RESOLUTION P.C. 21-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH RECOMMENDING CITY COUNCIL APPROVAL OF TEXT AMENDMENTS TO MUNICIPAL CODE TITLE 17, SECTION 17.08.020 AND ADDING A NEW SECTION 17.08.050 FOR TWO-UNIT PROJECTS, AND DETERMINING THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Planning Commission of the City of Hermosa Beach does hereby resolve as follows:

SECTION 1. On September 16, 2021, Governor Gavin Newsome enacted a series of housing bills including Senate Bill (SB) 9 which mandates cities to ministerially allow single-family lots to be developed with two single-family dwellings known as "Two-unit projects." SB 9 becomes effective on January 1, 2022.

SECTION 2. The Planning Commission held a duly noticed public hearing on November 16, 2021 to consider a text amendment to Municipal Code Title 17.08.020 and 17.08.050, as described in the proposed ordinance attached as Exhibit A.

SECTION 3. The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines. Section 15061(b)(3) states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The proposed text amendments will not have a significant effect on the environment because the proposed zone text amendments would provide for new standards consistent with State Law and do not propose any physical construction.

SECTION 3. The Planning Commission finds the proposed amendments to the Municipal Code to allow for Two-unit projects are consistent with the City's General Plan. The ordinance will also comply with State requirements of SB 9. The amendments will not impede the City's ability to meet its General Plan goals, and the amendments are necessary to carry out the purposes of the Zoning Ordinance, including the orderly planned use of land resources.

SECTION 4. The Planning Commission hereby recommends City Council approval of the proposed ordinance attached hereto as Exhibit A.

VOTE: AYES:
NOES:
ABSTAIN:
ABSENT:

CERTIFICATION

I hereby certify that the foregoing Resolution P.C. 21-XX is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California, at its regular meeting of November 16, 2021.

_____ _____

Marie Rice, Chairperson Ken Robertson, Secretary

November 16, 2021

Date

Exhibit A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERMOA BEACH AMENDMING TITLE 17, SECTION 17.08.020 AND ADDING A NEW SECTION 17.08.050 FOR TWO-UNIT PROJECTS OF THE HERMOSA BEACH MUNICIPAL CODE

The City Council of the City of Hermosa Beach does ordain as follows:

Section 1. The Planning Commission held a duly noticed public hearing on November 16, 2021, to consider amending the Hermosa Beach Municipal Code Sections 17.08.020 and adding a new section 17.08.50 related to Two-unit projects in the R-1 Single-Family Residential Zone.

Section 2. The City Council held a duly noticed public hearing on December XX, 2021, not to exceed forty (4) calendar days following the Planning Commission's recommendation, to consider amending the Hermosa Beach Municipal Code Sections 17.08.020 and adding new section 17.05.050 related to Two-unit projects in the R-1 Single-Family Residential Zone.

Section 3. The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines. Section 15061(b)(3) states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The proposed text amendments will not have a significant effect on the environment because the proposed zone text amendments would provide for new standards consistent with State Law and do not propose any physical construction.

Section 4. The City Council approves of the following amendments to the Hermosa Beach Municipal Code:

1. Section 17.08.020 of Chapter 17.08 of Title 17 of the Hermosa Beach Municipal Code is amended to read as follows:

Section 17.08.020

Subject to the restrictions hereinafter specified, only the following uses are permitted in an R-1 zone:

A. Accessory buildings:

1. Patio covers;

2. Bathhouse or greenhouse;

3. Swimming pool and/or spa;

4. Tool shed;

5. Garage;

6. Storage room for customary household-related items, and a maximum of four hundred (400) square feet in size.

B. Day care homes, small (see Section 17.04.040).

C. Day care homes, large, as an accessory use to a single-family detached dwelling if a day care permit is approved pursuant to Section 17.40.100.

D. Home Occupations. When conducted in accordance with the following requirements, and when a permit therefor, containing any conditions deemed necessary to ensure compliance with the requirements of this chapter and with its purpose and intent, has been issued by the business license department; provided however, that any occupation may be excluded from certain or all zones, or portions thereof, if determined by the planning commission to be incompatible with neighboring residential uses.

The following requirements are severally and jointly stated as absolute requirements, and any home occupation not conforming to the following requirements shall not be permitted:

1. Such occupation shall be carried on only by occupants of a dwelling, and shall involve the use of not more than four hundred (400) square feet, not to exceed twenty-five (25) percent of the total area of the permitted buildings on the premises.

2. Inventory and supplies for such home occupation shall occupy not more than twenty-five (25) percent of the permitted area and shall be stored entirely within an enclosure or building.

3. No sale of goods is permitted on the premises.

4. No employees are allowed.

5. No signs are permitted.

6. No display of any kind shall be visible from the exterior of the premises.

7. Light, but not medium or heavy, business machines are allowed. The classification by the planning department shall be final.

8. No presses, data processing equipment, or any electrical or other equipment requiring specialized electrical installation, or requiring over one hundred twenty (120) volts of power to operate are allowed, nor shall any mechanical shop or electrical tools be permitted except those which are customary to home crafts.

9. No tools or equipment may be operated which make a sound audible from without the premises at a distance of twenty (20) feet from the property line, between the hours of 6:00 p.m. and 9:00 a.m. No activity or equipment which makes any loud or whining noise discernible from without the premises is permitted at any time.

10. No garaging or storing of vehicles bearing any advertising related to the home occupation is allowed upon the premises or in the street in the vicinity.

11. No foot or vehicle traffic may be generated to or from the premises except for traditional uses such as tutors and day care centers as approved by the planning director.

12. There shall be complete conformity to fire, building, plumbing, electrical, zoning and health codes and to all state and city laws and ordinances; except, where required parking spaces are not available, the planning commission may temporarily waive such requirements if they find:

a. The garage, carport or space is not available solely because of temporary storage, and not because of construction and/or building improvement or modifications; and

b. The temporary storage is not related to products, materials, etc., used for the conduct of the home occupation; and

c. Such waiver to be effective only if no detrimental effects are caused to adjacent properties and no valid complaints were filed due to storage.

13. No structural alterations of the premises are permitted solely for the benefit of the business.

14. No listing or advertising of the address of such home occupation for business purposes is permitted including display ads in telephone, business and city directories and in newspapers and magazines. The telephone number and address may be listed on business cards.

15. The term of any permit shall be for one (1) year, or for such other period as shall be authorized by the city council.

16. It shall be a condition of any permit hereunder that the applicant shall agree that, in the event of amendment of this section to prohibit such or any home occupation in a zone in which the same is situated, that such home occupation shall not have the status of nonconforming use, and may be eliminated forthwith without provision for extended liquidation or amortization.

17. Prior to permit approval, the premises shall be inspected to determine compliance with all limitations and requirements, particularly subsection (D)(12) of this section.

E. Garage sales, subject to Chapter 5.44.

F. Group home for six (6) or fewer persons.

G. Elementary schools, grades K through 8th, conditional use permit required.

H. Day nursery, preschool, and/or after school child care with thirteen (13) or more children, conditional use permit required subject to Section 17.40.110.

I. Religious institutions, conditional use permit required subject to Chapter 17.40.

J. Residential or medical care facility for six (6) or fewer persons.

K. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.21.

L. Single-family dwelling, including mobilehomes.

M. Supportive housing for six (6) or fewer persons.

N. Transitional housing for six (6) or fewer persons.

O. Two-unit projects, in accordance with Chapter 17.08.

2. Chapter 17.08 of Title 17 of the Hermosa Beach Municipal Code is amended to read as follows:

Section 17.08.50 Two-unit Projects

A. **Purpose.** The purpose of this section is to allow and appropriately regulate two-unit projects in accordance with Government Code section 65852.21.

B. **Definition**. A "two-unit project" means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on a legally subdivided lot in accordance with the requirements of this section.

C. **Application**.

1. Only individual property owners may apply for a two-unit project. "Individual property owner" means a natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. "Individual property owner" does not include any corporation or corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Rev. & Tax Code § 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by § 214.15).

2. An application for a two-unit project must be submitted on the city's approved form.

3. The applicant must obtain a certificate of compliance with the Subdivision Map Act for the lot and provide the certificate with the application.

4. Only a complete application will be considered. The city will inform the applicant in writing of any incompleteness within 30 days after the application is submitted.

5. The city may establish a fee to recover its costs for adopting, implementing, and enforcing this section of the code, in accordance with applicable law. The city council may establish and change the fee by resolution. The fee must be paid with the application.

D. **Approval**.

1. An application for a two-unit project is approved or denied ministerially, by the Community Development Director.

2. The ministerial approval of a two-unit project does not take effect until the city has confirmed that the required documents have been recorded, such as the deed restriction and easements.

3. The approval must require the owner and applicant to hold the city harmless from all claims and damages related to the approval and its subject matter.

4. The approval must require the owner and applicant to reimburse the city for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this code.

E. **Requirements**. A two-unit project must satisfy each of the following requirements:

1. **Map Act Compliance**. The lot must have been legally subdivided.

2. **Zone.** The lot is in the R-1 Single-Family Residential Zone.

3. **Lot Location**.

a. The lot is not located on a site that is any of the following:

i. Prime farmland, farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.

ii. A wetland.

iii. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by existing building standards.

iv. A hazardous waste site that has not been cleared for residential use.

v. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.

vi. Within a 100-year flood hazard area, unless the site has either:

(I) been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or

(II) meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.

vii. Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.

viii. Habitat for protected species.

ix. Land under conservation easement.

4. **Not Historic**. The lot must not be a historic property or within a historic district that is included on the State Historic Resources Inventory. Nor may the lot be or be within a site that is designated by ordinance as a city or county landmark or as a historic property or district.

5. **No Impact on Protected Housing**. The two-unit project must not require or include the demolition or alteration of any of the following types of housing:

a. Housing that is income-restricted for households of moderate, low, or very low income.

b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its policy power.

c. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code §§ 7060–7060.7) at any time in the 15 years prior to submission of the urban lot split application.

d. Housing that has been occupied by a tenant in the last three years. The applicant and the owner of a property for which a two-unit project is sought must provide a sworn statement as to this fact with the application for the parcel map. The city may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including but not limited to, surveying owners of nearby properties; and the city may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.

6. **Unit Standards**.

a. **Quantity**.

i. No more than two dwelling units of any kind may be built on a lot that results from an urban lot split. For purposes of this paragraph, "unit" means any dwelling unit, including, but not limited to, a primary dwelling unit, a unit created under this section of this code, an ADU, or a JADU.

ii. A lot that is not created by an urban lot split may have a two-unit project under this section, plus any ADU or JADU that must be allowed under state law and the city's ADU ordinance.

b. **Unit Size**.

i. The total floor area of any second primary dwelling built that is developed under this section cannot exceed 800 square feet.

c. **Demo Cap**. The two-unit project may not involve the demolition of more than 25 percent of the existing exterior walls of an existing dwelling unless the site has not been occupied by a tenant in the last three years.

d. **Lot Coverage**. The City's existing lot coverage standards for its R-1 Single-Family Residential Zone shall apply to projects subject to this Chapter. This lot coverage standard shall apply to the maximum extent feasible so that two primary dwelling units on the lot at 800 square feet are permitted.

e. **Open Space**. The City's existing open space standards for its R-1 Single-Family Residential Zone shall apply to projects subject to this Chapter. This open space standard shall apply to the maximum extent feasible so that two primary dwelling units on the lot at 800 square feet are permitted.

f. **Setbacks**.

i. **Generally**. The City's existing setback standards for its R-1 Single-Family Residential Zone shall apply to projects subject to this Chapter. These setback standards shall apply to the maximum extent feasible so that two primary dwelling units on the lot at 800 square feet are permitted.

ii. **Exceptions**. Notwithstanding subpart E.6.f above:

(I) **Existing Structures**. No setback is required for an existing legally established structure or for a new structure that is constructed in the same location and to the same dimensions as an existing legally established structure.

g. **Parking**. Each new primary dwelling unit must have at least one off-street parking space per unit unless one of the following applies:

i. The lot is located within one-half mile walking distance of either

(I) a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours or

(II) a site that contains

(ia) an existing rail or bus rapid transit station,

(ib) a ferry terminal served by either a bus or rail transit service, or

(ic) the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

ii. The site is located within one block of a car-share vehicle location.

h. **Utilities**.

i. Each primary dwelling unit on the lot must have its own direct utility connection to the utility service provider.

i. **Building & Safety**. All structures built on the lot must comply with all current local building standards. A project under this section is a change of use and subjects the whole of the lot, and all structures, to the city's current code.

j. **Other Standards**. All other applicable standards of this Code shall apply to the extent these standards do not conflict with this section of State law.

7. **Separate Conveyance**.

a. Primary dwelling units on the lot may not be owned or conveyed separately from each other.

b. Condominium airspace divisions and common interest developments are not permitted within the lot.

c. All fee interest in the lot and all the dwellings must be held equally and undivided by all individual property owners.

8. **Regulation of Uses.**

a. **Residential-only**. No non-residential use is permitted on the lot.

b. **No STRs**. No dwelling unit on the lot may be rented for a period of less than 30 days.

c. **Owner Occupancy**. Unless the lot was formed by an urban lot split, the individual property owners of a lot with a two-unit project must occupy one of the dwellings on the lot as the owners' principal residence and legal domicile.

9. **Notice of Construction**.

a. At least 30 business days before starting any construction of a two-unit project, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:

i. Notice that construction has been authorized,

ii. The anticipated start and end dates for construction,

iii. The hours of construction,

iv. Contact information for the project manager (for construction-related complaints), and

v. Contact information for the Building & Safety Department.

b. This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.

10. **Deed Restriction**. The owner must record a deed restriction, acceptable to the city, that does each of the following:

a. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.

b. Expressly prohibits any non-residential use of the lot.

c. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.

d. If the lot is not created by an urban lot split, expressly requires the individual property owners to live in one of the dwelling units on the lot as the owners' primary residence and legal domicile.

e. If the lot is created by an urban lot split, then it is subject to the city's urban lot split regulations, including all applicable limits on dwelling size and development and the only development permitted on the lot are two-unit projects subject to this Chapter.

F. **Specific Adverse Impacts**.

1. Notwithstanding anything else in this section, the city may deny an application for a two-unit project if the building official makes a written finding, based on a preponderance of the evidence, that the project would have a "specific, adverse impact" on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

2. "Specific adverse impact" has the same meaning as in Gov. Code § 65589.5(d)(2): "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code section 214(g).

3. The building official may consult with and be assisted by planning staff and others as necessary in making a finding of specific, adverse impact.

G. **Coastal Regulations Apply in Full.** Nothing in this section alters or lessens the effect or application of the California Coastal Act.

H. **Remedies**.

If a two-unit project violates any part of this code or any other legal requirement:

1. The buyer, grantee, or lessee of any part of the property has an action for damages or to void the deed, sale, or contract.

2. The city may:

a. Bring an action to enjoin any attempt to sell, lease, or finance the property.

b. Bring an action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.

c. Pursue criminal prosecution, punishable by imprisonment in county jail or state prison for up to one year, by a fine of up to $10,000, or both; or a misdemeanor.

d. Record a notice of violation.

e. Withhold any or all future permits and approvals.

f. Pursue all other administrative, legal, or equitable remedies that are allowed by law or the city's code.

Section 5. The City Council finds that the proposed amendment is consistent with the general objectives, principles, and standards of General Plan.

PASSED, APPROVED and **ADOPTED** this ____ day of _____ 2021.

VOTE: AYES:
NOES:
ABSTAIN:
ABSENT:

_____
MAYOR of the City of Hermosa Beach, California

ATTEST:

_____
Susan Morrow,
Interim City Clerk

APPROVED AS TO FORM:

_____
Michael Jenkins,
City Attorney