



**PROGRAM SUMMARY**  
**BELOW MARKET RATE (BMR) HOUSING PROGRAM**  
(San Bruno Municipal Code Section 12.230)

CITY OF SAN BRUNO  
COMMUNITY DEVELOPMENT DEPARTMENT

*PURPOSE*

The BMR Housing Program is designed to assist the City of San Bruno in reaching its goal to ensure the continued availability of affordable housing for very low, low and moderate-income households as set forth in Program 5-A of the City's Housing Element.

*NUMBER OF AFFORDABLE UNITS REQUIRED*

For any new residential development of 10 units or more, at least 15 percent of the total units shall be restricted for occupancy by moderate-, low- and very low-income households. The ordinance is applicable to all new residential rental and ownership developments in all areas of the city.

**Rental Developments.** 60% of the affordable units must be affordable to low-income households, whose annual incomes do not exceed 80% of the San Mateo County median income adjusted for family size<sup>1</sup>; and 40% of the affordable units must be affordable to very low-income households, whose annual incomes do not exceed 50% of the San Mateo County median income adjusted for family size.<sup>2</sup>

**For-Sale Developments.** 60% of the affordable units must be affordable to moderate-income households, whose annual incomes do not exceed 120% of the San Mateo County median income adjusted for family size<sup>3</sup>; and 40% of the affordable units must be affordable to low-income households, whose annual incomes do not exceed 80% of the San Mateo County median income adjusted for family size.

<b>Tenure</b>	<b>Percent Affordable</b>	<b>Income Targeting</b>
Rental	9%	80% AMI
	6%	50% AMI
Ownership	9%	120% AMI
	6%	80% AMI

**Partial Units.** When the calculation of a project's below market rate housing obligation results in a fractional unit, a fractional unit of 0.5 and above will be rounded up to the nearest whole number and a fractional unit below 0.5 will be subject to the pro-rata share of the City's in-lieu fee.

<sup>1</sup> "Low-income household" is defined in Section 50079.5 of the California Health and Safety Code.

<sup>2</sup> "Very low-income household" is defined in Section 50105 of the California Health and Safety Code.

<sup>3</sup> "Moderate-income household" is defined in Section 50093 of the California Health and Safety Code.

*LENGTH OF AFFORDABILITY*

**BMR Ownership Units.** After their initial sale, ownership units must remain affordable to subsequent income eligible buyers pursuant to a resale restriction of 45 years.

**BMR Rental Units.** The units in BMR rental developments must remain restricted and to the designated income group for not less than 55 years. The length of affordability restriction restarts with each transfer of the property.

*IN LIEU FEE ALTERNATIVE*

The City's first preference is for the actual construction of new affordable units. However, in certain cases, generally for development of single family detached homes, the City Council may approve payment of a fee in lieu of the construction of new inclusionary units upon making a finding that new construction would be infeasible or present unreasonable hardship in light of such factors as project size, site constraints, market competition, price and product type disparity, developer capability, and financial subsidies available. Evidence must be submitted to the City Manager or his or her designee and included in the request for any waiver of the construction of new affordable units.

The BMR in-lieu fee reflects the subsidies required to construct affordable housing units filling the gap between the cost to develop affordable units and the ability of lower income buyers and renters to pay. The subsidy required is the difference between the values of the affordable units (given the affordability requirements) and the cost of construction- including land, labor, and materials, as well as "soft costs," such as design, financing, and marketing. The in-lieu fee assumes that all in-lieu fees would be used to construct multifamily housing, regardless of whether the market-rate projects paying the fees are single-family or multifamily. The figure below summarizes the in-lieu fees for for-sale and rental units.<sup>4</sup>

Item	In-Lieu Fee Per Market Rate Unit	In-Lieu Fee Per BMR Unit
For-Sale BMR Unit	\$38,700	\$258,200
Rental BMR Unit	\$39,500	\$263,650

The in-lieu fee will be equal to the in-lieu fee per market rate unit times the total number of units in the development.

<b>Partial In Lieu Fee Payment</b>
(Partial unit fraction) X (In-Lieu Fee per affordable unit)

**Partial Unit Payment.** For any residential development whose BMR requirement includes a fraction below 0.5, the developer shall pay an in-lieu fee equal to the partial unit fraction times the in-lieu fee per BMR unit.

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<sup>4</sup> Please note that, as of 2015, the in-lieu fee calculation needs to be updated. Contact the Community Development Department at 650-616-7074 for more information.

<b>Partial In Lieu Fee Payment</b>
(Partial unit fraction) X (In-Lieu Fee per affordable unit)

*ALTERNATIVES*

The City's first preference is for construction of new affordable units within the residential development. However, in certain cases, the City Council may approve an alternative to the construction of new affordable units within the residential development. Alternatives may include, but are not limited to:

- (1) Acquisition and rehabilitation of affordable units
- (2) Construction of affordable units offsite
- (3) Conversion of existing market rate units to affordable units
- (4) Dedication of land to the City suitable for the construction of affordable units
- (5) Construction of second dwelling units

The City Council may approve payment of an alternative to the construction of new inclusionary units upon making a finding that new construction would be infeasible or present unreasonable hardship in light of such factors as project size, site constraints, market competition, price and product type disparity, developer capability, and financial subsidies available. Evidence must be submitted to the City Manager or his or her designee and included in the request for any waiver of the construction of new affordable units.

*COMPLIANCE PROCEDURES*

Approval of a BMR Housing Plan and execution and recordation of a BMR Housing Agreement shall be conditions of approval for any new residential development of 10 units or more.

**BMR Housing Plan.** No application for approval of a residential development shall be deemed complete until a BMR Housing Plan is submitted. The BMR Housing Plan shall include: number, location, number of bedrooms and size of the BMR and market rate units; floor and site plans; income levels of BMR units; mechanisms to maintain affordability; phasing plan; sales and marketing plan; alternative proposal; and any other information requested by the City Manager.

**BMR Housing Agreement.** All developments subject to the ordinance shall enter into a Below Market Rate Housing Agreement to be recorded against the residential development. The BMR Agreement must include: a description of the residential development; the number, size, location, and affordability of BMR units; provisions for rental or resale restrictions, deeds of trust and rights of first refusal; resident selection procedures; provisions for monitoring ongoing affordability of the units; and annual monitoring requirements.

*OWNERSHIP UNITS AFFORDABLE SALE AND RESALE PRICE*

For sale units will be offered to sale to eligible households at an affordable housing cost.

**Maximum Sales Price.** The maximum sales price of BMR units shall be limited to a price that is affordable to a household earning the targeted household income level (may be between 70 to 120 percent of area median income adjusted for household size), with payments not to exceed between 30-35 percent of the gross monthly income, less insurance and property taxes and homeowners association dues. The initial maximum sales prices will be adopted by the City Council, and will be adjusted.

**Sales Restrictions.** BMR units shall be sold or resold only to eligible moderate or lower-income households. A deed restriction, covenant, and/or other instrument enforceable by the City limiting the resale of such units to eligible or lower income households shall be recorded in the chain of title of all BMR units.

**Resale Restrictions.** Each unit offered for resale will be subject to resale restrictions in which the effective sales price will be adjusted based on the growth of the area median income in San Mateo County during the period of ownership.

**Owner Occupancy Restrictions.** The owner of the affordable unit must use the BMR unit as the primary place of residence. Renting, leasing, subleasing or subletting shall not be permitted for more than two months in any year.

*RENTAL UNITS AFFORDABLE RENTS*

Rental Units will be offered to eligible households at an affordable rent.

**Rental Rates.** The monthly rent to be charged for a BMR unit in a rental project shall be based on the income of eligible tenants, but shall not exceed 30 percent of the gross monthly income for households earning the targeted household income level (may be between 50 to 80 percent or less of area median income), adjusted for household size.

**Rental Restriction.** Occupancy of BMR rental units and qualification of eligible lower-income tenants shall be the responsibility of the project owner or an authorized agent of the owner. Income qualifications of the tenant shall be verified upon annual lease renewal. If a tenant's income rises above 140 percent of area median income, the unit shall become a market rate unit and the next comparable unit available will become a BMR unit, unless the tenant chooses to vacate the unit.

*BMR UNIT STANDARDS*

BMR units must conform to the following standards:

- (a) Have features and construction indistinguishable from market rate units market rate units within the project, including landscaping
- (b) Be distributed throughout the development project
- (c) Have similar access to the unit from the exterior as market rate units
- (d) Contain proportionately the same or a larger number of bedrooms as market units
- (e) Generally be of comparable size to similar market rates units
- (f) Have access to all on-site amenities
- (g) in phased developments projects, be constructed proportionately in each phase

**ELIGIBILITY/SELECTION OF OCCUPANTS**

To the extent permissible under applicable state and federal law, preference shall be given to persons residing or working within San Bruno.

**ANNUAL REPORTING**

The following annual reporting shall be required:

**Rental Projects:** Each project owner shall submit an annual report to the City identifying for each BMR unit the monthly rent, vacancy information for the prior year, income and income verification for the tenants, and other information as required by the City of San Bruno.

**Ownership Projects:** Each BMR homeowner shall submit an annual report to the City updating income, and other information as required by the City of San Bruno.

**ADMINISTRATIVE FEE**

A BMR administrative fee shall be charged as follows:

<b>Tenure</b>	<b>Administrative Fee</b>	<b>Party Responsible for Administrative Fee</b>
Rental	\$50 per affordable unit per year	<b>Owner</b>
Ownership - Initial Sale	One percent (1%) of sales price	Developer/seller
Ownership - Resale	One half of one percent (.5%) of sales price	Seller