

ORDINANCE NO. 874

AN ORDINANCE OF THE CITY OF BRENTWOOD AMENDING IN PART CHAPTER 17.725 OF THE CITY OF BRENTWOOD MUNICIPAL CODE RELATING TO THE CITY'S AFFORDABLE HOUSING PROGRAM

WHEREAS, the City Council of the City of Brentwood adopted Ordinance 756 establishing the Affordable Housing Program on September 9, 2003 as recommended by the Planning Commission.

WHEREAS, an Initial Study and Negative Declaration for the Inclusionary Affordable Housing Program was approved on June 7, 2003 and no substantial changes are being made to the program through these proposed amendments that would warrant further environmental review.

WHEREAS, the City Council of the City of Brentwood adopted Ordinance No. 790 on January 11, 2005, amending in its entirety Chapter 17.725 of the City of Brentwood Municipal Code regarding the City's Affordable Housing Program.

WHEREAS, the City Council of the City of Brentwood adopted Ordinance No. 842 on April 27, 2007, amending in part Chapter 17.725 of the City of Brentwood Municipal Code regarding the City's Affordable Housing Program to make minor modifications to assist in the implementation of the City's Affordable Housing Program.

WHEREAS, the City Council has determined that minor modifications to Chapter 17.725 to eliminate the City's Rental Housing Program and make minor modifications to clarify requirements regarding the California Community Redevelopment Law will assist in the implementation of the City's Affordable Housing Program.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRENTWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby finds that the impacts of this Ordinance are substantially consistent with the type and intensity of impacts analyzed in the previously adopted negative declaration for the City's ordinance adopting Chapter 17.725 of the City of Brentwood Municipal Code, and that there are no new significant impacts or any substantial increase in the severity of previously identified significant impacts identified with the proposed Ordinance. Therefore, pursuant to California Environmental Quality Act (CEQA) Guidelines section 15162, there is no need to prepare a subsequent negative declaration.

SECTION 2. The definition of "Affordable unit" in Section 17.725.002 of the City of Brentwood Municipal Code is hereby deleted and replaced with the following:

"C. Affordable unit means an ownership or rental-housing unit, including senior housing, occupied by and available to households of very low, low and moderate incomes at an Affordable Housing Cost, adjusted for household size as defined in this Chapter, with deed restrictions as defined in this Chapter in favor of the City and Brentwood Redevelopment Agency."

SECTION 3. The last sentence of the definition of "Resale controls and/or rent restrictions" in Section 17.725.002 of the City of Brentwood Municipal Code is hereby deleted in its entirety.

SECTION 4. Subsection (B) of Section 17.725.003 of the City of Brentwood Municipal Code is hereby deleted and replaced with the following:

“B. Ten Percent Affordability Requirement. Developers of Residential Developments of five or more lots or Dwelling Units designed and intended for residential occupancy shall construct or make possible the construction of a minimum of ten percent (10%) of the total number of Dwelling Units within the Residential Development as Affordable Units, allocated to income levels as set forth in this Chapter, or as provided in an Affordable Housing Agreement which specifies the means of satisfying this Chapter. Developers of Residential Developments of five or more lots or Dwelling Units located in the Merged Redevelopment Project Areas shall provide an additional five percent (5%) as Affordable Units in accordance with State Redevelopment Law (Health and Safety Code § 33413). The foregoing requirements shall be applied prior to the application of a density bonus and no more than once to an approved Residential Development, regardless of changes in its character or ownership, provided that the total number of Dwelling Units does not change.”

SECTION 5. Subsection C(3) of Section 17.725.003 of the City of Brentwood Municipal Code is hereby deleted and replaced with the following:

“3. Modifications to existing properties or structures that do not increase the number of Dwelling Units, except in the Merged Redevelopment Project Areas where “substantial rehabilitation”, as defined by State Redevelopment Law (Health & Safety Code §33413), may apply.”

SECTION 6. Subsection (D) of section 17.725.003 of the City of Brentwood Municipal Code is hereby deleted and replaced with the following:

“D. Allocation of Affordable Units to Income Levels. Dwelling Units located outside the Merged Redevelopment Project Area for Very Low, Low, and Moderate-Income Households as required by this Chapter shall be allocated as follows:

Ownership Development

Moderate-income households	3%
Low-income households	4%
Very Low-income households	3%

Rental Development

Low-income households	5%
Very Low-income households	5%

Dwelling Units located inside the Merged Redevelopment Project Area for Very Low, Low and Moderate-Income Households as required by this Chapter shall be allocated as specified by State Redevelopment Law (Health & Safety Code §33413).”

SECTION 7. The first two paragraphs of Section 17.725.004 of the City of Brentwood Municipal Code are hereby deleted and replaced with the following three paragraphs:

“As an alternative to constructing affordable units on-site, a residential developer may propose one of the alternative equivalents set forth below to meet the requirements of section 17.725.003. An alternative equivalent proposal may include, but is not limited to, payment of an In Lieu Fee (available to ownership Residential Developments but not rental Residential Developments), dedication of vacant developable land, construction of Affordable Units on another site, and conversion of existing market rate Dwelling Units within the City to Affordable Units through acquisition and enforcement of required affordability restrictions consistent with this Chapter. All alternative equivalent proposals must be submitted in writing, demonstrate that the alternative equivalent will further affordable housing in the City to an equal or greater extent than the construction of required on-site Affordable Units required under Section 17.725.003(D) and (E), and satisfy the following minimum conditions: 1) Be consistent with the City’s Housing Element, 2) provide the same amount of affordable housing, and 3) have equivalent or lesser impact on the City’s administrative obligations, including maintenance and management duties, than the on-site requirement.

Additionally, for ownership projects, an alternative equivalent proposal must result in a citywide balance of the following components: Construction of Affordable Units and Payment of in lieu fees and contribution to the City’s first-time homebuyer program.

The manner in which Affordable Units are provided for Residential Development inside the Merged Redevelopment Project Area shall be at the discretion of the Brentwood Redevelopment Agency and shall be in compliance with State Redevelopment Law (Health & Safety Code §33413).”

SECTION 8. Subsection(D) of Section 17.725.004 of the City of Brentwood Municipal Code is hereby deleted in its entirety and subsequent sections are re-lettered accordingly.

SECTION 9. Subsection (C) of Section 17.725.006 of the City of Brentwood Municipal Code is hereby deleted and replaced with the following:

“C. **Density Bonus.** Concurrently with consideration of an application for a Residential Growth Management Program allocation, the City may award a density bonus for developments that comply with the very low, low, or moderate-income affordability provisions of this Chapter by constructing units on-site, paying the appropriate In-Lieu Fee, providing an acceptable Alternative Equivalent Proposal, or a combination of the above, in accordance with this Chapter. In the event that a development is also eligible for a density bonus pursuant to Government Code section 65915, the density bonus authorized pursuant to this Chapter shall be included in any density bonus obtained pursuant to state law and shall not increase the amount of the density bonus above that afforded by state law. An application for a density bonus must be received concurrently with an application for Residential Growth Management Program allotments. The density bonus provided shall initially be set at 9% above the midpoint of the density range established in the General Plan and Zoning Code. However, the cumulative density including the density bonus shall not exceed the maximum density set forth in the City’s General Plan or Zoning Code. Fractional density bonus units shall be rounded in the manner set forth in section 17.725.003(B)(2) above. The density bonus amount shall be periodically reviewed by the City Engineer, the

Community Development Director, and the Housing Manager, who will recommend that adjustments, as appropriate, be adopted by resolution of the City Council. Density bonus units authorized under this Chapter shall be excluded from the affordability requirements specified in Section 17.725.003."

SECTION 10. This Ordinance shall be published in accordance with Government Code Section 36933 by either posting or publishing the Ordinance in accordance with that law. Further, the City Clerk is directed to cause Sections 2 through 9 of this Ordinance to be entered in the City of Brentwood Municipal Code. This Ordinance shall take effect and be in force 30 days following its adoption and, prior to the expiration of 15 days after its adoption, it shall be published once with the names of the council members voting for and against it in a newspaper of general circulation, available in the City of Brentwood.

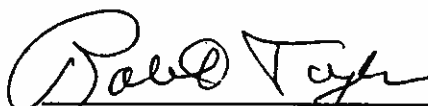
SECTION 11. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, the holding shall not affect the validity or enforceability of the remaining provisions, and the council declares that it would have adopted each provision of this ordinance irrespective of the validity of any other provision.

THE FOREGOING ORDINANCE was introduced with the first reading waived at a regular meeting of the Brentwood City Council on the 23rd day of June, 2009, by the following vote:

- AYES:** Councilmembers Becnel, Brockman, Richey, Stonebarger, Taylor
- NOES:** None
- ABSENT:** None
- ABSTAIN:** None

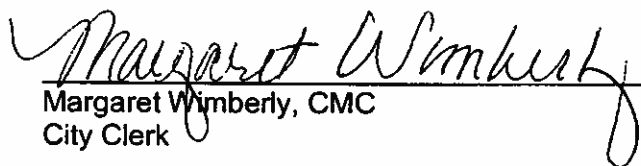
And was adopted at a regular meeting of the Brentwood City Council on the 28th day of July 2009, by the following vote:

- AYES:** Councilmembers Becnel, Brockman, Richey, Stonebarger, Taylor
- NOES:** None
- ABSENT:** None
- ABSTAIN:** None



 Robert Taylor
 Mayor

ATTEST:



 Margaret Wimberly, CMC
 City Clerk