

ORDINANCE NO. 782

**CITY OF MILLBRAE, COUNTY OF SAN MATEO
STATE OF CALIFORNIA**

* * *

**AN ORDINANCE OF THE CITY OF MILLBRAE
ADDING ARTICLE XXXII TO, AND AMENDING PORTIONS OF ARTICLE II,
ARTICLE IV, ARTICLE V, ARTICLE VI, ARTICLE VII, ARTICLE VIII, ARTICLE X,
AND ARTICLE XI OF, CHAPTER 10.05 OF TITLE 10, PLANNING AND ZONING, OF
THE MILLBRAE MUNICIPAL CODE**

WHEREAS, on October 19, 2019, the State of California enacted legislation known as Assembly Bill 881, Assembly Bill 68, and Senate Bill 13, which, among other things, amended Sections 65852.2 and 65852.22 of the Government Code pertaining to accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the State of California has enacted legislation to encourage the construction of accessory dwelling units and junior accessory dwelling units on lots zoned to allow single-family and multifamily residential use, as further defined in this Ordinance; and

WHEREAS, these revisions to State Law became effective on January 1, 2020; and

WHEREAS, the City Council of the City of Millbrae seeks to regulate accessory dwelling units and junior accessory dwelling units in accordance with State Law; and

WHEREAS, the proposed amendments in this Ordinance would ensure that the Millbrae Municipal Code is consistent with the recently adopted State Law; and

WHEREAS, the proposed amendments to the Millbrae Municipal Code in this Ordinance are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code, and categorically exempt from CEQA under CEQA Guidelines Sections 15061(b)(3), 15302, and 15303(a); and

WHEREAS, on September 9, 2020 the Planning Commission of the City of Millbrae reviewed the proposed amendments and recommended to the City Council that it adopt this Ordinance to add Article XXXII, "Accessory Dwelling Units" to Chapter 10.05 of the Millbrae Municipal Code to provide for the regulation of accessory dwelling units and junior accessory dwelling units, and to amend various provisions in Chapter 10.05 for consistency with the new Article XXXII, "Accessory Dwelling Units."

NOW, THEREFORE, be it ordained by the City Council of the City of Millbrae as follows:

Section 1: ADD ARTICLE XXXII, "ACCESSORY DWELLING UNITS" TO THE MILLBRAE MUNICIPAL CODE, TITLE 10, CHAPTER 10.05.

Article XXXII, "Accessory Dwelling Units," is hereby added to Chapter 10.05 of the Municipal Code as follows:

10.05.3200 Definitions

- A. "Accessory dwelling unit" or "ADU" means an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary dwelling. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel that the single family or multifamily dwelling is or will be situated. An accessory dwelling unit includes an efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, or a manufactured home, as defined in Section 18007 of the California Health and Safety Code. An accessory dwelling unit is not an "accessory structure," as defined in 10.05.0200 of the Millbrae Municipal Code, nor is it subject to the requirements of Article XX of the Millbrae Municipal Code. Notwithstanding the forgoing sentence, an "accessory structure," as defined in 10.05.0200 of the Millbrae Municipal Code may be converted into an accessory dwelling unit or a portion of an accessory dwelling unit in compliance with the requirements of this Article.
- B. "Junior accessory dwelling unit" or "JADU" means a unit that is no more than 500 square feet in size and contained entirely within a single-family dwelling or attached garage. A junior accessory dwelling unit shall contain at least an efficiency kitchen that includes a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the junior accessory dwelling unit. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure. An junior accessory dwelling unit is not an "accessory structure," as defined in 10.05.0200 of the Millbrae Municipal Code, nor is it subject to the requirements of Article XX of the Millbrae Municipal Code.
- C. "Primary dwelling" or "primary dwelling unit" means a building designed and used exclusively for residential occupancy, and which, at a minimum, contains one kitchen, bathroom facilities, and sleeping quarters. For purposes of this article, the single-family or multifamily residence in which an accessory dwelling unit or junior accessory dwelling unit is located within, attached to, or detached from, is considered the primary dwelling.

10.05.3210 Purpose and applicability.

- A. The purpose of this article is to provide for accessory dwelling units and junior accessory dwelling units in accordance with applicable state law.
- B. In cases of conflict between this article and any other provision of this title, the provisions of this article shall prevail. To the extent that any provision of this article is in conflict with state law, the applicable provision of state law shall control, but all other provisions of this article shall remain in full force and effect.

10.05.3220 Applications and Processing.

- A. A permit application to create a junior accessory dwelling unit or an accessory dwelling unit shall be ministerially considered and approved, without discretionary review or a hearing, within 60 days of receipt of a complete application that meets the requirements of this article, if there is an existing single-family or multifamily dwelling on the lot. Incomplete applications will be returned with an explanation of the additional information that is required.
- B. Notwithstanding subdivision (A) above, if the permit application to create a junior accessory dwelling unit or an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the application for the junior accessory dwelling unit or accessory dwelling unit shall not be acted upon until the application for the new single-family dwelling is approved. Thereafter, the permit application for the junior accessory dwelling unit or accessory dwelling unit shall be ministerially considered and approved, without discretionary review or a hearing, within 60 days of receipt of a complete application that meets the requirements of this article. Occupancy of the junior accessory dwelling unit or accessory dwelling unit shall not be allowed until the city approves occupancy of the single-family dwelling.
- C. All permit applications for junior accessory dwelling units or accessory dwelling units shall be accompanied by an application fee.
- D. All junior accessory dwelling units and accessory dwelling units are subject to applicable city building inspection fees and permit fees.

10.05.3230 Locations allowed.

- A. Accessory dwelling units are permitted uses in all areas zoned to allow single-family or multifamily dwelling residential use.
- B. Junior accessory dwelling units may be developed on any legally created lot zoned to allow single-family residential use and shall be located within the walls of the existing or proposed primary dwelling.
- C. Accessory dwelling units may be located in any of the following places on a legally created lot that is zoned to allow single-family or multifamily dwelling residential use and contains a proposed or existing primary dwelling:
 - 1. Attached to an existing or proposed primary dwelling.
 - 2. Located within the walls of an existing or proposed primary dwelling.
 - 3. Located within, or attached to, an existing accessory structure, as defined in Section 10.05.2000 of this Code.

4. Detached from an existing or proposed primary dwelling.
 5. On a lot with an existing multifamily dwelling structure, an attached accessory dwelling unit is permitted within the portions of the existing multifamily dwelling structure(s) that are not used as livable space, including without limitation, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided that the accessory dwelling unit complies with the California Building Standards Code as set forth in Title 15 of this Code for dwellings. The number of attached accessory dwelling units permitted on a lot with an existing multifamily dwelling structure shall be at least one and up to 25 percent of the existing multifamily dwelling units on the lot.
 6. On a lot with an existing multifamily dwelling structure, up to two detached accessory dwelling units are permitted, provided that the accessory dwelling structures' height does not exceed 16 feet and four-foot side and rear yard setbacks are maintained.
- D. An accessory dwelling unit may be allowed in conjunction with a junior accessory dwelling unit on a lot with an existing or proposed single-family residence when the requirements of this article are met.
- E. Accessory dwelling units or junior accessory dwelling units cannot be constructed on any easements located on the lot.

10.05.3240 General requirements.

A. Junior Accessory Dwelling Units.

1. The number of junior accessory dwelling units on lots zoned for single-family residential use is limited to one per lot with a proposed or existing single-family residence.
2. Owner Occupancy. Owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted is required. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
3. Junior accessory dwelling units shall not be sold separately from the primary dwelling.
4. Junior accessory dwelling units may be rented independently of the primary dwelling.
5. Junior accessory dwelling units may not be rented for fewer than 30 consecutive

calendar days. Junior accessory dwelling units may not be used as short-term residential rentals pursuant to the Short-Term Residential Rental Ordinance in Chapter 7.30 of this Code.

6. Prior to issuance of a building permit for a junior accessory dwelling unit, the owner shall record a deed restriction, which shall run with the land, and be in a form prescribed by the city attorney, filed with the community development department, and contain the following:
 - a. A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers; and
 - b. A restriction on the size and attributes of the junior accessory dwelling unit consistent with this article.

B. Accessory dwelling units.

1. The number of accessory dwelling units on lots zoned for single-family residential use is limited to one per lot.
2. Accessory dwelling units shall not be sold separately from the primary residence, except where permitted by Section 65852.26 of the California Government Code, as may be amended.
3. Accessory dwelling units may be rented independently of the primary dwelling.
4. Accessory dwelling units may not be rented for fewer than 30 consecutive calendar days. Accessory dwelling units may not be used as short-term residential rentals pursuant to the Short-Term Residential Rental Ordinance in Chapter 7.30 of this Code.
5. For applications received prior to January 1, 2025, there is no requirement for a legal owner of the parcel to reside in either the primary dwelling or accessory dwelling unit on the parcel.

10.05.3250 Development standards.

- A. Junior accessory dwelling units and accessory dwelling units shall comply with all applicable building code requirements for dwellings. In no event will an accessory dwelling unit or junior accessory dwelling unit be required to provide fire sprinklers if fire sprinklers are not required for the primary dwelling.

- B. All development standards contained in the underlying zoning district shall apply to junior accessory dwelling units and accessory dwelling units unless they are inconsistent with the provisions of this article, in which case the development standards of this article shall apply.
- C. The development standards contained in this article will be waived to the extent necessary to ministerially approve accessory dwelling units and junior accessory dwelling units in accordance with Government Code Section 65852.2(e)(1).

D. Junior Accessory Dwelling Units

- 1. General Requirements. No junior accessory dwelling unit shall be smaller than the size required to allow an efficiency unit pursuant to Health and Safety Code Section 17958.1, as may be amended. A junior accessory dwelling unit may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the junior accessory dwelling unit shall share sanitation facilities with the primary residence.
- 2. Height. Maximum height of the junior accessory dwelling unit shall be the same as the height requirements for a single-family structure.
- 3. Floor Area and Kitchen. A junior accessory dwelling unit shall not exceed 500 square feet in size, shall be contained entirely within the walls of a single-family residence, and shall contain at least an efficiency kitchen that includes a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the junior accessory dwelling unit.
- 4. Entrances. A junior accessory dwelling unit shall have a separate entrance from the primary dwelling unit.
- 5. Balconies and Decks. No balcony, deck or open stair landing of a junior accessory dwelling unit that faces the rear or side property line nearest the junior accessory dwelling unit shall be permitted, unless needed to allow ingress and egress. Exceptions to this development standard may be granted by the planning commission in the manner provided in article XXV of this chapter.
- 6. Parking. Junior accessory dwelling units shall not be required to provide for any additional parking or make up for any parking displaced by their construction, including conversion of all or part of an existing garage.

E. Accessory Dwelling Units

- 1. General Requirements. No accessory dwelling unit shall be smaller than the size required to allow an efficiency unit pursuant to Health and Safety Code Section 17958.1, as may be amended.
- 2. Height and stories.

- i. The maximum height of an attached accessory dwelling unit shall be 16 feet, measured from finished grade to roof ridge, from all corners of the structure. The maximum plate height of detached accessory dwelling units shall be nine feet. An attached accessory dwelling unit shall not contain more than one story.
 - ii. The maximum height of a detached accessory dwelling unit shall be 16 feet, measured from finished grade to roof ridge, from all corners of the structure. The maximum plate height of detached accessory dwelling units shall be nine feet. A detached accessory dwelling unit shall not contain more than one story.
3. Floor Area. The total floor area of an attached or detached accessory dwelling unit shall be a minimum of 150 square feet and shall not exceed 850 square feet for an accessory dwelling unit that contains a studio or one bedroom or 1,000 square feet for an accessory dwelling unit that contains more than one bedroom. The total floor area of an accessory dwelling unit attached to an existing primary dwelling shall not exceed 50% of the floor area of the existing primary dwelling (garage and shed areas excluded).
4. Entrance. An accessory dwelling unit shall have a separate entrance from the primary dwelling unit.
5. Setbacks. Except as specified below, an accessory dwelling unit shall be required to comply with the setback requirements of the zone in which the unit is to be located.
 - i. Conversions. No setback is required for an existing legally-permitted living area or accessory structure converted to an accessory dwelling unit, or for a new accessory dwelling unit constructed in the same location and built to the same dimensions as an existing legally permitted structure.
 - ii. For all new attached or detached accessory dwelling units, a minimum setback of four feet is required from the rear and side property lines. The minimum separation from an accessory dwelling unit to the existing or proposed single-family, duplex or triplex, multi-family building, or other accessory structure shall be five feet. Detached accessory dwelling units shall be located within the rear half of the lot, unless such a requirement would preclude the construction of a detached accessory dwelling unit that is up to 800 square feet and up to 16 feet in height with four-foot side and rear yard setbacks.
6. Architectural Compatibility. An accessory dwelling unit, whether attached or detached, shall be compatible with the architectural style, exterior materials, and colors as the existing or proposed primary dwelling unit, and the quality of the materials shall be the same or exceed that of the primary dwelling. The following architectural elements are components that will be considered in determining compatibility with the single family dwelling unit: roof material, roof slope, exterior material, exterior color, window type, window design, window color, and window recess. Accessory dwelling units shall be consistent with applicable residential design standards. The appearance of the single-

family residence shall remain that of a single-family residence, as determined by the community development director or his/her designee.

7. Balconies and Decks. No balcony, deck or open stair landing of an accessory dwelling unit that faces the rear or side property line nearest the accessory dwelling unit shall be permitted, unless needed to allow ingress and egress. Exceptions to this development standard may be granted by the planning commission in the manner provided in article XXV of this chapter.
8. Parking. Parking for an accessory dwelling unit shall be as follows:
 - i. Except as provided in subsection (ii) below, there must be one parking space per accessory dwelling unit. Accessory dwelling unit parking requirements are in addition to the parking required for the primary dwelling as provided in Section 10.05.2100. Parking spaces for an accessory dwelling unit may be provided as tandem parking on a driveway or in setback areas, unless the community development director makes specific findings that tandem parking or parking in setback areas is not feasible because of specific site or regional topographical conditions and/or fire and life safety conditions.
 - ii. No parking may be required for an accessory dwelling unit if any of the following apply:
 - a. The accessory dwelling unit is part of the proposed or existing primary dwelling or an accessory structure.
 - b. The accessory dwelling unit is located within one-half mile walking distance of public transit. For purposes of this section, "public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
 - c. The accessory dwelling unit is located within an architecturally and historically significant district.
 - d. When on-street parking permits are required but not offered to the occupants of the accessory dwelling unit.
 - e. When a designated parking, pickup or drop off area for one or more car-share vehicles is located within one block of the accessory dwelling unit.
 - iii. When a garage, carport, or covered parking structure is demolished to construct an accessory dwelling unit within the demolished structure's footprint, or converted to an accessory dwelling unit, such off-street parking spaces need not be replaced, including the parking required pursuant to subsection (i) above.

10.05.3260 – Utilities and impact fees.

- A. No accessory dwelling unit shall be permitted if the public works department determines that there is a lack of adequate water or sewer service to the property.
- B. Except as provided in subsection (C), an accessory dwelling unit may be required to have a new or separate utility connection, including a separate sewer lateral, between the accessory dwelling unit and the utility. A connection fee or capacity charge may be charged that is proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This connection fee or capacity charge shall not exceed the reasonable cost of providing this service.
- C. The following are exempt from any requirement to install a new or separate utility connection and to pay any associated connection fees or capacity charges:
 - 1. A junior accessory dwelling unit that complies with this article.
 - 2. An accessory dwelling unit located within the proposed space of single-family primary dwelling or existing space of a single-family primary dwelling or accessory structure, unless the accessory dwelling unit was constructed with a new single-family home.
- D. All utility extensions shall be placed underground.
- E. Impact fees.
 - 1. No impact fees may be imposed on a junior accessory dwelling unit or accessory dwelling unit that is less than 750 sq. ft. in size. For purposes of this section, "impact fees" include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.
 - 2. For accessory dwelling units that have a floor area of 750 square feet or more, impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit.

10.05.3270 – Delay of enforcement of building standards.

- A. For purposes of this section, "building standards" refers to those provisions of the State Building Standards Code enforced by the city pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the California Health and Safety Code.

- B. Until January 1, 2030, any notice to correct a violation of any provision of any building standard applicable to an accessory dwelling unit that is issued to the owner of an accessory dwelling unit built prior to the adoption of the ordinance codified in this article, shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an accessory dwelling unit pursuant to this section.
- C. The owner of an accessory dwelling unit that was built prior to the adoption of the ordinance codified in this article who receives a notice to correct a violation of a building standard may submit an application, in a form prescribed by the city, to the building official requesting enforcement of the violation be delayed for up to five years. The application will be granted if the building official determines that correcting the violation is not necessary to protect health and safety. In making this determination the building official shall consult other regulations of the State Fire Marshal pursuant to Section 13146 of the California Health and Safety Code.
- D. No applications for delayed enforcement of building standards violations pursuant to this section shall be approved on or after January 1, 2030. However, any delay that was approved by the city before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the approval of the application pursuant to this section.
- E. This section shall remain in effect until January 1, 2035, and as of that date is repealed.

Section 2: ADD THE DEFINED TERMS "ACCESSORY DWELLING UNIT" AND "JUNIOR ACCESSORY DWELLING UNIT" TO THE MILLBRAE MUNICIPAL CODE, TITLE 10, CHAPTER 10.05, SECTION 10.05.200.

Section 10.05.200 is amended by adding the following definitions:

“Accessory dwelling unit” or “ADU” means an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary dwelling. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel that the single family or multifamily dwelling is or will be situated. An accessory dwelling unit includes an efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, or a manufactured home, as defined in Section 18007 of the California Health and Safety Code. An accessory dwelling unit is not an "accessory structure," as defined in 10.05.0200 of the Millbrae Municipal Code, nor is it subject to the requirements of Article XX of the Millbrae Municipal Code. Notwithstanding the forgoing sentence, an "accessory structure," as defined in 10.05.0200 of the Millbrae Municipal Code may be converted into an accessory dwelling unit or a portion of an accessory dwelling unit in compliance with the requirements of this Article.

“Junior accessory dwelling unit” or “JADU” means a unit that is no more than 500 square feet in size and contained entirely within a single-family dwelling or attached garage. A junior accessory dwelling unit shall contain at least an efficiency kitchen that includes a cooking

facility with appliances and a food preparation counter and storage cabinets that are of reasonable size in relation to the junior accessory dwelling unit. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure. An junior accessory dwelling unit is not an "accessory structure," as defined in 10.05.0200 of the Millbrae Municipal Code, nor is it subject to the requirements of Article XX of the Millbrae Municipal Code.

Section 3: AMEND THE MILLBRAE MUNICIPAL CODE, TITLE 10, CHAPTER 10.05, SECTION 10.05.0410 TO INCLUDE "ACCESSORY DWELLING UNIT" AND JUNIOR ACCESSORY DWELLING UNIT" AS ACCESSORY USES IN THE LAND USE TABLE.

Amend the Accessory Uses box in the Land Use Table in Section 10.05.0410 of Chapter 10.05 such that "Accessory Dwelling Units" and "Junior Accessory Dwelling Units" is filled in as indicated below:

10.05.0510 Uses. (R-1LL: Single Family, Large Lot)

The following uses shall be permitted, conditional, or accessory uses in the R-1LL district:

- A. Permitted uses: single-family dwellings and state-regulated residential care facilities.
- B. Conditional uses: places of worship, schools (pre-K and K through twelve), country clubs, golf courses, parks, utility services, wireless communications facilities, and bed and breakfasts.
- C. Accessory uses: home occupations, short term residential rental, accessory dwelling unit, junior accessory dwelling unit.

10.05.0610 Uses. (R-1: Single Family)

The following uses shall be permitted, conditional or accessory uses in the R-1 district:

- A. Permitted uses: single-family dwellings and state-regulated residential care facilities.
- B. Conditional uses: places of worship, schools (pre-K and K through twelve), country clubs, golf courses, parks, utility services, wireless communications facilities, and bed and breakfasts.
- C. Accessory uses: home occupations, short term residential rental, accessory dwelling unit, junior accessory dwelling unit.

10.05.0710 Uses (R-2: Duplex/Triplex)

The following uses shall be permitted, conditional, or accessory uses in the R-2 district:

- A. Permitted uses: single-family dwellings, duplexes, triplexes, and state-regulated residential care facilities.
- B. Conditional uses: care facilities, places of worship, schools (pre-K and K through twelve), parks, utility services, wireless communications facilities, and bed and breakfasts.
- C. Accessory uses: home occupations, short term residential rental, accessory dwelling unit, junior accessory dwelling unit.

10.05.0810 Uses (R-3: Multifamily)

The following uses shall be permitted, conditional, or accessory uses in the R-3 district:

- A. Permitted uses: single-family dwellings, duplexes, triplexes, multiple-family dwellings, care facilities, and state-regulated residential care facilities.
- B. Conditional uses: rooming and boarding houses, clubs and lodges, community centers, places of worship, schools (pre-K and K through twelve), parks, utility services, wireless communications facilities, medical offices, professional offices, bed and breakfasts, and commercial lodging.
- C. Accessory uses: home occupations, short term residential rental, accessory dwelling unit, junior accessory dwelling unit.

10.05.1010 Uses (C: Commercial)

The following uses shall be permitted, conditional, or accessory uses in the C district:

- C. Accessory uses: drive-through facilities, home occupations, outdoor dining, and outdoor display of merchandise, short term residential rental, and accessory dwelling unit.

10.05.1120 Uses. (Downtown Improvement Area).

C. Accessory Uses.

1. Primary frontage: outdoor dining and outdoor display of merchandise.
2. Secondary frontage: home occupations, short term residential rental, outdoor display of merchandise, and accessory dwelling unit.

Section 4: AMEND THE MILLBRAE MUNICIPAL CODE, TITLE 10, CHAPTER 10.05, ARTICLE V, SECTION 10.05.0510 TO LIST ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AS ACCESSORY USES IN THE "R-1LL" DISTRICT.

Section 10.05.0510 of the Chapter 10.05 is amended by replacing the language to read as follows:

The following uses shall be permitted, conditional, or accessory uses in the R-1LL district:

- D. Permitted uses: single-family dwellings and state-regulated residential care facilities.
- E. Conditional uses: places of worship, schools (pre-K and K through twelve), country clubs, golf courses, parks, utility services, wireless communications facilities, and bed and breakfasts.
- F. Accessory uses: home occupations, short term residential rental, accessory dwelling unit, junior accessory dwelling unit.

Section 5: AMEND THE MILLBRAE MUNICIPAL CODE, TITLE 10, CHAPTER 10.05, ARTICLE VI, SECTION 10.05.0610 TO LIST ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AS ACCESSORY USES IN THE "R-1" DISTRICT.

Section 10.05.0610 of the Chapter 10.05 is amended by replacing the language to read as follows:

The following uses shall be permitted, conditional or accessory uses in the R-1 district:

- D. Permitted uses: single-family dwellings and state-regulated residential care facilities.
- E. Conditional uses: places of worship, schools (pre-K and K through twelve), country clubs, golf courses, parks, utility services, wireless communications facilities, and bed and breakfasts.
- F. Accessory uses: home occupations, short term residential rental, accessory dwelling unit, junior accessory dwelling unit.

Section 6: AMEND THE MILLBRAE MUNICIPAL CODE, TITLE 10, CHAPTER 10.05, ARTICLE VII, SECTION 10.05.0710 TO LIST ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AS ACCESSORY USES IN THE "R-2" DISTRICT.

Section 10.05.0710 of the Chapter 10.05 is amended by replacing the language to read as follows:

The following uses shall be permitted, conditional, or accessory uses in the R-2 district:

- D. Permitted uses: single-family dwellings, duplexes, triplexes, and state-regulated residential care facilities.

- E. Conditional uses: care facilities, places of worship, schools (pre-K and K through twelve), parks, utility services, wireless communications facilities, and bed and breakfasts.
- F. Accessory uses: home occupations, short term residential rental, accessory dwelling unit, junior accessory dwelling unit.

Section 7: AMEND THE MILLBRAE MUNICIPAL CODE, TITLE 10, CHAPTER 10.05, ARTICLE VIII, SECTION 10.05.0810 TO LIST ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AS ACCESSORY USES IN THE "R-3" DISTRICT.

Section 10.05.0810 of the Chapter 10.05 is amended by replacing the language to read as follows:

The following uses shall be permitted, conditional, or accessory uses in the R-3 district:

- D. Permitted uses: single-family dwellings, duplexes, triplexes, multiple-family dwellings, care facilities, and state-regulated residential care facilities.
- E. Conditional uses: rooming and boarding houses, clubs and lodges, community centers, places of worship, schools (pre-K and K through twelve), parks, utility services, wireless communications facilities, medical offices, professional offices, bed and breakfasts, and commercial lodging.
- F. Accessory uses: home occupations, short term residential rental, accessory dwelling unit, junior accessory dwelling unit.

Section 8: AMEND THE MILLBRAE MUNICIPAL CODE, TITLE 10, CHAPTER 10.05, ARTICLE X, SECTION 10.05.1010 TO LIST ACCESSORY DWELLING UNITS AS AN ACCESSORY USE IN THE "C" DISTRICT.

Section 10.05.1010 of the Chapter 10.05 is amended by replacing the language to read as follows:

The following uses shall be permitted, conditional, or accessory uses in the C district:

- A. Permitted uses: general restaurants, take-out only restaurants, general offices, medical offices, professional offices, banks, dry cleaners, laundromats, personal care-related uses, repair shops (not auto related), pet grooming, convenience stores, retail uses totaling five thousand square feet or less of gross floor area, retail uses totaling five thousand one to ten thousand square feet of gross floor area, and emergency, transitional, and supportive housing. Also permitted is any change in use where available on-site parking would be at least fifty percent of required parking, provided the new use is one of the aforementioned uses. In multitenant buildings, required parking shall be the total required for all the

tenants; for purposes of calculating total required parking, retail use shall be assumed where there is any vacancy in the building.

- B. Conditional uses: flats, multiple-family dwellings, care facilities, rooming and boardinghouses, temporary homeless shelters, clubs and lodges, community centers, places of worship, colleges and universities, schools (pre-K and K through twelve), trade and vocational schools, tutoring and instruction, parks, utility services, wireless communications facilities, bars, drive-in restaurants, indoor commercial recreation, outdoor commercial recreation, parking lots and structures, hospitals, medical clinics, mortuaries, animal hospitals, pet daycare, retail uses totaling greater than ten thousand square feet of gross floor area, supermarkets, automotive repair and painting, automobile sales and service, carwashes, fuel and service stations, commercial lodging, gun shops, liquor stores, pawn shops, smoke shops, drive-through facilities, and outdoor display of merchandise. Also conditional is any change in use where available on-site parking would be less than fifty percent of required parking. In multitenant buildings, required parking shall be the total required for all the tenants; for purposes of calculating total required parking, retail use shall be assumed where there is any vacancy in the building.
- C. Accessory uses: drive-through facilities, home occupations, outdoor dining, outdoor display of merchandise, short-term residential rentals, and accessory dwelling units.

Section 9: AMEND THE MILLBRAE MUNICIPAL CODE, TITLE 10, CHAPTER 10.05, ARTICLE XI, SECTION 10.05.1120 TO LIST ACCESSORY DWELLING UNITS AS AN ACCESSORY USE IN THE "DIA" DISTRICT.

Section 10.05.1120 of the Chapter 10.05 is amended by replacing the language to read as follows:

The following uses shall be permitted, conditional, or accessory uses in the DIA district:

- A. Permitted Uses.
 - 1. Primary frontage: convenience stores and retail uses totaling five thousand square feet or less of gross floor area, without regard to the amount of available on-site parking.
 - 2. Secondary frontage: banks, dry cleaners, laundromats, personal care-related uses, repair shops (not auto related), convenience stores, and retail uses totaling five thousand square feet or less of gross floor area, without regard to the amount of available on-site parking.
- B. Conditional Uses.
 - 1. Primary frontage: classes incidental to retail uses, tutoring and instruction, utility services, wireless communication facilities, bars, general restaurants, take-out only restaurants, indoor commercial recreation, parking lots and structures, retail uses totaling five thousand one to ten thousand square feet of gross floor area, liquor

stores, smoke shops, outdoor dining, and outdoor display of merchandise, without regard to the amount of available on-site parking.

2. Secondary frontage: apartments, triplexes, multifamily dwellings, clubs and lodges, community centers, classes incidental to retail uses, trade and vocational schools, tutoring and instruction, utility services, wireless communication facilities, bars, general restaurants, indoor commercial recreation, general offices, medical offices, professional offices, parking lots and structures, retail uses totaling five thousand one to ten thousand square feet of gross floor area, and outdoor display of merchandise, without regard to the amount of available on-site parking.
3. Relocating a Nonconforming Use. The relocation of an existing nonconforming use within the DIA to another location within the DIA may be allowed on a one-time basis per business entity, provided all of the following criteria are met:
 - a. The business entity shall have been located and continually in operation within the DIA since March 11, 1997.
 - b. The property containing the new DIA location shall be owned by the business owner at the time the relocation is requested.
 - c. The business shall not engage in any prohibited uses at the new location not conducted by the business at the original location at the time the relocation request is submitted to the city.
 - d. The square footage of the business at the new location shall not be increased by more than ten percent unless required by law.

C. Accessory Uses.

1. Primary frontage: outdoor dining and outdoor display of merchandise.
2. Secondary frontage: home occupations, short-term residential rentals, outdoor display of merchandise and accessory dwelling units.

Section 10: SEVERABILITY

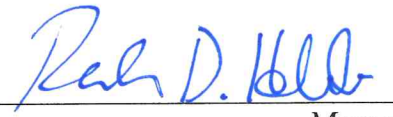
If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

Section 11: EFFECTIVE DATE; PUBLICATION: POSTING.

This ordinance shall be in full force and effect, and the regulations contained in this ordinance shall be enforced, thirty days from its passage. At least five days prior to its adoption and within fifteen days after its adoption, a summary of this ordinance shall be published once in a newspaper of general circulation printed and published in the County of San Mateo and circulated in the City of Millbrae.

INTRODUCED at a regular meeting of the City Council of the City of Millbrae held on the 22nd day of September, 2020.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Millbrae held on the 13th day of October, 2020.



Mayor

ATTEST:

 10/23/2020

City Clerk

I do hereby certify that the foregoing Ordinance was duly and regularly passed and adopted by the City Council of the City of Millbrae this 13th day of October 2020, by the following vote:

AYES:	COUNCILMEMBERS:	Holober, Schneider, Oliva, Papan and Lee
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None
EXCUSED:	COUNCILMEMBERS:	None



CITY CLERK