosed by the proposed fence is not anticipated to be needed for any public use;

2. The fence will enclose the minimum amount of the right-of-way necessary to accomplish the intended purpose;

3. The proposed location of the fence will still allow an adequate area for pedestrians to walk off the edge of the traveled way;

4. The fence will not obstruct access to public improvements and utilities;

5. The fence will not eliminate existing or potential parking spaces within the public right-of-way; and,

6. The Department of Public Works has indicated its intention to issue a Revocable Encroachment Permit under Chapter 11.16 of this Code.

H. Appeal of decision on Fence Permits: Any decision of the Planning and Building Department on a Fence Permit may be appealed to the Planning Commission in accordance with Chapter 20.100 of this Code.

I. Vegetation: The controls on fencing contained in this section shall not apply to native or landscape vegetation. However, the City may trim or remove or require the adjacent property owner to trim or remove any landscape vegetation located on a public right-of-way if the vegetation adversely affects public safety or restricts reasonable use of the right-of-way. (Ord. 1182, Sec. 6 (part), April 2, 2002.)

20.60.070 Projections, encroachments--Yards measured from official plan line.

A. Encroachment on official plan line. Whenever an official plan line has been established for any street as a precise section of the master street and highway plan, required yards shall be measured from such line, and in no case shall the provisions of this Title be construed as permitting any encroachment upon any official plan line.

B. Eaves, stairs, not over six treads in length, chimneys and other minor projections shall be allowed to encroach upon yard requirements to a maximum of 30 percent of each dimension required.

C. In an R district, entrance stairways, entrance patios, or entrance decks may be located within the required front yard if the average downslope of the front 35 feet of the lot exceeds 4 feet fall in a horizontal distance of 10 feet.

20.60.075 Regulations for accessory building or structure. With the exception of setback, height and size limitations for second units in new or existing accessory structures outlined in Chapter 20.90.of this Title, in any residential district, the following regulations shall apply to all other accessory buildings and structures as defined in this Title.

A. Setback requirements. With the exception of fences not exceeding seven feet in height in required interior yards and four feet in required exterior yards, or within 15 feet of the street corner of a corner lot, accessory buildings or structures may not occupy any portion of a required interior or exterior yard. A minimum separation of 6 feet must be maintained between an accessory structure, excluding below grade swimming pools, and the main building or any another structure on the property.

B. Lot coverage requirements. In addition to the main structure, the amount of lot coverage resulting from any accessory building or structure shall be taken into account in determining whether a property is in compliance with the applicable lot coverage limitations set forth by the specific zoning on the property. No more than three accessory structures are permitted on any property excluding below grade swimming pools, and carports and garages which are necessary to satisfy applicable parking requirements for the specific zoning on the property.

C. Height requirements. Except as permitted herein, the height of an accessory structure or building, as measured in accordance with the provisions of Section 20.08.050 of the Mill Valley Municipal Code, shall not exceed 15 feet except that an accessory structure constructed above a new or existing parking structure may be increased pursuant to the provisions contained in Chapter 20.90 of this Title. Notwithstanding the foregoing, a garage or carport which is necessary to satisfy applicable parking requirements for the specific zoning on the property shall be subject to the following height limitations:

1. The overall height of the entire structure, as measured in accordance with the provisions of Section 20.08.050 of the Mill Valley Municipal Code, shall not exceed 30 feet.

2. The height of the structure, as measured vertically from the finished floor elevation of the parking deck, but otherwise in accordance with the provisions of Section 20.08.050 of the Mill Valley Municipal Code, shall not exceed 25 feet.

D. Maximum size requirements. The maximum gross floor area of an individual accessory structure, excluding swimming pools, shall be limited to 500 sq.ft. of enclosed space as measured from the exterior walls of the proposed structure except that the gross floor area permitted for a Residential Second Unit or Residential Second Unit/garage structure is established pursuant to Chapter 20.90 of this Title. (Ord. 1199, Sec. 4, March 1, 2004.)

20.60.080 Garages--Carports--Lot location regulated. In any R district, front walls of garages or front posts of carports or parking decks must be set back at least 15 feet from an exterior property line, or 20 feet from the edge of the sidewalk or street paving nearest the exterior property line, whichever distance is greater if the average slope of the front 35 feet is 10 percent or less. They may be located to within 3 feet of the exterior property line if the average slope of the front 35 feet of the lot exceeds 40 percent. The permitted setback for garages, carports or parking decks for properties averaging between 39 percent and 11 percent in the front 35 feet shall be as follows:

Percentage of Slope in Front 35 Feet	Front Setback in Feet	Percentage of Slope in Front 35 Feet	Front Setback in Feet

10% or less	15'	27 to 28%	8'
11 to 13%	14'	29 to 31%	7'
14 to 15%	13'	32 to 34%	6'
16 to 18%	12'	35 to 37%	5'
19 to 20%	11'	38 to 39%	4'
21 to 23%	10'	40 or more	3'
24 to 26%	9'		

(Ord. 1182, Sec. 6 (part), April 2, 2002.)

20.60.090 Parking space and car storage.

A. Off-street parking spaces conforming to the requirements of Section 20.08.158 and acceptable to the City Engineer as usable under all weather conditions shall be installed on the premises prior to the issuance of a Certificate of Occupancy for the use or building involved. In addition to the provisions of Section 20.08.160, all parking spaces shall be provided with adequate ingress and egress and with appropriate turning and circulation areas as depicted on Table I entitled [*]"Standards for Design of Parking Spaces," attached hereto* and incorporated herein. For uses other than single residential, adequate turning radii shall be provided on the property to permit safe ingress and egress. Backing onto a public street shall not be permitted except in R-S districts.

B. Where more than one use is included within any one building or on any single parcel, or on any series of parcels covered by any application before the City, the parking space requirements shall be the sum total of the requirements of the various uses; however, where the operation of these uses is such that hours of operation complement each other in regard to parking, the Planning Commission may authorize a reduction in these requirements.

C. Parking spaces needed to meet the requirements of a particular building or use shall not be transformed or changed to another type of use, or transferred to meet the parking space requirements of another building or use, until the parking spaces required for the original use or building is provided at another location.

D. Any building or use requiring one-half or more of a parking space shall be deemed to require the full space.

E. The gross floor area for the purpose of determining the number of required parking spaces shall be the total floor area of all buildings devoted to the particular use involved, exclusive of floor area permanently allocated for parking or loading spaces.

F. For any use, 25 percent of the required parking spaces may be for compact cars.

G. When there is a change or expansion of a commercial use which is presently non-conforming because it does not satisfy parking space requirements, and additional parking spaces cannot reasonably be provided on the premises, no additional parking spaces or payments in lieu thereof shall be required so long as the changed or expanded use requires the same or fewer parking spaces than the immediately preceding use. The determination whether a changed or expanded use requires additional parking spaces shall be based upon a calculation of the net increase, if any, in the number of required parking spaces attributable to the changed or expanded use as compared to the number of required parking spaces attributable to the immediately preceding pre-existing uses on the site. If feasible, additional parking spaces shall be provided on site. If a change or expansion of a use results in an increased number of required parking spaces and the additional parking spaces cannot reasonably be provided on the site, then a parking variance shall be required. If approved, the parking variance may be conditioned upon a requirement that the applicant make payments in lieu of parking for the additional

[*] See "Standards..." after Sec. 20.60.090. Table located in City Clerk's office.

spaces pursuant to Section 20.60.095. This Section shall not apply to any use which has been abandoned or discontinued as defined in Section 20.60.140. (Ord. 1168, Sec. 1, September 7, 1999, Ord. 1188, Sec. 13, June 2, 2003.)

H. Off-street parking spaces shall be provided for specific uses and buildings in the following numbers:

I. For existing commercial uses that cannot reasonably provide additional parking on site, the Director of Planning and Building may permit existing commercial parking spaces to be converted to required accessible parking spaces or access aisles, even if the conversion results in fewer parking spaces than required under this Chapter. (Ord. 1209, November 21, 2005.)

1.	Motor vehicles and trailers, sales, service and leasing	The number of required parking spaces shall be determined at the issuance of conditional use permit
2.	Banks	One space for every two hundred square feet of gross floor area
3.	Bowling alleys	Four spaces for each lane plus one space for every three hundred square feet of gross floor area for accessory uses.
4.	Churches	One space for each five seats in auditorium
5.	Dwellings, single-family	Two spaces plus one space for guest parking when on-street parking is not available along the immediate frontage of the property, and one space for each roomer. One of these may be of compact car size.
6.	Residential Second Units	One space for units 700 sq.ft. or less, 2 spaces for units 701 sq.ft. to 1,000 sq.ft. in addition to the parking required for the primary unit.
7.	Dwellings, multiple family	Two parking spaces per dwelling unit plus 1/4 of a parking space for each unit for guest parking when on-street parking is not available along the immediate frontage of the property. In development of more than four units, the guest parking shall be provided on the site.
8.	Funeral establishments	Four spaces for each parlor or one space for each fifty square feet of chapel space, whichever is greater.
9.	Furniture and appliance stores	One space for every 450 square feet of gross floor area.
10.	Hospitals	One space for each four beds, plus one space for every staff member, plus one space for each three employees on maximum shift.
11.	Lodging and rooming houses	One space for each bedroom or dwelling unit.
12.	Motels and hotels	One space for each separate guest room having its own access door, either to the outside or to an interior public corridor.
13.	Libraries, museums	One space for every 500 square feet of gross floor area
14.	Business and professional offices, including real estate and medical/dental offices	One space for every 225 square feet of gross floor area
15.	Food stores	One space for every 200 square feet of gross floor area

16. Private clubs, lodges, union headquarters. The number of off-street parking places required shall be determined at the time of approval of the conditional use permit. In determining the required number of parking spaces, the Planning Commission should consider, among other things, the following:

    a) the extent of the physical improvements proposed or existing on the property, if any;

    b) the types of activities proposed and the hours and days when the activities will take place;

    c) the number of parking spaces already existing in the area and the impact of the use on the existing parking; and

    d) the frequency of activities.

17.	Restaurants and Bars	One space for each 100 square feet of gross floor area
18.	Drive-in and take-out food establishments	The number of off-street parking spaces required shall be determined at the time of approval of conditional use permit.
19.	Rest homes and convalescent or nursing homes	One space for each four beds, plus one space for each three staff members, plus one space for each three employees on maximum shift.
20.	Retail stores or shops	One space for each 250 square feet of gross floor area
21.	Schools	One space for each classroom plus one space for every one hundred square feet of auditorium space
22.	Theaters, arenas and auditoriums with fixed seats	One space for each four seats
23.	Assembly halls, dance and exhibition halls and skating rinks, without fixed seats.	One space for every 100 square feet of floor area used for assembly space.
24.	Warehouses and wholesale	One space for each three employees on maximum shift.

25. Other uses not specifically listed above shall furnish parking spaces as required by the Planning Commission. In determining the off-street parking space requirements for said uses, the Planning Commission shall use the above requirements as a general guide and shall determine the minimum number of parking spaces required to avoid undue interference with the public use of streets and alleys.

26. More parking spaces may be required as a condition of any conditional use permit or master plan approval when the Planning Commission finds that characteristics of a specific use require more parking, to relieve a critical shortage of curb space, to facilitate the free flow of traffic or to reduce a hazard to public safety. (Ord. 611; Ord. 752, Sec. 1; Ord. 859, Sec. 1; Ord. 898, Sec. 1; Ord. 961, Secs. 1, 2, and 3, June 2, 1980; Ord. 1188, Sec. 14, June 2, 2003.)

20.60.095 Payments in lieu of providing off-street parking. Where it can be demonstrated that the reasonable and practical development of property precludes the provision of required off-street parking, the Planning Commission may permit the requirements thereof to be satisfied in all areas zoned CG, CN and PA by the payment to the City of a sum equivalent to the estimated, normal, current cost to the City of providing required parking spaces to serve the contemplated use. Any off-street parking satisfied in this manner shall run with the land and any subsequent change of use which requires more parking shall require subsequent action to satisfy the additional parking requirement. No refund of such payments shall be made when there is a change to a use requiring less parking. Prior to issuance of a

building permit and/or business license, the applicant shall either deposit the in lieu payment in one lump sum or agree to a payment schedule.

The maximum amount of payment for each required parking space shall be fixed by resolution adopted from time to time by the City Council. Funds derived from such payments shall be deposited by the City in a special fund, and, unless the applicant consents otherwise, shall be used and expended exclusively for the purpose of planning, designing, acquiring and developing off-street parking facilities located, insofar as practical, in the general vicinity of the property for which the in-lieu payments were made. A request for permission to make such payment in lieu of providing off-street parking shall be included with the variance application.

When a variance is granted from all or a portion of the off-street parking requirements of this Title, such variance may be granted upon the condition that the applicant make payment to the City in accordance with the provision of this section. (Ord. 743, Sec. 1; Ord. 805, Sec. 1; Ord. 836, Sec. l; 0rd. 852, Sec. 1; Ord. 932, Sec. 1; Ord. 961, Sec. 4, June 2, 1980; Ord. 1168, Sec. 2, September 7, 1999.)

20.60.100 Loading space--Off-street parking. Loading space off the street right-of-way, in addition to any required parking area, shall be required as follows:

A. Retail stores, supply houses, warehouses, wholesale establishments, manufacturing or industrial establishments, and similar uses: One space for each establishment and not less than one space for each ten thousand square feet of gross area (ground or floor) used for the listed or related uses;

B. Hotels, hospitals and public or semi-public buildings where large amounts of goods are received or shipped: One space for each establishment;

C. In any case where the use involves the standing of vehicles, such as a service station or drive-in operation, no structure shall be located closer to a street than will permit space for the standing of vehicles off the street and adequate space for traffic movements.

20.60.140 Non-conforming uses--Existing uses and buildings. The lawful use of land and structures which existed at the time of the adoption of this Title on December 19, 1956, although such uses do not conform to the regulations herein specified for the district in which the land or structure is located, may be continued provided that such use shall not be enlarged nor increased nor extended to occupy a greater area than that occupied by such use at the time of the adoption of this Title and further provided that such use is not conducted in a manner constituting a public nuisance. Any single-family residence which is non-conforming as to required yards only may be enlarged or modified provided the non-conformity is not increased.

If such use or occupancy is abandoned or discontinued for a continuous period of one year, the subsequent use of such land or structure shall be in conformity with the regulations specified by this Title for the district in which such land is located. Temporary cessation of use for periods of time less than one year or where a property owner can demonstrate that he/she has diligently been attempting to lease the space shall not be regarded as an abandonment or discontinued use. If, not later than one year following cessation of use, the property owner applies for and thereafter diligently pursues necessary permits and approvals to authorize continuation of the use, the use shall not be regarded as abandoned or discontinued.

If a non-conforming commercial building is located in a residential district and still has economic life as a commercial building, the Planning Commission may, through the conditional use permit procedure, allow other commercial uses which, in its opinion, are similar in nature. The Commission must find that the proposed use will not be detrimental to the existing residential area, and shall issue the permit for a period no longer than the useful economic life of the building.

Parking space requirements for re-establishment of non-conforming uses following abandonment or discontinuation of those uses shall be the same as for newly established uses pursuant to Sections

20.60.090 (A-F & G) of this Title. (Ord. 457, Sec. 14; Ord. 660, Sec. 1; as amended by Ord. 669, Sec. 1; February 20, 1967; Ord. 1168, Sec. 3, September 7, 1999.)

20.60.150 Non-conforming structures--Restoration. A non-conforming building or other structure which has been damaged or destroyed to an extent less than 50% of its total current replacement cost may be restored to a total floor area not exceeding that of the former building.

20.60.160 Non-conforming structures--Repairs--Alterations. Ordinary maintenance and repairs may be made to any non-conforming building or structure, but no alterations shall be made exceeding in cost 15% of the total replacement cost of the building or structure in any period of 12 months.

20.60.165 Non-conforming uses--Definition. For purposes of this Title, a non-conforming use is defined as a lawful use of a building or land existing at the time of the adoption of this Title or an amendment thereto which does not conform to the regulations for the zoning district in which it is located. (Ord. 762, Sec. 1; June 14, 1972.)

20.60.166 Non-Conforming structure--Definition. For purposes of this Title, a non-conforming structure is defined as either of the following unless a variance or conditional use permit therefor has been obtained:

A. A structure, the present design of which is for a non-conforming use; or

B. A structure, which does not comply with the regulations of this Title including, but not limited to, building height, yards, and lot coverage. (Ord. 762, Sec. 2; June 14, 1972.)

20.60.170 Current construction permits valid. Nothing contained in this Title shall be deemed to require any change in the planned construction, or designated use of any building for which a building permit has properly been issued in accordance with the provisions of the ordinance then effective, and upon which actual construction has been started prior to the effective date of any provision of this Title, provided that in all such cases actual construction shall be diligently carried on until completion of the building.

20.60.180 Planned unit development approval. Application may be made for "Planned unit development approval," called P.U.D. approval, for any district under the following provisions and conditions:

A. Purpose: The purpose of planned unit development approval is to allow diversification in the relationships of various buildings and structures, and open spaces in planned building groups and in the allowable heights of said buildings and structures, to allow variation in lot sizes; to encourage comprehensive site-planning productive of optimum adaptation of development to the land, while insuring that the intent of this Title in requiring adequate standards related to the public health, safety, and general welfare shall be observed.

B. Limitation of development and on issuing building permits: After application for a P.U.D. approval, no development of the land involved shall be permitted, nor shall any building permit be issued for any structure to be located within the limits of the development until the applicant has filed written notice with the Commission that he is withdrawing his application for P.U.D. approval.

C. Minimum area: The minimum area of a P.U.D. shall be not less than four acres of undeveloped property, and/or property which may be redeveloped, but in no event may it comprise less than the entire contiguous property under one ownership.

D. Fee: Application for P.U.D. approval shall be made by the owner or his agent on a form prescribed by the City and shall be accompanied by a fee in an amount established by resolution to be adopted by the City Council.

E. Drawings, plans and information: Drawings and plans shall accompany the application and shall comprise a general development plan covering the entire area of the P.U.D. as defined in subsection C. above and showing uses, dimensions and locations of proposed structures, areas to be reserved for vehicular and pedestrian circulation, parking, public uses such as schools and playgrounds, landscaping, and open spaces, and except as provided below, architectural drawings and plot plans demonstrating the design and character of the proposed uses and the physical redesign and character of the proposed uses and the physical relationship of the uses. The Planning Commission may require the submission of additional plans, data and information.

1. No architectural drawings and plot plans shall be required in any single family residential district; provided that the Planning Commission at its discretion may require submission of said drawings and plans prior to approval of the P.U.D.

2. In any multiple family, commercial, professional office or unclassified district, no architectural drawings need accompany the original application and the Planning Commission may give partial approval of the P.U.D. on this basis, but no building permit shall be issued, nor any construction commenced unless and until the drawings have been considered and approved by the Planning Commission and full approval of the P.U.D. secured.

3. Where completed drawings are considered, planned unit development approval shall be noticed as provided for in Chapter 20.60.200.

F. Public hearings: At least one public hearing shall be held on each application.

G. Findings: In order to approve a planned unit development, the Commission shall find the following:

1. That construction on the project will begin within a reasonable period of time from the date of full approval and will be completed within a reasonable period of time.

2. That the proposed development substantially conforms to the general or master plan or to any later adopted precise plan or otherwise governing policy by the City Council.

3. That all residential development will constitute an environment of sustained desirability and stability, will be in harmony with the character of the surrounding neighborhood, and will result in an intensity of land utilization no higher than, and standards of open spaces at least as high as permitted, or as otherwise specified, for the district in which this development occurs.

4. That all commercial development will create no traffic congestion, will not interfere with any projected improvements, has provided for proper entrances and exits along with proper provisions for internal traffic and parking, and that the development will be an attractive and efficient center which will fit harmoniously into and will have no adverse effects upon the adjacent and surrounding existing or prospective development.

5. That the development of an harmonious, integrated whole justifies exceptions, if such are required, to the normal requirements of this Title, and that the contemplated arrangements or use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

H. Action by Commission and City Council: The Planning Commission may recommend to the City Council approval, conditional approval or denial of an application for a P.U.D. Upon receipt of the report of the action of the Planning Commission, the City Council, after public hearing, may affirm, modify or reverse the decision of the Planning Commission.

1. In approving any P.U.D. the conditions imposed by the Planning Commission may include, but are not limited to: The time within which a project must begin and be completed, a list or a limit of variances permitted, changed boundaries of the project uses permitted and specification of minimum development standards.

2. Application for and approval of a P.U.D. wherein variances from the standard regulations are approved or wherein uses normally requiring use permits are permitted, shall be deemed to be in compliance with all the necessary procedures for securing or granting a variance or use permit.

I. Development subject to conditions: Any P.U.D., as authorized, shall be subject to all conditions imposed, and shall be excepted from other provisions of this Title only to the extent specified in the approval, and in the case of a P.U.D. in which architectural review has not been required, the applicable district regulations shall apply.

J. Duty of Building/Zoning Code Inspector: Following the approval of a P.U.D., the Building/Zoning Code Inspector shall ensure that development is undertaken and completed in conformance with the Commission's or Council's approval.

K. Extensions: Extensions of time limitations may be granted by the Commission upon finding that no change of conditions has occurred in relation to the property since the approval and/or that the approval is still valid with respect to any changed conditions. Application for an extension must be received by the clerk of the Planning Commission not less than thirty days prior to the expiration date. Additional conditions may be imposed by the Commission in granting any extension of time.

L. Compliance: Following approval of a P.U.D., no development or use of the land, or of any building, shall be permitted, nor shall any building permit be issued for any structure to be located within the limits of the development, except in strict accordance with the approved P.U.D. and all conditions attached thereto. (Amended by Ord. 788, Sec. 10; Ord. 910, Sec. 1, May 15, 1978; Ord. 1182, Sec. 6 (part), April 2, 2002.)

20.60.190 Existing lots of record, area required. Any parcel of land with an area and/or an average width of less than the minimum required by the particular district which was under one ownership at the time of the adoption of this Title, which owner thereof owned or has owned no adjoining land, or which parcel is shown as a lot on any subdivision map which is hereafter recorded in the office of the County Recorder of the County after approval of the map by the City Council in the manner provided by law may be used as a building site for one one-family dwelling by the owner of such parcel of land or by his successor in interest; provided that all other regulations for the district, as prescribed in this Title, shall be complied with.

20.60.200 Notice of Public Hearing. Unless otherwise specified, Notice of Public Hearing shall be given by the mailing of a notice to all persons, shown on the last equalized assessment roll, as owning real property within 300 feet of the property which is the subject of the application. Such notice shall be mailed at least ten calendar days prior to the date of the Public Hearing. The notice shall contain a general description of the proposal, including its location, and shall include the time, date and place of the hearing. In addition to these notice requirements, Notice of Public Hearing may also be provided to the general public as specified by resolution adopted by the City Council. Failure of any person or entity to receive notice given pursuant to this section shall not constitute grounds to invalidate the City's action on the item for which the notice was given. (Ord. 1041, Sec. 8; September 3, 1985; Ord. 1163, January 19, 1999.)

20.60.250 Home Occupations.

A. Definition. “Home occupation" is as an accessory use of a dwelling unit for business activities permitted by subsection (B).

B. Permitted Home Occupations. Home occupations are permitted in residential districts with a business license (See Chapter 5.08, *Business Licenses*) if they meet the following standards:

1. The business shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes.

2. The use is conducted entirely within a dwelling and is carried on exclusively by the inhabitants of the dwelling.

3. The use does not change the character of the dwelling or adversely affect the uses permitted in the residential distinct.

4. The use creates no additional traffic and requires no additional parking spaces.

5. No persons are employed other than that necessary for domestic purposes.

6. There is no indoor or outdoor use or storage of materials, equipment, or supplies, other than that necessary for domestic purposes.

All applicants for home occupation business licenses must submit a signed declaration acknowledging review of these standards prior to issuance of a license.

C. Prohibited Home Occupations. Prohibited home occupations shall include, but are not limited to, clinics, barber shops and cosmetology establishments. (Ord. 1182, Sec. 6 (part), April 2, 2002.)

20.60.300 Water conserving landscaping. All landscape plans subject to review by the City shall comply with the latest adopted water conservation ordinance of the Marin Municipal Water District. Prior to final approval of any landscape plan, the applicant shall provide written confirmation to the City that the Water District has approved the plan. (Ord. 1116, December 21, 1992)

20.60.400 Medical Marijuana Dispensaries Prohibited. A medical marijuana dispensary is not an allowable use anywhere in the City. (Ord. 1219, Sec. 3, July 2, 2007)

Chapter 20.62

Zoning Administrator

Sections:

20.62.010 Establishment of office.
20.62.020 Powers and duties.
20.62.030 Conditioned approvals.
20.62.040 Rules of procedures.
20.62.050 Public hearings.
20.62.060 Appeals.

20.62.010 Establishment of office. There is created and established the office of the Zoning Administrator of the City of Mill Valley. The Zoning Administrator shall be the Director of the Planning and Building Department or such other person as may be appointed by the Director of Planning and Building. (Ord. 932, Sec. 1(part), November 20, 1979.)

20.62.020 Powers and duties. The Zoning Administrator shall have the power to hear and decide the following matters as required by and subject to the standards and criteria established in this Title:

A. Setback variances for structures which will provide off-street parking required by this Title;

B. All variances associated with the establishment of a new or legalization of an existing Residential Second Unit;

C. Routine annual and six-month review of conditional use permits previously granted by the Planning Commission;

D. Extension of, or amendments to, existing variance and conditional use permit approvals which do not alter the general intent of the original approval granted by the Planning Commission;

E. Design review applications as specified in Section 20.66.70 of this Title;

F. Extensions of, or amendments to, existing design review approvals;

G. Sign permit applications as specified in Chapter 20.74 of this Title;

H. Applications to adjust the property lines between two or more existing legal parcels;

I. Subdivisions involving the creation of one additional lot;

J. The acceptance of evidence from property owners as to why a notice of merger of contiguous properties, pursuant to Chapter 21.70 of this Code should not be recorded;

K. The acceptance of evidence from property owners as to why a notice of violation, pursuant to Section 20.90.170 of this Title should not be recorded;

L. Interpretation of the Zoning Ordinance as codified in this Title;

M. Tree removal permit applications as specified in Chapter 20.67 of this Code. (Ord. 1123, Sec. 8, August 2, 1993; Ord. 1136, Sec. 2, July 17, 1995; Ord. 1182, Sec. 7 (part), April 2, 2002; Ord. 1188, Sec. 15, June 2, 2003.)

20.62.030 Conditioned approvals. In all cases where conditions may be attached by law to the granting of any permit, the Zoning Administrator may attach such conditions pursuant to the criteria and standards established by this Title or other law. (Ord. 932, Sec. 1(part), November 20, 1978.)

20.62.040 Rules of procedures. In addition to the other powers granted under this Chapter, the Zoning Administrator may adopt rules and procedures necessary or convenient for the conduct of business. (Ord. 932, Sec. 1(part), November 20, 1978.)

20.62.050 Public hearings. When any matter requiring a public hearing under this Title is to be heard and decided by the Zoning Administrator, notice of said hearing shall be given by the Zoning Administrator in the same manner specified in Section 20.60.200. (Ord. 932, Sec. 1(part), November 20, 1978.)

20.62.060 Appeals. Any decision of the Zoning Administrator may be appealed to the Planning Commission in the manner specified in Chapter 20.100 of this Title.
(Ord. 932, Sec. 1(part), November 20, 1978; Ord. 1123, Sec. 9, August 2, 1993.)

Chapter 20.64

Use Permits and Variances

Sections:

20.64.010 Conditional use permits.
20.64.020 Conditional use permit--Application--Fee.
20.64.030 Conditional use permits--Public Hearing.
20.64.040 Commission may limit--Use permit.
20.64.045 Entertainment--Alcoholic beverages--Special use permit considerations.
20.64.046 Entertainment--Alcoholic beverages--Special use permit conditions.
20.64.047 Entertainment--Alcoholic beverages--Conditional use permit review.
20.64.050 Building permit issuance--Use permit or variance.
20.64.060 Variances--Conditions governing grant of.
20.64.070 Variances--Application--Form--Fee
20.64.080 Variances--Public hearing--Notice.
20.64.090 Grants--Limits--Variances.
20.64.100 Variances for solar access.
20.64.110 Construction after notice of violation.
20.64.140 Revocation and expiration--Use permits--Variances.
20.64.150 Reclassification changes--Fee.
20.64.160 Fees--Notice of public hearing.

20.64.010 Conditional use permits. Conditional use permits may be issued for any of the uses or purposes for which such permits are required by the various zoning district regulations. In addition, conditional use permits may be issued for any temporary activity, including, but not limited to, any commercial or non-commercial festival, exhibit, or other similar activity, provided that the total duration thereof does not exceed two days. (Amended by Ord. 896, Sec. 1, May 16, 1977.)

20.64.020 Conditional use permit--Application--Fee. Application for a conditional use permit shall be made to the Planning Commission on a form prescribed by the Commission and shall be accompanied by a site plan and plans and elevations for any structure drawn to scale to show the details of the proposed use. Such application shall be accompanied by a fee in an amount fixed by resolution to be adopted by the City Council. (Amended by Ord. 788, Sec. 4, February 20, 1973.)

20.64.030 Conditional use permits--Public hearing. The Planning Commission shall hold a public hearing on each application for a use permit. (Ord. 1182, Sec. 8 (part), April 2, 2002.)

20.64.035 Conditional use permits - Notice of hearing. Notice of the public hearing shall be given as specified in Section 20.60.200. (Ord. 1041, Sec. 2; September 3, 1985.)

20.64.040 Commission may limit--Use permit. In order to grant any use permit, the findings of the Planning Commission shall be that the establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort or general welfare of the persons residing or working in the neighborhood of such proposed use, nor be detrimental or injurious to property and improvements in the neighborhood of such proposed use, nor to the general welfare of the City. Any decision granting a use permit shall expressly set forth the findings of fact supporting such decision.

The Planning Commission may designate such conditions in connection with the use permit as it deems necessary to secure the purposes of this title, and may require such guarantees, including the posting of a bond or the deposit in cash of funds, and evidence that such conditions are being or will be complied with. (Amended by Ord. 829, Sec. 1, September 16, 1974.)

20.64.045 Entertainment--Alcoholic Beverages--Special Use Permit Considerations. The City of Mill Valley is a predominantly residential community. Commercial zones within the City are intended primarily to provide local retail and service businesses necessary to serve adjoining residential areas. They are to serve as neighborhood commercial zones and are not intended for the purpose of providing retail and service businesses on a regional basis. In order to maintain its community character, it is desirable to restrict or limit certain types of uses. Establishments which provide live entertainment and/or which serve alcoholic beverages for consumption on the premises could have a detrimental effect on the community if established

in larger numbers, or if established without adequate controls as hereinafter set forth. The location, number and manner of operation of such uses should be controlled to strengthen and promote the stability, balance and predominantly residential character of the City. For these reasons, the Planning Commission, before making the findings required by Section 20.64.040 with respect to such uses, shall consider, among other things, the following:

A. The location of the proposed use and its relationship and effect upon residential or other areas of the City and surrounding uses;

B. The number of such uses presently existing or recently approved within the affected neighborhood and within the City;

C. The need of the community for additional numbers of such uses, paying particular heed to the question of whether the neighborhood is already adequately served by similar uses;

D. The hours of operation of the proposed use and the potential conflict of those hours with the health, safety and comfort of the residents of the neighborhood;

E. The relationship and/or conformance of the use to the goals, objectives and policies of the City's General Plan or any specific plans adopted or under consideration;

F. The recommendations of the City Engineer, Police and Fire Departments as to traffic, safety and other matters;

G. The impact on the community of any proposed entertainment. (Ord. 826, Sec. 1, August 5, 1974.)

20.64.046 Entertainment--Alcoholic beverages--Special use permit conditions. Prior to approving a conditional use permit for establishments which provide live entertainment and/or which serve alcoholic beverages for consumption on the premises, the Planning Commission, in making the findings set forth in Section 20.64.040, shall consider the following matters, among others, and the necessity of imposing specific conditions with respect thereto:

A. Off-street Parking. Parking requirements may be imposed exceeding those set forth in Chapter 20.60.

B. Ventilation. Doors and windows may be required to be closed between certain hours. The applicant may be required to install and maintain mechanical equipment sufficient to provide adequate ventilation without reliance upon open doors and windows. The applicant may be required to provide the building official with the necessary engineering data to verify that this condition can be met.

C. Noise. The applicant may be required to provide adequate measures controlling noise within and without the premises.

D. Hours of operation. Hours of operation may be restricted. These hours may be subject to adjustment at each periodic review of the application.

E. Seating capacity and occupancy load. Seating capacity and occupancy load may be limited and the applicant required to provide reasonable means of enforcing such limitations. (Ord. 826, Sec. 2, August 5, 1974.)

20.64.047 Entertainment--Alcoholic beverages--Conditional use permit review. Because establishments which provide live entertainment and/or which serve alcoholic beverages for consumption on the premises could have detrimental effects which are difficult to foresee upon original examination, conditional use permits for such establishments shall be reviewed six months after issuance and not less than annually thereafter. Upon such review, the conditions of the conditional use permit may be modified if

necessary to achieve the objectives of this Chapter, or the same may be revoked for the reasons set forth in Section 20.64.140. Any such modification or revocation shall be subject to the notice, hearing and appeal provisions of the Title. (Ord. 826, Sec. 3; Ord. 880, Sec. 1, October 21, 1976.)

20.64.050 Building permit issuance--Use permit or variance. No building permit shall be issued where a use permit or variance is required until such use permit or variance has been granted, and then only in accordance with the terms and conditions of the use permit or variance so granted. No building permit shall be issued until the ten-day appeal period as provided in this Title has elapsed. If an appeal is filed, in writing, then no building permit may be issued before the matter has been settled.

20.64.060 Variances--Conditions governing grant of. When, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the provisions of this Title will deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, or deprive provision of solar access, variances may be granted by the Planning Commission or Zoning Administrator as provided in this Chapter; provided, however, that no variance may be granted under this Title which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. Any decision granting a variance shall expressly set forth the findings of fact which support such decision. (Ord. 892, Sec. 2; Ord. 932, Sec. 6; Ord. 999, Sec. 6(part), November 15, 1982.)

20.64.070 Variances--Application--Form--Fee. Application for a variance shall be made in writing on a form prescribed by the Planning Commission or the Director of Planning and Building and shall be accompanied by a fee in an amount to be fixed by resolution adopted by the City Council. The application shall be accompanied by a statement, plans, and evidence showing:

A. That there are exceptions, or extraordinary circumstances, or conditions applying to the land, building or use referred to in the application, which circumstances or conditions are peculiar to the property in question, and do not apply generally to land, buildings and/or uses in the same district.

B. That the hardship is not due to any action on the part of the applicant.

C. That the granting of the application is necessary for the preservation and enjoyment of reasonable property rights of the petitioner.

D. That the granting of such application will not under the circumstances of the particular case, affect adversely the health, comfort or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood. (Amended by Ord. 788, Sec. 5; Ord. 932, Sec. 7, November 20, 1978.)

20.64.080 Variances--Public hearing. The Planning Commission or Zoning Administrator shall hold a public hearing on each application for a Variance within 45 days after the application is accepted as being complete. (Ord. 1041, Sec. 3; September 3, 1985.)

20.64.085 Variances--Notice of hearing. Notice of the hearing shall be given as specified in Section 20.60.200. (Ord. 1041, Sec. 4; September 3, 1985.)

20.64.090 Grants--Limits--Variances. In order to grant a variance, the Planning Commission or Zoning Administrator shall find that each and every condition under subsections A, B, C and D or Section 20.64.070 shall apply to the land, building or use for which the variance is sought and that such variance shall be consistent with the general purposes of this Title.

The Planning Commission or Zoning Administrator may designate such conditions in connection with a variance as deemed necessary to secure the purpose of this Title and may require such guarantees and evidences that said conditions are being or will be complied with. (Amended by Ord. 932, Sec. 8, November 20, 1978.)

20.64.100 Variances for solar access. Variances to regulations pertaining to lot size, setback, height limitations, lot coverage, and yard requirements may be allowed to improve solar access or energy conservation. (For definition of Solar Access refer to Section 20.08.161.) (Ord. 1182, Sec. 8 (part), April 2, 2002.)

20.64.110 Construction after notice of violation. If the applicant for a conditional use permit or a variance has been notified by the City in writing that a structure has been commenced in violation of the terms and conditions of this Title, and construction continues after such notice, a fee of $l,000.00 shall be paid by the applicant.

20.64.140 Revocation and expiration--Use permits--Variances. Any use permit or variance may be revoked if any of the conditions or terms of such use permit or variance are violated or for other good cause. In such case the Planning Commission shall hold a hearing on the proposed revocation, after giving written notice to the permittee at least ten days prior to the hearing, and shall submit its recommendations to the City Council. The City Council shall act thereon within thirty days.

Any use permit, variance or plan review becomes null and void if not exercised within one year following the date the same is granted; provided, however, that when a use permit, variance or plan review has not been exercised within one year and good cause for such delay has been shown, the Planning Commission may grant an extension of not more than one year within which such conditional use permit, variance or plan review may be exercised. A use permit, variance or plan review shall be deemed to have been exercised if:

A. the use has commenced; and

B. a building permit has been issued by the Building/Zoning Code Inspector and construction has been commenced and has been or is being diligently pursued toward completion. (Amended by Ord. 826, Sec. 4, August 5, 1974.)

20.64.150 Reclassification changes--Fee. Any person owning real property within the City may file an application to have this Title changed with respect to the zoning classification of his property. Such person shall file with the Clerk of the Planning Commission a written application containing such information as the Planning Commission shall from time to time require. The applicant shall pay to the City a fee in an amount established by resolution to be adopted by the City Council. At the conclusion of such hearing, the Planning Commission shall report its recommendations for or against the application to the City Council for final action.

Notice of time and place of such hearing shall be given by publication at least once in a newspaper of general circulation in the City of Mill Valley at least ten days prior to the time of the hearing. (Amended by Ord. 788, Sec. 6, February 20, 1973.)

20.64.160 Fees--Notice of Public Hearing. Aside from any other fees or deposits, the applicant requesting any entitlement requiring a public hearing shall furnish to the City payment for contract services to compile and type the names and addresses of owners and occupants within the notification area on envelopes containing the public notice. (Ord. 848, Sec. 1, July 30, 1975.)

Chapter 20.65
Outdoor Dining Areas and Outdoor Merchandise Displays

Sections:

20.65.010 Permit Required.
20.65.020 Contents of application; Fee.
20.65.030 Criteria for issuance of permit.
20.65.040 Conditions of approval.
20.65.050 Appeal of Decision
20.65.060 Outdoor Dining Areas - Requirements.
20.65.070 Outdoor Merchandise Displays - Requirements.
20.65.080 Certificate of Insurance Required for Use of Public Property.
20.65.090 Indemnification for Use of Public Property.
20.65.100 Revocation
20.65.110 Appeal of Decision of Revocation.

20.65.010 Permit Required. Outdoor dining areas or outdoor merchandise displays may be permitted subject to issuance of an outdoor dining permit or outdoor merchandise display permit, as appropriate, approved by the Planning Director.

20.65.020 Contents of application; Fee. Applications for outdoor dining permits and outdoor merchandise display permits shall be submitted to the Planning Director, together with the appropriate fee, as established by resolution adopted by the City Council, and other required materials. A site plan drawn to scale, depicting passageway dimensions, the location of seating, tables, umbrellas and/or merchandise displays, together with such other information and exhibits as required by the Planning Director, shall accompany the application. The application must be reviewed by and found to meet the standards of the Department of Public Works, the Mill Valley Fire Department, and the Mill Valley Police Department.

20.65.030 Criteria for issuance of permit. The Planning Director may grant an outdoor dining permit or outdoor merchandise display permit provided that the following findings can be made:

A. The proposed outdoor dining area or outdoor merchandise display will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of the proposed use.

B. The proposed outdoor dining area or outdoor merchandise display will not adversely affect properties in the neighborhood of the proposed use.

20.65.040 Conditions of approval. The Planning Director may impose reasonable conditions of approval upon any outdoor dining permit or outdoor merchandise display permit as necessary to accomplish the purposes of this Chapter.

20.65.050 Appeal of Decision Any decision of the Planning Director to grant an outdoor dining permit or an outdoor merchandise display permit may be appealed to the Planning Commission in accordance with Chapter 20.100 of this Code.

20.65.060 Outdoor Dining Areas – Requirements.

A. Outdoor dining areas shall be permitted as accessory uses in connection with lawfully established restaurants or food service establishments.

B. Food and beverages served in the outdoor dining area shall be limited to that which is served in the interior of the restaurant or food service establishment.

C. An outdoor dining area must be located directly adjacent to the restaurant or food service establishment to which it is an accessory use.

D. Tables, chairs, umbrellas or other fixtures associated with outdoor dining areas shall be compatible with the character of the adjacent buildings and with the design guidelines in the Mill Valley General Plan, subject to the approval of the Planning Director.

E. Furniture and fixtures utilized in outdoor dining areas shall be of good quality, durable materials and construction, and shall be maintained in such a manner as to enhance the downtown area.

F. Furniture and fixtures utilized in outdoor dining areas may not be bolted into the ground or fastened to streetlights, trees or other street furniture. Tables and chairs must be removed during non-business hours, unless located on private property.

G. Any outdoor lighting associated with outdoor dining areas shall be subject to the approval of the Planning Director.

H. Portable heaters utilized in outdoor dining areas shall be located a minimum of three feet from any combustible material and shall be located completely within the confines of the outdoor dining area.

I. The canopies of umbrellas utilized in outdoor dining areas must provide a minimum vertical clearance of seven and one half feet, unless the umbrella does not extend beyond the outside edge of a table. Umbrella canopies shall not be placed within two feet of the face of a curb. Weather shields, temporary walls and awnings, if permitted at the discretion of the Planning Director, must provide a minimum vertical clearance of seven and one half feet and secure a separate Design Review permit.

J. No sound amplification device, musical instrument or sound reproduction device shall be operated or used in outdoor dining areas.

K. Outdoor dining areas shall be maintained in a clean condition at all times. All litter and food items associated with the outdoor dining area shall be removed and disposed of on a continual basis. The ground surface of the outdoor dining area shall be steam cleaned or pressure washed on a quarterly basis, or as often as determined necessary by the City. Residue water from steam cleaning or pressure washing must be appropriately collected in accordance with Best Management Practices guidelines, never flushed down a gutter or storm drain.

L. Outdoor dining areas shall be designated by fixed, permanent markings as shown and approved in the permit application.

M. Outdoor dining areas located in the public right of way shall allow a minimum 48 inches, unobstructed passageway from the exterior border of the dining area to the interior edge of the curb of the adjacent street, or to any curb, ramp or crosswalk, or to any other fixed obstruction (i.e., light pole, planting area, parking meter) at all times. No wait staff or busing shall be allowed within the required 48-inch clearance area. Outdoor dining areas shall not obstruct access to parking areas or driveways, or encroach on landscape areas. Owner/operator shall be responsible for compliance with Title 24 of the California Building Code with regards to accessibility.

N. No additional parking shall be required, unless in the opinion of the Planning Director, significant additional seating is created in the outdoor dining area.

O. The permit shall expire with the change of business owner or the change of use of the business.

20.65.070 Outdoor Merchandise Displays – Requirements.

A. Outdoor merchandise displays shall be permitted as accessory uses to lawfully established retail businesses in the C-G (General Commercial) and C-N (Neighborhood Commercial) districts.

B. The type of merchandise displayed in an outdoor merchandise display shall be limited to the type of merchandise sold by the business at the site.

C. An outdoor merchandise display must be located directly adjacent to the retail business to which it is an accessory use.

D. Outdoor merchandise display fixtures shall be compatible with the character of the adjacent buildings and with the design guidelines in the Mill Valley General Plan, subject to the approval of the Planning Director. Merchandise displays utilizing card tables, cardboard cartons, plastic milk crates or plywood boxes are not permitted.

E. Outdoor merchandise display fixtures shall be of good quality, durable materials and construction, and shall be maintained in such a manner as to enhance the downtown area.

F. Outdoor merchandise display fixtures may not be bolted into the ground or fastened to streetlights, trees or other street furniture. All merchandise and merchandise display fixtures must be removed during non-business hours unless located on private property.

G. Outdoor merchandise displays shall be limited to 75% of the business frontage, measured by linear foot.

H. Outdoor merchandise displays, including the merchandise placed on them shall be limited to a width of 30 inches and may not be more than 6 feet high. Merchandise too large to be placed on a display may be freestanding.

I. Outdoor merchandise displays shall be organized and maintained in an orderly and attractive manner at all times.

J. No sound amplification device, musical instrument or sound reproduction device shall be operated or used in conjunction with outdoor merchandise displays.

K. Any outdoor lighting associated with outdoor merchandise displays must be approved as part of the outdoor merchandise display permit process.

L. Merchandise displays located in the public right of way shall allow a minimum 48 inch unobstructed passageway from the exterior border of the designated markings to the interior edge of the curb of the adjacent street, or to any curb ramp or crosswalk, or to any other fixed obstruction (i.e. light pole, planting area, parking meter) at all times. Merchandise display areas shall not obstruct access to parking areas or driveways, or encroach on landscape areas. Owner/operator shall be responsible for compliance with the California Building Code with regards to accessibility and egress.

M. Outdoor merchandise display areas shall be designated by fixed, permanent markings as shown and approved in the permit application. Minimal contrast markings are required. No paint will be accepted as a type of designated marking.

N. Permitted outside merchandise displays located on the public right of way shall operate only on the following days.

1. The weekend including the 3rd Sunday in April, or the 2nd Sunday if the third Sunday is Easter [3 days, consisting of the immediate Friday prior, the Saturday and the Sunday only]

2. The weekend including the 3rd Sunday in June [3 days, consisting of the immediate Friday prior, the Saturday and the Sunday only]

3. Wine & Gourmet Food Tasting day (4th Sunday in June) [1 day only]

4. The weekend including the 3rd Sunday in July [3 days, consisting of the immediate Friday prior, the Saturday and the Sunday only]

5. The weekend including the 3rd Sunday in August [3 days, consisting of the immediate Friday prior, the Saturday and the Sunday only]

6. The weekend including the 3rd Sunday in October [3 days, consisting of the immediate Friday prior, the Saturday and the Sunday only]

O. Outside merchandise displays which are located on the public right of way are allowed without permit on the following weekends, provided they are in conformance with requirements A through L as outlined in Section 20.65.070 of this ordinance:

1. Memorial Day Holiday (last Monday in May) weekend [3 days, consisting of the immediate Friday prior, the Saturday and the Sunday only]

2. Fall Arts Festival (2nd or 3rd weekend in September) weekend [3 days, consisting of the immediate Friday prior, the Saturday and the Sunday only]

P. The permit shall expire with the change of business owner or the change of use of the business.

20.65.080 Certificate of Insurance Required for Use of Public Property. The permit holder of an outdoor dining permit or outdoor merchandise display permit for use of public property shall, at its sole cost and expense, maintain a comprehensive liability insurance policy in an amount specified by the City at all times during the duration of the permit.

A. Prior to the issuance of an outdoor dining permit or outdoor merchandise display permit, the applicant for the permit shall furnish the City with a certificate of insurance, duly authenticated, evidencing maintenance of the insurance required under the permit.

B. Said insurance policy shall name the City, its officials, officers, employees, agents and volunteers as additional insureds. Said insurance shall apply as primary insurance, and shall stipulate that any insurance maintained by the City shall be in excess of the permit holder's insurance and shall not contribute with it. The insurance policy shall also contain a provision that cancellation, termination, or suspension of the policy, or any change of coverage of the insured or additional insureds, shall not be effective until after 30 days prior written notice has been provided to the City.

C. If the insurance policy is canceled, terminated, suspended or materially changed, the outdoor dining permit or outdoor merchandise display permit shall be suspended until such time as compliance with the requirements of this section has been fully satisfied.

20.65.090 Indemnification for Use of Public Property. The permit holder of an outdoor dining permit or outdoor merchandise display permit shall indemnify, defend and hold harmless the City, its officials, officers, agents, and employees from any and all claims, causes of action, losses, injuries or damages arising directly or indirectly from the negligent acts, errors or omissions of the permit holder, its officers, agents, employees, or anyone rendering services on its behalf. This indemnity shall include all reasonable costs and attorney's fees incurred in defending any action covered by this section.

20.65.100 Revocation Any outdoor dining permit or outdoor merchandise display permit may be revoked by the Planning Director if any of the terms of such permit or the conditions of approval for said permit are violated, or for other good cause deemed necessary to preserve and protect the health and welfare of the public.

20.65.110 Appeal of Decision of Revocation Any decision of the Planning Director to revoke an outdoor dining permit or an outdoor merchandise display permit may be appealed to the Planning Commission in accordance with Chapter 20.100 of this Code. (Ord. 1203, Sec. 4, May 16, 2005.)

Chapter 20.66

Design Review

Sections:

20.66.010 Purpose.
20.66.020 Matters subject to review.
20.66.030 Matters exempt from Design Review.
20.66.032 Application.
20.66.034 Design Guidelines.
20.66.036 Required findings for Design Review for residential projects.
20.66.040 Required findings for non-residential projects.
20.66.045 Limitations on building size, height and setback.
20.66.048 Required open space.
20.66.050 Prohibitions.
20.66.070 Action on application.
20.66.080 Public hearing.
20.66.090 Notice of hearing.
20.66.100 Approval--Conditions--Guarantees.
20.66.110 Noncompliance.
20.66.120 Appeals.
20.66.130 Expiration, extension of approval.

20.66.010 Purpose.

A. It is in the public interest, and necessary for the promotion and protection of the safety, convenience, comfort, prosperity, long-term sustainability, and general welfare of the citizens of the City of Mill Valley to:

1. Preserve and enhance the natural beauty of the City and of the manmade environment, and the enjoyment thereof;

2. Maintain and improve the quality of, and relationship between, individual buildings, structures and physical developments so that they contribute to the attractiveness of a neighborhood and the City;

3. Protect and insure the function, adequacy and usefulness of public and private developments as they relate to each other and to the neighborhood and the City.

B. In order to maintain of the City's attractiveness and character, it is necessary to:

1. Stimulate creative design for individual buildings, groups of building and structures, and other physical developments;

2. Encourage appropriate and innovative use of materials, methods and techniques;

3. Integrate the function, appearance and location of buildings and improvements so as to best achieve a balance between private prerogatives, and preferences and the public interest and welfare.

C. Pursuant to, and in furtherance of, these purposes and aims, the review and approval of certain plans and proposals for the physical development or change of land, buildings, and structures is required and is designated as "Design Review". (Ord. 1182, Sec. 9 (part), April 2, 2002.)

20.66.020 Matters subject to review. All new structures or changes in use of an existing structure of 150 sq.ft. or more of gross floor area in any zoning district, physical improvements and all additions, extensions, changes in color, and other exterior changes of or to existing buildings, structures and physical improvements shall be subject to Design Review, whether or not a building permit is required, except as otherwise exempted by Section 20.66.030. “Physical improvements” as used herein may include, but is not limited to, parking and loading areas, driveways, retaining walls, fences and garbage or trash enclosures. (Ord. 1199, Sec. 5, March 1, 2004.)

20.66.030 Matters exempt from Design Review. The following developments and physical improvements are exempt from Design Review procedures and requirements:

A. Additions, extension or exterior changes to or reconstruction of existing single family dwellings and related accessory structures except where the project involves 35% or more of the existing gross floor area of the dwelling or 1,000 sq. ft. or demolition of 50% or more of the exterior surface area of the dwelling (including exterior walls, door and window openings, foundation walls and roofs); or, when located on parcels fronting on East Blithedale Avenue; or, when located in an RP, RSP, or RMP Zoning District; or, when Design Review is required as a condition of approval pursuant to any section of this title. For purposes of this section, the size of a project is the cumulative total size of any project(s) which are commenced within 24 months of the final inspection of a previous project.

B. Signs other than those included in plans for a matter subject to Design Review in which case the plans for the signs shall be considered as part of the Design Review. All other signs shall be subject to sign review approval as specified in Chapter 20.74.

C. Any other work determined by the Director of Planning and Building to be minor or incidental in nature and consistent with the intent and objectives of this chapter. (Ord. 1182, Sec. 9 (part), April 2, 2002.)

D. All new accessory structures less than 150 sq.ft. or an expansion of an existing accessory structure involving less than 35% of the existing gross floor area in any R district. (Ord. 1199, Sec. 6, March 1, 2004.)

20.66.032 Application. Applications for Design Review, in a form approved by the Director of Planning and Building, together with the appropriate fee, as established by resolution adopted by the City Council, and other required materials, shall be filed in the office of the Department of Planning and Building. Every application shall be accompanied by such drawings, plans, specifications and graphic or written material as may be required to clearly and accurately describe the proposed work and its effect on the terrain and existing improvements. (Ord. 1182, Sec. 9 (part), April 2, 2002.)

20.66.034 Design Guidelines. The City Council may, by resolution, approve Design Guidelines for development which are consistent with the intent and purpose of the Mill Valley General Plan and this Title. (Ord. 1182, Sec. 9 (part), April 2, 2002.)

20.66.036 Required Findings for Design Review for Residential Projects. Prior to approving an application for Design Review for a residential project, the City must make all of the following findings on the basis of the application and the evidence submitted:

A. That the proposal is consistent with the City of Mill Valley General Plan and Mill Valley Municipal Code.

B. The proposal is consistent with the Residential Design Guidelines adopted by the City.

C. The City has considered whether to apply any limitations on building, size, height and setbacks pursuant to Section 20.66.045.

D. The approval of the proposal is in compliance with the California Environmental Quality Act. (Ord. 1182, Sec. 9 (part), April 2, 2002.)

20.66.040 Required Findings for Non-Residential Projects. In acting on any Design Review application for a non-residential project the City shall seek to assure that the proposed development or physical improvement is designed and located in a manner which will best satisfy the following criteria:

A. It will carry out its intended function while resulting in an attractive development which will be in substantial harmony with its locale and surroundings and generally compatible with the size, mass and height of other buildings in the vicinity.

B. It will not impair or interfere with the development, use or enjoyment of other property in the vicinity including public lands and rights-of-way.

C. The materials, colors and architectural character will be generally compatible with other structures in the vicinity.

D. It will be appropriately and adequately landscaped with maximum retention of existing significant site vegetation.

E. Drainage systems and appurtenant structures have been designed to minimize or avoid adverse impacts on other properties.

F. Proposed cut and fill areas will be minimized and special care taken so that all disturbed areas will be final graded to a natural appearing configuration and planted or seeded to prevent erosion.

G. The design and location of sidewalks, pathways, parking areas, driveways and roads will meet the intended functional requirements and minimize or avoid adverse effects on natural resources or adjacent properties.

H. The proposal is consistent with all applicable Building Intensity Standards and Design Guidelines contained in the Mill Valley General Plan or adopted by the City Council.

I. The City has considered and applied any limitations on building, size, height and setbacks pursuant to Section 20.66.045. (Ord. 1182, Sec. 9 (part), April 2, 2002.)

20.66.045 Limitations on building size, height and setback. Where a project is subject to Design Review approval and where specific site circumstances or natural or topographic features such as the following are present on the site and indicate that it is appropriate, the City may impose more restrictive size and height limitations and may require greater setbacks and required yards than those specified in the Mill Valley General Plan or this Title:

A. The lot has an irregular configuration (e.g. flag lot).

B. The proposed building site is located on a steep slope above or below a street or other homes.

C. The lot contains natural or topographic features such as Heritage Trees as defined in Chapter 20.67 or other significant vegetation; other significant site features such as a major rock outcropping; a creek, other drainage way or riparian area; areas of very steep slope which limit the practical building area on the lot; is in a visually prominent location; or portions of the lot are inaccessible due to a creek or other feature intersecting the lot.

D. The maximum permitted size and/or height would result in a home and/or garage which are not generally compatible with the scale of other homes and/or garages in the vicinity such as where, for example, the lot is considerably larger than other lots in the vicinity.

E. In determining the appropriate "adjusted floor area" on smaller lots, as part of the Design Review approval process the City may also take into consideration the effect of any garage and second unit space otherwise excluded. (Ord. 1182, Sec. 9 (part), April 2, 2002.)

20.66.048 Required Open Space. As a condition of approving a Design Review application for a residential site with an Effective Lot Area in excess of 80,000 square feet, the Planning Commission may require that any portion of such site in excess of 80,000 square feet shall remain in its natural state as an undeveloped, private open space area with no grading, tree or foliage removal, or structures or other development. This area shall be precluded from any further residential development by a scenic easement, deed of development rights, or other appropriate method. (Ord. 1182, Sec. 9 (part), April 2, 2002.)

20.66.050 Prohibitions. No work shall be started or authorized (including any demolition work, whether or not a building permit is required) on any matter which is subject to Design Review until a Design Review application is approved and any appeal periods have expired, unless written approval for the work is given by the Director of Planning and Building or his or her authorized representative. (Ord. 1043, Sec. 2, Sept. 3, 1985; Ord. 1182, Sec. 9 (part), April 2, 2002.)

20.66.070 Action on application. If the application involves a new building or addition to an existing building on a property located in a PA, OA, CR, CN, CG, or CF Zoning District; involves the construction of a new residential unit or units; or, in the opinion of the Director of Planning and Building, raises significant planning or design issues; the Planning Commission shall act on the Design Review application. The Zoning Administrator shall act on all other projects subject to Design Review under this chapter. (Ord. 1123, Sec. 11, August 2, 1993.)

20.66.080 Public hearing. The Planning Commission or Zoning Administrator shall hold a public hearing on each application for Design Review. (Ord. 1123, Sec. 12, August 2, 1993; Ord. 1182, Sec. 9 (part), April 2, 2002.)

20.66.090 Notice of hearing. Notice of the public hearing shall be given as specified in Section 20.60.200.

20.66.100 Approval --Conditions--Guarantees. An application for Design Review may be approved, approved with modifications, conditionally approved or disapproved. Guarantees/sureties or other evidence of compliance may be required in connection with, or as a condition of approval of a Design Review application.

The Director of Planning and Building or his authorized representative shall review construction drawings, final plans and other similar documents for compliance with the approved Design Review application, any conditions attached thereto or any approved or required modifications thereof shall be reflected on the plans prior to issuance of a building permit.

20.66.110 Noncompliance. Failure to comply in any respect with the conditions of an approved Design Review application shall constitute grounds for the immediate stoppage of the work involved in the noncompliance until the matter is resolved.

20.66.120 Appeals. Any decision by the Planning Commission or Zoning Administrator taken on a matter subject to the provisions of this chapter may be appealed as specified in Chapter 20.100. (Ord. 1123, Sec. 13, August 2, 1993.)

20.66.130 Expiration, extension of approval. Approval of a Design Review application shall expire one year from the effective date of approval unless a different expiration date is stipulated at the time of approval. Prior to the expiration of a Design Review approval, the applicant may apply to the Director of Planning and Building for an extension of one year from the date of expiration. Not more than two one-year extensions may be granted. The Director of Planning and Building may make minor modifications of the approved design at the time of extension if he finds that there has been a substantial change in the factual circumstances surrounding the originally approved design.

If buildings or other permits are issued during the effective life of a Design Review approval, the expiration date of the Design Review approval shall be automatically extended to concur with the expiration date of the other permit. (Ord. 1043, Sec 2.; September 3, 1985.)

Chapter 20.67

Preservation of Heritage Trees and Habitat

Sections:

20.67.010	Declaration of policy.
20.67.020	Definitions.
20.67.030	Permit required.
20.67.040	Contents of application; Fee.
20.67.050	Public hearing notice.
20.67.055	Approval by Director of Planning and Building.
20.67.060	Tree removal permit for any project which also requires approval under Title 20 (Zoning Ordinance)
20.67.070	Tree cutting on vacant lots.
20.67.075	Tree cutting on developed lots.
20.67.080	Emergency tree removal.
20.67.090	Criteria for issuance of a tree removal permit.
20.67.100	Conditions of approval.
20.67.110	Criteria for denial of tree removal permit.
20.67.120	Appeals.
20.67.130	Violations; Penalties.

20.67.010 Declaration of policy. Within the City of Mill Valley there are certain redwood, oak, madrone, and other trees which have special community value and contribute greatly to the character and scenic beauty of the City. The uncontrolled removal or destruction of these trees threatens to adversely affect scenic beauty, destroy wildlife habitat, reduce privacy, and increase the risk of erosion, mudslides and flooding. It is in the interest of the community health, safety and general welfare to protect and preserve heritage trees by regulating their removal and, where appropriate, encouraging their replacement.

20.67.020 Definitions. Whenever the following words and phrases appear in this chapter, they shall have the meanings set forth below:

A. "Heritage tree" shall include trees of the species tanbark oak (Lithocarpus densiflorus), oak (Quercus Supp.), madrone (Arbutus mensiesii), and coast redwood (Sequoia sempervirens) which meet the following criteria :

tanbark oak:	65 inch circumference (approximately 20 inch diameter)
oak:	75 inch circumference (approximately 24 inch diameter)

madrone:	75 inch circumference (approximately 24 inch diameter)
coast redwood:	95 inch circumference (approximately 30 inch diameter)

All measurements are to be at "breast high" (4-1/2 feet above the ground).

"Heritage Tree" shall also include any other tree which is so designated by resolution of the City Council following a noticed public hearing, because of its unusual size, age or other specific significance to the community.

B. "Tree removal" shall include any one or more of the following:

1. Complete removal of a tree.

2. Any action foreseeable leading to the death of a tree or permanent damage to its health.

3. Removal of more than one-third of the foliage of a tree in any twelve (12) month period.

C. "Trimming" means removal of less than one-third of a tree's foliage in any one year in a way that will not foreseeably cause the tree's death or permanent damage to its health.

D. "Tree Report" means a report prepared by a certified arborist selected and retained by the City but whose fees are paid for by the applicant for a tree removal permit.

20.67.030 Permit required. No person may cause the removal of a heritage tree without first obtaining a tree removal permit from the City.

20.67.040 Contents of application; Fee. Applications for tree removal permits shall be submitted to the Zoning Administrator. All applications shall indicate the location, species and circumference of all affected heritage trees and reasons for removal. Applications for tree removal permits in conjunction with construction or grading activity shall provide a site plan if deemed necessary by the Zoning Administrator. All such site plans shall indicate the location, species, and circumference of all trees located within thirty feet of proposed construction activity, including but not limited to all heritage trees which are proposed for removal. If the reason for tree removal is (a) to protect the public health or safety due to a tree's death or disease, or (b) to enhance the health of the subject tree or adjacent trees, the application shall be accompanied by a supporting report prepared by a certified arborist. Applications must be accompanied by a fee in an amount fixed by resolution of the City Council.

20.67.050 Public hearing notice. The Zoning Administrator shall conduct a public hearing before issuing any tree removal permit for a Heritage Tree. Notice of the public hearing shall be given in the manner specified in Section 20.60.200 of this Code. In addition, copies of the public hearing notice shall be prominently displayed on all trees proposed for removal.

20.67.055 Approval by Director of Planning and Building. The Director of Planning and Building may approve an application for a tree removal permit for multiple non-Heritage Trees on developed or vacant lots. Notice of the Director's decision to approve a tree removal permit shall be mailed to property owners within 300 feet of the property ten days prior to the effective date of the decision. In addition, copies of the public hearing notice shall be prominently displayed on all trees proposed for removal.

20.67.060 Tree removal permit for any project which also requires approval under Title 20 (Zoning Ordinance). When a tree removal permit will be required in conjunction with any project for which the Zoning Ordinance requires approval by the Zoning Administrator or Planning Commission, (such as a negative declaration, design review, use permit or variance), the application for the tree removal permit shall be submitted and reviewed at the same time as the related applications.

20.67.070 Tree cutting on vacant lots. No tree over 12-1/2 inch circumference (approximately 4 inch diameter), measured at a point 4-1/2 feet above the ground, shall be cut or otherwise damaged or destroyed on any vacant parcel without an approved tree removal permit.

20.67.075 Tree cutting on developed lots. Unless requested in writing by the City for vegetative management purposes, a tree removal permit shall be required to cut or otherwise damage or destroy four or more trees over 19 inch circumference (approximately 6 inch diameter), measured at a point 4-1/2 feet above the ground, on any developed parcel per year.

20.67.080 Emergency tree removal. If a heritage tree poses an immediate threat to the safety of persons or property, the Zoning Administrator may waive the requirement for a tree removal permit. Supervisory personnel for Pacific Gas and Electric, Pacific Bell, and the Marin Municipal Water District may conduct emergency tree removal without a tree removal permit. The removal of a heritage tree under emergency conditions by such supervisory personnel shall be reported to the Mill Valley Planning Department on the first business day following the emergency tree removal.

20.67.090 Criteria for issuance of a tree removal permit. A permit may be granted upon a finding that the "tree removal" is necessary to accomplish any one or more of the following objectives:

A. To protect the public health and safety by reducing or eliminating fire danger and other potential hazards to persons or property.

B. To prevent obstruction or interference with public utility facilities, sanitary sewer facilities, storm drains, or water supply facilities, or watercourses.

C. To ensure reasonable preservation of views and sunlight.

D. To enhance the health of the subject tree or adjacent trees.

E. To allow the owner to reasonably develop and use the subject property.

Prior to making a determination on a tree removal permit, the City may require a tree report.

20.67.100 Conditions of approval. Reasonable conditions of approval may be attached to any tree removal permit, as deemed necessary to accomplish the purposes of this Chapter.

20.67.110 Criteria for denial of tree removal permit. Notwithstanding the findings set forth in Section 20.67.090, a tree removal permit may be denied if any one or more of the following findings is made:

A. Removal of a healthy heritage tree or multiple trees could be avoided by reasonable alternatives such as trimming, pruning, thinning, or other reasonable treatment.

B Revisions to a proposed project would allow an owner to reasonably develop and use the subject property without requiring removal of a healthy heritage tree or multiple trees.

C. Adequate provisions for drainage, erosion control, land stability, avoiding adverse visual impacts and windscreening have not been made in situations where problems are anticipated as a result of tree removal.

20.67.120 Appeals. Any interested person may appeal the approval or denial of a tree removal permit as specified in Chapter 20.100 of this Code.

20.67.130 Violations; Penalties. Violations of this Chapter are hereby declared to constitute a public nuisance and shall be punishable as misdemeanors or infractions, with penalties not to exceed the amounts set forth in Government Code Sections 36900 and 36901, at the discretion of the City's

designated code enforcement official following consideration of the severity of the violation. Continuing violations shall constitute a separate offense for every day the violation occurs or continues. In addition, violators shall be liable for all costs associated with taking corrective action deemed reasonably necessary as the result of a violation of this Chapter, including the planting of replacement trees, erosion control and slope stabilization. At the City's option, any necessary corrective action may be undertaken pursuant to the nuisance abatement procedures set forth in Chapters 8.33 and 20.66 of this Code. In addition, the City may pursue any other available legal or equitable remedies. (Ord. 1211, Sec. 1, December 1, 2005.)

Chapter 20.68

Enforcement, Penalties and Legal Procedure

Sections:

20.68.010 Permits issued contrary to title provisions void--Enforcement.
20.68.020 Penalty for violation.
20.68.030 Nuisance declared--Abatement authorized.
20.68.040 Limitation of actions.

20.68.010 Permits issued contrary to title provisions void--Enforcement. All departments, officials, and public employees of the City of Mill Valley, vested with the duty of authority to issue permits or licenses, shall conform to the provisions of this Title, and shall issue no permit or license for uses, buildings or purposes in conflict with the provisions of this Title. It shall be the duty of the Building/Zoning Code Inspector of the City to enforce the provisions of this Title pertaining to the erection, construction, reconstruction, moving, conversion, alteration or addition to any building or structure. Any permit or license issued contrary to any of the provisions of this Title shall be void.

20.68.020 Penalty for violation. Any person, firm or corporation violating any of the provisions of this title is guilty of an infraction and upon conviction thereof shall be punished by a fine not exceeding $100.00. Every such person, firm or corporation is guilty of a separate offense for every day such violation, omission, neglect, or refusal continues, and is subject to the penalties imposed by this section for each and every separate offense. (Amended by Ord. 772, Sec. 3, September 19, 1972.)

20.68.030 Nuisance declared--Abatement authorized. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Title and any use of any land, building or premises established, conducted, operated or maintained contrary to the provisions of this Title, is unlawful and a public nuisance. The City Attorney of the City shall, upon order of the City Council, immediately commence action or proceedings for the abatement and removal and enjoinment thereof in the manner provided by law, and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain, and enjoin any person, firm or corporation from setting up, erecting, building, maintaining or using any such building contrary to the provisions of this Title.

The cost of abatement of any nuisance referred to in this section, including attorney's fees and court costs incurred in any litigation for the enforcement of the provisions of this Title 20, shall constitute a personal obligation of the property owner and the City Council may assess the cost of such abatement as a special assessment against the property. Prior to making such assessment, the City Council shall give notice in writing to the owner of the property at his address shown on the last equalized assessment roll of the time when the Council will meet to consider making such assessment. The notice shall be mailed, postage prepaid, at least seven (7) days prior to the date of said hearing. Any such special assessment shall be certified by the City Council to the Tax Collector of the County of Marin and shall be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal

taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment.

The remedies provided for herein shall be cumulative and not exclusive. (Ord. 457, Sec. 17.3; Ord. 660; Ord. 970, October 6, 1980.)

20.68.040 Limitation of actions. Any court action or proceeding to attack, review, set aside, void or annul any decision on matters listed in this Title 20, including, but not limited to, rezoning or reclassification of property, or concerning any of the proceedings, acts or determinations taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless such action or proceeding is commenced within thirty days after the effective date of such decision. Thereafter, all persons are barred from any such action or proceeding, or any defense of invalidity or unreasonableness of such decision or of such proceedings, acts or determinations. The provisions of this section shall apply to matters referred to in Section 65907 of the California Government Code and to all other matters listed in this Title 20. Provided, however, that should any court of competent jurisdiction hold that this section is invalid in its application to matters referred to in Section 65907 of the California Government Code, then such invalidity shall not affect the application of the provisions of this section to all other matters listed in this Title 20 and, to this end, the application of this section to matters other than those listed in Section 65907 of the California Government Code is declared to be severable. The City Council of the City of Mill Valley declares that it would have adopted this section and made the same applicable to matters other than those listed in Section 65907 of the California Government Code irrespective of any holding that this section cannot legally be applied to matters referred to in Section 65907 of the California Government Code. (Ord. 929, Sec. 1, August 21, 1978.)

Chapter 20.70

Residential Building Record

Sections:

20.70.010 Residential building defined.
20.70.020 Report of residential building record.
20.70.030 Fee.
20.70.040 Delivery of report to buyer or transferee.
20.70.050 Compliance with law.
20.70.060 Applicability of chapter--Exemptions.
20.70.070 Violations.

20.70.010 Residential building defined. "Residential building," as used in this Chapter, means a building containing one or more "dwelling units" as the term "dwelling unit" is defined in Chapter 20.80 of this code. (Ord. 1182, Sec. 10, April 2, 2002.)

20.70.020 Report of residential building record. Prior to the sale or exchange of any residential building in the City of Mill Valley, the owner or his authorized agent shall obtain from the City a report of the residential building record showing the regularly authorized use, occupancy and zoning classifications of such property. (Ord. 789, Sec. 1(part); March 5, 1973.)

20.70.030 Fee. A report of residential building record shall be issued by the City upon application by the owner or his authorized agent and upon payment to the City of a fee to be established by resolution of the City Council. (Ord. 789, Sec. 1(part); March 5, 1973.)

20.70.040 Delivery of report to buyer or transferee. The report of residential building record shall be delivered by the owner or the authorized agent of the owner to the buyer or transferee of the residential building prior to the consummation of the sale or exchange. (Ord. 789, Sec. 1(part), March 5, 1973.)

20.70.050 Compliance with law. No statements contained in a report of residential building record issued by the City of Mill Valley shall authorize the use or occupancy of any residential building contrary to the provisions of any law or ordinance.

Every report issued hereunder shall contain a provision stating that the issuance of such report shall not constitute a representation by the City of Mill Valley that the property or its present use is or is not in compliance with the law, and that the report does not constitute a full disclosure of all material facts affecting the property or the desirability of its sale. (Ord. 789, Sec. 1(part), March 5, 1973.)

20.70.060 Applicability of chapter--Exemptions. The provisions of this Chapter shall not apply to the following transactions:

A. The first sale of a residential building located in a subdivision whose final map has been approved and recorded in accordance with the Subdivision Map Act not more than two years prior to the first sale;

B. A reconveyance by a trustee pursuant to the provisions of a deed of trust;

C. A transfer of property made without valuable consideration;

D. A transfer of property made between co-owners. (Ord. 789, Sec. 1(part), March 5, 1973.)

20.70.070 Violations. Except as provided herein, it is unlawful for the owner of a residential building in the City of Mill Valley to sell or exchange the same without first having obtained and delivered to the buyer a report of residential building record. Any person violating any of the provisions of this Chapter is guilty of an infraction and upon conviction thereof shall be punished by a fine not exceeding $500.00. (Ord. 789, Sec. 1(part), March 5, 1973.)

Chapter 20.74

Signs

Sections:

20.74.010 Purpose and intent.
20.74.020 Definitions.
20.74.030 Signs allowed without permits.
20.74.040 Signs allowed with permits.
20.74.050 Signs which are prohibited.
20.74.060 Limits on size of permanent signs.
20.74.070 Sign permit application requirements.
20.74.080 Sign permit review procedure.
20.74.090 Variances.
20.74.100 Appeals.
20.74.110 Nonconforming signs.
20.74.120 Illegal, unsafe and obsolete signs.
20.74.130 Expiration, extension of approval.
20.74.340 Severability.

20.74.010 Purpose and intent. The purpose and intent of this Chapter is to:

A. Protect the health, safety and general welfare of the town by regulating the location, type, size and appearance of signs;

B. Protect and enhance the town's natural setting and small-town character;

C. Encourage signs which are compatible with and complementary to the architectural design of the buildings where they are located;

D. Encourage sound signing practices to identify businesses and inform the public;

E. Establish sign regulations which are equitable to all businesses;

F. Encourage creative and high quality signs which are compatible with the design guidelines in the General Plan, and

G. Protect and enhance property values within the community.

20.74.020 Definitions. For the purpose of this Chapter, certain words and phrases are defined as follows:

A. "Awning/Canopy Sign" is any sign attached to or painted on an awning or canopy which in turn is attached to a building face;

B. "Building Face" is any wall of a building below the eaves which is visible from any outdoor public use area;

C. "Directory Board" is a building mounted sign identifying the locations of businesses within the structure;

D. "External Illumination" is a light source mounted outside the sign so as to cast light on the face of the sign;

E. "Governmental Sign" is any sign installed by a public agency to direct traffic or inform the public;

F. "Ground Sign" is a sign supported by uprights or braces permanently placed on or in the ground and not attached to any building;

G. "Internal Illumination" is a light source which is contained entirely within the sign;

H. "Flashing Illumination" is a light source which, in whole or in part, physically changes in light intensity or gives the appearance of such change.

I. "Master Sign" is a sign identifying multiple tenants within the building;

J. "Nonconforming Sign" is any sign which complied with the sign regulations in effect when it was installed but does not comply with the current provisions of this Chapter;

K. "Obstructing Sign" is any sign, the location of which prevents free ingress or egress from any door, window, or fire escape. This includes a sign attached to a standpipe;

L. "Off Site Sign" is any sign advertising or identifying any business, product or activity not being conducted, sold or produced on the same property where the sign is located;

M. "On Site Sign" is any sign advertising or identifying any business, product or activity being conducted, sold or produced on the same property where the sign is located;

N. "Outdoor Public Use Area" is any outdoor area used by the public, including but not limited to streets, parking lots, sidewalks, driveways and patios;

O. "Permanent Sign" is any sign that may be displayed with no time limit as long as it conforms with the provisions of this chapter. A sign permit is required for all permanent signs except those signs listed in Section 20.74.030 B;

P. "Portable Sign" is a sign not permanently attached to the ground or a building and including, but not limited to, A-frame signs or sandwich signs;

Q. "Projecting Sign" is a sign attached to and projecting from the wall of a building or suspended from a canopy and not in the same plane as the wall;

R. "Reflective Material" is any sign material specially designed to enhance reflected light for the purpose of attracting attention;

S. "Real Estate Sign" is a sign advertising the following:

1. That the property is for sale, rent, lease, or exchange by the property owner or his or her agent;

2. Directions to the property;

3. The owner's or agent's name;

4. The owner's or agent's address and telephone number.

T. "Sign" is any name, figure, character, symbol, outline, spectacle or other thing or device of a similar nature which identifies or announces a business, service or goods offered; attracts attention for advertising purposes; or produces light by the application of electric current to an inert gas such as neon. Any "sign" located on the exterior of a building is subject to the provisions of this Chapter. Any "sign" located on the interior of a building is subject to the provisions of this Chapter if it is clearly visible from any outdoor public use area and (1) has a source of internal illumination or (2) does not have a source of internal illumination but is located within five feet of the glass through which it is visible.

U. "Sign Area" is the smallest geometric shape which will enclose a sign as defined in this Chapter plus the area of any background panel on which it is painted or mounted. It does not include the supporting structure or bracing unless the background and supporting structure are one and the same.

V. "Sign Program" is a coordinated plan for all signs in a multiple tenant building or building complex including, but not limited to, master signs;

W. "Temporary Sign" is any sign which may be displayed for a limited period as prescribed by this ordinance;

X. "Wall Sign" is a sign on or attached to a wall of a building and on the same plane as the wall,

Y. "Window Sign" is a sign displayed on a window or within a window casement.

20.74.030 Signs allowed without permits. The following signs are allowed without a sign permit so long as they are displayed in accordance with the limitations contained in this chapter. The size of each sign in this section is not included as part of the maximum sign area permitted by Section 20.74.060:

A. Temporary signs shall be permitted only if they constitute nonilluminated wall or window signs. Temporary signs shall not exceed a total of 12 square feet in size per business nor obscure more than 15 percent of an individual window, whichever is less.

Temporary signs may be displayed for an aggregate period not to exceed 4 weeks per calendar year without a permit. The Zoning Administrator may extend this time period for an additional four weeks

without a permit if the applicant can demonstrate that continued display of the temporary sign is necessary to avoid undue hardship, but no such extension shall be granted if the Zoning Administrator finds the sign contravenes any of the findings of Section 20.74.080. Each temporary sign erected shall contain the date in which it was first displayed. Any temporary sign or series of temporary signs displayed for an aggregate period in excess of eight weeks per calendar year shall be considered a permanent sign and must comply with the provisions of Section 20.74.060.

The following additional restrictions apply to specific temporary signs:

1. Banners displayed on the City approved banner poles are permitted as temporary signs as long as the contents of each banner and the time limit during which it is displayed are consistent with the current City Council policy adopted for use of the banner poles. Signs or banners for any City approved event occurring on public property shall be limited to display only during the event.

2. Holiday decorations which contain no commercial message may be displayed no more than four weeks before the holiday and shall be removed no later than two weeks after the holiday.

3. Real estate signs as follows:

   a. One on-site real estate sign no greater than three square feet per face may be displayed on any single family residential property. One off-site real estate sign may be displayed for each property for sale on property owned by others with their written consent. These signs shall be removed upon the close of escrow.

   b. One on-site real estate sign no greater than 16 square feet per face may be displayed on any commercial property. One off-site real estate sign may be displayed for each property for sale on property owned by others with their written consent. These signs shall be removed upon the close of escrow.

   c. Where multiple properties or units in a single development are for rent, lease, sale or exchange, one on-site real estate sign no greater than 16 square feet per face may be displayed within the development until all lots or units have been rented, leased, sold or exchanged.

4. Construction signs which are no greater than four square feet may be displayed on site during construction by each contractor, architect, engineer or other consultant involved in the construction or remodeling of a building. All signs shall be removed within 15 days after completion of construction.

5. Political campaign signs with an aggregate size no greater than 16 square feet may be displayed on any private property. Political campaign signs no greater than 64 square feet are permitted only on campaign headquarters located in a CN, CG or PA zoning district. Signs may be erected no earlier than 45 days prior to the election to which they apply and shall be removed within five days following the election.

B. Permanent Signs are permitted as follows:

1. Customer service information signs no greater than two square feet advertising credit cards accepted, days and hours of operation, and business affiliations. "Open" or "Closed" signs no greater than one square foot in size.

2. Plaques identifying a building name and/or date which are an integral part of the structure and no greater than five square feet;

3. One nameplate, no greater than one square foot, for each business entrance;

4. One on-site directional sign no greater than five square feet;

5. Governmental signs;

6. A change in business name in the same color and style on any existing conforming or nonconforming sign;

7. On-site fuel price signs maintained at a service station in accordance with state law;

8. Barber poles with no moving parts, and

9. Signs no greater than 11 inches by 17 inches on newsracks installed in accordance with Section 11.32 of the Mill Valley Municipal Code and identifying only the publications offered therein.

20.74.040 Signs allowed with permits. A sign permit, issued pursuant to Section 20.74.080, shall be required for the signs referred to in this Section unless such signs are exempted under Section 20.74.030. The following limitations contained in the following paragraphs shall apply in addition to the maximum size provisions contained in Section 20.74.060.

A. Wall signs, provided such signs do not project above an eave or parapet, do not interrupt the architectural details of the building and do not extend above the window sill of any second story.

B. Ground signs, provided that such signs are limited to one per building and are not more than 10 feet in height measured from the ground at the base of the sign (4.5 feet maximum height in Lytton Square/Town Center area as identified in the General Plan). Any ground sign located within 35 feet of the intersection of two streets or a street and driveway shall be reviewed by the Department of Public Works to confirm that it does not obstruct clear view of other vehicles or pedestrians entering the intersection.

C. Permanent window signs, provided such signs do not obscure more than 25 percent of the area of the window to which they are affixed.

D. Awning/Canopy signs, including those projecting into the public right-of-way, provided such signs are at least 7.5 feet above any sidewalk and are not on the top surface of the awning/canopy.

E. Projecting signs, provided such signs do not extend more than 42 inches beyond the building face including projection into the public right-of-way and are less than five square feet in size on each side.

F. Illuminated signs, provided such signs comply with the following standards:

1) Internal illumination:
These signs shall have letters, forms or figures that are lighter in color and intensity than the background or consist of individually lighted letters. Internal illumination is not allowed for any sign in the Lytton Square/Town Center area and the portion of the East Blithedale/Alto Center area east of Lomita Drive as identified in the General Plan. Internally illuminated signs may be appropriate on Lower Miller, Redwood Highway and the portion of the East Blithedale/Alto Center area west of Lomita Drive as identified by the General Plan.

2) External illumination:
The area illuminated shall be the minimum amount necessary to light only the sign.

3) Upon conducting a public hearing, the Zoning Administrator, Planning Commission or City Council may require reduction of the intensity of lighting after installation if it

adversely impacts residents or adjacent properties or is not in keeping with the general level of illumination on surrounding properties.

G. On-site directional signs with a total area greater than five square feet.

H. Community service bulletin boards, provided they are used only for posting public announcements and notices. The size and location shall be approved by the Zoning Administrator pursuant to Section 20.74.080.

I. Directory boards, provided they are mounted on the building and identify only separate businesses or offices in the building.

J. Off-site real estate signs advertising multiple properties or units in a single development limited to one sign per development and not greater than 16 square feet per face.

20.74.050 Signs which are prohibited. For the reasons stated below, among others, the following signs are not allowed:

A. Signs on public property or in the public right-of-way (see exceptions for Awning/Canopy Signs, Section 20.74.040 D, Projecting Signs, Section 20.74.040 E and city approved banner poles, Section 20.74.030, A1). This is to ensure that no private or commercial use or event is promoted on public property.

B. Signs projecting above the eave line or parapet. This is to prevent extension of the building's height and protect the architectural integrity of the facade.

C. Portable signs including "A Frame" and "sandwich" signs. This is to prevent hazards to pedestrians and maintain continuity of the streetscape.

D. Signs which move or have moving parts (except barber poles which require a permit), or have flashing illumination, or contain reflective material. This is to prevent distractions to motorists and pedestrians.

E. Signs which produce light by the application of electric current to an inert gas light source such as neon, because they are inconsistent with the design guidelines in the General Plan.

F. Obstructing signs, in order to prevent safety hazards.

G. Signs imitating official traffic signs or signals. This is to prevent confusion to motorists and pedestrians.

H. Off-site signs (see exceptions for Real Estate Signs - Sections 20.74.030 A3 and 20.74.040 J). This is to minimize duplication of signs and require signs to be on the site where business is conducted.

I. All other signs not mentioned in Sections 20.74.030, 20.74.040 and 20.24.050 including, but not limited to banners which are not completely attached to a structure, balloons, inflated signs, pennants, streamers, festoons and searchlights.

J. Signs in a single family residential district except professional nameplates, real estate, political, or governmental signs. This is to retain the residential character of an existing neighborhood.

20.74.060 Limits on size of permanent signs. The signs listed in Section 20.74.040 shall comply with the following standards:

A. The maximum sign area allowed for a ground level business, office or portion thereof, shall be one square foot for each linear front foot the business or office or portion thereof has an outdoor public

use area, to a maximum of 75 square feet unless otherwise authorized by a sign program or conditions which apply specifically to that development.

B. The maximum sign area allowed for an upper level business, office or portion thereof shall be no greater than two square feet unless otherwise authorized by a sign program or conditions of approval which apply specifically to that development. Only one sign may be displayed for a business or office located entirely on an upper level and shall be located at the exterior entrance of the building unless its size or location is otherwise established as part of a sign program approved by the Zoning Administrator, Planning Commission or City Council pursuant to Section 20.74.080.

C. The maximum sign area allowed for any individual business or office which occupies more than one level in the same building, including any part of the ground level, shall be determined by combining paragraphs A and B in this section; however, the total size shall not exceed 75 square feet.

D. Each face of a permanent sign shall be deducted from the total sign area permitted for that business or office. However, with the exception of Section 20.74.030 B6, the face of each temporary or permanent sign permitted by Section 20.74.030 is not calculated as part of the total sign area permitted.

20.74.070 Sign permit application requirements. When a sign permit is required under the provisions of this chapter, the applications shall include the following:

A. A completed application form which may be obtained from the Department of Planning and Building;

B. The application fee as established by resolution of the City Council;

C. The signed consent of the owner on whose property the sign is to be erected;

D. Scaled elevations and sections along with a written description of the proposed installation method. The plans shall show any proposed lighting. Photos or elevations must show the precise location of the sign on the building or, for a ground sign, its location with respect to the street and adjacent buildings.

20.74.080 Sign permit review procedure. Sign permit applications will be reviewed by the Zoning Administrator unless the application is part of a development and/or entitlement requiring design review of elements other than signs, in which case the Planning Commission shall review the application.

An application for a sign permit shall be denied if the Zoning Administrator, Planning Commission or City Council makes any of the following findings:

1. The proposed sign does not comply with any provision of this Chapter;

2. The proposed sign is not consistent with the design guidelines in the General Plan applicable to the specific area in which it is proposed;

3. The sign will adversely impact the public health, safety or general welfare; or

4. The proposed color, design, material or location of the proposed sign is incompatible with the architectural design of the building.

20.74.090 Variances. Where the Planning Commission or City Council finds that practical difficulties, unreasonable hardships, or results inconsistent with the general purpose of this Chapter result from the application of these provisions, or a particular sign has historic community value, a Variance may be granted as specified in Chapter 20.64 of this Title. If a Variance is approved on the basis that a sign has historic community value, the filing fee shall be refunded.

20.74.100 Appeals. Any decision made by the staff, Zoning Administrator or Planning Commission regarding a sign may be appealed as specified in Chapter 20.100 of this Title.

20.74.110 Nonconforming signs. Any nonconforming sign shall be either removed or made to conform with this Chapter if the sign has been more than 50 percent destroyed and the destruction requires replacement of more than the face of the sign and the display cannot be repaired within 30 days of the date of its destruction. Routine painting and maintenance shall not be deemed to constitute damage or destruction under the provisions of this Section.

20.74.120 Illegal, unsafe and obsolete signs. Any illegal, unsafe or obsolete signs may be removed by the City pursuant to the provisions of Division 3, Chapter 2.6 of the California Business and Professions Code. Illegal, unsafe and obsolete signs which are subject to such removal shall include the following:

A. Any sign erected without first complying with all ordinances and regulations in effect at the time of its construction and erection, or

B. Any sign that was legally erected, but is no longer used as a sign or the structure upon which the sign is placed has been abandoned by its owner, not maintained, or not used to identify or advertise an ongoing business for a period of more than 90 days, or

C. Any sign which is a danger to the public, is unsafe, or which constitutes a traffic hazard not created by relocation of streets or highways or by acts of the City.

Pursuant to California Business and Professions Code Section 5491.1, the Planning and Building Department shall conduct an inventory to identify all illegal and abandoned signs within the City. This inventory shall commence within six months after the date of the adoption of this ordinance and abatement procedures initiated for illegal or abandoned signs within 240 days of the date of the adoption of this ordinance.

Signs located in a street right of way or on public property are not permitted and may be removed by a City employee. Once removed, the City shall notify the owner, if possible, that the sign has been impounded and may be redeemed after payment of a charge which approximates the cost of its removal and storage. However, if the owner does not redeem the sign within 14 days, it may be disposed of by the City.

20.74.130 Expiration, extension of approval. A sign permit shall expire one year from the effective date of approval if the sign has not been installed or unless a different expiration date is stipulated at the time of approval. Prior to the expiration of a sign permit approval, the applicant may apply to the Director of Planning and Building for an extension of one year from the date of expiration. No more than two one-year extensions may be granted. The Director of Planning and Building may make minor modifications to the approved design at the time of the extension if he/she finds there has been a substantial change in the factual circumstances surrounding the originally approved design. (Ord. 1129, Sec. 1; July 5, 1994.)

Chapter 20.76

Creek Setback Ordinance

Sections:

20.76.010 Purpose.
20.76.020 Creek Setback Requirements

20.76.010 Purpose.

The City of Mill Valley seeks to protect, maintain, enhance and restore Mill Valley's streams and waterways and adjacent riparian habitat and wetlands; to prevent further degradation of habitat and water quality; and to limit or mitigate the impacts of development activities within the riparian areas.

Riparian areas adjacent to creeks provide shade, sediment transport, nutrient and chemical regulation, stream bank stability, input of large woody debris and organic matter, hydrologic control of floodwaters, and educational and recreational opportunities. The purpose of the creek setback is to conserve the quality and quantity of remaining riparian habitat and water resources and to provide for the recovery of Steelhead trout (Oncorhynchus mykiss, listed in 2000 as a "threatened" species under the Endangered Species Act) and other anadromous fish historically found within the Mill Valley watershed.

The intent is to allow development that is compatible with the important physical, habitat, aesthetic, and recreational functions of the riparian areas within the City's watershed, while ensuring that these functions and values are protected in perpetuity.

The purpose of this section is also to implement the Open Space Policies of the Mill Valley General Plan regarding protection of the City's creeks.

20.76.020 Creek Setback Requirement No structures are permitted within the 30 feet of the top bank of the following creeks within the City of Mill Valley: Warner Canyon, Corte Madera Del Presidio, Sutton Manor Creek, Cascade Creek, Old Mill Creek, Reed Creek (the "Creek Setback Area"). (Ord. 1211, Sec. 2, December 5, 2005.)

Chapter 20.80

Inclusionary Housing Requirements

Sections:

20.80.010	Findings.
20.80.020	Purpose.
20.80.030	Definitions.
20.80.040	General requirements for new residential developments of ten or more units.
20.80.050	Inclusionary unit requirements for rental developments.
20.80.060	Inclusionary unit requirements for ownership residential developments of ten or more units or lots with a gross density of greater than one unit per acre.
20.80.070	Eligibility requirements.
20.80.080	Control of resale.
20.80.090	In-lieu participation fees.
20.80.100	Availability of government subsidies.
20.80.110	Fee waiver for inclusionary units.
20.80.120	Technical assistance.
20.80.130	Enforcement.
20.80.140	Appeals.

20.80.010 Findings. The City finds that Mill Valley is experiencing a housing shortage for low and moderate income households. A goal of the City is to achieve a balanced community with housing available for households of a range of income levels. Increasingly, persons with low and moderate incomes who work and/or live within the City are unable to locate housing at prices they can afford and are increasingly excluded from living in the City. The City finds that the high cost of newly constructed housing does not, to any appreciable extent, provide housing affordable by low and moderate households, and that continued new development which does not include nor contribute toward lower cost housing will serve to further aggravate the current housing problems by reducing the supply of developable land. The City further finds that the housing shortage for persons of low and moderate incomes is detrimental to the public health, safety and welfare, and further that it is a public purpose of the City, and a public policy of the State of

California as mandated by the requirements for a Housing Element of the City's General Plan to make available an adequate supply of housing for persons of all economic segments of the community. (Ord. 1077, Sec. 1; April 18, 1988.)

20.80.020 Purpose. The purpose of this Chapter is to enhance the public welfare and assure that new housing developments which include two or more residential dwelling units or lots contribute to the attainment of the City's housing goals by increasing the production of units affordable by households of low and moderate income, and additionally stimulating funds for development of low and moderate income housing. (Ord. 1077, Sec. 1; April 19, 1988.)

20.80.030 Definitions. For the purposes of this chapter, certain words and phrases shall be interpreted as set forth in this section unless it is apparent from the context that a different meaning is intended. (Ord. 1077, Sec. 1; April 18, 1988.)

A. "Affordable by" means housing available at a sales price or rent which a certain size household can afford to pay for housing, as established by the Housing Authority.

B. "Applicant" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks City permits and approvals.

C. "At one location" means all adjacent land owned or controlled by the applicant, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way.

D. "Dwelling unit" means a dwelling designed for occupancy by one household. For purposes of this Chapter, a dwelling unit shall not include a residential second unit approved and constructed under the provisions of Chapter 20.90. (Ord. 1077, Sec. 3; April 19, 1988).

E. "Housing Authority" means housing authority of the County of Marin, a non-profit public corporation.

F. "Housing costs" means the monthly mortgage principal and interest, property taxes, homeowners insurance, and condominium fees, where applicable, for ownership units; and the monthly rent for rental units.

G. "HUD" means the United States Department of Housing and Urban Development or its successor.

H. "Inclusionary unit" means an ownership or rental housing unit as required by this chapter, which is affordable by households with low or moderate income.

I. "Income eligibility" means the gross annual household income considering household size and number of dependents, income of all wager earners, elderly or disabled family members and all other sources of household income.

J. "In-lieu participation fee" means a fee paid to the City housing fund to facilitate the construction of low and moderate income housing elsewhere in the community. (Ord. 1077, Sec. 4; April 18, 1988.)

K. "Moderate, low and very low income levels" means those determined periodically by the U. S. Department of Housing and Urban Development based on the San Francisco-Oakland Standard Metropolitan Statistical Area (SMSA) median income levels by family size:

1. Moderate income, eighty percent to one hundred twenty percent of the SMSA median.

2. Low income, fifty percent to eighty percent of the SMSA median.

3. Very low income, under fifty percent of the SMSA median.

L. "Project" means a housing development at one location including all units or lots for which discretionary approvals have been applied for or granted within a 12-month period.

M. "Resale controls" means legal restrictions by which the price of inclusionary units will be controlled to insure that the unit is affordable by low or moderate income households over time.

20.80.040 General requirements for new residential developments of two or more units or lots.

A. Any discretionary approval for a new residential development project of two or more dwelling units or lots including, but not limited to, single family dwellings, apartments, condominium developments, townhouse developments, or land subdivisions shall have conditions attached which will assure compliance with the provisions of this chapter. Such conditions shall specify the timing of in-lieu fees and/or the construction of the inclusionary units, the number of inclusionary units at appropriate price levels, provision for income certification and screening of potential purchasers and/or renters of inclusionary units and a resale control mechanism.

In addition, the conditions shall require a written agreement to indicate the number, type, location, approximate size and construction scheduling of all inclusionary dwelling units and such reasonable information as shall be required by the City for the purpose of determining the applicant's compliance with this chapter.

B. All inclusionary units in a project and phases of a project should be constructed concurrently with or prior to the construction of non-inclusionary units, unless the City finds that extenuating circumstances exist.

C. All inclusionary units shall be sold or rented to moderate, low or very low income households as certified by the Housing Authority.

D. Unless the City finds compelling reasons to the contrary, the inclusionary units shall be reasonably dispersed throughout the development, shall contain on average the same number of bedrooms as the non-inclusionary units in the development, and shall be compatible with the design of the market rate units in terms of appearance, materials, and finished quality.

E. With City approval, the applicant shall have the option of reducing the interior amenity level of the inclusionary units below that of the market rate units provided such units conform to the requirements of applicable building and housing codes.

F. With City approval, the applicant shall have the option of reducing the square footage of the inclusionary units below that of the market rate units provided all units conform to the requirements of applicable building and housing codes.

G. If the City finds that the construction of the required inclusionary units or that the payment of in-lieu fees is not feasible or appropriate as part of a development project, the applicant shall have the option to construct the inclusionary units on a site or sites within the incorporated area of the City not contiguous with the development.

H. If the City finds that the construction of the required inclusionary units or that the payment of in-lieu fees is not feasible or appropriate as part of a development project, the applicant shall have the option of donating land on-site or off-site as an alternative to providing the inclusionary units on-site.

I. Prior to City approval of the options set forth in Sections 20.08.040 (g) and (h), the City must also find that the particular option will result in at least equivalent contribution toward, and is consistent with, City goals.

J. With City approval, the applicant shall have the option, in a homeownership project, of providing rental units in a number sufficient to meet the inclusionary requirements of this chapter. These rental units shall be subject to Section 20.80.050. The City will assist the applicant in obtaining available financing and/or subsidies for such a project.

K. The City will consider requests to reduce the total number of required moderate income inclusionary units within a project, or increase the number of market rate units or lots, if some or all of the units are sold or rented at prices affordable to low income households.

L. The City will consider requests for additional market rate units or lots for moderate income units provided in excess of the number of moderate income units required to be developed.

M. Prior to City approval of the options set forth in Sections 20.80.040 (k) and (l), the City must find that the request provides at least equivalent contribution toward City goals and is consistent with the environmental constraints of the site. (Ord. 1077, Sec. 5; April 19, 1988.)

20.80.050 Inclusionary unit requirements for rental residential developments of ten or more dwelling units.

A. In rental projects of ten or more dwelling units with a gross density of less than seven units per acre, ten percent of the units shall be inclusionary rental units affordable by moderate income households. In rental projects of ten or more dwelling units with a gross density of seven or more units per acre, 15 percent of the units shall be inclusionary rental units affordable by moderate income households. The inclusionary rental units shall be offered at rent levels not exceeding the maximum housing unit rental price affordable by moderate income households at thirty percent of gross income. If housing assistance rental subsidies are available, units should be made available to lower income households. (Ord. 1077, Sec. 6; April 19, 1988.)

B. The City shall contract with the Housing Authority or other City designated agency to screen applicants for the inclusionary rental units, and to refer eligible households to the developer or owner. The developer or owner shall retain final discretion in the selection of the eligible households; provided, that the same rental terms and conditions (except rent levels and income) are applied to tenants of inclusionary units as are applied to all other tenants, except as required to comply with government subsidy programs.

C. The Housing Authority or other City designated agency shall have the authority on behalf of the City to require guarantees, to enter into recorded agreements with developers, and to take other appropriate steps necessary to assure that the required moderate income rental dwelling units are provided and that they are rented to moderate, low, or very low income households. When this has been assured to the satisfaction of the Housing Authority, or city designee, the Housing Authority or city designee, shall prepare a certification indicating that the developer has complied with the requirements of this section, and shall transmit this certification to the City.

20.80.060 Inclusionary unit requirements for ownership residential developments of ten or more dwelling units or lots and with a gross density of greater than one unit per acre.

A. In ownership residential projects of ten or more dwelling units or lots with a gross density greater than one and less than seven units or lots per acre, ten percent of the units shall be inclusionary units sold at prices affordable by moderate income households. In ownership residential projects of ten or more units with a gross density of seven or more units per acre, 15 percent of the units shall be inclusionary units sold at prices affordable by moderate income households. (Ord. 1077, Sec. 7, April 19, 1988)

B. The inclusionary units required by this section are to be made available for purchase by moderate-income households by action of the City of Mill Valley in accordance with the inclusionary housing policies of the Housing Element of the l984 Mill Valley General Plan. This represents an affordable housing

program in which the Housing Authority of the County of Marin is designated to act as the implementing agent for the City.

C. The applicant shall be required to offer to the Housing Authority all such inclusionary units as are required by this section for sale to eligible purchasers for a period of not less than ninety (90) days from the date of the City's permission to occupy. Sale restrictions are removed in the event the Housing Authority does not complete the sale to an eligible purchaser (purchase contingent on a one percent of sales price refundable cash deposit and initiation of escrow within thirty days of submission of cash deposit) within ninety days from the date of project completion. The Housing Authority shall advise all prospective purchasers of the resale restriction applicable to ownership inclusionary units as specified in Section 20.80.080.

D. The Housing Authority shall review the assets and income of prospective purchasers of the ownership inclusionary units on a project-by-project basis. The Housing Authority shall advertise the inclusionary units to the general public. Upon notification of the availability of ownership units by the developer, the Housing Authority shall seek and screen qualified purchasers through a process involving applications and interviews. Where necessary, the Housing Authority shall hold a lottery to select purchasers. In general, the selection process shall be designed to give preference first to employees of the City of Mill Valley and the Mill Valley School District, then to current residents of Mill Valley and then to people employed in Mill Valley.

E. The Housing Authority shall be given the responsibility to monitor the occupancy of each inclusionary unit in a discrete fashion to guard against potential program abuses and violations of the deed restrictions. Any irregularities or suspected abuses will be reported to the City in writing for any action it deems appropriate.

20.80.070 Eligibility requirements.

A. In establishing moderate household income, the Housing Authority shall consider, among other things, the median household income data provided periodically by HUD, household size and number of dependents, and all sources of family income and assets.

B. Every purchaser of an inclusionary dwelling unit shall certify by a form acceptable to the City that the unit is being purchased for the purchaser's primary place of residence and that the purchaser does not own another residence. The Housing Authority staff shall verify this certification. Failure, by the purchaser, to maintain eligibility for homeowners property tax exemption shall be construed to mean that the inclusionary unit is not the primary place of residence of the purchaser.

C. The policies governing the selection of home buyers for certification by the Housing Authority under the provisions of this Chapter shall be established by the City. These shall include, but not be limited to, maximum income and asset limits, order of preference and policy on first-time home buyers. The most recently established criteria shall be used by the Authority in structuring the lottery. The City shall notify the Housing Authority in writing of any additions or modifications to its selection policies.

20.80.080 Control of resale.

A. In order to maintain the availability of the housing units constructed pursuant to the requirements of this chapter, the City shall impose the following resale conditions. The price received by the seller of an inclusionary unit shall be limited to the purchase price plus an increase based on: the Bay Area Consumer Price Index; an amount consistent with the increase, since the date of purchase in the Marin County median income established by the Housing Authority; or the fair market value, whichever is least.

B. Ownership inclusionary units constructed under the requirements of this chapter which are subsequently offered for sale or sold shall be offered to the Housing Authority or its assignee at the price stipulated in Section 20.80.080 (a) for a period of ninety days from the date a notification of intent to sell is given by the first purchaser or subsequent purchaser(s). Homeownership inclusionary units shall resold

only to moderate income households as determined to be eligible for inclusionary units by the Housing Authority according to the requirements of this chapter. The seller shall not levy or change any additional fees nor shall any "finders fee" or other monetary consideration be allowed other than real estate commissions and closing costs.

C. The following procedure shall be followed in the event of the resale of an inclusionary unit:

1. The Housing Authority shall notify the City in writing within five (5) working days of receipt of Notice of Intent to Sell or Notice of Default. In so doing, the Authority shall also advise the City of its proposed schedule and methodology for selecting qualified buyers (conforming to the City's most recently established criteria for eligibility and selection); indicate the re-sale price set pursuant to the formula in the applicable deed restriction; specify the dates by which the Housing Authority is required under the provisions of that deed restriction to exercise its option to purchase and to close escrow. If, in the determination of the Housing Authority, the re-sale price generated from the formula in the deed restriction would result in a price not affordable to families earning less than l20% of median income as published by HUD, the Housing Authority will advise the City of this fact so that the City may consider using an alternate basis for establishing the maximum income limits for eligibility.

2. Within sixty (60) calendar days of receipt of the Notice of Intent to Sell, the Housing Authority shall conduct a lottery from an active and current list of interested applicants.

3. Within five (5) working days after the lottery the Housing Authority shall advise the City in writing of progress in finding an eligible and qualified buyer. Such advisory notice shall offer a determination on the feasibility of selling the unit to an eligible buyer within the time prescribed.

4. Within ten (10) days prior to the date established in the deed restriction requiring the Housing Authority to exercise its option to purchase, the Housing Authority and City will consult to jointly determine how to proceed and whether or not the Housing Authority (or the City) should exercise the option to purchase. The City shall confirm such understanding with the Housing Authority in writing. Such correspondence would indicate, for example, that the Housing Authority or City will exercise the option; or that the option is not to be exercised.

5. If the Housing Authority and City determine that the option to purchase should be exercised, the Housing Authority will designate either the prospective eligible buyer from the lottery and/or the City as assignee and proceed according to instructions in the deed restrictions to exercise this option and open escrow.

6. After the first thirty (30) days of the option period, the Housing Authority shall submit a status report to the City and assist in exploring alternatives to purchase if appropriate. At sixty (60) days into the option period, or upon sale to an eligible buyer, whichever is earlier, the Housing Authority shall again notify the City of the status of the re-sale.

7. If it becomes necessary, for whatever reason, for the Housing Authority and City to purchase a unit, then the Authority and City shall immediately meet to determine the most expeditious course of action to take, so that the unit can be re-sold. At such time, the parties shall consider how closing costs, loss of interest, and other unrecoverable expenditures, shall be handled.

D. The Housing Authority may, during the re-sale process, make recommendations to the City that a more current form of the deed restrictions be substituted at the time of re-sale. This might, for example, adjust the time frames or the re-sale formula.

E. If the Housing Authority, its assignee or the City elects not to exercise its option to purchase the unit, the original developer of the unit or the City shall have the exclusive right to repurchase the unit for the price specified in Section 20.80.080 (a) for a period of 30 days from the date of the decision by the Housing Authority.

F. The owners of any inclusionary unit shall attach and legally reference in the grant deed conveying title of any such inclusionary ownership unit a declaration of restrictions provided by the Housing Authority, stating the restrictions imposed pursuant to this chapter. The grant deed shall afford the grantor and the City the right to enforce the attached declaration of restrictions. The declaration of restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions as required by this chapter.

20.80.090 In-lieu participation fee requirement for residential developments of two to nine dwelling units or lots or those with a gross density of less than one unit per acre.

A. Projects of two to nine residential dwelling units or lots or those with a gross density of less than one unit per acre shall contribute an in-lieu participation fee to the City housing fund. These in-lieu fees shall be used by the City or its designee such as a non-profit housing development corporation for the purpose of developing affordable housing for low or moderate income households elsewhere in the City. Inclusionary units and in-lieu fees are not considered to be mutually exclusive.

B. In-lieu participation fee for the second residential unit or lot and each residential unit or lot thereafter shall be calculated as follows:

1. Residential second units approved and constructed under the provisions of Chapter 20.90 and other residential dwelling units with a gross enclosed floor area of 700 square feet or less:

   Exempt from in-lieu fee.

2. Residential dwelling units with a gross enclosed floor area of 701 to 1,000 square feet;

   5% of the current inclusionary subsidy differential established by the City.

3. Residential dwelling units with a gross enclosed floor area of 1,001 to 1,500 sq. ft.

   8% of the current inclusionary subsidy differential established by the City.

4. Residential dwelling units with a gross enclosed floor area greater than 1,500 square feet or new residential lots;

   11% of the current inclusionary subsidy differential established by the City.

The inclusionary subsidy differential is the difference between what a moderate income family (earning one hundred percent of median income) can afford to pay for housing and the estimated total cost of a new unit for appropriate size, as determined by the City. The inclusionary subsidy differential shall be calculated and adjusted annually by the Director of Planning and Building. (Ord. 1077, Sec 8; April 19, 1988.)

C. The in-lieu participation fees shall be due prior to occupancy of the first unit or recording of the Final Subdivision Map. At the option of the developer, in-lieu participation fees may be paid as proceeds from sales are received; in which case, the in-lieu fees shall constitute a lien on the property, which shall be recorded as a separate agreement concurrent with the recordation of the final subdivision map. The in-lieu fee shall be due within twenty-four months from the date of the recordation of the final subdivision map for the development, regardless. The lien on each unit shall be released when its proportionate share is paid out of escrow. The lien shall include a provision for foreclosure under power of sale on any unsold units or lots if the in-lieu payment is not made within twenty-four months from the recordation of the lien, regardless of whether or not all of the individual units or lots have been sold.

20.80.100 Availability of government subsidies. It is the intent of this chapter that the requirements for inclusionary units affordable by moderate income families shall not be determined by the availability of government subsidies. This is not to preclude the use of such programs or subsidies, if available.

20.80.110 Fee waiver for inclusionary units. In the attempt to avoid any undue burden on developers who are required to provide moderate income inclusionary units under the provisions of this chapter, the City may waive or reduce park dedication, and other City fees applicable to the inclusionary units of a proposed housing development.

20.80.120 Technical assistance. In order to emphasize the importance of securing low and very low income housing as a part of this program, the City staff, other agencies, and/or designated consultants shall provide advice on financial subsidy programs to applicants. The City may recommend that this be a part of the environmental review process. During individual project review, consideration shall be given to an economic analysis which will indicate the most suitable methods for the terms of this chapter to be implemented. This is to be done for the purpose of increasing the feasibility and lowering the cost of units affordable to moderate, low and very low income families.

20.80.130 Enforcement.

A. The provisions of this chapter shall apply to all agents, successors and assignees of an applicant once only for development of the site. No building permit or occupancy permit shall be issued, nor any development approval granted, after the effective date of this ordinance, for any project which does not meet the requirements of this chapter.

B. In addition to, or in lieu of, the provisions of subsection (a) of this section, the City shall institute appropriate legal actions or proceedings including but not limited to equitable relief for the enforcement of this chapter.

C. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable for each offense by a fine of not more than five hundred dollars, or by imprisonment in the County Jail for a term not exceeding six months, or by both fine and imprisonment. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this chapter is commenced, continued, or permitted by such person, firm, corporation, and shall be punishable as herein provided.

20.80.140 Appeals.

A. Any person aggrieved by any action involving denial, suspension or revocation of a building or occupancy permit or denial, suspension or revocation of any development approval may appeal such action or determination to the Planning Commission, with further appeal possible to the City Council.

B. Any applicant or other person who contends that his (her) interests are adversely affected by a determination or requirement of the Housing Authority staff in regard to this chapter may appeal to the City Council. The appeal shall set forth specifically wherein the action of the Housing Authority staff fails to conform to the provisions of this chapter thereby adversely affecting the applicant's interests. The City Council, may reverse or modify any determination or requirement of the Housing Authority if it finds that the action under appeal does not conform with the provisions of this chapter or to the contract between the Housing Authority and the City. (Ord. 1034, Sec. 1; May 20, 1985.)

Chapter 20.85

Requests for Reasonable Accommodation under the Fair Housing Acts

Sections:

20.85.010 Purpose.
20.85.020 Applicability.
20.85.030 Application Requirements.
20.85.040 Review Authority.
20.85.050 Findings and Decision.
20.85.060 Appeal Determination.
20.85.070 Rescission of Grants of Reasonable Accommodation.

20.85.010 Purpose. The purpose of this chapter is to provide a formal procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures, and to establish relevant criteria to be used when considering such requests.

20.85.020 Applicability. In order to make specific housing available to an individual with a disability, any person may request a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing- related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment, or anyone who has a record of such impairment. This Chapter applies only to those persons who are defined as disabled under the Acts.

20.85.030 Application Requirements.

A. Requests for reasonable accommodation, in a form approved by the Director of Planning and Building, together with the appropriate fee, as established by resolution adopted by the City Council, and other required information, shall be filed in the office of the Department of Planning and Building.

B. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval under this Title (including but not limited to a conditional use permit, design review, variance, general plan amendment or zone change), the application shall be submitted and reviewed at the same time as the related applications.

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 Zoning Administrator.

B. If an application under this chapter is filed with an application for another approval, permit or entitlement under this Title, it shall be heard and acted upon at the same time and in the same manner as such other application, and shall be subject to all of the same procedures.

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.

5. The requested reasonable accommodation would not adversely impact surrounding properties or uses.

6. There are no reasonable alternatives that would provide an equivalent level of benefit without requiring a modification or exception to the City's applicable rules, standards and practices.

B. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Subsection (A) above.

20.85.060 Appeal Determination. Any decision on an application under this chapter shall be subject to appeal pursuant to Section 20.100 of the Municipal Code.

20.85.070 Rescission of Grants of Reasonable Accommodation Any approval or conditional approval of an application under this chapter may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances. (Ord. 1209, November 21, 2005.)

Chapter 20.90

Residential Second Units

Sections:

20.90.010	Purpose.
20.90.020	Definitions.
20.90.030	Applications for Residential Second Unit Permits.
20.90.040	Development standards.
20.90.050	Maximum floor area and off-street parking standards for applications to legalize existing Residential Second Units filed before the expiration of the Amnesty period
20.90.060	Sunset Provision.
20.90.070	Building permits.
20.90.080	Owner-occupancy compliance.
20.90.090	Notice of Intent to Determine Legal Status; Notice of Violation; Release of Notice of Violation and Notice of Intent to Record Notice of Violation.
20.90.100	Development permits and approvals withheld.
20.90.110	Penalties and Enforcement.

20.90.010 Purpose. The City of Mill Valley finds and declares that residential second units are a valuable form of housing. Residential second units provide housing for family members, students, elderly, in-home health care providers, the disabled and others, at below market rental rates within existing neighborhoods. Homeowners who create residential second units benefit from added income and an increased sense of security.

It is the intent of the City to encourage residential second units and impose standards to enable homeowners to create residential second units that will not aggravate or create neighborhood problems.

The purpose of this Chapter is also to comply with Section 65852.2 of the California Government Code relating to residential second units.

20.90.020 Definitions.

A. Kitchen. A Kitchen is a room or portion thereof containing facilities designed or used for the regular storage and preparation of food. Such facilities may include, without limitation, stoves, ranges, ovens, microwaves, convection ovens or hot plates; refrigeration equipment; dish washing equipment; and built-in dish or utensil storage spaces.

B. Residential Second Units. A Residential Second Unit or Second Unit shall mean an attached or detached dwelling unit in addition to the primary unit allowed in all residential zoning districts that provides complete independent living facilities for one or more persons. A Residential Second Unit may include a kitchen or cooking area, sleeping area or sanitation facilities on the same parcel as the primary unit. Except where permitted in existing structures, the minimum building setbacks, height and floor area for second units contained in this Chapter shall apply. (Ord. 1199, Sec. 7, March 1, 2004.)

C. Detached Residential Second Unit: A Detached Residential Second Unit may occupy a new or existing structure not exceeding 15' in height, except that a new or existing Residential Second Unit located above a garage structure, that is maintained as parking, may not exceed 25' in height pursuant to Section 20.08.050. To consider the Residential Second Unit to be detached, there must be a minimum setback of 6' from the nearest structure. (Ord. 1199, Sec. 8, March 1, 2004.)

D. Attached Residential Second Unit: An Attached Residential Second Unit may be a new or existing second unit that occupies part of the floor area of the existing primary residence or is attached to the primary residence by one or more common walls.

20.90.030 Applications for Residential Second Unit Permits.

A. A Residential Second Unit permit is required to establish a new Residential Second Unit or allow continued use of an existing Residential Second Unit in a single family or multiple family residential zoning district. Any application for a Residential Second Unit that meets the location and development standards contained in this Chapter shall be approved ministerially without discretionary review or public hearing.

B. Variances from any of the provisions of the development standards referenced in Sections 20.90.040 and 20.90.050 shall be considered by the Zoning Administrator pursuant to the provisions of Chapter 20.64 of this Title.

C. An application for a Residential Second Unit Permit shall be made by the property owner and filed with the Planning and Building Department on a form prescribed by the Director of Planning and Building. The City Council shall set the fees for a Residential Second Unit Permit application by resolution.

20.90.040 Development Standards. A permit allowing continued use of an existing Residential Second Unit or establishment of a new Residential Second Unit shall be issued by the Director of Planning and Building upon compliance with the following development standards or requirements:

A. Number of Second Units Per Lot. No more than one Residential Second Unit shall exist on the parcel.

B. Location: The Second Unit shall be located on the same lot or parcel as the principal residence maintained by the owner of record;

C. Access and Facilities: All new Second Units shall have a separate entrance and contain a separate Kitchen and bathroom facility.

D. Building Permits. All new Residential Second Units and existing Residential Second Units for which there is no permit must meet the Uniform Building Code (UBC) as currently adopted by the City. Units legally established prior to January 1, 1950 must only meet the State Housing Law Regulations as currently adopted by the City of Mill Valley.

E. Coverage and Setbacks. Coverage and Setbacks. New construction of a Residential Second Unit shall conform with the site coverage and setback regulations applicable to a Residential Second Unit in the district in which the property is located except that no setback variance shall be required in connection with the construction of a new Residential Second Unit above or below a new attached or detached garage in a required setback or as a result of the conversion of an existing legally constructed accessory structure (including a garage) to a Residential Second Unit pursuant to this Chapter as long as required off-street parking is not eliminated. (Ord. 1199, Sec. 9, March 1, 2004.)

F. Public Services. The property owner applying for a Residential Second Unit Permit shall have paid all sewer connection fees to the City of Mill Valley; water connection fees to the Marin Municipal Water District; and school impact fees to the Mill Valley School District;

G. Unit Size: The maximum floor area of a new or existing Residential Second Unit shall not exceed 30% of the maximum adjusted floor area permitted for the subject site except a Residential Second Unit may not be less than 150 sq.ft. nor more than a maximum of 1,000 sq.ft. in floor area. “Adjusted floor area” is the sum of the gross horizontal areas of all floors of all principal and accessory buildings measured from the exterior faces of the exterior walls of the building(s), and all other enclosed volumes which could be utilized as floor area and have minimum dimensions of 8 feet by 10 feet and 7 1/2 feet head room, without additional excavation. In no case shall the total floor area of an accessory structure consisting of a Residential Second Unit and garage exceed 1,500 sq.ft. (maximum 500 sq.ft. garage and up to 1,000 sq.ft. Residential Second Unit) subject to compliance with all other property development standards in this Title. (Ord. 1199, Sec. 10, March 1, 2004.)

H. Second Units on Lots Under 5,000 sq. ft. No new Detached structures may be constructed to create Second Units on lots under 5,000 sq. ft. except that a Second Unit Permit may be issued pursuant to the provisions of this Chapter to establish a new or legalize an existing Residential Second Unit in an existing Detached structure on a lot under 5,000 sq.ft. as long as the conversion of an existing detached structure does not result in the elimination of required off-street parking. A Second Residential Unit may not be established above or below a new or existing accessory structure on a lot under 5,000 sq.ft. (Ord. 1199, Sec. 11, March 1, 2004.)

I. Height. The height of a detached second unit shall be no greater than 15’ except that a new Residential Second Unit constructed over a new or existing detached garage shall be no greater than 25’ as provided in this Title. (Ord. 1199, Sec. 12, March 1, 2004.)

J. Design: There are no design standards for Attached Residential Second Units or units in existing detached structures. New Detached Residential Second Units, and modifications to existing detached structures that involve increasing the existing gross floor area by 35% or more or 1,000 sq. ft., or demolition of 50% or more of the exterior surface area of the existing structure (including exterior walls, door and window openings, foundation walls and roofs) or conversion of an existing detached accessory structure that results in a change in use, shall be subject to design review pursuant to Section 20.66 of

Title 20. Design, colors and exterior materials of a Detached Residential Second Unit shall be compatible with the existing primary residence. (Ord. 1199, Sec. 13, March 1, 2004.)

K. Off-Street Parking.

For Second Units that have 700 sq.ft. of gross floor area or less, one off-street parking space shall be provided in addition to the two off-street parking spaces required for the primary single-family unit.

For Second Units that exceed 700 sq.ft. of gross floor area, two off-street parking spaces shall be provided in addition to the two off-street parking spaces required for the primary single-family unit. Pursuant to Government Code § 65852.2 (e), the City Council has made the finding that the two parking space requirement for a Residential Second Unit that exceeds 700 sq. ft. is directly related to the use of the Second Unit and is consistent with existing neighborhood standards. The City has a severe shortage of street parking due to the topography of Mill Valley which results in many narrow and winding streets. This parking shortage led to the existing off-street parking requirement of 2 spaces per dwelling regardless of floor area for a single-family residence. General plan guidelines also encourage the provision of an additional off-street parking space for new houses where no on-street parking currently exists. As Second Units with over 700 sq. ft. generally have more than one adult occupying the unit, two parking spaces are needed for these units.

For purposes of this section, the location of the required parking space(s) may be on the apron of an approved carport, car deck or garage, and the apron may be located partially or completely in the City right-of-way so long as any new parking space on a driveway apron located in the public right of way does not impede travel or create safety hazards for vehicles. The driveway apron is defined as that portion of the driveway between the front property line and the edge of the pavement of the adjacent street. At least one of the required parking spaces for each unit shall be independently accessible at all times.

20.90.050 Maximum floor area and off-street parking standards for applications to legalize existing Residential Second Units filed before the expiration of the Amnesty period. The development standards listed in Section 20.90.040 shall apply except that the following unit size and parking standards shall apply to all applications to legalize an existing second unit filed before 6/30/04 unless Section 20.90.050 of this Chapter is extended by the City Council through December 31, 2004: (Ord. 1199, Sec. 14, March 1, 2004.)

A. For existing units, unit size shall be a minimum of 150 sq.ft. but no more than 1,000 sq.ft.

B. For existing Residential Second Units legally established before January 1, 1950, no additional off-street parking, beyond the amount currently provided shall be required for the Residential Second Unit and primary residence.

C. For existing Residential Second Units established without a permit after January 1, 1950, only one additional off-street parking space shall be provided, but in no case shall additional parking be required if three or more off-street parking spaces currently exist.

D. The requirement to provide individually accessible off-street parking shall be waived for any application to legalize an existing Residential Second Unit determined to be complete by June 30, 2004 unless Section 20.90.050 of this Chapter is extended by the City Council through December 31, 2004. (Ord. 1199, Sec. 15, March 1, 2004.)

20.90.060 Sunset Provision. Section 20.90.050 shall no longer be effective or apply and shall be repealed in its entirety on July 1, 2004, unless such date of repeal is further extended by resolution of the City Council. Notwithstanding the foregoing, Section 20.90.050 shall continue to apply to any application to legalize an existing residential second unit filed before June 30, 2004. The City Council may, at its discretion, extend the Sunset Provision by resolution through December 31, 2004. (Ord. 1199, Sec. 16, March 1, 2004.)

20.90.070 Building Permits. A building permit shall be required for all new construction and shall be required in conjunction with the issuance of a Residential Second Unit Permit if repair or rehabilitation work is necessary pursuant to Section 20.90.040 D to allow continued use of an existing Residential Second Unit.

20.90.080 Owner-occupancy compliance. In order to assure compliance with the owner occupancy requirements, the property owner, at the request of the City, shall verify under penalty of perjury that the holder of the Residential Second Unit Permit owns and occupies one of the two units on the property as their principal place of residence.

20.90.090 Notice of Intent to Determine Legal Status; Notice of Violation; Release of Notice of Violation and Notice of Intent to Record Notice of Violation.

A. Notice of Intent to Determine Legal Status. Whenever the City obtains knowledge of the existence of a Residential Second Unit(s) established without a Residential Second Unit permit or in violation of this Chapter, the City shall provide the current owner of record (the "Property Owner"), by certified mail, a Notice of Intent to Determine Legal Status (the "Notice of Legal Status") of the existing Second Unit. The Notice of Legal Status shall describe the property in detail, naming the Property Owner(s) thereof and containing a description of the violation(s) of this Chapter or other provisions of the Municipal Code. The Notice of Legal Status also shall inform the Property Owner of the right to a hearing at which evidence may be presented to the Zoning Administrator establishing the legal status of the Residential Second Unit. The Property Owner must reply, in writing, within 15 calendar days from the date the Notice of Legal Status is post-marked, to request the hearing. If the Property Owner does not request a hearing, the City shall file a Notice of Violation with the County Recorder.

B. If the Property Owner requests a hearing within the required time period, the hearing shall be scheduled no sooner than 10 calendar days from the post-marked date of the Property Owner's written request for a hearing. The hearing shall be held by the Zoning Administrator. If the Property Owner fails to produce evidence at the hearing that establishes that (1) the Second Unit has been removed, (2) the Second Unit is legal non-conforming, (3) a Residential Second Unit Permit is already on file or (4) any other violation of this Chapter does not exist or has been eliminated, the City shall inform the Property Owner that a Notice of Violation will be recorded with the County Recorder ten (10) calendar days after the Zoning Administrator's decision. If, however, a Residential Second Unit Application is filed with the Planning and Building Department or the violation is eliminated within ten (10) calendar days of the Zoning Administrator's decision, a Notice of Violation shall not be recorded against the property.

C. Notice of Violation. The Notice of Violation, when recorded, shall be deemed to be constructive notice of the violation to mortgage lenders, title companies and all successors in interest in such property.

D. Release of the Notice of Violation. Upon obtaining approval of a Residential Second Unit Permit application or if a violation is corrected by bringing the property into compliance with provisions of this Code, the Property Owner may file an application with the Department of Planning and Building for a Release of Recorded Notice of Violation (the "Application for Release"). The Application for Release shall be accompanied by a fee set by the City Council by resolution.

The Application for Release shall be reviewed by the Department of Planning and Building for compliance with this Code. Upon verifying compliance, the Director of Planning and Building shall file a Release of the Notice of Violation with the County Recorder, removing the Notice of Violation from the property records. If the violation has not been eliminated, the Application for Release shall be denied by the Director of Planning and Building. If either the Residential Second Unit or violations are re-established on the property within one year, the Director of Planning and Building shall cause a Notice of Intent to Record a Notice of Violation to be mailed to the Property Owner and request removal of the violations within ten (10) calendar days of the receipt of notice. If the additional Second Unit(s) or violation(s) of this Chapter are not eliminated within ten (10) calendar days, the Director of Planning and Building may waive the hearing and any notification period and immediately file a final Notice of Violation with the County Recorder's Office. Any further Application for Release of the second Notice of Violation shall be accompanied by a double application fee.

20.90.100 Development permits and approvals withheld. No permits or approvals shall be granted by the City for any property for which a Notice of Violation has been recorded pursuant to this Chapter.

The authority to deny such a permit or approval shall apply whether the applicant was the owner of the real property at the time of such violation or whether the applicant therefor is the current owner of the real property without actual or constructive knowledge of the violation at the time of the acquisition of his or her interest in such property.

20.90.110 Penalties and Enforcement. The City reserves the right to enforce all penalties and legal provisions pursuant to Chapter 20.68.030 of this Title. (Ord. 1188, Sec. 18, June 2, 2003.)

Chapter 20.95
Green Building

Sections:

20.95.010 Purpose
20.95.020 Definitions
20.95.030 Covered Projects
20.95.040 Standards for Compliance
20.95.050 Documentation and Verification
20.95.060 Exemptions
20.95.070 Appeal

20.95.010 Purpose. The purpose of this Chapter is to enhance the public health and welfare and assure that residential and commercial development is consistent with the City's desire to create a more sustainable community by incorporating green building measures into the design, construction and maintenance of buildings and appurtenant development. The green building practices referenced in this Chapter are designed to achieve the following objectives:

A. Encourage resource conservation;

B. Reduce waste generated by construction projects;

C. Increase energy and water efficiency; and

D. Promote the health of residents.

20.95.020 Definitions. The following definitions apply to Section 20.95, "Green Building," in addition to those definitions described in Chapter 20.08:

A. "Addition" means construction of a new structure or the modification of the existing footprint that increases the "conditioned floor area" of a building and/or dwelling unit.

1. "Major Addition" means the expansion of conditioned floor area by 50% or more.

2. "Minor Addition" means the expansion of conditioned floor area by less than 50%.

B. "Build it Green" means a non-profit membership organization located in Berkeley, California whose mission is to promote healthy, energy and resource efficient building practices in California.

C. "Certified Green Building Rater" means a person or organization certified or designated by a green building rating organization associated with a specific green building rating system adopted by City Council resolution for performing inspections and providing documentation to assure compliance with green building requirements.

D. "Conditioned floor area" has the meaning set forth in Section 101(b) of the 2005 California Building Energy Efficiency Standards. Conditioned floor areas are those areas that have heating and/or cooling and do not include non-habitable portions of the premises.

E. "Green Building Guidelines" means any Green Building guidelines associated with a Green Building rating system adopted by City Council resolution as well as:

1. “Green Building Checklist” means the checklists established by separate resolution that tracks the green building points and measures to incorporate into the development and are used to demonstrate compliance with green building requirements.
2. “Green Building Compliance Form” means the document indicating the level and/or number of points that applicable projects must satisfy to comply with the City’s Green Building requirements.

F. “New Construction” means the production of a new or replacement building(s).

G. “Renovation” means any rehabilitation, alteration, change, modification, remodel or upgrade to an existing building which does not increase the conditioned floor area.

20.095.030 Covered Projects. This Chapter shall apply to all projects defined as “covered projects” as defined below, except for those projects exempted by section 20.095.060.

A. Non-Residential Projects. Green building requirements for new non-residential building projects (privately developed and those owned or occupied by the City) are established by square footage and as adopted by City Council resolution. Green building requirements for non-residential renovation projects (privately developed and those owned or occupied by the City) are established by construction costs and as adopted by City Council resolution. Construction costs are adjusted annually to the Building Cost Index published in the Engineering News-Record magazine, excluding all costs associated with seismic improvement. The annual adjustment will be calculated at the time the City adjusts its general fee schedule.

1. City Facilities – New.
2. City Facilities – Renovations/Remodels.
3. Private Non-Residential – New.
4. Private Non-Residential – Renovations/Remodels.

B. Residential Projects. Green building requirements for new residential building projects are established by square footage of conditioned floor area and as adopted by City Council resolution. Green building requirements for residential and mixed use additions are established by the percent increase in conditioned floor area and as adopted by City Council resolution.

1. Residential Single Family and Duplex Dwellings – New.
2. Residential Second Units – New (attached and detached units).
3. Multi-Family Residential Dwellings – New.
4. Mixed Use Projects - New.
5. All Residential and Mixed Use Additions.

20.95.040 Standards for Compliance. All covered projects shall demonstrate compliance with the rating system, minimum point requirements and any other applicable requirements established by resolution of the City Council, as amended from time to time.

20.95.050 Documentation and Verification. All covered projects shall comply with the required documentation and verification provisions established by resolution of the City Council, as may be amended from time to time.

A. Costs of Documentation and Verification. All costs for inspections, documentation and verification of compliance with green building requirements, including the hiring of a Certified Green Building Rater, a certified commissioner, or certified home performance contractors, shall be borne by the applicant for a building permit.

20.95.060 Exemptions.

A. This section shall not apply to: Any project that received and maintains a valid planning approval or a building permit or which has submitted a complete planning application or building permit application prior to the effective date of this Chapter unless otherwise required as a condition of approval of a discretionary land use or zoning permit.

B. Hardship or Infeasibility. An exemption from the Standards for Compliance may be granted by the Community Development Director under special circumstances. Such circumstances may include, but are not limited to the following:

1. Availability. Lack of green building materials and/or technology to comply with green building requirements;
2. Scope of Project. The scope of the covered project is insufficient to attain the minimum number of points to meet Standards of Compliance. Examples include, but are not limited to, installation of a single appliance such as a new hot water heater or new windows.
3. Conflict with other Provisions. There is conflict between green building requirements and other building or zoning standards or other City goals, such as those requiring historic preservation;
4. Innovation. Provision of alternate methods that provide greater resource conservation, energy conservation or resident health than adopted green building measures; or
5. Historic Preservation. Those projects requesting an exemption based on the historic character of a building, site or historic overlay zoning designation shall provide a written request to the Community Development Director regarding the exemption, and describe how the project is consistent with the Secretary of the Interior's Standards for Historic Rehabilitation and/or Historic Overlay zoning requirements.

C. Process. A covered project must qualify as exempt from the requirements in this Chapter by applying for an exemption at the time a planning or building permit application is submitted, whichever occurs first. The applicant shall indicate the maximum threshold of compliance he or she believes is feasible for the covered project and the circumstances that he or she believes create a hardship or make it infeasible to fully comply with this Chapter. The exemption determination by the Community Development Director shall be provided in writing to the applicant, with a revised Green Building Checklist. The project and compliance documentation shall be modified to comply with this Chapter prior to further review of any pending planning or building application.

20.95.070 Appeal. Any aggrieved applicant may appeal the determination of the Community Development Director regarding (1) the granting or denial of an exemption pursuant to Section 20.095.060 or (2) compliance with any other provision of this Chapter. Any appeal must be filed in writing with the Community Development Director no later than fourteen (14) days after the date of the exemption determination. The appeal shall state the alleged error or reason for the appeal. A timely filed appeal shall be processed and considered by the Planning Commission in accordance with the provisions of Section 20.100 of the Mill Valley Municipal Code. (Ord. 1246, Dec. 1, 2008.)

Chapter 20.100
Appeals

Sections:

20.100.020	Applicability.
20.100.040	Administrative actions appealable.
20.100.060	Zoning Administrator actions appealable.
20.100.070	Planning Commission actions appealable.
20.100.080	Filing.
20.100.100	Notice of hearing.
20.100.120	Planning Commission decision on an appeal.
20.100.130	City Council's decision on an appeal.
20.100.150	Exhaustion of remedy.
20.100.160	City Council's action.

20.100.020 Applicability. This chapter shall apply to all chapters in Titles 20 and 21 except those wherein alternative appeal procedures are specified.

20.100.040 Administrative actions appealable. With the exception of any administrative decision involving action on a Second Unit Permit pursuant to Chapter 20.90 of Title 20, any person aggrieved by any determination, interpretation, decision, conclusion, decree, judgment or similar action taken by any administrative personnel under the provisions of Titles 20 and 21 may appeal the action to the Planning Commission. (Ord. 1188, Sec. 19, June 2, 2003.)

20.100.060 Zoning Administrator actions appealable. Actions by the Zoning Administrator may be appealed to the Planning Commission.

20.100.070 Planning Commission actions appealable. Actions or appellate determinations of the Planning Commission may be appealed to the City Council.

20.100.080 Filing. Appeals shall be addressed to the appellate body in writing, and shall state the basis of the appeal. Appeals, on all matters other than Tentative Subdivision Maps, shall be filed in the office of the appellate body in Mill Valley City Hall not later than 5:00 p.m. of the tenth calendar day following the date of the action from which an appeal is taken. Appeals on actions of Tentative Subdivision Maps shall be filed in the office of appellate body not later than 5:00 p.m. on the fifteenth calendar day following the date of action from which the appeal is taken. Appeals shall be accompanied by the filing fee as specified by resolution adopted by City Council.

20.100.100 Notice of hearing. Notice of hearing shall be given as specified in Section 20.60.200.

20.100.120 Planning Commission decision on an appeal. The Planning Commission shall hold at least one (1) public hearing on a decision that has been appealed within forty-five (45) days of the appeal. The Commission may continue the matter from time to time and may consider any issue or evidence relevant to the appealed matter, in addition to the specific grounds for the appeal. The Commission may affirm, reverse, or modify a decision that has been appealed. The action from which an appeal is taken may be reversed or modified only by the affirmative vote of a majority of the Commission members present and voting. (Ord. 1182, Sec. 11 (part), April 2, 2002.)

20.100.130 City Council decision on an appeal. The Council shall hold at least one (1) public hearing on a decision that has been appealed within forty-five (45) days of the appeal. The Council may continue the matter from time to time and may consider any issue or evidence relevant to the appealed matter, in addition to the specific grounds for the appeal. The Council may affirm, reverse, or modify a decision that has been appealed. The action from which an appeal is taken may be reversed or modified only by the affirmative vote of a majority of the Council members present and voting. (Ord. 1182, Sec. 11 (part), April 2, 2002.)

20.100.150 Exhaustion of remedy. All rights of appeal are exhausted when the proceedings set forth herein have been completed.

20.100.160 City Council's action. Notwithstanding any provision of this chapter, any matter which must ultimately be decided and/or enacted by the City Council shall not be subject to the right of appeal set forth herein. (Ord. 1042, Sec.7; September 3, 1985.)