

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW
AMENDING CHAPTER 36 (ZONING) OF THE MOUNTAIN VIEW CITY CODE
TO UPDATE REVIEW PROCEDURES FOR PRIVATE DEVELOPMENT APPLICATIONS WITH
LEGISLATIVE AMENDMENTS TO ZONING, GENERAL PLAN, AND PRECISE PLANS AND FINDING
THAT THE AMENDMENTS ARE EXEMPT FROM REVIEW UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT

WHEREAS, on June 13, 2023, the City Council adopted Fiscal Years 2023-2024 and 2024-2025 Council Work Plan, which includes a priority project to update procedures for private development projects with proposed legislative amendments to zoning, general plan, and precise plan designations, maps, and adopted regulatory documents (referred to as “Gatekeeper” projects); and

WHEREAS, the City Council discussed and provided direction to staff on procedural updates for Gatekeeper projects at hearings on September 12, 2023, December 5, 2023, and January 23, 2024, which require Council-initiated amendments of Chapter 36 (Zoning) of the City Code and adoption of a new Council policy; and

WHEREAS, procedures set forth in Chapter 36 (Zoning), Article XVI (Zoning Administration), Division 13 (Zoning Amendments) of the Mountain View City Code, whereby the City can amend Chapter 36, have been executed; and

WHEREAS, Chapter 36 (Zoning) of the City Code requires that both the City’s Environmental Planning Commission and City Council hold duly noticed public hearings regarding any proposed amendments to Chapter 36 (Zoning); and

WHEREAS, the Environmental Planning Commission held a duly noticed public hearing on _____ on said proposed amendments and recommended the City Council adopt amendments to Chapter 36 to update review procedures for Gatekeeper projects; and

WHEREAS, the City Council held a public hearing on _____ on this Ordinance and received and considered all information, documents, and comments presented at said hearing regarding amendments to Chapter 36, including the recommendation from the Environmental Planning Commission, the City Council report, and report materials; now, therefore,

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

SECTION 1. Findings. The City Council hereby makes the findings for text amendments to Chapter 36 (Zoning) pursuant to Section 36.52.70 (Findings) of the City Code:

- a. **The proposed amendment is consistent with the General Plan.** The proposed amendments are consistent with Council Policy G-9 (Gatekeeper Application Policy and Procedures) and the General Plan Housing Element because the project implements Subtask (f) of Policy Program 1.3 identified in the Sixth Cycle 2023-2031 Housing Element. Making amendments to the City Code to implement Council Policy G-9 will help increase housing opportunities, including affordable housing, and allow for a thorough planning process with community input for projects that request amendments to the General Plan;
- b. **The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.** The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the City because these amendments implement Council Policy G-9 and Subtask (f) of Policy Program 1.3 identified in the Sixth Cycle 2023-2031 Housing Element, which will not impact the public health and welfare of the community as it is intended to increase the properties available for housing projects while creating a thoughtful and transparent process to evaluate development projects that are requesting General Plan, Precise Plan, and/or Zoning amendments while considering the benefits to the community's economic and social well-being;
- c. **The proposed amendments are internally consistent with Chapter 36 (Zoning) of the Mountain View City Code.** The proposed amendments are internally consistent with Chapter 36 (Zoning) of the Mountain View City Code because these amendments implement Council Policy G-9 and Subtask (f) of Policy Program 1.3 identified in the Sixth Cycle 2023-2031 Housing Element, which aims to reduce constraints on residential developments and creates a process that is easily understood for both staff and the community; and
- d. **The proposed amendments are in compliance with the provisions of the California Environmental Quality Act (CEQA).** Adoption of the proposed amendments is exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3). The activity is covered by the general rule ("common sense" exemption) that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. The project involves amendments to the City's Gatekeeper process that would not have the potential to cause a significant physical effect on the environment. The proposed amendments are intended to implement Council Policy G-9 and the City's adopted Sixth Cycle Housing Element program and to add transparency to the Gatekeeper process for both the City and project applicants. No physical development is proposed as part of the project, and the City would conduct environmental review in compliance with the provisions of CEQA on future Gatekeeper projects.

SECTION 2. Chapter 36 (Zoning), Article XVI (Zoning Administration), Division 11 (Precise Plans), Section 36.50.80 (Special Application Requirements) of the Mountain View City Code is hereby amended to add, delete, or modify its provisions as set forth below. Section titles are shown in **bold** font, additions are shown in red underline font, and deletions are shown by ~~red strikethrough~~ font. Provisions that are not shown in underline or strikethrough font are not changed.

SEC. 36.50.80. Special application requirements.

a. A new precise plan or amendment to an existing precise plan may be initiated by the community development director, environmental planning commission, city council or by the owner, or authorized agent of the owner, of property within the proposed precise plan (and planned community zoning district) or existing precise plan area. In addition to the application requirements of this division, an application to amend or adopt a precise plan shall include the following documents and information.

1. ~~the~~The proposed text and diagram(s), which contain all of the provisions outlined in Section 36.50.85 (Content of Precise Plans), in addition to all data and related exhibits required by the city.

2. ~~Submitted materials shall also include a~~ A statement describing the characteristics or circumstances of the project area believed by the applicant to require the adoption or amendment of the plan as proposed.

3. All information required by City Council Policy G-9 (Gatekeeper Application Policy and Procedures).

b. For applications for a new precise plan or amendment of an existing precise plan submitted by the owner, or authorized agent of the owner, of property within the proposed or existing precise plan area, the application shall first be forwarded to the city council for determination of whether submission of a formal planning application shall be authorized and, if so authorized, the timing of review of the application. The city council's review shall be in accordance with Section 36.50.90 (Authorization Hearing and Action) and City Council Policy G-9 (Gatekeeper Application Policy and Procedures). The applicant shall submit all materials required for the application as provided in City Council Policy G-9 (Gatekeeper Application Policy and Procedures). ~~plus a letter requesting city council authorization to proceed with the review. Said letter shall include information about any other studies that have affected the subject property or area within the past three (3) years and any other information that the applicant feels pertains to the council's review of the scheduling of the processing of the application. Information about the potential fiscal impact of the proposed new or amended precise plan, including any measures proposed by the applicants to offset any adverse fiscal impacts, shall be included in the applicant's submitted information. The city council's review shall be in accordance with Section 36.50.90 (Hearings and Actions).~~

SECTION 3. Chapter 36 (Zoning), Article XVI (Zoning Administration), Division 11 (Precise Plans), Section 36.50.90 (Hearings and action) of the Mountain View City Code is hereby amended to add, delete, or modify its is amended to add, delete, or modify its title, sections, subsections, and provisions as set forth below. Section titles are shown in **bold** font, additions are shown in red underline font, and deletions are shown by ~~red strikethrough~~ font. Provisions that are not shown in underline or strikethrough font are not changed.

SEC. 36.50.90. ~~Hearings and action~~ Authorization hearing and action.

- a. Upon receipt of an application for a new precise plan or amendment of an existing precise plan, the city council shall schedule an authorization hearing for consideration of the application consistent with City Council Policy G-9 (Gatekeeper Application Policy and Procedures) ~~consideration of the timing of processing the application. The authorization hearing shall be noticed in accordance with Sec. 36.56.20 (Notice of Hearing). Said consideration shall be scheduled within sixty (60) days of the applicant's submittal of the required material. Information provided to the city council regarding this consideration shall include the applicant's request and application materials as required by Section 36.50.80 and a report from staff noting the estimated resources required to process the application; estimated cost, existing and scheduled city resource commitments; and summary of other general plan, precise plan or zoning considerations affecting the subject property or area within the past three (3) years. In determining the appropriate timing of processing the application, the city council shall consider the following:~~
- ~~a. The effect this request may have on other current pending requests and assignments or the ability of staff to handle other anticipated requests or other assignments for amendments;~~
 - ~~b. Whether the request should be combined with other requests, deferred until it can be combined with additional requests or otherwise coordinated with other pending amendment considerations;~~
 - ~~c. Whether the current application request affects the same or similar properties as have been studied within the past three (3) years, particularly with respect to the fairness of committing additional resources to areas or properties that have been studied extensively in the past;~~
 - ~~d. Identification of available staff resources to process and study the request, including environmental analysis and direction to staff to the extent necessary regarding the priority of this request relative to other work items; and~~
 - ~~e. The potential fiscal impact of the development allowed by the proposed new or amended precise plan relative to the existing allowed development and the fiscal impact of other projects pending planning study.~~
- b. A precise plan shall be prepared, adopted and amended in the same manner as a zoning map amendment, except that a precise plan may be adopted or amended by resolution. A precise plan may be amended as often as deemed necessary by the city council. All precise plans shall be reviewed against current community development goals and policies every five (5) years, at years ending in "5" or "10." This review shall be scheduled for consideration over the

course of the year before the environmental planning commission, which shall recommend to the council initiation of amendment of individual precise plans as deemed appropriate. The council shall consider the environmental planning commission's recommendations and shall have final authority to initiate a precise plan amendment based on this review.

Upon receipt of a complete application to introduce or amend a precise plan, or upon initiation by the community development director department, commission or council, and following department review, duly noticed public hearings shall be scheduled before the commission and council in accordance with Section 36.56 (Applications, Hearings and Appeals).

At the conclusion of its public hearing, the commission shall make a written recommendation to the council on whether to approve, approve in modified form or disapprove the proposed precise plan or amendment, based upon the findings required by this article.

Upon receipt of the commission's recommendation, the council may approve, approve in modified form or disapprove the proposed precise plan. Any substantial amendment to the plan proposed by the council may be referred back to the commission for review and subsequent recommendation to the council.

c. Once a project is authorized to apply by city council pursuant to this Section, the following actions shall require the project to return to city council for reauthorization consistent with the application submittal requirements and hearing procedures of this Code and City Council Policy G-9 (Gatekeeper Application Policy and Procedures).

1. **Change in ownership of project parcel(s).** If a parcel included within the project site of the precise plan authorized application changes ownership prior to submittal of a formal planning application.
2. **Expiration.** A formal planning application for the project has not been submitted to the planning division within one (1) year of city council authorization. This one-year period shall not begin until after any submittal deferral required by the council.
3. **Change in project.** Substantial changes to the project as determined by the community development director to be a deviation of 10 percent or more from the original project authorized, including, but not limited, to the number of units, land use type, square footage, or community benefits.

Any application not authorized by the city council to proceed to the formal planning application stage shall be subject to any limitation on resubmission of a substantially similar project for authorization provided in City Council Policy G-9 (Gatekeeper Application Policy and Procedures).

SECTION 4. Chapter 36 (Zoning), Article XVI (Zoning Administration), Division 12 (General Plan Amendments), Sections 36.52.15 (Special application requirements) and 36.52.20 (Authorization Hearing) of the Mountain View City Code is hereby amended to add, delete, or modify its provisions as set forth below. Section titles are shown in **bold** font, additions are shown in red font, and deletions are shown by ~~red strikethrough~~ font. Provisions that are not shown in underline or strikethrough font are not changed.

SEC. 36.52.15. Special application requirements.

- a. Amendment of the general plan text or land use map category may be initiated by the director, commission or council.
- b. An application to amend the text of the general plan may be initiated by any interested party residing in, owning property or doing business in with the city.
- c. Unless initiated in accordance with subsection 36.52.15.a., an application to amend the land use map category on a specific property may be made only by the property owners or the authorized agent of the affected property(ies).
- d. For applications for a general plan text or map amendment submitted by a property owner, person doing business in, or resident of, Mountain View, the application shall first be forwarded to the city council to authorize staff review in accordance with this section.
- e. General plan amendments that meet the ~~following~~ requirements set forth in City Council Policy G-9 (Gatekeeper Application Policy and Procedures) shall be subject to a streamlined review process that is ~~shall be~~ exempt from the authorization hearing requirement.
 - ~~1. Project sites within more than one (1) zoning district, under two (2) acres in total size, and owned by a single entity if the change is consistent with one (1) of the site's existing land use designations or land use types;~~
 - ~~2. Project sites under two (2) acres in total size, abutting an existing residential-zoned property, and proposed for conversion from an industrial to a residential zoning designation; and~~
 - ~~3. Projects that require authorization by the notice of funding availability (NOFA) committee.~~
- f. Applications for authorization by the city council shall submit all information specified in City Council Policy G-9 (Gatekeeper Application Policy and Procedures) as well as the following information and documents.
 1. **Project letter.** A letter requesting city council authorization to proceed with the review that includes all of the following information. ~~Said letter shall include:~~
 - (a) A summary of the proposed project, specifying its type (e.g., residential, commercial,

~~industrial, mixed use), size, and location. Information about any other studies that have affected the subject property or area, or the subject text of the general plan, within the past three (3) years;~~

(b) Information about how the application aligns with, advances or supports established City Council goals, objectives or priorities, or other community needs as described in City Council Policy G-9 (Gatekeeper Application Policy and Procedures). ~~community benefits and other contributions provided by the request which exceed the existing minimum requirements;~~

(c) Information about the subject property's current general plan land use designation, zoning classification, and existing use of the property, along with an analysis of surrounding land uses and designations. ~~about general plan and city council goals served by the request;~~

(d) Information about the general plan amendment requested, including its scope and implications, and the necessity for the amendment to enable the proposed project.

~~(e) Consistency with the amendment authorization criteria; and~~

(e) Information about the application's consistency with established City Council goals, priorities, and objectives, as well as its potential to address broader community needs.

~~(f)~~ Information about the potential fiscal impact of the proposed general plan amendment, including any measures proposed by the applicants to offset any adverse fiscal impacts. ;

~~(g)~~ Any other information necessary to demonstrate consistency with City Council Policy G-9 (Gatekeeper Application Policy and Procedures) or that the applicant feels pertains to the council's review of the request.

2. **Plans.** A set of plans which include:

(a) Site plan;

(b) Floor plans;

(c) Elevations; and

(d) Conceptual renderings.

~~3. **Application fee.** An application fee as listed on the city's adopted fee schedule.~~

SEC. 36.52.20. Authorization hearing and action.

a. Upon receipt of a general plan text or map amendment application, the city council shall

schedule an authorization hearing for consideration of the application consistent with City Council Policy G-9 (Gatekeeper Application Policy and Procedures). ~~shall be scheduled based on staff resources as determined by the community development director.~~ The authorization hearing shall be noticed in accordance with Sec. 36.56.20 (Notice of Hearing). ~~At the authorization hearing, the city council shall consider the authorization of projects utilizing the amendment authorization criteria.~~

b. Once a project is authorized to apply by city council pursuant to this Section, the following actions shall require the project to return before city council for reauthorization consistent with the application submittal requirements and hearing procedures of this ~~section~~ Chapter and City Council Policy G-9 (Gatekeeper Application Policy and Procedures).;

1a. **Change in ownership of project parcel(s).** If a parcel included within the project site of a general plan text or map amendment authorized application changes ownership prior to submittal of a formal planning application.

2b. **Expiration.** A formal planning application for the project has not been submitted to the planning division within one (1) year of city council authorization. This one-year period shall not begin until after ~~be in addition to~~ any submittal deferral required by the council.

3e. **Change in project.** Substantial changes to the project as determined by the community development director to be a deviation of 10 percent or more from the original project authorized, including but not limited to: the number of units, land use type, square footage, or community benefits.

Any application not authorized by city council to proceed to the formal planning application stage shall be subject to any limitation on resubmission of a substantially similar project for authorization that is provided in City Council Policy G-9 (Gatekeeper Application Policy and Procedures).

SECTION 5. Chapter 36 (Zoning), Article XVI (Zoning Administration), Division 13 (Zoning Amendments), Sections 36.52.50 (Applicability) through 36.52.60 (Authorization Hearing) of the Mountain View City Code is hereby amended to add, delete, or modify its provisions as set forth below. Section titles are shown in **bold** font, additions are shown in red underline font and deletions are shown by ~~red strikethrough~~ font. Provisions that are not shown in underline or strikethrough font are not changed.

SEC. 36.52.50. Applicability.

The zoning ordinance covers all of the incorporated area of Mountain View. The zoning map may also include, through pre-zoning ~~prezoning~~, unincorporated areas that are within the city's defined "sphere of influence," which is the outer boundaries of future incorporation to the city. A pre-zoning ~~prezoning~~ designation shall not restrict the use or development of the property until such time as the area is incorporated into the city. Applications to adopt or amend the zoning

ordinance text or map shall first be submitted to the city council to authorize staff review of such applications.

~~Applications needed to accommodate a housing proposal where a majority of the units will be affordable to households earning less than the median income by household size for Santa Clara County shall be exempt from this requirement.~~

SEC. 36.52.55. Special application requirements.

- a. Zoning amendments may be initiated by the director, commission or council and may include any amendment to the text of this chapter or to the official zoning map.
- b. An application for a zoning text amendment may be filed by any interested party residing in, owning property or doing business ~~in with~~ the city.
- c. Unless initiated in accordance with subsection 36.52.50.a., an application to amend the official zoning map designation for a particular parcel may be filed only by the owner or authorized agent of the owner of the subject property(ies).
- d. Notwithstanding the above, an application to amend the zoning map to apply the height limitation (-H) overlay zone or the neighborhood design (-ND) overlay zone may be filed by the owners of at least fifty (50) percent of the parcels that would be subject to the overlay zone. In addition, fifty-one (51) percent of the parcels in the -H overlay zone must comply with the height proposed for adoption by the city council, and at least fifty-one (51) percent of the parcels in the -ND overlay zone must have at least one (1) of any of the characteristics proposed to be regulated. If more than one (1) characteristic is proposed to be regulated, at least thirty-five (35) percent of the parcels must have at least two (2) of any of the characteristics proposed to be regulated. Prior to final city council action on the rezoning application, sixty-seven (67) percent of the property owners in the areas subject to the overlay zone, who respond to a mailed ballot, must indicate support for the zone change. However, the city council reserves the right to approve the rezoning without the sixty-seven (67) percent support.
- e. For applications for zoning amendments submitted by a property owner, person doing business in, or resident of, Mountain View, the application shall first be forwarded to the city council to authorize staff review in accordance with this section.
- f. Zoning amendments that meet the ~~following~~ requirements specified in City Council Policy G-9 (Gatekeeper Application Policy and Procedures) shall ~~be subject to a streamlined review process that is~~ be exempt from the authorization hearing requirement. process:

~~1. Project sites within more than one (1) zoning district, under two (2) acres in total size, and owned by a single entity if the change is consistent with one (1) of the site's existing land use designations or land use types;~~

~~2. Project sites under two (2) acres in total size, abutting an existing residential zoned property, and proposed for conversion from an industrial to a residential zoning designation; and~~

~~3. Projects that require authorization by the notice of funding availability (NOFA) committee.~~

g. Applications for authorization by the city council shall ~~submit~~ include all information specified in City Council Policy G-9 (Gatekeeper Application Policy and Procedures) as well as the following documents and information. ÷

1. **Project letter.** A letter requesting city council authorization to proceed with the review that includes all of the following information. ~~Said letter shall include:~~

(a) A summary of the proposed project, specifying its type (e.g., residential, commercial, industrial, mixed use), size, and location. ~~Information about any other studies that have affected the subject property or area, or the subject text of the zoning ordinance, within the past three (3) years;~~

(b) Information about how the application aligns with, advances or supports established City Council goals, objectives or priorities, or other community needs as described in City Council Policy G-9 (Gatekeeper Application Policy and Procedures). ~~community benefits and other contributions provided by the request which exceed the existing minimum requirements;~~

(c) Information about the subject property's current general plan land use designation, zoning classification, and existing use of the property, along with an analysis of surrounding land uses and designations. ~~general plan and city council goals served by the request;~~

(d) Information about the zoning amendment requested, including its scope and implications, and the necessity for the amendment to enable the proposed project.

~~(e) Consistency with the amendment authorization criteria; and~~

(e) Information about the application's consistency with established City Council goals, priorities, and objectives, as well as its potential to address broader community needs.

~~(f)~~ Information about the potential fiscal impact of the proposed zoning amendment, including any measures proposed by the applicants to offset any adverse fiscal impacts. ÷

~~(g)~~ Any other information necessary to demonstrate consistency with City Council Policy G-9 (Gatekeeper Application Policy and Procedures) or that the applicant feels pertains to the council's review of the request.

2. **Plans.** A set of plans which include:

- (a) Site plan;
- (b) Floor plans;
- (c) Elevations; and
- (d) Conceptual renderings.

~~3. **Application fee.** An application fee as listed on the city's adopted fee schedule.~~

SEC. 36.52.60. Authorization hearing and action.

a. Upon receipt of a zoning text or map amendment application, ~~the city council shall schedule an authorization hearing shall be scheduled as determined by the community development director for consideration of the application consistent with City Council Policy G-9 (Gatekeeper Application Policy and Procedures).~~ The authorization hearing shall be noticed in accordance with Sec. 36.56.20 (Notice of Hearing). ~~At the authorization hearing, the city council shall consider the authorization of projects utilizing the amendment authorization criteria.~~

b. Once a project is authorized to apply by city council pursuant to this Section, the following actions shall require the project to return before city council for reauthorization consistent with the application submittal requirements and hearing procedures of this Chapter section and City Council Policy G-9 (Gatekeeper Application Policy and Procedures).÷

1a. **Change in ownership of project parcel(s).** If a parcel included within the project site of a zoning general plan text or map amendment authorized application changes ownership prior to submittal of a formal planning application.

2b. **Expiration.** A formal planning application for the project has not been submitted to the planning division within one (1) year of city council authorization. This year shall ~~be in addition to~~ not begin until after any submittal deferral required by the council.

3c. **Change in project.** Substantial changes to the project as determined by the community development director to be a deviation of 10 percent or more from the original project authorized, including, but not limited to: the number of units, land use type, square footage, or community benefits.

Any application not authorized by city council to proceed to the formal planning application stage shall be subject to any limitation on resubmission of a substantially similar project for authorization that is provided in City Council Policy G-9 (Gatekeeper Application Policy and Procedures).

SECTION 6. Severability. 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 7. Publication. 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.

SECTION 8. Effective Date. Pursuant to Mountain View Charter Section 519, this Ordinance shall be effective thirty (30) days from and after the date of its adoption.
