

REVISED LEGISLATIVE DIGEST

(10/29/2024, Amended in Board)

[Planning Code - Authorize Increases to the Affordable Price and Income Limits for Certain Below Market Rate Owned Units and Require Amenities to be Resold with Unit]

Ordinance amending the Planning Code to allow certain Below Market Rate (BMR) Owned Units to be resold at a price affordable to households at an increased Area Median Income (AMI) level, increase the qualifying AMI limit for BMR purchasers, require BMR Owned Units originally purchased with parking spaces and other amenities to be resold with the same parking and amenities, and require periodic reporting to the Inclusionary Housing Technical Advisory Committee, Planning Commission, and Board of Supervisors of AMI level increases approved under this ordinance; affirming the Planning Department’s determination under the California Environmental Quality Act; and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302

Existing Law

The Planning Code establishes affordability requirements for homes in the Below Market Rate (BMR) homeownership program. BMR owned units must remain affordable at an established level, based on the affordability of a household earning a specified percentage of the area median income (AMI). The AMI level requirements apply for the life of the housing development project and are memorialized in a Notice of Special Restrictions recorded against the property. The Planning Code and the BMR Procedures Manual, prepared by the Mayor’s Office of Housing and Community Development (MOHCD) and approved by the Planning Commission, allow for a one-time adjustment to the AMI level otherwise required for the unit by up to 20%, up to 120% of AMI.

For BMR rental units that convert to owned units, the Planning Code specifies that MOHCD may grant an exception to affordability limits, up to a maximum of 120% AMI. For BMR owned units, MOHCD may also grant an exception to set the qualifying income level to 10% above the required income level.

The Planning Code establishes that, for projects with 10 or more dwelling units, parking must be sold separate from the dwelling units, known as “unbundled parking.” The BMR Procedures Manual allows parking to be sold with a BMR unit, known as “bundled parking.” Where a BMR unit is sold with bundled parking, the BMR Procedures Manual requires any resale of the unit to also include bundled parking.

Amendments to Current Law

This ordinance allows a permanent adjustment to the affordability requirements for a BMR owned unit in situations where the owner purchased the unit at a price above the affordable

price at the time of resale. MOHCD may increase the affordable price for the unit up to the amount of the owner's purchase price. MOHCD may increase the AMI level for the unit accordingly, up to a maximum of 130% AMI. MOHCD also may increase the maximum qualifying income for the unit by up to 20%, up to a maximum of 150% of AMI. For projects where the affordability levels were originally established by the Planning Commission or Planning Department, the Planning Commission or Planning Department, respectively, must also approve the adjustment.

For BMR rental units that convert to owned units, the ordinance provides that MOHCD may grant an exception to affordability limits, up to a maximum of 150% AMI. For BMR owned units, MOHCD may also grant a one-time exception to set the qualifying income level to 20% above the required income level, up to 150% AMI.

The ordinance requires BMR units to be offered for initial sale separate from parking. Where BMR units are purchased with bundled parking, the ordinance establishes that any resale of the unit must also include bundled parking. The ordinance requires that all amenities purchased with a BMR owned unit must be included with the unit at the time of resale.

At its October 28, 2024 meeting, the Land Use and Transportation Committee amended the ordinance to require periodic reporting on the affordable price and AMI level adjustments to the Inclusionary Housing Technical Advisory Committee, Planning Commission, and Board of Supervisors.

At the October 29, 2024 Board of Supervisors meeting, amendments were introduced that would require owners requesting an affordable price and AMI level adjustment for the resale of their unit to submit their resale request to MOHCD within three years of the enactment of the ordinance. The portion of the ordinance allowing such adjustments would expire after 4 years.

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