

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MOUNTAIN VIEW  
AMENDING ARTICLE XIV OF CHAPTER 36 (ZONING) OF THE CITY CODE  
RELATED TO THE APPLICATION OF AFFORDABLE HOUSING PROGRAM  
STANDARDS AND EXEMPTIONS AND FINDING THAT THE AMENDMENTS  
ARE EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL  
QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061(b)(3)

WHEREAS, additional language is necessary to implement 100% affordable projects and affordable housing standards in the North Bayshore and East Whisman Precise Plans; and

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

WHEREAS, Chapter 36 of the Mountain View City Code requires the City's Environmental Planning Commission and City Council each hold a duly noticed public hearing regarding any proposed amendment(s) to Chapter 36; and

WHEREAS, the Environmental Planning Commission held a duly noticed public hearing on September 1, 2021 and recommended the City Council approve the amendments to Chapter 36; and

WHEREAS, the City Council held a public hearing on November 9, 2021 and received and considered all evidence presented at said hearing regarding amendments to Chapter 36, including the recommendation from the Environmental Planning Commission, City Council report, project materials, testimony, and written materials submitted;

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

Section 1. Council Findings. The City Council finds and determines that Chapter 36 (Zoning) of the Mountain View City Code should be amended as follows, pursuant to the required findings in Section 36.52.70 of the City Code:

1. The proposed amendment is consistent with the General Plan because Precise Plans are an efficient and transparent tool used to provide development standards appropriate for specific areas, consistent with General Plan Policy LUD 1.1 ("Efficient and

effective processes”), and it supports the development of a broad range of income levels, consistent with Housing Element Policy 1.5.

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City because it supports flexibility to apply Precise Plan standards as necessary for local conditions and ensures 100% affordable developments are not held to irrelevant development standards.

3. The proposed amendment is internally consistent with Chapter 36 of the Mountain View City Code.

4. The proposed amendment is in compliance with the provisions of the California Environmental Quality Act (CEQA) because it 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 proposed amendment clarifies the application, administration, and relationship of the City’s land use regulations related to affordable housing, which are established in the Zoning Code and in some Precise Plans and which provide area-specific zoning regulations. The amendment is process-oriented and is intended to provide clarification that the Zoning Code provisions related to affordable housing may be modified in Precise Plan areas through Precise Plan provisions or amendments without conflicting with the Zoning Code. The proposed amendment would not result in the potential for increased allowed density, areas of new development, or new allowed land uses within the City of Mountain View.

Section 2. Chapter 36, Article XIV, Division 1, Section 36.40.05(q), of the Mountain View City Code is hereby amended to read as follows:

“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, one hundred (100) percent affordable housing developments and licensed care facilities are excluded from the definition of residential development.”

Section 3. Chapter 36, Article XIV, Division 1, Section 36.40.50 of the Mountain View City Code is hereby amended to read as follows:

**“SEC. 36.40.50. - Exemptions and appeals.**

a. **Exemptions—Historic resources.** Exemptions from, or credit toward, BMR requirements may be granted for certain historic resources pursuant to this section.

b. Exemptions—Precise plans. Exemptions from BMR requirements may be granted in precise plans where the precise plan expressly provides different BMR requirements or exceptions from specific requirements of this Article XIV, Division 2, including the BMR Administrative Guidelines.

~~b.c.~~ Appeals of determinations based on the administrative requirements of the BMR program as established in the BMR guidelines must be in the form of a written request by the appellant and be addressed to the community development director. The community development director or designee shall make the ruling, and all rulings shall be final. The city may establish cost recovery fees for appeals.”

Section 4. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 5. 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 6. 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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