

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MOUNTAIN VIEW AMENDING ARTICLE V OF CHAPTER 29 OF THE MOUNTAIN VIEW CITY CODE TO ALIGN IT WITH STATE LAW, CLARIFY REAL PROPERTY CONVEYANCE TAX EXEMPTIONS, AND TO MAKE OTHER CLARIFYING AMENDMENTS

WHEREAS, pursuant to Article V of Chapter 29 of the Mountain View City Code, which was adopted in 1973, the City of Mountain View imposes a Real Property Conveyance Tax on the transfer or conveyance of interests in real property if the consideration exceeds one hundred dollars (\$100) (“Real Property Conveyance Tax Ordinance”); and

WHEREAS, the City of Mountain View submitted a ballot measure to the voters for the November 5, 2024, General Election to increase the Real Property Conveyance Tax for transactions when the value of the consideration (as defined in the Real Property Conveyance Tax Ordinance) exceeds six million dollars (“Measure G”); and

WHEREAS, the voters of Mountain View approved Measure G by over seventy-two percent (72%), and transactions exceeding six million dollars are now subject to a tax of fifteen dollars for each one thousand dollars of the value of the consideration; and

WHEREAS, Section 29.86 of the Mountain View City Code authorizes the City Council to amend Article V of Chapter 29, provided that such amendments do not increase tax rates or otherwise constitute a tax increase requiring voter approval, and specifically authorizes the Council to establish exemptions from the tax; and

WHEREAS, Chapter 29 of the Mountain View City Code contains several exemptions that have not been modified or updated since 1973; and

WHEREAS, over the past 52 years, substantial changes in California law have rendered certain terminology in the Mountain View City Code outdated, resulting in confusion and frustration for taxpayers and creating redundancies and inefficiencies for City and Santa Clara County staff in the collection and administration of the tax; and

WHEREAS, the City seeks to streamline the administration and collection of the tax and improve efficiency by amending the exemptions set forth in Chapter 29 of the Mountain View City Code to align them with the exemptions set forth in the California Revenue and Taxation Code; and

WHEREAS, aligning Chapter 29 exemptions with the California Revenue and Taxation Code will not eliminate any existing exemptions, but will instead ensure that the City Code is consistent with controlling state law; and

WHEREAS, the City also seeks to amend the Real Property Conveyance Tax Ordinance to remove or revise outdated and unclear provisions; and

WHEREAS, aligning Chapter 29 exemptions with the California Revenue and Taxation Code and removing or revising outdated and unclear provisions will not increase the tax rates and will not affect the amount of tax revenue collected.

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

**SECTION 1. Code Amendments.** Article V of Chapter 29 of the Mountain View City Code is hereby amended to add, delete or modify its provisions as follows. Section titles are shown in **bold** font, additions are shown in underline font, and deletions are shown by ~~strikethrough~~ font. Provisions that are not shown in underline or strikethrough font have not been amended.

## **ARTICLE V. - REAL PROPERTY CONVEYANCE TAX**

### **SEC. 29.62. Title and purpose.**

This article may be cited as the Mountain View real property conveyance tax ordinance.

The tax imposed under this article is imposed for the sole purpose of raising revenue. This article is not enacted for regulatory purposes.

### **SEC. 29.63. Imposition of tax.**

- A. A tax is hereby imposed on each transfer, by deed, instrument or writing, by which any land(s), tenement(s), or other real property sold within the City of Mountain View, is (or are) granted, assigned, transferred or otherwise conveyed to, or vested in, a purchaser or purchasers thereof, or any other person or persons at or by the direction of said purchaser or purchasers, which shall be levied based on the value of the consideration at the following rates:
1. When the total value of the consideration exceeds one hundred dollars (\$100) but is less than or equal to six million dollars (\$6,000,000), the tax rate imposed shall be one dollar and sixty-five cents (\$1.65) for each five hundred dollars (\$500) or fractional part thereof.
  2. When the total value of the consideration exceeds six million dollars (\$6,000,000), the tax rate imposed shall be fifteen dollars (\$15) for each one thousand dollars (\$1000) or fractional part thereof.
- B. As used herein, "value of the consideration" means the total consideration, valued in money of the United States, paid or delivered or contracted to be paid or delivered in return

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for the transfer of real property, including the amount of any indebtedness, existing immediately prior to the transfer which is secured by a lien, deed of trust or other encumbrance on the property conveyed and which continues to be secured by such lien, deed of trust or encumbrance after said transfer, and also including the amount of any indebtedness which is secured by a lien, deed of trust or encumbrance given or placed upon the property in connection with the transfer to secure the payment of the purchase price or any part thereof which remains unpaid at the time of the transfer. "Value of the consideration" also includes the amount of any special assessment levied or imposed upon the property by a public body, district or agency, where said special assessment is a lien or encumbrance on the property and the purchaser or transferee agrees to pay such special assessment or takes the property subject to the lien of such special assessment. The value of any lien or encumbrance of a type other than those which are hereinabove specifically included, existing immediately prior to the transfer and remaining after said transfer, shall not be included in determining the value of the consideration. If the value of the consideration cannot be definitely determined, or is left open to be fixed by future contingencies, "value of the consideration" shall be deemed to mean the fair market value of the property at the time of transfer after deducting the amount of any lien or encumbrance, if any, of a type which would be excluded in determining the value of the consideration pursuant to the above provisions of this section.

**SEC. 29.64. Persons required to pay tax.**

Any persons who make a transfer which is subject to the tax imposed under Sec. 29.63 hereof, and any persons to whom such a transfer is made, shall be jointly and severally liable for payment of the tax imposed under said Sec. 29.63.

**SEC. 29.65. Real property and realty defined.**

As used in this article, the terms "real property" and "realty" shall mean real property as defined by and under the laws of the State of California.

**SEC. 29.66. Exemptions.**

Any tax imposed pursuant to this article shall not apply to transfers, or portions thereof, that qualify for an exemption under California Revenue & Taxation Code Sections 11921 through 11930.5, as may be renumbered or amended from time to time.

**~~SEC. 29.66. Security for debt.~~**

~~Any tax imposed pursuant to this article shall not apply to any transfer made solely to secure a debt; provided, however, that nothing herein contained shall be deemed to exclude the amount of any such indebtedness from being included in the "value of the consideration," pursuant to~~

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the second paragraph of Sec. 29.63, in connection with transfers which are not made solely to secure a debt.

**SEC. 29.67. Instruments in lieu of foreclosure.**

~~Any tax imposed pursuant to this article shall not apply with respect to any transfer to a beneficiary or mortgagee which is taken in lieu of a foreclosure.~~

**SEC. 29.68. Instrument to United States; etc.**

~~Any transfer to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party shall be exempt from any tax imposed pursuant to this article when the exempt agency is acquiring title.~~

**SEC. 29.69. Plans of reorganization or adjustment.**

~~Any tax imposed pursuant to this article shall not apply to the making, delivering, or filing of conveyances to make effective any plan of reorganization or adjustment:~~

- ~~a. — Confirmed under the Federal Bankruptcy Act, as amended;~~
- ~~b. — Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title II of the United States Code, as amended;~~
- ~~c. — Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title II of the United States Code, as amended; or~~
- ~~d. — Whereby a mere change in identity, form or place of organization is effected.~~

~~Subdivisions a. to d., inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five (5) years from the date of such confirmation, approval or change.~~

**SEC. 29.70. Securities and Exchange Commission orders.**

~~Any tax imposed pursuant to this article shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:~~

- ~~a. — The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;~~
- ~~b. — Such order specifies the property which is ordered to be conveyed;~~
- ~~c. — Such conveyance is made in obedience to such order.~~

**SEC. 29.71. Partnerships.**

~~a. — In the case of any realty held by a partnership, no levy shall be imposed pursuant to this article by reason of any transfer of an interest in a partnership or otherwise, if:~~

- ~~1. — Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and~~
- ~~2. — Such continuing partnership continues to hold the realty concerned.~~

~~b. — If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this article, such partnership shall be treated as having~~

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executed an instrument whereby there was transferred, for fair market value, all realty held by such partnership at the time of such termination.

~~c. — Not more than one (1) tax shall be imposed pursuant to this article by reason of a termination described in subdivision b., and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.~~

**SEC. 29.67. ~~29.72.~~ Administration of tax.**

The director of finance of the City of Mountain View (hereinafter ~~in this article referred to as~~ "director") shall collect the tax imposed under this article and shall otherwise administer this article. ~~He~~ The director may make such rules and regulations, not inconsistent with the article, as ~~he they may~~ deem reasonably necessary or desirable to administer this article. ~~In the administration of this article, the director shall interpret its provisions consistently with those documentary stamp tax regulations adopted by the Internal Revenue Service of the United States Treasury Department which relate to the tax on conveyances and identified as Sections 47.4361-1, 47.4361-2 and 47.4362-1 of Part 47 of Title 26 of the Code of Federal Regulations, as the same existed on November 8, 1967, except that for the purposes of this article:~~

~~a. — The term "realty" as used in said regulations, shall be deemed to mean "real property" as such term is defined by and under the laws of the State of California;~~

~~b. — Those provisions of said regulations providing for deduction of the value of any lien or encumbrance existing before the sale and not removed thereby shall not apply;~~

~~c. — Those provisions of said regulations relating to the rate of the tax shall not apply;~~

~~d. — Those provisions of said regulations which conflict with the provisions of this article shall not apply.~~

**SEC. 29.68. ~~29.73.~~ Due dates, delinquency, penalties, interest.**

The tax imposed under this article is due and payable at the time the deed, instrument or writing effecting a transfer subject to the tax is delivered, and is delinquent if unpaid at the time of recordation thereof. In the event that the tax is not paid prior to becoming delinquent, a delinquency penalty of ten (10) percent of the amount of tax due shall accrue. In the event a portion of the tax is unpaid prior to becoming delinquent, the penalty shall only accrue as to the portion remaining unpaid. An additional penalty of ten (10) percent shall accrue if the tax remains unpaid on the 90th day following the date of the original delinquency. Interest shall accrue at the rate of one-half of one percent a month, or fraction thereof, on the amount of tax, exclusive of penalties, from the date the tax becomes delinquent to the date of payment. Interest and penalty accrued shall become part of the tax.

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**SEC. 29.69. ~~29.74.~~ Records re value of the consideration.**

The tax imposed by this article shall be paid to the director by the persons ~~referred to~~ identified in Sec. 29.64. Whenever the director has reason to believe that the full amount of tax due is not ~~shown~~ reflected on the declaration or has not been paid, the director ~~he~~ may, by notice served upon any person liable for the tax, require that person ~~him~~ to ~~furnish~~ provide a true copy of ~~his~~ records relevant to the value of the consideration or fair market value of the property transferred. Such notice may be served at any time within three (3) years after recordation of the deed, instrument or writing which transfers such property.

**SEC. 29.70. ~~29.75.~~ Determination of deficiency.**

If on the basis of such information received by the director ~~as he receives~~ pursuant to ~~the last paragraph~~ of Sec. ~~29.69~~ ~~29.74~~ and/or on the basis of such other relevant information that comes into the director's ~~his~~ possession, the director ~~he~~ determines that the amount of tax paid is insufficient, the director ~~he~~ may recompute the tax due on the basis of such information.

One or more deficiency determinations may be made of the amount due with respect to any transfer.

**SEC. 29.71. ~~29.76.~~ Notice of determination.**

The director shall give notice to a person liable for payment of the tax imposed under this article of any ~~his~~ deficiency determination made under Sec. ~~29.70~~ ~~29.75~~. Such notice shall be given within three (3) years after the recordation of the deed, instrument or writing effectuating ~~effecting~~ the transfer on which the tax deficiency determination was made.

**SEC. 29.72. ~~29.77.~~ Manner of giving notice.**

Any notice required to be given by the director under this article may be served personally or by mail; if by mail, service shall be made by depositing the notice in the United States mail, in a sealed envelope with postage paid, addressed to the person on whom it is to be served at the ~~his~~ address as it appears in the records of the city or as ascertained by the director. The service is complete at the time of the deposit of the notice in the United States mail, without extension of time for any reason.

**SEC. 29.73. ~~29.78.~~ Petition for redetermination.**

Any person against whom a determination is made under this article or any person directly interested may petition for a redetermination within sixty (60) days after service upon the person of notice thereof. If a petition for redetermination is not filed within the sixty (60) day period, the determination becomes final at the expiration of the period.

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**SEC. 29.74. ~~29.79.~~ Consideration of petition; hearing.**

If a petition for redetermination is filed within the sixty (60) day period, the director shall reconsider the determination and, if the person has so requested in ~~his~~ the petition, shall grant the person an oral hearing, and shall give the person ~~him~~ ten (10) days' notice of the time, date and ~~place~~ location of hearing. The director may designate one (1) or more deputies for the purpose of conducting hearings and may continue a hearing from time to time as may be necessary.

**SEC. 29.75. ~~29.80.~~ Conduct of hearing.**

The director may decrease or increase the amount of the deficiency determination before it becomes final, but the amount may be increased only if a claim basis for the increase is ~~asserted~~ provided by the director at or before the hearing.

**SEC. 29.76. ~~29.81.~~ Finality of determination.**

The order or decision of the director upon a petition for redetermination becomes final thirty (30) days after service upon the petitioner of notice thereof.

**SEC. 29.77. ~~29.82.~~ Tax a debt.**

The amount of any tax, penalty, and interest imposed under the provisions of this article shall be deemed a debt to the city. Any person owing money to the city under the provisions of this article shall be liable to an action brought in the name of the city for the recovery of such amount.

**SEC. 29.78. ~~29.83.~~ Refunds.**

Whenever the amount of any tax, penalty or interest has been overpaid, or paid more than once, or has been erroneously collected or received by the city under this article, it may be refunded as hereinafter provided in this section, provided a written claim therefor stating under penalty of perjury the specific grounds under which the claim is founded is filed with the director within three (3) years of the date of payment. The claims shall be on forms furnished by the director. The director may make such refund if ~~he is~~ satisfied that the claimant is entitled to the refund under the provisions of this section. No refund shall be paid under the provisions of this section unless the claimant establishes the his right to a refund by written records showing entitlement thereto.

**SEC. ~~29.79. 29.84.~~ Use of tax revenues.**

All of the real property conveyance taxes collected pursuant to the provisions of this article shall be placed into a General Fund subfund created and established by the City Manager or their designee, and may be used for general government purposes. ~~fund which is hereby created and established for such purposes and which shall be known as the "construction tax and real property conveyance tax fund."~~ This fund shall be used and expended solely for the acquisition, improvement, maintenance, expansion, or implementation of the capital improvement program of the City of Mountain View, including but not limited to public park, playground, cultural, educational, recreational, police, fire, sewer, storm drain, water system and street improvements and facilities of the City of Mountain View, and for operational and maintenance costs related to said capital improvements, including costs of servicing bonds issued in connection with said improvements.

**SEC. ~~29.85.~~ Costs of collection and administration.**

~~Anything in Sec. 29.84 hereof to the contrary notwithstanding, the monies placed in the construction tax and real property conveyance tax fund created under said Sec. 29.84 may be expended for the purpose of paying the costs of collecting the tax imposed under this article and of otherwise administering this article.~~

**SEC. ~~29.80. 29.86.~~ Council Amendments.**

The City Council of the City of Mountain View is hereby authorized to amend Article V (Real Property Conveyance Tax) of Chapter 29 (Taxation) of the Mountain View City Code in any manner that does not increase the tax rates, or otherwise constitute a tax increase that requires voter approval pursuant to the California Constitution. Council amendments may include, but are not limited to, amendments that:

- a. Repeal or suspend the tax.
- b. Reduce tax rate and later restore the tax rate to a rate that does not exceed the tax rate approved by the voters.
- c. Interpret or clarify implementation or enforcement of the tax so long as the interpretation or clarification does not increase the tax rate.
- d. Create exemptions from the tax.

**SECTION 2. CEQA.** Pursuant to California Code of Regulations section 15060(c)(2), these code amendments are not subject to the California Environmental Quality Act ("CEQA") because they will not result in a direct or a reasonably foreseeable indirect physical change in the environment.

**SECTION 3. 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 4. Publication.** Pursuant to Mountain View City Charter section 522, at least two (2) days prior to final adoption of this ordinance, the City Clerk shall post the ordinance in three (3) prominent places in the City and publish in the City’s official newspaper notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the ordinance are posted.

**SECTION 5. Effective Date.** Pursuant to Mountain View City Charter section 519, this ordinance shall become effective thirty (30) days after the date of its adoption.

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