

- 6.2.** An Ordinance Amending Chapter 17.90, “Below Market Rate Inclusionary Housing Program,” within Title 17, “Zoning,” Section 17.90.020, “Definitions,” and to Add New Sections 17.90.130, “Just Cause Evictions” and 17.90.140, “Tenant Relocation Assistance”; and 17.90.150, “Registry of Below Market Rate Units,” to Implement Housing Element Program H-C-3-B, Anti-Displacement Strategy and Program H-G-2-E, Rental Registry, and Finding Ordinance Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guideline Section 15061(B)(3) (First Reading on April 21, 2025)
- a) Adopt Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FOSTER AMENDING CHAPTER 17.90, "BELOW MARKET RATE INCLUSIONARY HOUSING PROGRAM," WITHIN TITLE 17, "ZONING," SECTION 17.90.020, "DEFINITIONS," AND ADDING NEW SECTIONS 17.90.130, "JUST CAUSE EVICTIONS" AND 17.90.140, "TENANT RELOCATION ASSISTANCE"; AND 17.90.150, "REGISTRY OF BELOW MARKET RATE UNITS," TO IMPLEMENT HOUSING ELEMENT PROGRAM H-C-3-B, ANTI-DISPLACEMENT STRATEGY AND PROGRAM H-G-2-E, RENTAL REGISTRY, AND FINDING ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINE SECTION 15061(B)(3)

CITY OF FOSTER CITY

WHEREAS, Foster City's Housing Element 2023-2031 includes Policy H-C-3-b, Anti-Displacement Strategy (page HE-90), which provides that the City will develop an anti-displacement strategy, including assessment of a variety of tenant protection measures to determine if appropriate for Foster City, including but not limited to: a) expansion of relocation benefits beyond those required by California law for landlords to pay to lower-income tenants to also apply to moderate-income tenants; b) expansion of the amount of relocation benefits beyond those required by California law for lower-income tenants; c) minimum lease terms; d) required notifications to tenants and landlords of legal requirements; and e) expansion of any other relocation/anti-displacement provisions; and

WHEREAS, Civil Code section 1946.2(d)(1) specifies that property owners are required to provide relocation assistance to tenants who are evicted for "no-fault" reasons, and authorizes local agencies to enact regulations that are "more protective" than provided for in State law. Under Civil Code section 1946.2(d)(3), relocation assistance is equivalent to one-month current rent and can be exchanged for waiving the last month's rent; and

WHEREAS, the City's adopted Housing Element 2023-31 includes as a priority for the Fair Housing Action Plan the protection of tenants from displacement through an anti-displacement strategy; and

WHEREAS, the City Council conducted a study session on September 16, 2024 and provided direction to staff, among other things to incorporate the following in the City's Anti-Displacement Strategy:

1. Require "for cause" evictions for BMR units.
2. Require three-month tenant relocation assistance for "no-fault" evictions for BMR units.
3. Provide education and outreach to all renters and landlords;

WHEREAS, the City Council conducted a study session on October 7, 2024 and by Minute Order No. 1998, directing staff to establish a mandate to expand the provisions

of the existing Below Market Rate (BMR) Compliance software for BMR units to provide for additional data collection and analysis; and

WHEREAS, 42.9 percent of all households in Foster City are renter households; and

WHEREAS, approximately 433 are BMR units; and

WHEREAS, BMR tenants are statutorily exempt from eviction protections under Civil Code section 1946.2, and are thus vulnerable to facing evictions; and

WHEREAS, on March 06, 2025, the Planning Commission conducted a duly and properly noticed public hearing to take public testimony and consider amending Chapter 17.90, "Below Market Rate Inclusionary Housing Program," within Title 17, "Zoning," section 17.90.020, "Definitions," and to add new sections 17.90.130, "Just Cause Evictions" and 17.90.140, "Tenant Relocation Assistance"; and 17.90.150, "Registry of Below Market Rate Units," to implement Housing Element program H-C-3-b, Anti-Displacement Strategy and program H-G-2-e, Rental Registry, and CEQA finding, and after conducting the public hearing recommended by a vote of 3-2 that the City Council deny adoption of this Ordinance and CEQA finding; and

WHEREAS, on April 9, 2025, a Notice of Public Hearing was duly posted for consideration of the amendment to Title 17, Zoning, amending Chapter 17.90, and the related CEQA finding, for the City Council public hearing on April 21, 2025; and

WHEREAS, the draft meeting minutes from the Planning Commission public meeting constitute the Commission's report to the City Council pursuant to Section 17.74.060 of Foster City Municipal Code; and

WHEREAS, on April 21, 2025, the City Council held a duly noticed public hearing where it carefully reviewed and considered the staff report and all attachments thereto, including the Planning Commission's recommendation regarding the proposed amendment to Title 17 Zoning of the Foster City Municipal Code, amending Chapter 17.90, Below Market Rate Inclusionary Housing Program, as referenced above, as well as the proposed CEQA finding, including any and all timely submitted correspondence, all information submitted at or prior to the public hearing, and all public comment and testimony presented at the public hearing (collectively, the "Record").

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

Section 1. The City Council does hereby find and determine based upon the aforementioned Record as follows:

1. The foregoing Recitals are true and correct and are incorporated herein by this reference.
2. The proposed amendments are internally consistent with all other provisions of the General Plan and do not conflict with any of the previously adopted goals, policies, or programs of the General Plan.

3. The proposed amendments are necessary to implement the goals and policies of the General Plan through the implementation of the Housing Element.
4. The proposed amendments will not be detrimental to the public interest, convenience, and general welfare of the City.
5. The Ordinance is exempt pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of having a significant effect on the environment as these are administrative matters.

Section 2. Amendment. Section 17.90.020, "Definitions" of Chapter 17.90 within Title 17, "Zoning" is hereby amended to add the following definitions:

"At-fault just cause" shall have the same meaning as specified in California Civil Code section 1946.2(b)(1), as may be amended."

"No-fault just cause" shall have the same meaning as specified in California Civil Code section 1946.2(b)(2), as may be amended."

"Rent, also called "net rent" or "tenant rent" or "net tenant rent" means a fixed periodic compensation paid by a Tenant at fixed intervals to a property owner for the possession and use of a Rental Unit as provided by the rental agreement between the property owner and Tenant. Rent excludes pass through costs and ancillary costs paid separately to the property owner or a third party for parking, storage, utilities, water, garbage, or any other fee or charge associated with a BMR unit.

"Gross Rent" means a fixed periodic compensation paid by a Tenant at fixed intervals to a property owner for the possession and use of a Rental Unit as provided by the rental agreement between the property owner and Tenant. Gross Rent includes pass through costs and ancillary costs paid separately to the property owner or a third party for parking, storage, utilities, water, garbage, or any other fee or charge associated with a BMR unit and required for all BMR tenants.

"Rent Registry Information" means the information required to be submitted to the City by a property owner pursuant to Section 17.90.150.

Section 3. Amendment. Chapter 17.90, "Below Market Rate Inclusionary Housing Program" within Title 17, "Zoning" is hereby amended to add new sections 17.90.130 "Just Cause Evictions," 17.90.140 "Tenant Relocation Assistance," and 17.90.150, "Registration of Below Market Rate units" to read as follows:

"17.90.130 "No Fault" Evictions

A. A property owner that seeks to terminate a Below market rate tenancy for no-fault just cause, shall comply with the tenant relocation assistance requirements described in section 17.90.140.

B. A property owner that seeks to terminate a Below market rate tenancy for at-fault just cause is not required to comply with the tenant relocation assistance requirements in section 17.90.140.

17.90.140 Tenant Relocation Assistance

The property owner of a Below market rate dwelling unit shall provide relocation assistance to any tenant renting a Below market rate dwelling unit for no-fault just cause evictions in accordance with the following requirements:

A. A relocation application shall be submitted by the property owner to the Director. Concurrent with the filing of an application, the property owner shall provide the Director with the address number of each unit in the rental development, the monthly rents for those units and the names of every member of the residential household who is a signatory on a written lease or rental agreement for that unit, the household income as shown on the lease or rental agreement and the number of household members included on the lease or rental agreement. Where there is no written lease or rental agreement, the property owner shall provide the name of every person the property owner considers to be a resident under an oral lease or rental agreement.

B. Notice of Intent. No later than thirty (30) days after filing an application, either the property owner or the property owner's agent shall notify each residential household residing in the Below market rate housing unit that the property owner has filed an application with the City. The notice shall be sent by regular and certified mail and posted on the door of each rental unit. The property owner must submit evidence of compliance with this section to the City in order for the application to be deemed complete. For each such notice, the property owner shall use a notice of intent form provided by the Director that shall contain the following information:

1. The name and address of the current property owner and the project developer;
2. A description of the application(s) being filed and a general time frame to complete the work described in the application;
3. An explanation of the relocation assistance available to eligible residential households and special-circumstances households, information on eligible residential household incomes and the procedure for submitting claims for relocation assistance;
4. The Below market rate dwelling unit's right to receive written notice for each hearing and right to appear and be heard at land use hearing, if applicable; and
5. Other information deemed necessary or desirable by the Director.

C. Notice of Intent Verification. The property owner or property owner's agent shall submit to the City a duplicate copy of the notice of intent form given to each Below market rate unit and a declaration indicating that each notice was sent by regular and certified mail and posted on the door of the rental unit.

D. Notice of Application Approval. No later than fifteen (15) days after receiving final approval of a project application (including any appeal period), the property owner or property owner's agent shall notify each residential household residing on the subject real property that the application has been approved. The notice shall be sent by regular and certified mail and posted on the door of each rental unit.

E. Notice of Termination. Property owner shall provide a written notice of termination to all Below market rate tenants subject to displacement pursuant to Civil Code Section 1946.1 and 1946.2.

F. The cash equivalent of three (3) months' rent shall be paid to the residential household renting a Below market rate dwelling unit that is being relocated. The amount to be paid shall be calculated at the time the relocation application is approved by the City based on the most recent Department of Housing and Urban Development's Fair Market Rent calculation for San Mateo County for a similar-sized unit with the same number of bedrooms.

H. Payments Escrow Account. The property owner shall open an escrow account with an entity qualified to provide escrow services within the State of California and deposit relocation assistance funds into that account no later than thirty (30) days after filing an application with the Director that will be used by the Director for relocation assistance payments to the Below market rate tenants who received a termination notice pursuant to subdivision E of this section. The amount of the deposit shall be determined by the Director or his/her designee and unused funds shall be returned to the property owner after all relocation assistance has been paid as verified by the Director or his/her designee.

I. Relocation Assistance Claims. Below market rate tenants requesting relocation assistance pursuant to this section must provide the necessary information to the Director or his/her designee. Below market rate tenants must file a claim before the date to vacate as stated on the notice of termination in order to be eligible for relocation assistance.

K. If a Below market rate tenant fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this subdivision shall be recoverable as damages in an action to recover possession.

L. The relocation assistance payment required by this section shall be credited against any other relocation assistance required by any other law."

17.90.150 "Registration of Below Market Rate units"

A. Initial Registration. A property owner must register every below market rate dwelling unit that is subject to the provisions of this Chapter within thirty (30) days of receipt of notice from the City that registration is required. Registration is complete only when all required information has been provided to the City and all outstanding fees and penalties, if applicable, have been paid. Upon completion of the initial registration of a below market rate dwelling unit, the City shall issue a registration statement, which shall include the renewal date for the registration of the applicable below market rate dwelling units.

B. Registration Renewal. Registration of below market rate dwelling units shall be renewed annually by June 30.

C. The following information specified in this Section 17.90.150.C shall be provided as part of initial and renewal of registration of a below market rate dwelling unit. Failure to provide the information required or providing false information shall be a violation of the Municipal Code, chargeable as a misdemeanor or infraction. The Director shall establish a Rent Registry for below market rate dwelling units BMR units, which shall, at minimum, collect the following information:

(a) Property information, including the Property's Assessor Parcel Number, year building was built, date of expiration of deed restriction, affordability restrictions, occupancy restrictions, preferences, total number of units, including market rate units;

(b) Contact information, including Owner contract information and property manager's contact information;

(c) The number of BMR units per building;

(d) The number of bedrooms and bathrooms in the BMR unit;

(e) The size of the BMR unit, expressed in square feet;

(f) The Rent for BMR unit;

(g) The average length of occupancy or vacancy of BMR units, or if a current BMR unit is vacant or occupied.

The Director may request additional information as necessary to administer the below market rate inclusionary housing program.

D. Termination of Exemption. When a below market rate dwelling unit that was exempt from this Chapter becomes governed by this Chapter for the first time, the property owner must register the below market rate dwelling unit with the City within thirty (30) days.

E. Registration Amendment. A property owner shall update the registration of a unit if there is a change in occupancy or lease terms for any below market rate dwelling unit within thirty (30) days of the change. Additionally, a property owner shall update their rental registry account within thirty (30) days of a change in a below market rate dwelling unit ownership or management, or a change in the owner's or manager's contact information.

F. Copy of Registration to Tenant. If requested by the City, a property owner shall provide the Tenant(s) with a true and correct copy of the completed registration form that pertains to their below market rate dwelling unit. The property may redact any information that does not pertain to that unit except the name and address of the property owner.

Section 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council does hereby declare that it should have adopted the Ordinance and each section, subsection,

sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5. Taking Effect. This Ordinance shall take effect and be in force thirty (30) days from and after its adoption.

Section 6. Posting. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places designated by the City Council.

This Ordinance was introduced and read on the 21st of April, 2025, and passed and adopted on the 5th day of May, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

STACY JIMENEZ, MAYOR

ATTEST:

PRISCILLA SCHAUS, CITY CLERK