



Office of the City Manager

PUBLIC HEARING
May 23, 2023

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Lisa Warhuus, Director, Health, Housing, and Community Services
Subject: Fee Increase: Below Market Rate (BMR) Housing Monitoring Program

RECOMMENDATION

Conduct a public hearing and upon conclusion adopt a Resolution to increase the annual \$432 per unit fee for the Below Market Rate (BMR) housing monitoring program by \$18 to \$450 per unit.

FISCAL IMPACTS OF RECOMMENDATION

The annual monitoring fee of \$432 per BMR unit was established in 2017. There has been no fee update since this time. Adjusting the fee will allow the Department of Health, Housing, and Community Services (HHCS) to capture staffing costs needed to efficiently implement and monitor the portfolio. This incremental fee increase will also prevent a future scenario where owners are faced with a significant increase as cost of services continue to grow.

A fee update is recommended given the staffing cost increases since 2017, as well as funding for additional staffing in HHCS to support the program. General increases in staffing costs over the past six years has increased the annual cost of monitoring the BMR unit portfolio to \$271,909. The proposed fee increase will fund the staff necessary to support required monitoring and implementation of the program. The fee is representative of 2,087 hours of staff work per year, and includes the Community Development Project Coordinator (CDPC) who administers the BMR program, as well as administrative and supervisory support. Staff recommend increasing the fee to \$450 per unit, which will cover an increased portion of the staffing costs necessary to ensure accurate program monitoring and implementation. Fees will increase by 4% and create an additional revenue of \$18 per unit for FY 2024 to cover the current cost of delivering this service.

Table 1. Fee per BMR Unit					
Total Program Costs*	FY 23 Fee (current)	FY 23 Revenue	FY 24 Proposed Fee	FY 24 Revenue	Percent Change
\$271,909 per year	\$432 per unit	\$235,440	\$450 per unit	\$245,250	4%

*calculation based on salary for classifications at Step C + benefits

The BMR portfolio currently consists of 545 units; which costs the City of Berkeley an estimated \$271,909 to monitor annually. The current fee of \$432 generates \$235,440 annually creating a deficit to cover the costs to provide the service. The proposed new fee structure of \$450 per BMR unit, will not exceed the costs of service and generate \$245,250.

As outlined in Table 1, the proposed fee was calculated by applying the hourly staff time rate to the hours needed to complete each task. Fees will be collected in Fund 122 – BMR Program. The current rate schedule versus the new rate schedule is included as Exhibit A.

CURRENT SITUATION AND ITS EFFECTS

BMR units are deed-restricted, permanently affordable housing units provided in new multi-family rental housing projects. The units are part of market-rate housing projects that are not typically familiar with regulations for affordable housing. Retaining BMR units as affordable housing for eligible households requires consistent City oversight, including regular on-site monitoring visits and support for property managers.

In 2017, the City adopted Resolution 68,277-N.S. to fund HHCS staff time for BMR housing monitoring fees. The fees fund a dedicated CDPC. The FY 2024 proposed fee increase is recommended to account for increased staffing costs. Prior to adopting the fee in 2017, HHCS implemented program improvements to decrease staffing burden while maintaining a focus on compliance without a dedicated monitor. However, the City Council approved a new dedicated monitor in 2017 due to the BMR portfolio’s significant growth. The BMR portfolio’s continued growth has required HHCS to support the CDPC with additional staff time to ensure efficiency and compliance. The proposed fee increase reflects salary increases for the CDPC position, as well as salary costs for additional HHCS staff needed to support the program. The portfolio has increased by 25% since 2017 and HHCS needed to allocate additional positions to support the monitor’s increased workload.

Various neighboring cities charge for the preparation of BMR Housing monitoring programs. Irvine charges \$25/unit/year, Santa Monica has a table of rates up to \$181/unit/year and Dublin charges \$1,293 /project/year (for projects 20 units or less).

Emeryville has a \$5,000 per project annual monitoring fee, but only charges it to projects where compliance is not readily forthcoming.

BACKGROUND

The annual monitoring fee supports HHCS' monitoring of BMR units for compliance under BMR regulatory agreements. The BMR portfolio and monitoring requirements were created by regulations of the Inclusionary Housing Ordinance and Affordable Housing Mitigation Fee ordinance. The City adopted new affordable housing requirements for new residential housing development in February 2023 that will add an additional layer of monitoring requirements. City staff monitor the BMR units to ensure that they are made available to qualified households and operated within program requirements.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no immediate environmental effects associated with the adoption of this fee.

RATIONALE FOR RECOMMENDATION

The proposed fee increase reflects a portion of the general increase in staffing costs over the past six years. It also accounts for additional staff time from HHCS management and staff to support the monitor's increased workload. The current fee revenue does not account for the increased staffing costs and additional allocated partial positions, despite the additional revenue gathered from new units added since the fee's adoption. Adjusting the fee will allow HHCS to capture additional staffing costs needed to efficiently implement and monitor the portfolio.

ALTERNATIVE ACTIONS CONSIDERED

The City could continue to perform the tasks and charge the current fee at a deficit for costs of services. The gap would need to be covered by the General Fund.

CONTACT PERSON

Mariela Herrick, Community Development Project Coordinator, HHCS, (510) 981-5224

Attachments:

1: Resolution

Exhibit A: Below Market Rate Rental Housing Proposed Rates Schedule
Comparison

2: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

ADOPTING AN UPDATED FEE SCHEDULE FOR THE BELOW MARKET RATE HOUSING UNIT MONITORING SERVICES PROVIDED BY THE DEPARTMENT OF HEALTH, HOUSING, AND COMMUNITY SERVICES

WHEREAS, the City of Berkeley's Affordable Housing Requirements for new residential housing development (Berkeley Municipal Code Chapter 23.328) requires developers of market rate, multi-family housing to provide Below Market Rate (BMR) units; and

WHEREAS, the Affordable Housing Requirements Ordinance in BMC Chapter 23.328.050 allows the City Council to adopt by resolution fees to administer its requirements; and

WHEREAS, Berkeley Resolution No. 70,698-N.S. allows City Council to set fees for the adoption of Below Market Rate Rental Housing fee schedule for services provided by the Department of Health, Housing, and Community Services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City adopts the Department of Health, Housing, and Community Services' updated Below Market Rate Rental Housing fee schedule attached as Exhibit A, effective July 1, 2023.

BE IT FURTHER RESOLVED that the fee schedule will remain valid for a Department of Health, Housing & Community Services successor agency, if any.

Exhibits

A: Below Market Rate Rental Housing Proposed Rates Schedule Comparison

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Exhibit A: Below Market Rate Rental Housing Proposed Rates Schedule Comparison

Comparison of Costs and Fees	
Current cost of BMR Rental Housing Monitoring Program (FY 2023)	\$271,909 per year
Current Fee	\$432 per unit
Proposed FY 2024 fees	\$ 450 per unit
Percent Change of fee	4%

May 23, 2023

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**INCREASE FEE FOR BELOW MARKET RATE RENTAL HOUSING
PROGRAM**

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Health, Housing, and Community Services is proposing to increase the condominium conversion subordination application rates.

Current Fees

\$ 432

Proposed Fees

\$ 450

The hearing will be held on, MAY 23, 2023 at 6:00 p.m. in the School District Board Room, 1231 Addison Street, Berkeley CA 94702.

For further information, please contact Mariela Herrick at 510-981-5224.

A copy of the agenda material for this hearing will be available on the City's website at <https://berkeleyca.gov/> as of May 11, 2023. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

May 23, 2023

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 11, 2023.

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Mark Numainville, City Clerk

