

ORDINANCE NO.

AN ORDINANCE AMENDING THE BELOW-MARKET-RATE HOUSING PROGRAM,
MOUNTAIN VIEW CITY CODE SECTIONS 36.40.10 THROUGH 36.40.25

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

Section 1. Section 36.40.10 of Article XIV of Chapter 36 of the Mountain View City Code is hereby amended to read as follows:

“SEC. 36.40.10. - General requirements.

The words and terms used in this chapter shall have the meaning indicated as follows, unless the context clearly indicates otherwise:

a. **Percentage requirement.**

1. **Ownership units.** All residential ownership developments subject to the below-market-rate (BMR) program requirements shall provide at least ten (10) percent of the total number of dwelling units or parcels within the development as BMR units or pay a fee in lieu thereof, according to the terms of this article and as specified in the BMR administrative guidelines.

2. **Rental units.** All residential rental unit developments subject to the below-market-rate (BMR) program requirements shall provide at least fifteen (15) percent of the total number of dwelling units or parcels within the development as BMR units or pay a fee in lieu thereof, according to the terms of this article and as specified in the BMR administrative guidelines.

b. **Size of project.** The BMR requirement shall apply to new or converted residential developments with three (3) or more ownership units; five (5) or more rental units; or mixed projects of six (6) or more residential units.

c. **In-lieu fees for fractions of units.** If the calculation of BMR units results in a fraction of a unit, either an in-lieu fee shall be paid to the city's housing fund or the development shall provide an additional unit to satisfy the requirement. The in-lieu fee shall be based on a formula that considers the difference between the price of market-rate units and the price of below-market-rate units as specified in the BMR administrative guidelines.

d. **Developments with nine (9) or fewer units.** For residential developments with nine (9) or fewer units, the developer may elect to either pay an in-lieu fee or provide a BMR unit.

e. **Alternative mitigations.** As an alternative to building the affordable housing units or paying the in-lieu fee, developers of market-rate residential projects may submit a request to meet their affordable housing obligations through other means, such as the dedication of land, the provision of other resources, or other alternatives. Such requests may be granted at the sole discretion of the city council, if the city council determines that such alternative will further affordable housing opportunities in the city to a greater extent than the affordable housing obligation.

f. **Concurrent development.** All BMR units in a residential development and phases of a development shall be constructed concurrently with or prior to the construction of market-rate units.

g. **Location and design of BMR units.** All BMR units shall be reasonably dispersed throughout the project and shall contain, on average, the same number of bedrooms and shall be comparable to the design of the market-rate units in terms of appearance, materials, and finished quality of the market-rate units in the project. There shall not be significant identifiable differences between BMR and market-rate dwelling units which are visible from the exterior of the dwelling units, and the size and design of the dwelling units shall be reasonably consistent with the market-rate units in the development. BMR units shall have the same access to project amenities and recreational facilities as market-rate units.

h. **Targeted households.** All BMR rental units shall be rented only to qualified low-income households, and all BMR ownership units shall be sold only to qualified moderate-income households pursuant to procedures and guidelines established by the city.

i. **Term.** BMR units shall be maintained as affordable housing for a period of at least fifty-five (55) years.

j. **No density bonus.** Compliance with the provisions of this article does not entitle a residential development to a density bonus.

k. **Administrative guidelines.** The city shall adopt, by resolution, BMR administrative guidelines necessary for the implementation of the provisions of this article.

l. **Administration.** The BMR program shall be administered by the community development department or its designee."

Section 2. The provisions of this ordinance shall be effective sixty (60) days from and after the date of its adoption.

Section 3. 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 4. 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 5. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly).

WC/KB/4/ORD
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