

ORDINANCE NO. 1405

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALY CITY
AMENDING CHAPTER 17.47 RE: AFFORDABLE HOUSING

The City Council of the City of Daly City, DOES ORDAIN as follows:

SECTION 1. Section 17.47.020 of Title 17 of the Daly City Municipal Code is hereby amended to read as follows:

17.47.020 Applicability.

This chapter applies to residential developments in all areas of the city.

SECTION 2. Section 17.47.040 of Title 17 of the Daly City Municipal Code is hereby amended to read as follows:

17.47.040 Definitions.

D. “Affordable Housing Project” means a housing project where one hundred (100) percent of the units are at an affordable rent or sales prices, and that all of the units in the affordable housing project are subject to a 55-year deed restriction specifying maximum rents or prices as well as income targeting

F. “Affordable sales prices” means a sales price that results in a monthly housing cost (including mortgage payments, mortgage insurance, (if any), homeowners’ insurance, property taxes, homeowners’ association costs, assessments (if any), and an allowance for utilities reflecting the figures for the applicable unit type in the most recent Utility Allowance Schedule published by the San Mateo County Housing Department that does not exceed one-twelfth of thirty percent of income for a moderate-income household, adjusted by the presumed household size.

X. “Residential Development means any project containing five or more net new living units or residential lots, or living units and residential lots which total five or more net new units and/or lots in combination, built pursuant to or contained in an application for a planned development, subdivision map, conditional use permit, design review permit approval, other discretionary city land use approval, or building permit. A residential condominium conversion project as defined in Section 17.37.010 is considered a residential project and is subject to this chapter. The provisions of this section shall be interpreted broadly to effect the purposes of this chapter and to prevent evasion of its terms..

SECTION 3. Section 17.47.040, subsection X is hereby deleted in its entirety.

SECTION 4. Section 17.47.110 of Title 7 of the Daly City Municipal Code is hereby amended as follows:

17.47.110 Eligibility for affordable units.

A. General Eligibility. No Household may occupy an Affordable Unit unless the City or its designee has approved the Household's eligibility, or has failed to make a determination of eligibility within the time or other limits provided by an Affordable Housing Agreement or resale restriction. If the City or its designee maintains a list or identifies eligible Households, initial and subsequent occupants will be selected first from the list of identified Households, to the maximum extent possible, in accordance with any rules approved by the City Manager. If the City has failed to identify a Household as an eligible buyer for the initial sale of an Affordable Unit that is intended for owner occupancy one hundred-eighty days after the unit receives a completed final inspection for occupancy, upon 90 additional days' notice to the City and on satisfaction of such further conditions as may be included in City-approved restrictions (which may include a further opportunity to identify an eligible buyer), the owner may pay the impact fee as provided in Section 17.47.090 in-lieu of providing the unit as an on-site affordable unit and then sell the unit at a market price, and the unit will not be subject to any requirement of this Chapter thereafter.

B. Conflict of Interest. The following individuals are ineligible to purchase or rent an Affordable Unit:

1. City employees and officials (and their immediate family members) who have policy-making authority or influence regarding City housing programs and do not qualify as having a remote interest as provided by California Government Code Section 1091;

2. The Project Applicant and its officers and employees (and their immediate family members); and (iii) the Project Owner and its officers and employees (and their immediate family members).

C. Occupancy. Any Household who occupies an affordable rental Unit or purchases an Affordable Unit must occupy that unit as a principal residence.

SECTION 5. Section 17.47.050(A) is hereby amended to read as follows:

17.47.50 Affordable housing requirements.

A. Requirement – Rental Projects. All rental projects of five or more units shall pay an affordable housing impact fee, upon issuance of a building permit for each dwelling unit in the rental project, unless an alternative is proposed by the developer and approved by the City Manager. Any affordable housing impact fee shall be established by resolution of the City Council. No application for a rezoning, tentative map, parcel map, conditional use permit, design review, or building permit shall be approved, nor shall any such rental project be constructed or condominium conversion approved without compliance with this Article.

SECTION 6. Section 17.47.120 is hereby amended to read as follows:

17.47.120 Owner-Occupied Units.

A. The Units must be offered at an Affordable Sales Price.

B. Transfer. Renewed restrictions will be entered into on each change of ownership, with a 55-year renewal term, upon transfer of an owner-occupied Affordable Unit prior to the expiration of the 55-year affordability period.

C. Resale. The maximum sales price permitted on resale of an Affordable Unit designated for owner-occupancy shall be the greater of:

1. the total sum of the original purchase price the owner paid for the home plus the depreciated value of any capital improvements purchased and installed by the owner and approved in writing by the City prior to their installation pursuant to the City's capital improvements policy described in the Below Market Rate Ownership Unit Program Guidelines and Information Manual; or

2. the current Affordable Sales Price for the unit based on current income limits (see Section 17.47.040 "Definitions, plus the depreciated value of any capital improvements purchased and installed by the owner and approved in writing by the City prior to their installation pursuant to the City's capital improvements policy described in the Below Market Rate Ownership Unit Program Guidelines and Information Manual.

D. Maintenance of Unit. The owner of the Affordable Unit will be responsible to maintain their unit to housing maintenance standards as described in the Implementing Guidelines

E. Changes in Title. Subject to reasonable procedures that the City may require, title in the Affordable Unit may be transferred to a spouse or Domestic Partner; to an Owner's natural or adopted children, provided such children are income qualified for the Affordable Unit; between spouses or Domestic Partners as part of a dissolution proceeding in divorce; to an existing spouse or Domestic Partner of Owner by devise of inheritance following the death of the Owner; by operation of law on the death of a joint tenant; or into an inter-vivos revocable trust. For purposes of this subsection, "domestic partners" shall mean two unmarried people, at least eighteen years of age, who have lived together continuously for at least one year and who are jointly responsible for basic living expenses incurred during their domestic partnership. Domestic partners may not be persons related to each other by blood or adoption, such that their marriage would be barred in the state of California. For purposes of this section, an individual shall be considered a Domestic Partner of Owner upon presentation of a declaration or other acceptable evidence as determined by the City. Upon the death of a sole owner or all owners and inheritance of the Affordable Unit by a non-income-eligible heir of one or more owners, there will be a one year compassion period between the time when the estate is settled and the time when the property must be sold to an income-eligible Household.

F. Annual certifications. The owner of the Affordable Unit shall certify annually that the unit is their primary residence.

G. Failure of an Owner to comply with the requirements of this Section 17.47.120 shall be a violation of this chapter, and the City shall be permitted to see enforcement against an Owner in violation pursuant to Section 17.47.160, in addition to any other remedy available to it under law or equity.

SECTION 7: Severability. If any provision of this Ordinance is held by any court or by any Federal or State agency of competent jurisdiction, to be invalid as conflicting with any

Federal or State law, rule or regulation now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, such provision shall be considered a separate, distinct, and independent part of this Ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision thereof which had previously been held invalid or modified is no longer in conflict with such law, rule or regulation, said provision shall thereupon return to full force and effect and shall thereafter be binding.

SECTION 8: Environmental Determination. The City Council of the City of Daly City finds and determines that the implementation of measures described in this Chapter is in furtherance police powers of the City of Daly City, and that these purposes are exempt from the provisions of the California Environmental Quality Act (CEQA); Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code, as provided in categorical exemption within CEQA's categorical exemption for activities involving regulation of activities.

SECTION 9: Publication/Summary Pursuant to the provisions of Government Code Section 36933, a summary of this ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this ordinance is scheduled to be adopted, the City Clerk shall (1) publish the summary, and (2) post it in the City Clerk's office a certified copy of this ordinance. Within fifteen (15) days after the adoption of this ordinance, the City Clerk shall (1) publish the summary and (2) post in the City Clerk's office a certified copy of the full text of this ordinance along with the names of those City Council members voting for and against this ordinance or otherwise voting. This ordinance shall become effective thirty (30) days from and after its adoption.

Introduced this 14th day of December 2015.

Passed and adopted as an Ordinance of the City of Daly City at a regular meeting of the City Council of the City of Daly City held on the 11th day of January 2016, by the following vote:

AYES, Councilmembers Buenaventura, Canepa, Christensen, Guingona

NOES, Councilmembers None

Absent, Councilmembers: Torres

K. Annette Hipona
CITY CLERK OF THE CITY OF DALY CITY

APPROVED:
DAVID J. CANEPA
VICE MAYOR OF THE CITY OF DALY CITY