

ATTACHMENT 1/EXHIBIT A
ADU Ordinance Update

(Chapters 20.08 “Definitions”; 20.16 “RS Districts”; 20.90 “Accessory Dwelling Units”)

Add Section 20.08.039 to read as follows:

“20.08.039 **Breezeway.** A “breezeway” is a roof extension or covered passageway that connects two or more otherwise unattached structure(s). Breezeways shall not be considered a part of the principal structure.”

Modification of Section 20.08 “Definitions” to modify and replace the following definitions:

“**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. See Section 20.90.030(A)(11) for measurement of overall height for an Accessory Dwelling Unit.”

“**20.08.070 Dwelling.**

A. **Single Family Dwelling.** “Single Family Dwelling” or “Single Family Dwelling Unit” means a building on an individual lot, designed for and used as a dwelling unit for one family or housekeeping unit, which is not arranged, or designed, or equipped to permit two or more families or housekeeping units to live independently of each other.

B. **Multiple Family Dwelling.** “Multiple Family Dwelling” or “Multiple Family Dwelling Unit” means a building or buildings designed for or used as dwelling units for two or more families or housekeeping units living independently of each other, including Duplexes, condominiums, apartment houses, flats, rooming, and boarding houses for three or more separate tenants, but not including automobile courts, motels, apartment hotels, rest homes, ADUs, or JADUs.

1. **Duplex.** A “Duplex” is a residential development with two primary dwelling units within the massing of a single structure. This use type is distinguished from a residential ADU, which is an Accessory Dwelling Unit as defined by state law and Section 20.80.070(E). A Duplex building may consist of two side-by-side units or two stacked units that have separate entrances that face the street with no internal connections between Dwelling Units.

138 2. **Multiplex.** A “Multiplex” is three or more dwelling units on a single lot that may
139 be either attached or detached. Typical uses include condominiums and apartment
140 buildings.

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142 3. **Multi-Family Efficiency.** A “Multi-Family Efficiency Unit” (also referred to as
143 “micro-apartment units” or “micro-units”) is a small multi-family dwelling unit that
144 includes a full bathroom and Kitchen and sleeping quarters and functions as an
145 independent housekeeping unit.

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147 **C. Mixed-Use Building.** A “Mixed-Use Building” means any building containing one or more
148 Dwelling Units, together with commercial and/or business and professional office use.
149 Mixed-Use Buildings include, but are not limited to:

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151 1. **Mixed-Use.** “Mixed-Use” means a property on which various uses such as office,
152 commercial, institutional, and residential are combined in a single building or on
153 a single site in an integrated development project with significant functional
154 interrelationships and a coherent physical design. A single site may include
155 contiguous properties.

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157 2. **Live/Work Unit.** “Live/Work Unit” is a unit used jointly for commercial and
158 residential purposes where the residential use of the space is secondary or accessory
159 to the primary use as a place of work.

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161 **D. Single Room Occupancy Dwelling.** “Single Room Occupancy Dwelling (SRO)” means a
162 residential building consisting of individual secure rooms that are each rented to one or
163 two persons. Individual rooms within an SRO may share common Kitchen facilities and
164 may or may not have private sanitation facilities.

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166 **E. Accessory Dwelling Unit** (also “ADU,” “Second Unit,” or “Granny Unit”) shall have the
167 same meaning as defined in the California Government Code Section 65852.2, as amended
168 from time to time, and shall include permanent provisions for independent living from the
169 primary residence including sleeping, eating, cooking, and sanitation.

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171 1. **Attached ADU** shall mean a new ADU is constructed as a physical expansion (i.e.,
172 addition) of the primary dwelling and is attached to the Single-Family Dwelling Unit
173 by one or more common walls.

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175 2. **Converted ADU** shall mean an ADU created within the interior of an Existing
176 Structure that occupies part of the Floor Area of the Existing Structure, as defined in
177 this chapter. A Converted ADU does not include an ADU that would (a) increase the
178 height of an Existing Structure; (b) require removal of more than 50 Cubic Yards as
179 part of the excavation of an Existing Structure; or (c) increase the Gross Floor Area of
180 the Existing Structure by more than 150 square feet beyond its existing physical
181 dimensions for the purpose of accommodating ingress and egress.

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183 3. **Detached ADU** shall mean a new ADU that is located on the property such that the unit
184 does not share any walls with the Single-Family Dwelling Unit or Multiple Family
185 Dwelling Unit, and the distance between the nearest point of any portion of the unit
186 and the Single-Family Dwelling Unit or Multiple Family Dwelling Unit is six feet or more.
187 An ADU that is attached to the Single-Family Dwelling Unit or Multiple Family Dwelling
188 Unit by a breezeway is considered detached.

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190 F. **“Junior Accessory Dwelling Unit”** (also known as “Junior ADU” or “JADU”) shall have
191 the same meaning as defined in the California Government Code Section 65852.22, as
192 amended from time to time.”

193
194 **Repeal and Delete the Following Definitions:**

195
196 **“20.08.135 Nonconforming residential second unit.**

197 “Nonconforming residential second unit” means a residential second unit which was
198 constructed on a parcel of land in a manner which did not conform to the regulations for the
199 district in which it is situated at the time of construction.

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201 **20.08.100 Legal nonconforming residential second unit.**

202 “Legal nonconforming residential second unit” means a residential second unit which currently
203 does not conform to the regulations for the district in which it is situated but did conform at the
204 time it was constructed or erected. The unit shall be considered to conform to requirements of
205 this title, until the same is thereafter removed or destroyed.”

206

207 **Modification of Section 20.08 “Definitions” to add the following to definitions:**

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209 **“20.90.091.2 “Existing Structure”** shall mean an existing permitted or otherwise legal Single-
210 Family Dwelling (including all fully enclosed areas such as a partial basement or an attached
211 garage), Multiple Family Dwelling, or other permitted Accessory Structure that can be safely
212 converted into habitable space under building and fire codes.

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214 **20.08.095.4 “Gross Floor Area”** shall mean the total Floor Area within a building, as defined in
215 20.16.040(A)(1)(a). Measurements must be taken from the exterior faces of exterior walls.

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217 **20.08.096.5 “Kitchen”** shall mean a room or portion thereof containing permanent facilities
218 designed and used for food preparation, cooking, eating and dish washing. A Kitchen shall
219 include all of the following: a sink with hot and cold running water; a range or stove-top and an
220 oven; at a minimum, an apartment-sized refrigerator; and built-in dish and utensil storage
221 spaces. In addition to the aforementioned improvements, a Kitchen may also include any of the
222 following: microwave, convection oven, hot plate or automatic dish washer.

223

224 **20.80.149 “Owner”** includes the beneficial Owners of any trust, limited liability company,
225 corporation or other legal entity that is the legal Owner of the Single-Family Dwelling Unit or
226 Multiple Family Dwelling Unit.”

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228 **Modify Section 20.16.040(A)(1)(b), under Property Development Regulations/Floor Area**
229 **Calculations to read as follows:**

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231 “b. The following will be subtracted from paragraph 20.16.040(A)(1)(a) total above during
232 the renovation or development of a Single-Family Dwelling Unit or Two-Unit project (see
233 Section 20.91):

234 i. For lots less than 10,000 square feet of gross area: up to 500 square feet of garage
235 area and 0 square feet of Accessory Dwelling Unit area.

236 ii. For lots 10,000 square feet or more in gross floor area: up to 500 square feet of
237 garage area and 0 square feet of Accessory Dwelling Unit area.”

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239 **Replace Section 20.90 “Accessory Dwelling Units” in its entirety with the following:**

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241

“Chapter 20.90

242

ACCESSORY DWELLING UNITS

243 **Sections:**

244 **20.90.010 Purpose.**

245 **20.90.020 Definitions.**

246 **20.90.030 General Requirements and Restrictions for ADUs and JADUs.**

247 **20.90.040 Process, Review and Fees for ADUs and JADUs.**

248 **20.90.050 ADU Development Standards and Objective Design Guidelines.**

249 **20.90.060 JADU Development Standards.**

250 **20.90.070 Termination of Permit and Use for ADUs and JADUs.**

251 **20.90.080 Violations and Enforcement for ADUs and JADUs.**

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253 **20.90.010 Purpose.**

254 It is the intent of these regulations to provide opportunities for new Accessory Dwelling Units
255 (ADUs) and Junior ADUs (JADUs) consistent with state law and local regulations. ADUs and
256 JADUs are intended to provide independent living units for family members, students, the
257 elderly, in-home health and childcare providers, and others within existing residential
258 neighborhoods.

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260 **20.90.020 Definitions.**

261 See Chapter 20.08.

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263 **20.90.030 General Requirements and Restrictions for ADUs and JADUs.**

264 **A. General Requirements.** An ADU and JADU shall comply with the following
265 requirements:

266 1. One ADU may be constructed on a lot zoned to allow Single Family or Multiple
267 Family Dwelling residential use.

268 2. One JADU may be constructed per residential lot in Zoning Districts permitting
269 Single Family Dwelling residential use.

270 3. One JADU and one ADU may be constructed on a Single-Family Residential lot
271 where the JADU and ADU meet the requirements in Government Code Section
272 65852.2(e).

273 4. Multiple Converted or Detached ADUs may be constructed on a lot with an
274 existing Multiple Family Dwelling, where consistent with Government Code
275 Section 65852.2(e)(1)(C) and (D).

- 276 5. All proposed ADUs and JADUs must satisfy all applicable building, fire and safety
277 standards, including but not limited to fire lane widths, minimum fire flows and
278 emergency egress, as set forth in the California Building Standards Code and
279 MVMC Titles 14 and 15.
- 280 6. All ADUs and JADUs located in the Floodplain shall comply with Title 18 of this
281 Code.
- 282 7. If the construction of an ADU is proposed within thirty (30) feet of the top of the
283 bank for any watercourse identified in Section 20.76, the applicant shall provide
284 the Building Department with all applicable permits from outside agencies,
285 including but not limited to, the San Francisco Bay Regional Water Quality Control
286 Board, California Department of Fish and Wildlife, The Army Corps of Engineers,
287 State Water Resources Control board and/or U.S. Fish and Wildlife Service.
- 288 8. A permanent address is required for an ADU.
- 289 9. Prior to receiving a building permit for an ADU, the local water or sewer agency
290 shall submit letters of service availability for water and sewer disposal to the
291 Building Official.
- 292 10. Any ADU or JADU legally created shall be governed by the Zoning regulations in
293 effect at the time of approval.
- 294 11. The overall height of an ADU is defined as the vertical distance of the lowest
295 exterior wall measured from Finished Grade to the highest point of the unit, which
296 may be the ceiling in the case of an ADU located in the basement or lower floor of
297 a Single Family or Multi-Family Dwelling, or the roof ridge in the case of a detached
298 ADU or ADU on the Top Floor.
- 299 12. ADUs that qualify for reduced rear and side setbacks under Government Code
300 Section 65852.2 and are located on double frontage or corner lot shall use the
301 following criteria to determine rear and side setbacks.
- 302 a. Double frontage, through lots shall maintain the Exterior Yard Setback for the
303 primary frontage containing either the driveway encroachment or in
304 association with the orientation of the home. The opposite frontage shall be
305 considered the “rear yard” for purposes of Government Code Section
306 65852.2.
- 307 b. Corner lots with frontage on two streets shall maintain the Exterior Yard
308 Setback for the primary frontage containing either the driveway or orientation
309 of the home; the remaining street frontage shall be considered the “side
310 yard” for purposes of Government Code Section 65852.2.
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- 314 **B. Restrictions.** All ADUs and JADUs shall be subject to the following restrictions:
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- 316 1. The development and use of the ADU or JADU shall only be valid and permitted
317 based on the terms established in the Chapter.
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- 319 2. A Deed Restriction shall be required for all ADUs or JADUs. Prior to obtaining a
320 building permit for an ADU or JADU, a deed restriction shall be recorded with the
321 County Recorder’s Office, which shall include the restrictions and limitations
322 identified in this Section. Said deed restriction shall run with the land and shall be
323 binding upon any successor in ownership of the property. A copy of the final
324 recorded deed restriction shall be filed with the Planning Department prior to the
325 final inspection for the construction of the project, stating that:
- 326 a. The ADU or JADU shall not be sold separately from the primary residence,
327 except as permitted by Government Code Section 65852.26.
328 b. If the ADU or JADU is rented, it shall not be rented for a period of less than
329 30 consecutive days.
330 c. The ADU or JADU shall be restricted to the Gross Floor Area granted at the
331 time of building permit. Any Owner wishing to incorporate the Gross Floor
332 Area of the ADU OR JADU back into the primary Dwelling Unit must request
333 termination of the ADU OR JADU use under this Chapter, satisfying all
334 Zoning and development standards such as setbacks, Floor Area and Lot
335 Coverage.
336 d. The Owner and all successors in interest in the subject property shall agree
337 to respond to the City of Mill Valley’s annual survey of Owners of all ADUs
338 or JADUs to determine use, code consistency and for reporting purposes to
339 the State Department of Housing and Community Development (HCD).
340 e. The Owner and all successors in interest in the subject property shall
341 maintain the ADU OR JADU in accordance with all applicable regulations
342 established in this Chapter. Violations and lack of compliance with any
343 provisions of this Section may result in legal action against the property
344 Owner, including revocation of any right to maintain an ADU or JADU on the
345 property as outlined in Sections 20.90.070 to 080, and shall be subject to
346 administrative fines and penalties as contained in Chapter 8.02 of the Mill
347 Valley Municipal Code.
348 f. JADUs only: Owner-occupancy is required for parcels with a JADU,
349 consistent with Section 20.90.060.
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351 **20.90.040 Process, Review and Fees for ADUs and JADUs.**

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A. Projects Exempt from Obtaining an ADU Permit

1. As provided under Government Code Section 65852.2(e)(1), an Owner shall not be required to submit an application for an ADU permit under subsection (B) below, and may instead seek building permit approval for the following types of units that are located within residential or mixed-use zones:
 - a. Junior ADUs meeting the requirements of Government Code Sections 65852.2(e)(1)(A) and 65852.22.
 - b. Converted ADUs meeting the requirements of Government Code Sections 65852.2(e)(1)(A) or 65852.2(e)(1)(C).
 - c. New construction of Detached ADUs meeting the requirements of Government Code Sections 65852.2(e)(1)(B) or 65852.2(e)(1)(D).
2. Projects that are exempt from obtaining an ADU Permit under this provision are still subject to tree removal permit, grading permit, and other applicable construction-related permit requirements.

B. Projects Subject to ADU Permit Review and Timelines

1. The Planning Director or his/her designee shall ministerially review and approve an ADU permit application and shall not require a public hearing, provided that the submitted application is complete and demonstrates that the ADU complies with the requirements contained in this Title 20, including Chapter 20.67.
2. ADU permit applications subject to ministerial approval shall be processed within the timelines established by California Government Code Section 65852.2.
3. Where an ADU permit application is submitted with an application for a Single-Family Dwelling or Multiple Family Dwelling that is subject to Design Review under Chapter 20.66, the ADU permit application will be considered separately without discretionary review or a public hearing, following action on the portion of the project subject to Section 20.66.
4. In addition to obtaining an ADU permit, the applicant shall be required to obtain a building permit, tree removal permit if applicable, and other applicable construction permit requirements prior to the construction of the unit.

C. Fees

1. The Owner of an ADU or JADU shall be subject to the payment of all sewer, water and other applicable fees except as specifically provided in California Government Code Sections 65852.2 and 65852.22.

388 **20.90.050 ADU Development Standards and Objective Design Guidelines.** Except for those
389 ADUs approved under 20.90.040(A), an ADU shall comply with the following development
390 standards. Exceptions to the development standards may be requested and granted through
391 the discretionary Design Review process in Chapter 20.66.

392 **A. Development Standards**

- 393 1. An ADU shall conform to all lot coverage, Adjusted Floor Area, and setback
394 regulations applicable to the Zoning District in which the property is located,
395 except in the following cases:
- 396 a. ADUs or JADUs that are not required to obtain an ADU permit as provided
397 under Section 20.90.040(A).
 - 398 b. Where the application of lot coverage, Adjusted Floor Area, and setback
399 violates Government Code Section 65852.2(c)(2)(C).
 - 400 c. No setback shall be required for a Converted ADU that is within an Existing
401 Structure or that is within a structure constructed in the same location and to
402 the same dimensions as an Existing Structure. For all other ADUs, the
403 maximum required setback from side and rear lot lines shall be four feet.
 - 404 d. Exterior structures such as a deck, breezeway or trellis must comply with the
405 setbacks for the applicable Zoning District.
- 406 2. Studio and one-bedroom ADUs shall not exceed 850 square feet of Gross Floor
407 Area. ADUs with more than 1 bedroom shall be limited to a maximum of 1,000
408 square feet of Gross Floor Area, except for those internal Converted ADUs that
409 are within the existing walls of a primary Single-Family residence, which shall be
410 limited to a maximum of 1,200 square feet of Gross Floor Area.
- 411 3. If there is an existing primary dwelling, an Attached ADU shall not exceed 50% of
412 the maximum Adjusted Floor Area for the primary dwelling as calculated in
413 Section 20.16.040(A)(2) for the subject lot, but in no case shall the ADU be less
414 than 150 square feet, nor more than 1,000 square feet in Gross Floor Area.
- 415 4. A Detached ADU shall not exceed 16 feet in height; or, when located above a
416 garage, the combined height of the ADU and the garage shall not exceed 25 feet.

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418 **B. Architectural Style and Building Form**

- 419 1. An ADU shall include permanent provisions for living and sleeping, including a
420 closet or other storage.
- 421 2. The following architectural details of the ADU shall be reflective of the
422 architectural style of the primary residence: window design, roof pitch,
423 materials, colors, finish texture, doorway design, and trim.

- 424 3. Lighting shall be shielded or directed downward and in such a way that it is not
425 visible at the property lines.
- 426 4. Windows shall not be located to with a direct line of sight to windows of
427 adjacent properties. Obscured glass, clerestory windows, and other techniques
428 may be used to avoid line of sight.
- 429 5. An ADU shall have a separate exterior access. The exterior access shall be a
430 standard exterior door and shall be located in a manner that will preserve, to the
431 greatest extent feasible, the privacy of the primary residence, other accessory
432 structures and any adjoining residences.
- 433 6. A permanent foundation shall be required for all ADUs.
- 434

435 **C. Off-Street Parking**

- 436 1. In addition to the off-street parking space(s) required for the primary residence,
437 one off-street parking space shall be provided for each ADU, except when:
- 438 a. The ADU is located within one-half mile walking distance of Public Transit.
439 For purposes of this chapter, "Public Transit" has the same meaning as in
440 Government Code Section 65852.2(j).
- 441 b. The ADU is entirely within a proposed or existing primary dwelling or other
442 Existing Structure.
- 443 c. The ADU is located within a historic district.
- 444 d. On-street parking permits are required but not offered to the occupant of
445 the ADU.
- 446 e. There is a City-approved and dedicated parking space for a car share vehicle
447 located within one block of the ADU.
- 448
- 449 2. When the ADU is created by converting or demolishing a garage, carport or
450 covered parking structure, replacement of parking space(s) eliminated by the
451 construction of the ADU shall not be required as long as the ADU remains in use
452 as a legal ADU. If the ADU is removed from use, the Single-Family Dwelling Unit
453 shall be required to comply with parking standards established in Section
454 20.60.090, as well as all other development standards applicable to the Zoning
455 District.
- 456
- 457 3. The location of the required parking space(s) shall not obstruct the parking of the
458 primary residence and shall be a minimum of 20 feet in length. The required
459 parking spaces for the ADU may be uncovered. Parking may be provided within
460 the front setback between an existing driveway and the closest side of the

461 property line if the slope of the site is ten percent or less, with the approval of
462 the Planning Director.

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464 **20.90.060 JADU Development Standards.** Junior Accessory Dwelling Units shall comply with
465 the following:

466 **A. Owner Occupancy**

467 1. The Owner of a parcel proposed for a JADU shall occupy as a principal residence
468 either the Single-Family Dwelling Unit or the JADU. The JADU shall be considered
469 legal only so long as the Owner occupies either the Single-Family Dwelling Unit or
470 the JADU.

471 2. Notwithstanding subsection 1, owner-occupancy shall not be required if the
472 Owner is another governmental agency, land trust, or housing organization.

473

474 **B. Development Standards**

475 1. The JADU shall be a minimum of 150 square feet and a maximum of 500 square
476 feet of Gross Floor Area. The Gross Floor Area of a shared sanitation facility shall
477 not be included in the maximum Gross Floor Area of the JADU.

478 2. One JADU may be constructed on a lot zoned for single-family residential use,
479 where there is a Single-Family Dwelling Unit existing or proposed to be built on the
480 lot. The JADU must be contained entirely within the walls of the existing or
481 proposed Single Family Dwelling Unit.

482 3. The JADU shall include an efficiency kitchen meeting the requirements of
483 California Government Code Section 65852.22.

484 4. A separate exterior entry from the main entrance to the Single-Family Dwelling
485 shall be provided to serve a JADU.

486 5. An interior entry to the main living area shall be provided to serve a JADU. Such
487 interior entry may include a second interior doorway for sound attenuation.

488 6. A JADU may include separate sanitation facilities or may share sanitation facilities
489 with the Existing Structure.

490 7. Any exterior improvements associated with the development of a JADU shall
491 conform to Zoning regulations and any existing land use entitlements on the
492 property.

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494 **C. Parking.** No additional parking is required for a JADU.

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497 **20.90.070 Termination of Permit and Use for ADUs and JADUs.**

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- 499 A. No building permit shall be issued to remove permanent features of an ADU or JADU,
500 including the provisions for eating, cooking and sanitation, and separate exterior
501 entrance until written approval to terminate the use of living space as an ADU or JADU is
502 granted by Planning Department.
- 503
- 504 B. At its discretion, the Planning Director may grant an Owner's written request to
505 terminate an ADU or JADU and deed restriction. The Planning Director shall consider the
506 length of time such permit has been in force, the conditions of approval, the exceptions
507 granted for the ADU or JADU, and the impact on the City's affordable housing supply.
- 508
- 509 C. As a condition of termination, the Planning Director shall require the Owner to make
510 modifications to the property to comply with: 1) current building code requirements
511 and 2) current development standards in effect at the time the request is made to
512 terminate use, including but not limited to, setbacks, heights, parking and Adjusted
513 Floor Area. The Owner shall apply for a building permit to make such modifications as
514 required by the City's building and fire codes.
- 515
- 516 D. In no case shall the ADU or JADU be terminated, if the proposed termination would
517 require a variance to exceed Adjusted Floor Area for the Single-Family Dwelling Unit.
- 518
- 519 E. Requests to terminate an ADU created from either: 1) the conversion of space including
520 a garage, carport or covered parking structure or 2) the exemption from Lot Coverage or
521 Floor Area: ADU may be terminated, should the Owner illustrate compliance with off-
522 street parking requirements established in 20.60.090, as well as all applicable
523 development standards for the Zoning District, including but not limited to: height,
524 setback and allowable Floor Area.

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526 **20.90.080 Violations and Enforcement for ADUs and JADUs.**

- 527 A. It is unlawful for any person to violate any provision or to fail to comply with any of the
528 requirements of this Chapter. An ADU or JADU will be found in violation of this Chapter
529 when the dwelling unit has been created without the required City approvals or does
530 not comply with standards and deed restrictions established in this Chapter. Violations
531 are subject to the enforcement penalties and procedures of Chapter 8.02 of this Code.
- 532
- 533 B. In addition to the enforcement penalties and procedures included in Chapter 8.02 of
534 this Code, the City may pursue any remedies provided by law against the Owner of an

535 ADU or JADU found to be in violation of this Chapter, or an ADU or JADU not maintained
536 in conformance with this Chapter including:

- 537 1. Revocation of the ADU OR JADU permit;
- 538 2. Where an ADU OR JADU has been improperly terminated and is being used as
539 habitable space for the primary Dwelling Unit, removal of the Floor Area serving
540 as habitable space may be required; and
- 541 3. In any civil enforcement action, the City is entitled to recover attorneys' fees and
542 costs from an Owner who is determined to have an illegal ADU or JADU or is in
543 violation of this ordinance."