

## *Palo Alto, Ca Municipal Code: Inclusionary and Affordable Housing*

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### **Title 9 Public Peace, Morals and Safety**

- **Chapter 9.70 Resale Controls for Units Originally Financed with Mortgage Revenue Bonds**

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*9.70.040 Exceptions to resale control requirements.*

Unless they are more restrictive, the resale controls established by Section 9.70.030 shall not apply to units designated as BMR units under the city's below-market-rate program or to any other units for which resale controls have been established by the city.

(Ord. 3505 § 3, 1984; Ord. 3336 § 1 (part), 1982)

### **Title 16 Building Regulations**

- **Chapter 16.47 Approval of Projects with Impacts on Housing**

*16.47.010 Declaration of goal and purpose.*

The goal and purpose of this chapter is to lessen the shortage of low-income and moderate-income housing in Palo Alto by requiring developers of large commercial and industrial projects, as a condition of using land for the privilege of development, to contribute to programs that increase the city's low-income and moderate-income housing stock.

(Ord. 3560 § 1 (part), 1984)

*16.47.020 Applicability.*

This chapter shall apply to the following developments, except those exempt under Section 16.47.030:

- (a) Any new gross square footage;
- (b) Any gross square footage that is converted from an exempt use to a nonexempt use, if such development removes from the city's housing stock two or more legal dwelling units that have last been used for housing;
- (c) New gross square footage that replaces nonexempt uses shall not be considered gross square footage for the purposes of the ordinance codified in this chapter. "Replaces" means that the new gross square footage receives architectural review approval pursuant to Chapter 18.76 (Permits and Approvals) within one year of the previous nonexempt uses being demolished;
- (d) New gross square footage in a development used for (1) an on-site cafeteria, recreational facility, and/or day care facility, to be provided for employees and/or their children and not open to the general public, or (2) a hazardous materials storage facility shall be exempted from the requirements of this chapter. If any square footage exempted under this subsection (e) is converted to a nonexempt use, the entire amount of gross square footage converted must meet the requirements of this chapter, regardless of the number of square feet converted.

(Ord. 4826 § 18, 2004: Ord. 4743 § 1, 2002: Ord. 3597 § 1, 1985: Ord. 3560 § 1 (part), 1984)

*16.47.030 Exemptions.*

The following uses, as defined in Title 18 of the Palo Alto Municipal Code, are exempt from this chapter:

- (a) Residential uses;
- (b) Churches;
- (c) Colleges and universities
- (d) Commercial recreation;
- (e) Hospitals and convalescent facilities;
- (f) Private clubs, lodges, and fraternal organizations;
- (g) Private education facilities;
- (h) Public Facilities;
- (i) Retail service, eating and drinking service, personal service, or automotive service when the total additional square footage is 1,500 square feet or less. This exemption shall apply only when the additional square footage of new development does not exceed 1,500 square feet. New development that is larger than 1,500 square feet shall pay a fee for all square footage, including the first 1,500 square feet.

(Ord. 4763 § 2, 2002: Ord. 3560 § 1 (part), 1984)

*16.47.040 Housing requirement.*

(a) Developments must provide the number of low-income and moderate-income housing units determined by the formula set forth below or provide an in-lieu fee as set forth in Section 16.47.040(d) below:

Gross Square Feet/350 x .017 = Number of units required

(b) This formula is based on the reasonable approximation of the amount of housing necessary to satisfy ten percent of the demand for low to moderate-income housing based on the average number of low to moderate-income employees generated per average household by the average commercial and industrial development.

(c) Housing units may be sold or rented to low-income and moderate-income buyers pursuant to the city's below market rate (BMR) program and may be provided either on the site of the proposed development or off-site. If the unit is provided on site, its design and location shall be part of the architectural review application of the entire proposed development. If the unit is off-site, the director of planning and community environment must approve the size, condition and location of the units.

(1) A housing unit if sold, shall be sold to the city, or city's designee, at the cost of construction and financing, excluding land costs and profit; provided, that the cost shall not be greater than that affordable to buyers under the current income limits for the Palo Alto below market rate program, published yearly by the department of planning and community environment and on file with the city clerk.

(2) A housing unit, if rented, shall be rented for a minimum of fifty-nine years subject to Palo Alto's below market rate rental program, or for a lesser period; provided, that it is sold in accordance with subdivision (1) of this section.

(3) A below market rate agreement shall be entered into between the city and the developer at the time of architectural review approval of the development pursuant to Chapter 18.76 (Permits and Approvals).

(d) If housing units are not to be provided, the developer shall make an in-lieu payment to the city's housing fund of fifteen dollars per square foot of proposed development. The fifteen dollars per square foot shall be adjusted annually from the date of approval of the ordinance codified herein by the percentage changes in the Consumer Price Index, all urban consumers index, for the San Francisco-Oakland area.

(e) The in-lieu payment must be paid prior to issuance of the first grading or building permit for a project. Any permit issued prior to payment shall be null and void. For a phased project, payments may be made for each portion of a phased project prior to issuance of the first grading or building permit for that phase.

(f) If the formula as applied to a proposed development results in a fraction of a unit, the developer shall provide for the fraction of a unit either a whole unit or an in-lieu payment, based on the entire applicable square footage.

(g) At the time of a developer's application for architectural review approval pursuant to Chapter 18.76 (Permits and Approvals), or, if no architectural review is necessary, at the time of an application for a building permit, the developer must notify the director of planning and community environment whether units or an in-lieu payment will be provided to the city. The housing requirement shall then be placed as a condition on the director's approval of the project pursuant to Chapter 18.77 (Procedures for Permits and

Approvals) or as a condition on the issuance of a building permit by the division of inspectional services.

(h)Exception for Mixed Use Developments. In a mixed housing and commercial or industrial development, the developer's housing requirement pursuant to this chapter and the developer's below market rate housing requirement pursuant to the housing element of the Comprehensive Plan both should be calculated. The developer shall be required to meet only the larger of the two requirements.

(Ord. 4826 §§ 19, 20, 2004: Ord. 4743 § 1, 2002: Ord. 3560 § 1 (part), 1984)

#### *16.47.050 Penalties.*

(a)All remedies provided for in this chapter shall be cumulative and not exclusive.

(b)Violation of any provision of this chapter, including, but not limited to, converting an exempt use to a nonexempt use without tendering the appropriate housing mitigation to the city, is a misdemeanor punishable as provided in this code.

(c)Each person or entity is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person or entity and shall be punished accordingly.

(d)Any person or entity violating any provision of this chapter, including, but not limited to, converting an exempt use to a nonexempt use without tendering the appropriate housing mitigation to the city, may be liable civilly in a sum not to exceed five hundred dollars for each day in which such violation occurs.

(e)Persons employed in the following designated employee positions are authorized to exercise the authority provided in Penal Code Section 836.5 and are authorized to issue citations for violations of this chapter: chief building official, assistant chief building official, and ordinance compliance inspector.

(Ord. 3608 § 2, 1985)

#### *16.47.060 Severability.*

If any provision or clause of this chapter or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other chapter provisions, and clauses of this chapter are declared to be severable.

(Ord. 3608 § 1, 1985; Ord. 3560 § 1 (part), 1984)

### • **Chapter 16.60 Charleston Arastradero Corridor Pedestrian and Bicyclist Safety Impact Fee**

#### *16.60.040 Exemptions.*

The provisions of this chapter shall not apply to:

(a)City buildings or structures.

(b)Public school buildings or structures.

(c)Affordable Housing, either for sale or rental, which, by recordable means, is permanently obligated to be 100% affordable.

(d)Retail service, eating and drinking service, personal service, or automotive service when the total square footage (including new development) is 1,500 square feet or less.

(e)Day care centers used for childcare, nursery school or preschool education.

(f)Below market rate housing units above and beyond the minimum number required for projects subject to the city's Below Market Rate (BMR) Housing Program. The additional units must be offered and constructed consistently with the requirements of the BMR program.

(g)New development which is exempt from the fee by virtue of the Constitutions of the United States and California or by virtue of other applicable state or federal law.  
(Ord. 4880 § 2 (part), 2005)

## **Title 18 Zoning**

- **Chapter 18.22 RM-15 Low Density Multiple-Family Residence District Regulations**

### *18.22.080 Below market rate (BMR) units.*

(a)In developments of ten or more units not less than ten percent of the units shall be provided at below-market rates to low and moderate income households in accordance with Program 12 of the Palo Alto Comprehensive Plan.

(b)Density Bonus. In developments of ten or more units where BMR housing units are provided, a density increase of no more than fifteen percent over the otherwise prescribed number of units may be permitted; provided, that for each additional market unit an additional BMR unit is included. All other site development regulations shall apply.  
(Ord. 3807 § 2 (part), 1988)

- **Chapter 18.24 RM-30 Medium Density Multiple-Family Residence District Regulation**

### *18.24.080Below market rate (BMR) units.*

(a)In developments of ten or more units, not less than ten percent of the units shall be provided at below-market rates to low and moderate income households in accordance with Program 12 of the Palo Alto Comprehensive Plan.

(b)Density Bonus. In developments of ten or more units, where BMR housing units are provided, a density increase of no more than fifteen percent over the otherwise prescribed number of units may be permitted; provided, that for each additional market unit an additional BMR unit is included. All other site development regulations shall apply.  
(Ord. 3807 § 3 (part), 1988)

- **Chapter 18.26 RM-40 High Density Multiple-Family Residence District Regulations**

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### *18.26.080 Below market rate (BMR) units.*

(a)In developments of ten or more units, not less than ten percent of the units shall be provided at below-market rates to low and moderate income households in accordance with Program 12 of the Palo Alto Comprehensive Plan.

(b)Density Bonus. In developments of ten or more units where BMR housing units are provided, a density increase of no more than fifteen percent over the otherwise prescribed number of units may be permitted; provided, that for each additional market unit an additional BMR unit is included. All other site development regulations shall apply.

(Ord. 3807 § 4 (part), 1988)