ORDINANCE NO. 12.2024

AN ORDINANCE OF THE PEOPLE OF THE CITY OF MOUNTAIN VIEW AMENDING ARTICLE V OF CHAPTER 29 OF THE MOUNTAIN VIEW CITY CODE REGARDING REAL PROPERTY CONVEYANCE TAX

THE PEOPLE OF THE CITY OF MOUNTAIN VIEW DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Code Amendments. Article V of Chapter 29 of the Mountain View City Code is hereby amended to add, delete or modify its provisions as follows (section titles are shown in **bold** font, additions are shown in underline font and deletions are shown by ~~strikethrough~~ font; sections that do not contain underline or strikethrough font have not been modified or amended):

ARTICLE V. - REAL PROPERTY CONVEYANCE TAX

SEC. 29.62. - Title and purpose.

This article may be cited as the Mountain View real property conveyance tax ordinance.

The tax imposed under this article is imposed ~~solely~~ for the sole purpose of raising revenue. This article is not enacted for regulatory purposes.

SEC. 29.63. - Imposition of tax.

~~A tax is hereby imposed on each transfer, by deed, instrument or writing, by which any lands, tenements, or other real property sold located in the City of Mountain View, are or is granted, assigned, transferred or otherwise conveyed to, or vested in, a purchaser or purchasers thereof, or any other person or persons at or by the direction of said purchaser or purchasers, when the value of the consideration exceeds one hundred dollars ($100.00), said tax to be at the rate of one dollar and sixty-five cents ($1.65) for each five hundred dollars ($500.00) or fractional part of five hundred dollars ($500.00) of the value of the consideration.~~

A. A tax is hereby imposed on each transfer, by deed, instrument or writing, by which any land(s), tenement(s), or other real property sold within the City of Mountain View, is (or are) granted, assigned, transferred or otherwise conveyed to, or vested in, a purchaser or purchasers thereof, or any other person or persons at or by the direction of said purchaser or purchasers, which shall be levied based on the value of the consideration at the following rates:

   1. When the total value of the consideration exceeds one hundred dollars ($100) but is less than or equal to six million dollars ($6,000,000), the tax rate imposed shall be one dollar and sixty-five cents ($1.65) for each five hundred dollars ($500) or fractional part thereof.

   2. When the total value of the consideration exceeds six million dollars ($6,000,000), the tax rate imposed shall be fifteen dollars ($15) for each one thousand dollars ($1000) or

fractional part thereof.

B. As used herein, "value of the consideration" means the total consideration, valued in money of the United States, paid or delivered or contracted to be paid or delivered in return for the transfer of real property, including the amount of any indebtedness, existing immediately prior to the transfer which is secured by a lien, deed of trust or other encumbrance on the property conveyed and which continues to be secured by such lien, deed of trust or encumbrance after said transfer, and also including the amount of any indebtedness which is secured by a lien, deed of trust or encumbrance given or placed upon the property in connection with the transfer to secure the payment of the purchase price or any part thereof which remains unpaid at the time of the transfer. "Value of the consideration" also includes the amount of any special assessment levied or imposed upon the property by a public body, district or agency, where said special assessment is a lien or encumbrance on the property and the purchaser or transferee agrees to pay such special assessment or takes the property subject to the lien of such special assessment. The value of any lien or encumbrance of a type other than those which are hereinabove specifically included, existing immediately prior to the transfer and remaining after said transfer, shall not be included in determining the value of the consideration. If the value of the consideration cannot be definitely determined, or is left open to be fixed by future contingencies, "value of the consideration" shall be deemed to mean the fair market value of the property at the time of transfer after deducting the amount of any lien or encumbrance, if any, of a type which would be excluded in determining the value of the consideration pursuant to the above provisions of this section.

SEC. 29.64. - Persons required to pay tax.

Any persons who make a transfer which is subject to the tax imposed under Sec. 29.63 hereof, and any persons to whom such a transfer is made, shall be jointly and severally liable for payment of the tax imposed under said Sec. 29.63.

SEC. 29.65. - Real property and realty defined.

As used in this article, the terms "real property" and "realty" shall ~~be deemed to~~ mean real property as defined by and under the laws of the State of California.

SEC. 29.66. - Security for debt.

Any tax imposed pursuant to this article shall not apply to any transfer made solely to secure a debt; provided, however, that nothing herein contained shall be deemed to exclude the amount of any such indebtedness from being included in the "value of the consideration," pursuant to the second paragraph of Sec. 29.63, in connection with transfers which are not made solely to secure a debt.

SEC. 29.67. - Instruments in lieu of foreclosure.

Any tax imposed pursuant to this article shall not apply with respect to any transfer to a beneficiary or mortgagee which is taken in lieu of a foreclosure.

SEC. 29.68. - Instrument to United States; etc.

Any transfer to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party shall be exempt from any tax imposed pursuant to this article when the exempt agency is acquiring title.

SEC. 29.69. - Plans of reorganization or adjustment.

Any tax imposed pursuant to this article shall not apply to the making, delivering, or filing of conveyances to make effective any plan of reorganization or adjustment:

a. Confirmed under the Federal Bankruptcy Act, as amended;

b. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title II of the United States Code, as amended;

c. Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title II of the United States Code, as amended; or

d. Whereby a mere change in identity, form or place of organization is effected.

Subdivisions a. to d., inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five (5) years from the date of such confirmation, approval or change.

SEC. 29.70. - Securities and Exchange Commission orders.

Any tax imposed pursuant to this article shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:

a. The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;

b. Such order specifies the property which is ordered to be conveyed;

c. Such conveyance is made in obedience to such order.

SEC. 29.71. - Partnerships.

a. In the case of any realty held by a partnership, no levy shall be imposed pursuant to this article by reason of any transfer of an interest in a partnership or otherwise, if:

1. Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and

2. Such continuing partnership continues to hold the realty concerned.

b. If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this article, such partnership shall be treated as having executed an instrument whereby there was transferred, for fair market value, all realty held by such partnership at the time of such termination.

c. Not more than one (1) tax shall be imposed pursuant to this article by reason of a termination described in subdivision b., and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

SEC. 29.72. - Administration of tax.

The director of finance of the City of Mountain View (hereinafter in this article referred to as "director") shall collect the tax imposed under this article and shall otherwise administer this article. He may make such rules and regulations, not inconsistent with the article, as he may deem reasonably necessary or desirable to administer this article. In the administration of this article, the director shall interpret its provisions consistently with those documentary stamp tax regulations adopted by the Internal Revenue Service of the United States Treasury Department which relate to the tax on conveyances and identified as Sections 47.4361-1, 47.4361-2 and 47.4362-1 of Part 47 of Title 26 of the Code of Federal Regulations, as the same existed on November 8, 1967, except that for the purposes of this article:

a. The term "realty" as used in said regulations, shall be deemed to mean "real property" as such term is defined by and under the laws of the State of California;

b. Those provisions of said regulations providing for deduction of the value of any lien or encumbrance existing before the sale and not removed thereby shall not apply;

c. Those provisions of said regulations relating to the rate of the tax shall not apply;

d. Those provisions of said regulations which conflict with the provisions of this article shall not apply.

SEC. 29.73. - Due dates, delinquency, penalties, interest.

The tax imposed under this article is due and payable at the time the deed, instrument or writing effecting a transfer subject to the tax is delivered, and is delinquent if unpaid at the time of recordation thereof. In the event that the tax is not paid prior to becoming delinquent, a delinquency penalty of ten (10) percent of the amount of tax due shall accrue. In the event a portion of the tax is unpaid prior to becoming delinquent, the penalty shall only accrue as to the portion remaining unpaid. An additional penalty of ten (10) percent shall accrue if the tax remains unpaid on the 90th day following the date of the original delinquency. Interest shall accrue at the rate of one-half of one percent a month, or fraction thereof, on the amount of tax, exclusive of penalties, from the date the tax becomes delinquent to the date of payment. Interest and penalty

accrued shall become part of the tax.

SEC. 29.74. - Records re value of the consideration.

The tax imposed by this article shall be paid to the director by the persons referred to in Sec. 29.64. Whenever the director has reason to believe that the full amount of tax due is not shown on the declaration or has not been paid, he may, by notice served upon any person liable for the tax, require him to furnish a true copy of his records relevant to the value of the consideration or fair market value of the property transferred. Such notice may be served at any time within three (3) years after recordation of the deed, instrument or writing which transfers such property.

SEC. 29.75. - Determination of deficiency.

If on the basis of such information as he receives pursuant to the last paragraph of Sec. 29.74 and/or on the basis of such other relevant information that comes into his possession, he determines that the amount of tax paid is insufficient, he may recompute the tax due on the basis of such information.

One or more deficiency determinations may be made of the amount due with respect to any transfer.

SEC. 29.76. - Notice of determination.

The director shall give notice to a person liable for payment of the tax imposed under this article of his determination made under Sec. 29.75. Such notice shall be given within three (3) years after the recordation of the deed, instrument or writing effecting the transfer on which the tax deficiency determination was made.

SEC. 29.77. - Manner of giving notice.

Any notice required to be given by the director under this article may be served personally or by mail; if by mail, service shall be made by depositing the notice in the United States mail, in a sealed envelope with postage paid, addressed to the person on whom it is to be served at his address as it appears in the records of the city or as ascertained by the director. The service is complete at the time of the deposit of the notice in the United States mail, without extension of time for any reason.

SEC. 29.78. - Petition for redetermination.

Any person against whom a determination is made under this article or any person directly interested may petition for a redetermination within sixty (60) days after service upon the person of notice thereof. If a petition for redetermination is not filed within the sixty (60) day period, the determination becomes final at the expiration of the period.

SEC. 29.79. - Consideration of petition; hearing.

If a petition for redetermination is filed within the sixty (60) day period, the director shall reconsider the determination and, if the person has so requested in his petition, shall grant the person an oral hearing, and shall give him ten (10) days' notice of the time and place of hearing. The director may designate one (1) or more deputies for the purpose of conducting hearings and may continue a hearing from time to time as may be necessary.

SEC. 29.80. - Conduct of hearing.

The director may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the director at or before the hearing.

SEC. 29.81. - Finality of determination.

The order or decision of the director upon a petition for redetermination becomes final thirty (30) days after service upon the petitioner of notice thereof.

SEC. 29.82. - Tax a debt.

The amount of any tax, penalty, and interest imposed under the provisions of this article shall be deemed a debt to the city. Any person owing money to the city under the provisions of this article shall be liable to an action brought in the name of the city for the recovery of such amount.

SEC. 29.83. - Refunds.

Whenever the amount of any tax, penalty or interest has been overpaid, or paid more than once, or has been erroneously collected or received by the city under this article, it may be refunded as hereinafter provided in this section, provided a written claim therefor stating under penalty of perjury the specific grounds under which the claim is founded is filed with the director within three (3) years of the date of payment. The claims shall be on forms furnished by the director. The director may make such refund if he is satisfied that the claimant is entitled to the refund under the provisions of this section. No refund shall be paid under the provisions of this section unless the claimant establishes his right by written records showing entitlement thereto.

SEC. 29.84. - Use of tax revenues.

All of the real property conveyance taxes collected pursuant to the provisions of this article shall be placed into a fund which is hereby created and established for such purposes and which shall be known as the "construction tax and real property conveyance tax fund." This fund shall be used and expended solely for the acquisition, improvement, maintenance, expansion, or implementation of the capital improvement program of the City of Mountain View, including but not limited to public park, playground, cultural, educational, recreational, police, fire, sewer, storm drain, water system and street improvements and facilities of the City of Mountain View, and for operational and maintenance costs related to said capital improvements, including costs of servicing bonds issued in connection with said improvements.

SEC. 29.85. - Costs of collection and administration.

Anything in Sec. 29.84 hereof to the contrary notwithstanding, the monies placed in the construction tax and real property conveyance tax fund created under said Sec. 29.84 may be expended for the purpose of paying the costs of collecting the tax imposed under this article and of otherwise administering this article.

SEC. 29.86 – Council Amendments

The City Council of the City of Mountain View is hereby authorized to amend Article V (Real Property Conveyance Tax) of Chapter 29 (Taxation) of the Mountain View City Code in any manner that does not increase the tax rates, or otherwise constitute a tax increase that requires voter approval pursuant to the California Constitution. Council amendments may include, but are not limited to, amendments that:

a. Repeal or suspend the tax.

b. Reduce tax rate and later restore the tax rate to a rate that does not exceed the tax rate approved by the voters.

c. Interpret or clarify implementation or enforcement of the tax so long as the interpretation or clarification does not increase the tax rate.

d. Create exemptions from the tax.

SECTION 2. Effective Date. This Ordinance (Measure G) shall take effect ten (10) days after the certification of its approval by the voters at the November 5, 2024 election pursuant to Elections Code Section 9217.