

CHAPTER 18.35

BELOW MARKET RATE HOUSING ORDINANCE

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18.35.010 Purpose and Intent. This purpose of this Ordinance is to ensure that housing opportunities are available for all economic segments of the population as identified in the Housing Element of the City of Half Moon Bay General Plan. The intent of the Below Market Rate Housing program established by this Ordinance is to require either the construction of dwellings that Very Low, Low, and Moderate Income Households can afford to rent or buy, or require the contribution of an in lieu fee to an Affordable Housing Fund an amount sufficient to provide affordable housing opportunities for these income groups as a part of any new residential subdivision of ten or more lots or dwelling units or the conversion of ten or more rental units to condominiums.

18.35.015 Definitions.

- A. A Below Market Rate dwelling unit is a unit which is affordable, either by rental or purchase, to very low, low, or moderate-income households as defined herein.
- B. Very Low Income Household - any household whose income, with adjustments for family size, is 50% or less of the median income for San Mateo County as established by the U.S. Department of Housing and Urban Development.
- C. Low Income Household - any household whose income, with adjustments for family size, is between 50.1 % and 80% of the median income for San Mateo County as established by the U.S. Department of Housing and Urban Development.
- D. Moderate Income Household - any household whose income, with adjustments for family size, is between 80.1% and 120% of the median income for San

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Mateo County as established by the U.S. Department of Housing and Urban Development.

E. Affordability is defined as having a monthly rental or purchase cost (including a 30 year mortgage based on 20% down payment, mortgage insurance, taxes, insurance, and homeowner association fees) of no more than 30 percent of monthly household income.

F. Dwelling Unit shall include any mobile home, manufactured housing unit, or any structure with water, sanitation, and utilities that has been designed, constructed, and used for purposes of habitation.

G. Qualified Buyer shall be defined as any potential purchaser whose gross annual income is less than or equal to the maximum annual income standards for a protected Below Market Rate dwelling unit as provided for herein.

H. Qualified Renter shall be defined as any potential renter whose gross annual income is less than or equal to the maximum annual income standards for a protected Below Market Rate dwelling unit as provided for herein.

18.35.020 Applicability. This Section applies to all new residential subdivisions of ten or more lots or dwelling units and condominium conversion projects of ten or more units approved in the City of Half Moon Bay after the date of adoption. Every residential subdivision of ten or more lots or dwelling units and condominium conversion projects of ten or more units shall include one or more Below Market Rate dwelling units according to the following general guidelines:

A. A minimum of twenty percent (20%) of the total number of dwelling units in all developments of ten or more units shall be priced at levels which are affordable to Low and Moderate Income Households as defined in this Chapter and in the Housing Element.

B. At least 25% of all Below Market Rate units (25% of the 20% required) shall be priced at levels which are affordable to Very Low and Low Income households as defined in this Chapter and the Housing Element.

C. To the extent practical and feasible, the targets for new Below Market Rate Housing units shall be as follows:

Target Income Group	Target Housing Units
Moderate Income	7 percent of total
Low Income	7 percent of total
Very Low Income	6 percent of total
TOTAL	20 percent of total

D. The Planning Commission and City Council may modify these targets based upon the specifics of each new residential subdivision of ten or more lots or dwelling units or condominium conversion projects of ten or more units.

E. In those cases where strict adherence to the formula provided herein results in a fraction between .01 and .49 of a Below Market Rate dwelling unit, the City Council may approve a pro rata contribution to the Affordable Housing Fund an amount equal to twenty percent of the building permit valuation for the market rate units to be built.

F. Where the fraction of a Below Market Rate Housing Unit was between 0.5 and 0.99, an additional housing unit shall be required.

18.35.025 Affordable Housing Agreement. The City and developer of the Below Market Rate dwelling units shall enter into an Affordable Housing Agreement governing the dwelling units and that agreement shall be recorded against the property.

18.35.030 Establishment of an Affordable Housing Fund. The City Council shall establish an Affordable Housing Fund for purposes of accepting in-lieu contributions permitted by this Ordinance.

18.35.035 Affordable Housing Fund Accumulation and Disbursement. Administration of the Affordable Housing Fund shall be carried out by the Planning Department based on guidelines established by the City Council. Priorities for disbursement of funds shall be established by the City Council as part of the annual budget approval process.

18.35.040 Location of Below Market Rate Units.

A. Unless otherwise approved by the Planning Commission and City Council, Below Market Rate Units created by this Ordinance shall be provided on-site and integrated into the proposed residential subdivision.

B. In considering any proposal to construct or otherwise provide Below Market Rate Units off-site from the proposed residential subdivision or condominium conversion, the Planning Commission and City Council shall make the following findings:

1. That the proposed location of the Below Market Rate Units will not result in the clustering of said units within any neighborhood or geographical area of the City.

2. That an economic hardship would be created for either the qualified buyer or renter such as excessive Homeowner Association dues.

3. That an economic hardship would be created for either the developer or purchasers of the market rate units that could be mitigated by contributing to the Affordable Housing Fund in lieu of providing the Below Market Rate Units.

4. That the proposed development site does not have sufficient land area to provide the affordable units without severely impacting the financial feasibility of the project.

18.35.045 Fee In Lieu of Providing Below Market Rate Housing.

A. Where an applicant requests relief from the requirement to construct Below Market Rate units as required by this Chapter, the City Council may approve a contribution to the City's Affordable Housing Fund of an amount equal to twenty percent of the building permit valuation for the market rate units. The City Council shall consider the following in approving any request to contribute to the Affordable Housing Fund in lieu of providing the dwelling units:

1. That an economic hardship would be created for either the qualified buyer or renter such as excessive Homeowner Association dues.

2. That an economic hardship would be created for either the developer or purchasers of the market rate units that could be mitigated by contributing to the Affordable Housing Fund in lieu of providing the Below Market Rate Units.

3. That the proposed development site does not have sufficient land area to provide the affordable units without severely impacting the financial feasibility of the project.

18.35.050 Occupancy Requirements. Any dwelling unit affordable to very low, low, or moderate income households created by this Ordinance shall be occupied by the qualified buyer or qualified tenant only. Ownership units shall be owner occupied. No sub-leasing or other transfer of tenancy of any ownership or rental unit created by this Ordinance is permitted.

18.35.055 Resale of Below Market Rate Units. Below Market Rate dwelling units created by this Ordinance may be resold at any time on the open market to a qualified buyer as defined herein. Deed restrictions shall be recorded against the property and included within the Affordable Housing Agreement establishing the standards and criteria for management and resale of each protected unit, including the specific criteria to define a qualified buyer for each protected unit.

18.35.060 Enforcement. The City Planning Department shall be responsible for enforcing the affordability provisions of this Ordinance. As part of an annual Housing Affordability Report funded by the Affordable Housing Fund, the Department shall monitor the

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rental/resale of designated affordable units. Appropriate enforcement action will be taken in the event that violations of the Ordinance are revealed.

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