

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MOUNTAIN VIEW  
TO REPEAL, IN ITS ENTIRETY, DIVISION 11 OF ARTICLE IV OF CHAPTER 36 OF  
THE MOUNTAIN VIEW CITY CODE AND ADD DIVISION 8 TO ARTICLE XVI OF  
CHAPTER 36 OF THE MOUNTAIN VIEW CITY CODE RELATED TO  
DENSITY BONUS

WHEREAS, the City Council of the City of Mountain View has reviewed and considered the January 20, 2021 recommendation of the Environmental Planning Commission relating to Zoning Text Amendments to Chapter 36 of the Mountain View City Code; and

WHEREAS, the City Council of the City of Mountain View finds and declares that Chapter 36, entitled "Zoning," of the Mountain View City Code (City Code or Code) should be amended to be consistent with recent amendments to State law (Government Code Section 65915, *et seq.*) related to Density Bonus;

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Council Findings. On January 20, 2021, the Environmental Planning Commission held a duly noticed public hearing and reviewed all project materials, staff reports, public testimony, and environmental review on said Zoning Text Amendments and adopted a resolution recommending City Council approval of the Zoning Text Amendments with modification to provide clarifying language in Section 36.48.75 (g) (inadvertently identified as Section 36.45.75(g) in the Environmental Planning Commission's action).

The City Council finds and determines, at a duly noticed public hearing on February 9, 2021, that the following Zoning Text Amendments are consistent with the General Plan of the City of Mountain View based upon the following findings made pursuant to Section 36.52.70 of the City Code:

a. The proposed text amendments are consistent with the General Plan because they update the Zoning Ordinance to conform with State law that allow for residential densities to exceed the maximum, otherwise specified in the General Plan, and provide guidance for how to apply State law to each of the areas in the City, regardless of what metric the General Plan uses to define density (such as units per acre and/or floor area ratio); and

b. The proposed text amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the City because they are consistent with State law, will increase clarity of the City’s local density bonus program, and projects will still be subject to the California Environmental Quality Act (CEQA); and

c. The proposed text amendments are internally consistent with Chapter 36 of the Mountain View City Code because the proposed text amendments update internal references to the ordinance; and

d. The proposed text amendments do not constitute a “project” within the meaning of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2), Section 15378(a), and Section 15378(b)(5). There is no potential the ordinance will result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment because the ordinance deals with administrative activities consistent with State law. Even if the text amendments were a project within the meaning of CEQA, the proposed amendments comply with CEQA pursuant to CEQA Guidelines Section 15061(b)(3), the common-sense exception, because the ordinance simply defines procedures for implementing required density bonuses and other project benefits that are mandated under State law, and the ordinance does not authorize any specific development or otherwise affect the physical characteristics of development in the City, nor is any new development proposed or approved by adoption of this ordinance. Therefore, it can be seen with certainty that adoption the action would not cause significant environmental effects.

Section 2. Chapter 36, Article IV, Division 11, of the Mountain View City Code is hereby repealed in its entirety.

Section 3. Chapter 36, Article XVI, Division 8, Sections 36.48.65 through 36.48.95, of the Mountain View City Code is hereby added to read as follows:

**“DIVISION 8 - DENSITY BONUS**

**SEC. 36.48.65. - Density bonus.**

**SEC. 36.48.66. - Purpose.**

This section provides incentives for the development of housing that is affordable to the types of households and qualifying residents identified below. The incentives include the ability to construct more residential dwelling units than the maximum residential density permitted by the applicable zoning and general plan designations and other incentives provided by this section. State Density Bonus Law will be implemented, as required by Government Code Section 65915(a).

**SEC. 36.48.70. - Definitions.**

The definitions found in the State Density Bonus Law shall apply to the terms contained in this division, with the clarifications and additions shown below.

a. **Affordable units.** The proposed housing units available for rent or sale to households with income levels of extremely low, very low, low or moderate income, the percentage of which establishes allowable density bonus.

b. **Base units.** The total number of units in a project, not including units added by a density bonus awarded pursuant to this division.

c. **Bonus FAR.** Gross floor area allowed through a discretionary process prescribed through zoning or precise plans, also called “density or intensity tiers” in some precise plans.

d. **Development standard.** A site or construction condition other than a maximum control on density, including, but not limited to, a height limitation, a setback requirement, a floor area ratio (except in zones where floor area ratio defines the maximum allowable residential density pursuant to paragraph e. of this section), an on-site open-space requirement or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter or other local condition, law, policy, resolution or regulation.

e. **Housing development.** A development project of five (5) or more residential units, including mixed-use developments. Also includes a subdivision or common-interest development, as defined in Civil Code Sec. 1351, approved by the city and that consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multi-family dwelling, as defined in Government Code Section 65863.4(d), where the result of the rehabilitation would be a net increase in available residential units.

f. **Incentives/concessions.** A reduction in local regulatory or development standards that results in identifiable and actual cost reductions to provide for affordable housing costs or affordable rents as defined in State Density Bonus Law.

g. **Maximum allowable residential density.** The maximum allowable residential density applicable to the project under the zoning ordinance and land use element of the general plan, or, if a range of density is permitted, the maximum allowable density of that range. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail. For general plan land use and zoning designations with a defined

dwelling units per acre standard, such standard shall define the maximum allowable residential density. For general plan land use and zoning designations without a defined dwelling units per acre standard, or for residential uses that are not “dwelling units” as defined in Sec. 36.60.11, the maximum floor area ratio shall define the maximum allowable residential density.

h. **Maximum floor area ratio.** The density defined by reference to floor area ratio authorized through the city’s general plan, zoning or precise plan designations.

i. **Project units.** All of the units in the project, including base units, affordable units and units in addition to base density granted through density bonus.

j. **Specific adverse impact.** A significant, quantifiable, direct and unavoidable impact, based on objective, and identified, written public health or safety standards, policies or conditions as they existed on the date that the application for the housing development was deemed complete or the date that a preliminary application that satisfies the requirements of Government Code Section 65941.1 was submitted.

k. **State Density Bonus Law.** State of California Government Code Section 65915, *et seq.*

l. **Waivers.** A waiver or reduction in development standards that would physically preclude the construction of a development at the density or with the incentives/concessions permitted by this division.

**SEC. 36.48.75. - General provisions for density bonus.**

a. **Lesser density bonus.** The applicant may elect to accept a lesser percentage of density bonus or none at all.

b. **Rounding.** All density calculations resulting in fractional units shall be rounded up to the next whole number.

c. **No legislative act, discretionary approval or study.** In and of itself, the granting of a density bonus or incentive/concession shall not require a general plan amendment, zoning change, study or other discretionary approval; however, as used in this section, “study” does not include reasonable documentation necessary to establish a housing development’s eligibility for a density bonus, incentives/concessions, waivers or parking reductions required pursuant to Sec. 36.48.90.

d. **Contiguous project sites.** For the purpose of calculating a density bonus, the dwelling units shall be on contiguous sites that are the subject of one (1) development application but do not have to be based upon individual subdivision maps or parcels.

The density bonus shall be permitted in any geographic area of the housing development, including areas other than where the affordable units are located.

e. **Equal distribution and design of affordable units.** Affordable units qualifying for a density bonus shall be dispersed throughout the housing development and compatible with the design of market-rate units in terms of appearance, materials and finished quality. For developments with multiple market-rate units containing different numbers of bedrooms, affordable units qualifying for a density bonus shall be representative of the market-rate mix. This paragraph does not apply to projects donating land to qualify for a density bonus.

f. **Limitations to waivers and incentives/concessions.** Nothing in this division shall be interpreted to require the city to waive or reduce development standards that would have an adverse impact on any real property listed in the California Register of Historical Resources; to grant any waiver or reduction that would be contrary to state or federal law; or to waive or reduce development standards that would have a specific, adverse impact upon public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to lower- and moderate-income households.

g. **Other density bonuses.** The city, at its sole discretion, may grant a proportionately lower density bonus than what is required in the State Density Bonus Law for developments that do not provide a sufficient number of affordable units to be eligible for a density bonus pursuant to Sec. 36.48.80.

h. **Direct financial incentives.** Nothing in this division requires the provision of direct financial incentives for the housing development, including, but not limited to, the provision of financial subsidies, publicly owned land, fee waivers or waiver of dedication requirements. The city, at its sole discretion, may choose to provide such direct financial incentives.

i. **Number of incentives/concessions.** The number of incentives/concessions that may be requested shall be based upon the number the applicant is entitled to pursuant to Government Code Section 65915(d)(2).

j. **Calculation of base units.** Base density will be calculated as follows:

1. Where dwelling units per acre is the density standard, the base units equal the maximum allowable residential density or the project units, whichever is smaller.

2. Where floor area ratio is the density standard, the base units are proportional to the number of project units and maximum allowable residential floor area, with the same ratio of project units to residential floor area, calculated as follows:

$$\text{Base Units} = \text{Project Units} * \frac{\text{Maximum Allowable Gross Floor Area} - \text{Project Nonresidential Gross Floor Area}}{\text{Project Gross Floor Area} - \text{Project Nonresidential Gross Floor Area}}$$

If the project residential gross floor area is less than the maximum allowable residential gross floor area, the base units equal the project units.

3. Where bonus FAR is less than or equal to the maximum allowable residential density in the general plan, the bonus FAR may be combined with a State Density Bonus. The Base Units are calculated as set forth in Paragraph 2 of this subsection, provided that the maximum floor area ratio may include the bonus FAR if the project otherwise qualifies for bonus FAR.

4. Where bonus FAR is greater than the maximum allowable residential density in the general plan, the bonus FAR cannot be combined with a State Density Bonus. The Base Units are calculated as set forth in Paragraph 2 of this subsection, provided that the maximum floor area ratio shall not include any bonus FAR. See Sec. 36.48.80(c).

k. **Administrative guidelines.** The community development director shall have the authority to prepare, adopt and periodically update administrative guidelines consistent with this division and State Density Bonus Law.

l. **Replacement of existing units.** For housing developments that are required under other laws or ordinances to replace existing residential units, those replacement units can qualify a project for a density bonus as long as minimum eligibility requirements are met as defined in Sec. 36.48.80.

#### SEC. 36.48.80. - Density bonus.

a. **Eligibility.** The city shall grant one (1) density bonus, the amount of which shall be as specified below, provide incentives/concessions, waive development standards and apply no more than the parking maximums as described in State Density Bonus Law when an applicant proposes to construct a housing development with five (5) or more base units, containing at least one (1) of the following:

1. **Very low-income units.** Five (5) percent of the base units of a housing development for very low-income households, as defined in Health and Safety Code Section 50105.

2. **Lower-income units.** Ten (10) percent of the base units of a housing development for lower-income households, as defined in Health and Safety Code Section 50079.5.

3. **Moderate-income.** Ten (10) percent of the base units in a common-interest development as defined in Sec. 1351 of the city code for persons and families of moderate income, as defined in Health and Safety Code Section 50093, provided that all units in the development are offered to the public for purchase.

4. **Senior housing units.** A housing development for senior citizens that has at least thirty-five (35) dwelling units, as defined in Sec. 51.3 and Sec. 51.12 of the city code, or mobile home park that limits residency based on age requirements for housing for older persons pursuant to Sec. 798.76 or Sec. 799.5 of the city code.

5. **Other housing developments.** Section 65915(b) of the State Density Bonus Law makes other housing developments eligible for specific density bonuses, including housing developments with units intended to serve transitional foster youth, disabled veterans or homeless persons; student housing developments with units for lower-income students; or housing developments with one hundred (100) percent of the project units for lower-income households, except the manager's unit or units and except that up to twenty (20) percent of the project units may be affordable for moderate-income households.

b. **State density bonus.** The amount of density increase above the otherwise maximum allowable residential density to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in paragraph a., pursuant to formulas and tables in Section 65915(f) of the State Density Bonus Law.

c. **Bonus FAR.** Where bonus FAR allows densities that are greater than the maximum allowable residential density in the general plan, a project may qualify for either a density bonus under the State Density Bonus Law or under the bonus FAR program established in the applicable zoning or precise plan, and an applicant may elect to apply for either bonus program for which its project qualifies, but not both. The city's approval of additional density under the bonus FAR program as an alternative to the State Density Bonus Law shall not be interpreted to require the city to allow a State Density Bonus or incentives/concessions, waivers or parking reductions required by the State Density Bonus Law.

d. **NOFA projects.** Pursuant to Section 65915(n) of the State Density Bonus Law, one hundred (100) percent affordable developments that receive authorization (and reservation of funding allocation) through the notice of funding availability (NOFA)

process are eligible for density increases greater than those prescribed by State Density Bonus Law, if they meet the requirements thereof.

**SEC. 36.48.85. - Affordability requirements.**

Any applicant requesting a density bonus and any incentive/concession(s), waiver(s) or parking reductions is required to maintain affordability in compliance with the following:

a. **Rental units.** An applicant shall agree to continued affordability of all units that qualified the applicant for the award of the density bonus for at least fifty-five (55) years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program or compliance with the Below-Market-Rate Housing Program. Rents for the affordable density bonus units shall be set at an affordable rent as defined in Health and Safety Code Section 50053.

b. **For-sale units.** An applicant shall agree that the initial occupants of all for-sale units are persons and families of very low, low, or moderate income, and that the units are offered at an affordable housing cost, as defined in Health and Safety Code Section 50052.5. For-sale units shall be subject to recorded restrictions that ensure that the affordable units are resold at an affordable price to very low-, low-, or moderate-income households, as applicable, and such restrictions shall be maintained in perpetuity.

1. **Lower-income for-sale units.** For very low- and low-income ownership units, developers shall set aside a reserve and the reserve shall be described in the CC&Rs to cover future special assessments and increases in HOA dues for those households, such that the total annual housing cost will not exceed thirty (30) percent of the household's annual income for the unit for the life of the unit. The community development director or designee may establish standards for calculating the amount of the reserve.

c. **Agreements.** An agreement pursuant to this section shall be approved as to form by the city attorney and shall be recorded against the housing development project prior to final map or parcel map approval, or, where a map is not being processed, prior to issuance of any building permit for the housing development. The agreement shall include, but not be limited to, the following:

1. The total number of units approved for the housing development; the number, location and level of affordability of target units and the number of density bonus units.

2. Standards for determining affordable rent or ownership cost for target units.

3. The location, unit size in square feet and number of bedrooms of target units.

4. Provisions as required by this section to ensure continued affordability.

5. A schedule for completion and occupancy of target units in relation to construction of market-rate units.

6. A description of any incentive/concession, waiver or reduction of development standard or modification of parking standard being provided by the city.

7. A description of remedies for breach by either party and the identification of any third-party beneficiary or beneficiaries eligible to enforce a breach by the applicant.

8. In the case of rental housing, procedures for filling vacancies, provisions requiring maintenance of records to demonstrate compliance with this division and the developer's agreement that restrictions on rents are consistent with the Costa-Hawkins Act (Civil Code Section 1954.51, *et seq.*).

9. Procedures for verifying household incomes.

10. Financing of ongoing administrative and monitoring costs.

11. Other provisions as necessary or convenient to ensure implementation and compliance with this division.

**SEC. 36.48.90. Application requirements.**

Any applicant requesting a density bonus and any incentive/concession(s), waiver(s) or parking reductions shall submit reasonable documentation as described below.

a. **Project summary table.** A summary table showing the maximum allowable density permitted by the zoning and general plan designations excluding any density bonus; base units; proposed affordable units by income level; proposed bonus percentage; project units; residential gross floor area and total gross floor area proposed on the site; resulting density in units per acre or floor area ratio, depending on the density definition for the land use designation and zoning applicable to the housing development site; proposed parking stalls; and unit bedroom counts and unit types for the purpose of calculating parking requirements.

b. **Site plan.** A tentative map and/or preliminary site plan, drawn to scale, showing the number and location of all proposed units, designating the location of proposed affordable units.

c. **Site description.** The zoning and general plan designations, assessor's parcel number(s) of the housing development site and, if reduced parking is requested on the basis of location, the distance to the nearest major transit stop, as defined in Section 21155 of the Public Resources Code.

d. **Replacement determination.** To determine whether the project is subject to replacement requirements as described in Government Code Section 65915(c)(3), provided the following.

1. The total number of dwelling units existing on the site in the five (5) year period preceding the date of submittal of the application.

2. The total number of bedrooms in each dwelling unit existing on the site in the five (5) year period preceding the date of submittal of the application.

3. The total number of dwelling units that are or were subject to a recorded covenant, ordinance or law applicable to the site that restricted rents to levels affordable to very-low- or lower-income households, including, but not limited to the Community Stabilization and Fair Rent Act in the five (5) year period preceding the date of submittal of the application.

4. The total number of occupied dwelling units and the income and household size of all residents of currently occupied units or a statement from the applicant that such information is unknown.

5. The total number of vacant dwelling units on the site and the income and household size of the prior residents occupying those dwelling units when the site contained the maximum number of dwelling units or a statement from the applicant that such information is unknown.

e. **Land donation.** If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control and reasonable documentation that each of the requirements included in Government Code Section 65915(g) can be met.

f. **Child care.** If the density bonus or incentive/concession is based all or in part on the inclusion of a child-care facility, a written summary addressing the eligibility requirements as described in Government Code Section 65915(h) have been met.

g. **Condominium conversion.** If the density bonus or incentive/concession is based all or in part on the inclusion of affordable units as part of a condominium conversion, written summary addressing the eligibility requirements as described in Government Code Section 65915.5 have been met.

h. **Waivers.** If waivers or reductions of development standards are requested, the following minimum information for each waiver requested on each lot, shown on a site plan if appropriate:

1. The city's usual development standard and the requested development standard waiver.

2. Reasonable documentation that the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the incentive/concession permitted by Government Code Section 65915 and the waiver is no greater than necessary to reasonably accommodate the construction of such a development.

i. **Incentives/concessions.** If incentives/concessions are requested, the following information for each incentive/concession:

1. The number of incentives/concessions the applicant is eligible for pursuant to State Density Bonus Law.

2. The city's usual development standard or other regulatory standard and the requested incentive/concession.

3. Reasonable documentation that the incentive/concession will result in identifiable and actual cost reductions.

4. Reasonable documentation that the amount of cost reduction is used to provide the affordable units at affordable house costs or affordable rents.

**SEC. 36.48.95. - Findings.**

a. An application for a density bonus shall be approved pursuant to the State Density Bonus Law if the following findings are met, in addition to the required findings of other permits as part of the project. Finding 1 is required for all density bonus applications, while Findings 2, 3, 4 and 5 are only required if the density bonus request

includes bonus density, reduced parking, incentives/concessions or waivers, respectively.

1. The project is a housing development that contains at least one (1) of the features described in Section 65915(b) of the State Density Bonus Law to qualify for a density bonus and all other eligibility requirements as described in Government Code Section 65915(c), such as replacement of existing units, have been met;

2. If bonus density is requested, the project has provided sufficient affordable units or otherwise meets the eligibility requirements for the bonus as described in Section 65915(f) of the State Density Bonus Law;

3. If reduced parking ratios are requested, the project meets the eligibility requirements thereof as described in Section 65915(p) of the State Density Bonus Law;

4. If incentives/concessions are requested, the project meets the eligibility requirements as described in Section 65915(d) of the State Density Bonus Law and the incentive/concession results in reduced costs to provide the affordable units; and

5. If waivers are requested, the development standards requested to be waived would physically preclude the units or incentives/concessions provided in the project as described in Section 65915(e) of the State Density Bonus Law.

b. A State Density Bonus, or any waivers or incentives/concessions thereof, may be denied only pursuant to the findings of denial in Paragraphs (d)(1), (e)(1) or (p)(8) of Section 65915 of the State Density Bonus Law."

Section 4. Chapter 36, Article XIV, Division 1, Section 36.40.05, of the Mountain View City Code is hereby amended to read as follows:

**"SEC. 36.40.05. - Definitions.**

For purposes of this article only, the following definitions shall be used in the interpretation and construction of this article.

a. "Addition" shall mean an extension or increase in floor area of an existing nonresidential development project subject to this section.

b. "Affordable housing" means housing which costs a very low-, low-, or moderate-income household no more than approximately thirty (30) percent of its gross monthly income. Costs included in the calculation of income for ownership housing are monthly mortgage principal and interest payments, homeowners' insurance, property

taxes and homeowners association fees, where applicable. Costs included in the calculation of income allocated to rental housing are monthly rent and utilities.

c. “Below-market-rate (BMR) unit” means an ownership or rental unit under the BMR program which is affordable to households with low or moderate incomes as defined in this chapter.

d. “Density bonus” means an approval of additional dwelling units, reduced parking, incentives and concession or waivers of development standards under ~~City Code SECS Sec. 36.14 to 36.14.65~~ 36.48.65 to 36.48.95 and Government Code Sections 65915, *et seq.*

e. “Existing floor area” means legally existing gross floor area at the time of application for a zoning permit or legally existing floor area that was demolished not more than one (1) year prior to the filing of the application for a zoning permit.

f. “Gross floor area” means the floor area enclosed within the walls of a building and measured from the outside perimeter of said walls, expressed in square feet and fractions thereof.

g. “Gross household income” means the earned and unearned household income of all adult members of the household:

1. “Above-moderate-income household” means the level of gross income for Santa Clara County between one hundred twenty (120) percent and one hundred fifty (150) percent of the AMI, adjusted for household size, as based on the one hundred twenty (120) percent AMI level published periodically by the state department of housing and community development.

2. “Moderate-income household” means a household whose gross income as published periodically by the state department of housing and community development is between eighty (80) percent and one hundred twenty (120) percent of the median household income, adjusted for household size.

3. “Low-income household” means a household whose gross income as published periodically by the state department of housing and community development is between fifty (50) percent and eighty (80) percent of the median household income, adjusted for household size, for Santa Clara County.

4. “Very low-income household” means a household whose gross income as published periodically by the state department of housing and community development is fifty (50) percent or less of the median household income, adjusted for household size, for Santa Clara County.

5. If the income limit index referenced in this section, or successor indexes, are no longer published by the state department of housing and community development, then a successor index shall be selected by the city manager. In selecting the successor index, the city manager shall choose an index published by a federal, state or county agency that most closely corresponds with the previous index.

h. "Housing fund" means the City of Mountain View housing funds established pursuant to Sec. 36.40.40 and Sec. 36.40.60.

i. "Housing impact fee" means the fee established pursuant to Sec. 36.40.55 for nonresidential development projects.

j. "In-lieu fee" means a fee paid by a developer into the city's housing fund in place of providing the required below-market-rate units.

k. "Market-rate unit" means a housing unit or the legal lot for such unit offered on the open market at the prevailing market rate for purchase or rental.

l. "Mixed projects" shall mean projects containing both rental units and for-sale units.

m. "Nonresidential development project" means the construction, addition or placement of a structure used for any commercial or industrial purpose as defined in Chapter 36 of the ~~C~~city ~~C~~code and shall include the nonresidential portion of the gross floor area in a combined or mixed-use project.

n. "Off-site" means that the affordable housing units as required by the BMR program are not part of the same residential development and not integrated with the project's market-rate units.

o. "On-site" means that the affordable housing units as required by the BMR program are integrated with the project's market-rate units and dispersed throughout the development according to the BMR program requirements. Except when required to develop senior housing in compliance with applicable laws, development of the affordable units in a separate, stand-alone structure, even if that stand-alone structure were on the same parcel or assessor's parcel number (APN) as a separate market-rate building, does not meet the definition of on-site.

p. "Resale controls" mean legal restrictions by which the price of below-market-rate units and the eligibility of purchasers or renters shall be restricted to ensure that the unit remains affordable to moderate-income households.

q. “Residential development” means any development that includes an application to the city for planning or building permits to create one (1) or more dwelling units, to convert nonresidential uses to residential uses or to convert residential units from rental to for-sale. As used herein, and in the BMR guidelines, “residential development” includes, without limitation, rental housing; for-sale housing; mixed-tenure housing; mixed-use residential; detached single-family dwellings; duplexes; triplexes; multiple-family dwelling structures; condominium or townhouse developments; condominium conversions; and land subdivisions intended to be sold or rented to the general public. However, accessory dwelling units and licensed care facilities are excluded from the definition of residential development.

r. “Zoning permit” means any of the several discretionary permits described in Chapter 36 of the ~~City Code~~ authorizing land uses, development, construction or alteration of uses or buildings within a zoning district.”

Section 5. Chapter 36, Article XVI, Division 1, Section 36.44.10, of the Mountain View City Code is hereby amended to read as follows:

**“SEC. 36.44.10. - Review authority.**

The following sections describe the duties and powers of city officials and administrative bodies responsible for acting on the land use permits and entitlements contained in this chapter.

Amendments to the zoning ordinance text, rezonings or zoning map amendments, adoption or amendment of precise plans, and amendments to the general plan are legislative acts reviewed by the environmental planning commission with final determination by the city council. In addition to the authority specifically described below, the zoning administrator may, in accordance with ~~Section~~ 36.44.45, designate other community development staff to review projects and issue zoning permits for projects not requiring public hearings. Each of the city officials and administrative bodies with final decision authority as listed below shall have the power to approve, conditionally approve or disapprove projects, permits and amendments. A summary of the review authority described in this article is given in Table 36.44-1.

**Table 36.44-1  
REVIEW AUTHORITY**

Type of Permit or Decision	Subdivision Committee	Development Review Committee	Zoning Administrator	Environmental Planning Commission	City Council
CEQA			F/R	R	F
Conditional Use Permits		R	F		A
<del>Density Bonus (Residential)</del>		<del>R</del>	<del>F</del>		<del>A</del>
Development Agreements			R		F
Development Review		R	F		F/A
Extensions			F		A
General Plan Amendments				R	F
Interpretations			F		A
Lot Line Adjustments <sup>1</sup>	F				A
Mobile Home Park Permit		R	F		A
Planned Unit Development Permits		R	F		A
Planned Community Permits		R	R/F		F

Type of Permit or Decision	Subdivision Committee	Development Review Committee	Zoning Administrator	Environmental Planning Commission	City Council
Precise Plans				R	F
Special Design Permit		R	F		A
Subdivisions <sup>1</sup> Parcel Maps Tentative Tract Maps	F R				A F
Temporary Use Permits			F		A
Variances		R	F		A
Zoning Map and/or Text Amendments				R	F''

Section 6. Chapter 43, Section 43.8, of the Mountain View City Code is hereby amended to read as follows:

**“SEC. 43.8. - Exemptions and reductions.**

a. The following are exempt from the fee:

1. **Government and nonprofit facilities.** Public park facilities<sup>7</sup> and buildings which are owned and at least seventy-five (75) percent occupied by governmental or nonprofit agencies and organizations.

2. **Affordable housing.** Because affordable housing is an important community need, the affordable housing units included in new development projects shall not be included in the total number of dwelling units used to calculate the transportation impact fee. This exemption shall not include affordable housing units in otherwise market-rate developments, provided pursuant to density bonus law (under state law and as set forth in ~~Chapter 36, Article IV, Division 11~~ Chapter 36, Article IV, Division 8, Section ~~36.48.65~~ 36.48.65 of the ~~City Code~~ City Code).

3. Accessory dwelling units, as defined in [Chapter 36](#).
4. Temporary uses, as defined in [Chapter 36](#).
5. Because they are not the final origin or destination of trips, parking structures are exempt from the fee.
6. Residential additions where no new units are created.
7. Interior remodels and tenant improvements where no new dwelling units, lodging rooms or gross square footage are created, and where no change of use is occurring.
8. Repair or replacement of a structure, where no new dwelling units, lodging rooms or gross square footage are created, and where no change of use is occurring.
9. **Grandfathered projects.** Development projects for which a zoning permit application was submitted on or before July 1, 2018. This exemption shall expire for all projects that are not issued a building permit by January 1, 2021.

b. **Reductions pursuant to Government Code Section 66005.1.** To receive fee reductions pursuant to Government Code Section 66005.1, the zoning permit application shall show consistency with all required project characteristics. The fee reductions shall be based on a transportation impact analysis or alternative analysis as determined by the zoning administrator. The city may deny the reduction request if it adopts findings after a public hearing establishing that the housing development, even with the required characteristics, would not generate fewer automobile trips than a housing development without those characteristics.”

Section 7. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 8. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 9. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be

made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

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AS/6/ORD  
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