



City of Menlo Park

Below Market Rate Housing Program

Summary of Commercial Development Requirements

The purpose of the City of Menlo Park Below Market Rate (BMR) Housing Program is to increase the housing supply for households living or working in Menlo Park that have very-low, low, and moderate incomes. The program requires qualifying commercial and residential developments to provide BMR housing units and/or contribute to the BMR Housing Fund. The BMR Housing Fund is a separate City fund set aside for the specific purpose of assisting the development of affordable housing units and programs for very-low, low, and moderate income households. The fund is primarily generated by developer payments made in lieu of providing actual BMR units. **It should be noted that the City's primary objective is to obtain actual BMR housing units, either for rent or for sale, rather than equivalent cash from "in-lieu" fees.**

The City of Menlo Park BMR Housing Program is governed by Chapters 15.36, 16.04, and 16.96 of the City's Municipal Code (<http://ordlink.com/codes/menlopark/index.htm>). The program is administered under the **Below Market Rate Housing Program Guidelines**. To fully understand the program, developers should read the BMR Guidelines and meet with City staff. City staff can provide copies of the guidelines. They are also available on the City's website at <http://www.menlopark.org/departments/hsg/ordinance.htm>. A summary of the requirements for commercial developments is provided below.

Summary of Commercial Development Requirements:

Commercial buildings of ten thousand (10,000) square feet or more gross floor area are required to mitigate the demand for affordable housing created by the commercial development project(s). To do so, it is strongly preferred that commercial development projects provide BMR housing units on-site (if allowed by zoning), or off-site, if on-site units are infeasible. A density bonus of up to fifteen percent (15%) above the density otherwise allowed by zoning may be permitted when BMR housing is provided on-site.

If it is not possible to provide actual BMR housing units, either on or off-site, commercial developers shall pay fees in lieu of actual units. In-lieu fees are deposited in the BMR Housing Fund. Commercial in-lieu fees must be paid prior to the issuance of building permits. Fees are charged at different rates to two groups (A and B) based on the employee housing demand the uses produce, as follows:

1. Commercial In-Lieu Fees for July 1, 2009 through June 30, 2010

Group A: \$14.01 per square foot of gross floor area for uses that are office as well as research and development (R&D).

Group B: \$7.61 per square foot of gross floor area for uses that are all other commercial and industrial uses not in Group A.

Commercial in-lieu fee rates are adjusted annually on July 1st. The amount of the adjustment is based on a five-year moving average of the percentage increase in the Consumer Price Index - All Urban Consumers (Shelter) for the San Francisco-Oakland-San Jose area.

2. Applicability

The BMR Housing Program applies to conditional use permits, conditional development permits, planned development permits, subdivision approvals, architectural control approvals, variance approvals, and building permits for any commercial development project. The program applies to the construction of any new square footage or any square footage that is converted from an exempt use to a

non-exempt use. It also applies to the conversion of floor area from a less intensive use (Group B) to a more intensive use (Group A).

3. **Exemptions**

The following uses are exempt from the BMR Housing Program:

- (a) Private schools and churches;
- (b) Public facilities;
- (c) Commercial development projects of less than ten thousand (10,000) square feet; and
- (d) Projects that generate few or no employees.

4. **Steps for Compliance**

Before acceptance of plans for review by City of Menlo Park staff, the developer should provide a written proposal for meeting the requirements of the Below Market Rate Housing Program. This proposal is called the **BMR Housing Agreement** and sets forth the developer's plan to meet the requirements for a particular project.

The following review steps apply to most development projects:

- (1) The first step for the developer is to meet with City of Menlo Park Planning Division staff. **To make an appointment to meet with a member of the Planning staff please call 650-330-6702.** Planning staff will discuss the overall project with the developer and will assist in identifying options for meeting the BMR Housing Program requirements. Planning staff will work with the developer throughout the project's application, review and approvals process.
- (2) For a detailed discussion of BMR Housing Program requirements, Planning staff will refer the developer to the City's Housing and Redevelopment Division. **Housing and Redevelopment Division staff can be reached at 650-330-6706.**
- (3) Following discussions with City staff, the developer will prepare the BMR Housing Agreement. The City of Menlo Park Housing Commission will review the agreement and make a recommendation with respect to it to the City of Menlo Park Planning Commission and, if applicable, the City Council.
- (4) The Planning Commission will review the BMR Housing Agreement with the developer's application for development. The City Attorney must approve of the agreement prior to its review by the Planning Commission. If the City Council has final approval authority for the project, the Planning Commission will recommend the agreement for City Council approval. Otherwise the Planning Commission will approve the agreement.
- (5) For projects that it reviews, the City Council will grant approval of the BMR Housing Agreement. Following approval, the agreement must be immediately signed and recorded.

5. **More Information**

For a detailed written description of the program please consult the ***Below Market Rate Housing Program Guidelines***, available on the City of Menlo Park website at www.menlopark.org or at the City Administration Building located at 701 Laurel Street in Menlo Park. **For questions and information about the program, please call Housing and Redevelopment Division staff at 650-330-6706.**