

**Los Gatos, Ca Municipal Code: Affordable and Inclusionary Housing**

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**Chapter 29 Zoning**

**Article I In General**

**Div. 6 Housing Assistance Program**

**Sec. 29.10.3000. Intent.**

This division is adopted to meet housing needs shown in the housing element of the general plan.

(Ord. No. 1316, § 3.90.010, 6-7-76; Ord. No. 1430, 6-4-79)

**Sec. 29.10.3005. Below market price program--Established.**

This division establishes the below market price program (BMP).

(Ord. No. 1316, § 3.90.100, 6-7-76; Ord. No. 1430, 6-4-79)

**Sec. 29.10.3010. Same--Intent.**

The below market price (BMP) program requires construction of dwellings that persons and families of moderate income can afford to buy or rent, and assures to the extent possible that the resale prices of those dwellings, and rents if they are rented, will be within the means of persons and families of moderate income.

(Ord. No. 1316, § 3.90.105, 6-7-76; Ord. No. 1430, 6-4-79; Ord. No. 1685, 6-2-86)

**Sec. 29.10.3015. Application.**

This division shall apply to all multiple-family dwelling projects, residential condominium projects and to all residential planned development projects (division 2 of article VIII of this chapter) either approved after July 4, 1979, or whose approval includes a condition requiring construction of BMP dwellings. Projects in the R-1 and HR zones are excepted from BMP participation. The exception does not apply if the project is built under the rules of an overlay zone unless the rules of the overlay zone provide otherwise.

(Ord. No. 1316, § 3.90.110, 6-7-76; Ord. No. 1430, 6-4-79; Ord. No. 1685, 6-2-86)

**Sec. 29.10.3020. Definitions.**

For the purposes of this division the following definitions shall apply:

*BMP dwelling* means any residential dwelling unit designated for very low, low, and moderate income under the rules of this section.

*Person of moderate income* means one whose income falls within the range specified by the Town Council in the resolution authorized by section 29.10.3040. (Ord. No. 1316, § 3.90.115, 6-7-76; Ord. No. 1430, 6-4-79; Ord. No. 1685, 6-2-86; Ord. No. 2115, § II, 9-15-03)

**Sec. 29.10.3025. Scope.**

Every multifamily rental dwelling project at the time of building permit, every residential condominium or planned development residential subdivision at the time of subdivision, and every community apartment project and every residential stock cooperative apartment or unit project at the time of subdivision if the transaction involves subdivision, or at the time of sale, if it does not, shall contain one (1) or more BMP dwellings according to the rules listed below with the exception that any planned development with an underlying zone of HR shall only be required to pay an in-lieu fee as established by a separate resolution:

- (1) Projects containing five (5) or more but less than twenty (20) units must provide a number of BMP units equal to ten (10) percent of the number of market rate units.
- (2) Projects with five (5) or more but less than ten (10) units may pay a fee in-lieu of building a BMP unit in order to comply with this requirement.
- (3) Projects with from twenty (20) to one hundred (100) units must provide BMP units as determined by the following formula:

$$\text{Number of BMP units} = .225 (\text{total \# of units}) - 2.5$$

- (4) All projects in excess of one hundred (100) units must provide a number of BMP units equal to twenty (20) percent of the market rate units.
  - (5) Whenever the calculations of BMP units result in a fraction of one-half or more the number of units to be reserved is increased to the next whole number.
- (Ord. No. 1316, § 3.90.120, 6-7-76; Ord. No. 1430, 6-4-79; Ord. No. 1685, 6-2-86; Ord. No. 1687, 8-4-86; Ord. No. 1838, § I, 11-5-90)

**Sec. 29.10.3030. Price.**

The price of BMP units is controlled for the first buyer and for future buyers as follows:

- (1) The initial price is limited to direct construction cost and a proportionate share of the costs of preparing working drawings and specifications and providing on-site and off-site improvements, determined according to rules set by the Council.
- (2) The initial price does not include the cost of land, profit, or marketing costs.
- (3) Each BMP unit will be subjected to recorded title restrictions concerning manner of future sales, occupancy and leasing.
- (4) Each buyer of a BMP unit must agree to sell the unit to a moderate income buyer designated by the Town. The Town will designate moderate income persons according to rules adopted by the Council in effect at the time the seller purchased the unit.
- (5) The resale price cannot exceed the original selling price plus the value at the time of sale of improvements added by the owner, and plus an amount equal to the increase in cost of living or housing during the owner's tenure. The index or method to be used in calculating the increase is established by the Council.

(6) If a BMP unit to be resold has not been properly maintained or for any other reason is in poor condition and in need of cleaning or repair, the Town may elect to do the work or have it done and recover the cost from the sale price limited as provided in subsection (5).

(7) The regulations will specify the period for controlled resales. The time period will be for as long as is practical.

(Ord. No. 1316, § 3.90.125, 6-7-76; Ord. No. 1430, 6-4-79)

**Sec. 29.10.3035. Project denial.**

If an applicant for zoning approval declines to provide BMP units required by ordinance, the zoning approval shall be denied.

(Ord. No. 1316, § 3.90.130, 6-7-76; Ord. No. 1430, 6-4-79)

**Sec. 29.10.3040. Administration.**

The Council shall adopt by resolution regulations concerning all aspects of the BMP program, including the elements of price, buyer eligibility standards, rent, the length of the period during which a unit will be subject to BMP restrictions, the form of recorded instruments and any other matter consistent with the provisions of this section.

(Ord. No. 1316, § 3.90.135, 6-7-76; Ord. No. 1430, 6-4-79; Ord. No. 1685, 6-2-86)

**Div 7 Second Dwelling Units**

**Sec. 29.10.305. Intent and authority.**

This division is adopted to comply with amendments to State Law §65852.2 which mandates that applications for secondary dwelling units be considered ministerially without a public hearing. It provides for the Town to set standards for the development of second dwelling units to increase the supply of affordable housing in a manner that is compatible with existing neighborhoods.

(Ord. No. 2115, § I, 9-15-03)