

COMMUNITY DEVELOPMENT AGENCY

May 25, 2021



Thomas K. Lai
DIRECTOR

Board of Supervisors
County of Marin
3501 Civic Center Drive
San Rafael, California 94903

Marin County Civic Center
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Suite 308
San Rafael, CA 94903
415 473 6269 T
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SUBJECT: Accessory Dwelling Unit Incentives: Development Fee Waivers for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs)

Building and Safety
Environmental Health Services
Planning
Environmental Review
Housing
Sustainability
Code Enforcement
GIS
Federal Grants

Dear Board Members:

RECOMMENDATIONS:

1. Consider extension of a resolution extending previous delegation of authority to the Community Development Agency Director and the Public Works Director to waive and reduce fees for eligible JADUs and ADUs through December 31, 2023 as specified below:
 - a. Extension of the Community Development Agency Director's authority to waive or reduce building permit fees for eligible JADUs in amounts not to exceed \$1,500 per unit;
 - b. Extension of the Director of Public Works authority to waive Roadway Impact Fees for eligible JADUs;
 - c. Extension of the Community Development Agency Director's authority to waive building permit fees for eligible ADUs in amounts not to exceed \$2,500 per unit; and
 - d. Approve waiving and reducing fees for eligible ADUs that are rented under affordable housing parameters for up to \$10,000¹.

SUMMARY:

The proposed resolution would extend previous authorization delegated to the Director of the Community Development Agency ("CDA") and to the Director of Public Works to waive or reduce certain development fees and thereby stimulate development of ADUs and JADUs in the unincorporated County, and would extend the 2020 ADU and JADU building permit fee waiver policy for the period of January 1, 2021 through December 31, 2023, with an annual progress update to determine if adjustments should be made based on the prior years' production.

¹ Affordable units are defined as those that are rented up to 80% Area Median Income (AMI) referred to as low-income units, and units that are rented between 80-120% Area Median Income (AMI), referred to as moderate-income units.

BACKGROUND:

Since 2017, as a response to the North Bay Wildfires, your Board authorized the Community Development Agency Director to waive or reduce building permit fees for JADUs to create supplemental rental housing within the footprint of existing residential properties.

In January 2020, your Board approved an expansion of ADU and JADU fee waivers that responds to the affordable housing crisis in Marin County by further incentivizing the development of ADUs that are rented to low- and moderate-income households. This program, which expired December 31, 2020, includes a waiver of up to \$2,500 for eligible ADUs rented at or above market rate², up to \$5,000 in fees for an ADU that is rented at moderate-income rates (between 81-120% of Area Median Income guidelines), and up to \$10,000 in fees for an ADU that is rented at low-income rates (up to 80% of Area Median Income guidelines). These fees may include: Community Development Agency fees such as planning, building and safety, and environmental health services, and Department of Public Works fees such as traffic mitigation.

DISCUSSION:

In 2019, the County of Marin, in collaboration with other Marin jurisdictions³, began ADUMarin: an initiative that provides resources and support for the creation of additional second units throughout Marin County. In 2020, a number of materials were released, including a [new website](#) and workbook that offer information on how to build and rent a second unit, and a series of webinars tailored to specific areas of Marin, where over 200 participants joined.

In 2020, the County gave 36 fee waivers for the creation of ADUs/JADUs, totaling \$71,000, an increase from the previous year, where the County gave 20 fee waivers, totaling \$49,000. The increase in fee waivers given correlates with the increase in educational materials and resources that have been disseminated, in addition to greater Countywide collaboration. However, the COVID-19 pandemic, which began in March 2020, affected both the overall interest and ability to create second units, and presented additional challenges for first-time landlords.

A moratorium on non-essential construction was put in place from March 31, 2020 through May 3, 2020, and eviction moratoriums for nonpayment of rent due to COVID-19 related financial hardship were enacted at the federal, state and local level, with the moratorium running from March 24, 2020 through June 30, 2021 in Marin⁴. Additionally, at the height of the pandemic, the Judicial Council of California enacted an emergency rule that suspended all evictions (unless necessary due to health and safety concerns) from April 2020 through August 2020.

² In 2019, eligible ADUs received a \$3,500 fee waiver under 2018-135.

³ The Marin jurisdictions taking part include Belvedere, Corte Madera, Fairfax, Larkspur, Mill Valley, Novato, Ross, San Anselmo, Tiburon, County of Marin (unincorporated)

⁴ The State eviction moratorium (SB 91) expires June 30, 2021

The eviction moratoriums impacted the ability for prospective landlords to locate tenants since most tenants remained housed due to initial stringent shelter-in-place laws, in addition to the pandemics' economic impact on the community. The County did not receive any applications for the development of second units for low-income or moderate-income tenants. The pandemic has severely impacted Marin renters, especially lower-income renters. The County's Rental Assistance program has received over 5,000 requests for rental assistance and is currently in the process disseminating a total of \$20 million in rental assistance, the majority of which will be granted by August 2021. County Staff are working closely with both the landlord and renter population to offer resources and education as the community recovers from the pandemic.

FISCAL IMPACT:

Using information from ADU and JADU permit records from 2019⁵ and the Second Unit Survey (2017), staff forecasted how many homeowners may take advantage of the affordability program and found that these actions are anticipated to reduce fee revenues by approximately \$330,000 in 2021, with \$150,000 waived for the new incentives for affordable ADUs. If your Board approves of these actions, funds from Affordable Housing Fund (2070) would be used to reimburse the County special revenue funds for all fee waivers that are part of the ADU Affordability Fee Waiver Program. The General Fund will reimburse special revenue funds for fee waivers outside of the affordability restrictions. The Affordable Housing Fund currently has an unrestricted fund balance of \$10,694,239. If the volume of fee waiver requests exceeds the predictions detailed above, staff will work with the CAO to develop potential program funding opportunities and will report back to the Board of Supervisors.

The recommended actions would have a net County cost of an estimated \$330,000.

REVIEWED BY:

- | | |
|--|---|
| <input type="checkbox"/> Auditor Controller | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

Respectfully submitted,



Aline Tanielian
Planner



Leelee Thomas
Planning Manager

⁵ 2019 permit records data are used as the basis of this analysis since it presents pre-pandemic data

Attachments:

1. Resolution delegating authority to waive Roadway Impact Fees for Junior Accessory Dwelling Units and Building Permit Fees for Junior Accessory Dwelling Units and Accessory Dwelling Units and superseding Resolution 2020-05
2. JADU/ADU Fee Waiver background
3. JADU and ADU permit analysis from 2017-2019
4. JADU/ADU application
5. JADU/ADU Fee Waiver FAQs

RESOLUTION NO. 2021-34
RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
DELEGATING AUTHORITY TO WAIVE ROADWAY IMPACT FEES FOR JUNIOR
ACCESSORY DWELLING UNITS AND BUILDING PERMIT FEES FOR JUNIOR
ACCESSORY DWELLING UNITS AND ACCESSORY DWELLING UNITS AND
SUPERSEDING RESOLUTION 2020-05

SECTION I: FINDINGS

- I. **WHEREAS**, over 67,000 people permanently reside in the unincorporated area within Marin County, which population is projected to grow by approximately 10,000 additional residents by 2040, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and
- II. **WHEREAS**, over thirty percent of the 26,000 households that reside in unincorporated Marin rent their homes, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and
- III. **WHEREAS**, it is estimated that over 2,000 households residing in unincorporated Marin have extremely-low incomes, which is defined as earning approximately thirty percent of the area median income, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and
- IV. **WHEREAS**, approximately fifty-six percent of renters in 2010 were estimated to be overpaying for rental housing, which is defined as paying more than thirty percent of household income as rent, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and
- V. **WHEREAS**, between 2001 and 2013 home values increased significantly more than area incomes, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and
- VI. **WHEREAS**, between 2004 and 2013 rental prices increased approximately thirteen percent, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and
- VII. **WHEREAS**, there is a shortage of rental housing, including multi-family, single-family, second units, and Single Room Occupancy (SRO) units, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and
- VIII. **WHEREAS**, Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) may help mitigate the housing shortage by helping incentivize creation of new rental housing opportunities in unincorporated Marin County; and
- IX. **WHEREAS**, in conjunction with recent state legislation intended to encourage the creation of ADUs and JADUs by limiting the scope of local permitting discretion, a local fiscal incentive can be created by waiving building permit review fees for those units and by waiving Roadway Impact Fees for JADUs; and

X. **WHEREAS**, on December 5, 2017, in response to these housing needs and due in part to the loss of homes and subsequent displacement caused by the North Bay Fires of October 2017, the Board of Supervisors previously adopted Resolution 2017-132, which authorizes the Community Development Director and/or their designee to waive or reduce certain planning permit fees incurred in 2018 and associated with the development of JADUs; and

XI. **WHEREAS**, on May 22, 2018, your Board amended Resolution 2017-132, and adopted Resolution 2018-47, to clarify the period that a homeowner would refrain from using a JADU as a short-term rental to be one year from the Certification of Occupancy, to align the definition of short-term rentals with other County policies, and to require owners who violate the terms of their waiver agreement to refund the County; and

XII. **WHEREAS**, on January 14, 2020, your Board amended Resolution 2018-135, and adopted Resolution 2020-05, to further incentivize the development of ADUs that are rented to low- and moderate-income households by offering a waiver of up to \$2,500 for eligible ADUs rented at or above market rate, up to \$5,000 in fees for an ADU that is rented at moderate-income rates (between 81-120% of Area Median Income guidelines), and up to \$10,000 in fees for an ADU that is rented at low-income rates (up to 80% of Area Median Income guidelines); and

XIII. **WHEREAS**, this action expands upon and extends the sunset date for Resolution No. 2020-05, by extending the authority of the Community Development Director and/or their designee to waive or reduce planning and building permit fees associated with the development of both JADUs and of ADUs incurred in 2021 through 2023; and

XIV. **WHEREAS**, this action also authorizes Director of Public Works and/or their designee to waive Roadway Impact Fees associated with the creation of eligible JADUs; and

XV. **WHEREAS**, this action is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to section 15061(b)(3) of the CEQA Guidelines because it would not result in any potential environmental impacts.

SECTION II: ACTION

NOW, THEREFORE, BE IT RESOLVED, that the Marin County Board of Supervisors does hereby adopt this Resolution superseding Resolution 2020-05, and makes the following findings:

1. The Board of Supervisors of the County of Marin hereby delegates authority to the Director of the Community Development Agency and/or their designee to waive building permit fees associated with the creation of eligible ADUs, in an amount not to exceed \$10,000 per unit, through December 31, 2023.
2. The Board of Supervisors of the County of Marin hereby delegates authority to the Director of the Community Development Agency and/or their designee to waive building permit fees associated with the creation of eligible JADUs, in an amount not to exceed \$1,500 per unit, through December 31, 2023.
3. To qualify for these fee waivers, the property owner shall signify in writing, according to a form provided by the Community Development Agency, their agreement to refrain from

using the subject unit as a short-term rental. To qualify for ADU fee waivers over \$2,500, the property owner must signify in writing that they will rent the unit affordably, up to 120% AMI.

4. Property owners who are found to not rent the unit affordably for sixty (60) will be required to pay back the waived permit fees in full, with interest accrued over time.
5. For the purposes of this resolution, "short-term rental" is defined as the rental of a residential unit for less than thirty days.
6. Property owners who are found to be have used a subject ADU or JADU as a short-term rental in violation of this agreement must repay the principal amount of the waiver in full within 30 business days of notification from the County of the violation.
7. This agreement will not supersede any short-term rental regulations adopted by the County subsequent to the passage of this resolution.
8. County staff will present an annual progress update to determine if additional adjustments need to be made for the subsequent year.
9. Resolution 2020-05, previously adopted on January 14, 2020 is hereby superseded and replaced by this Resolution No. 2021-34.

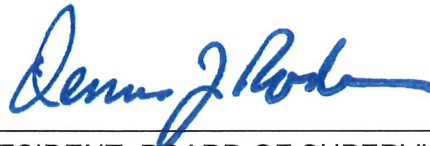
SECTION III: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 25th day of May 2021, by the following vote to wit:

AYES: SUPERVISORS Damon Connolly, Katie Rice, Stephanie Moulton-Peters,
Judy Arnold, Dennis Rodoni

NOES: NONE

ABSENT: NONE



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:



CLERK

ATTACHMENT 2: FEE WAIVER BACKGROUND

2017

In October 2017, the North Bay Wildfires destroyed thousands of homes in the neighboring counties of Sonoma and Napa, displacing residents and thereby exacerbating Marin's preexisting affordable housing crisis, caused in large part by a shortage of available housing.

In response, the Board of Supervisors acted in December 2017 to authorize the Community Development Director to waive or reduce building permit fees for JADUs as a financial incentive aimed to galvanize property owners into creating supplemental rental housing within the footprint of existing developed residential properties.¹ This fee waiver policy was developed to augment a state initiative to promote creation of ADUs and JADUs by easing the regulatory requirements for creating these types of units. Additionally, to encourage use of JADUs as permanent rental housing, the Board of Supervisors included a provision requiring that JADUs may not be used as a short-term rental for one year following issuance of the fee waiver to qualify for the fee waiver program.

As the Building and Safety Division operates under a full cost recovery policy through the collection of user fees, the Board of Supervisors agreed to allocate \$25,000 to backfill the loss of fee revenue for JADU building permit waivers. Additionally, to maximize the number of projects that would benefit from a fee waiver incentive program, while also retaining a fee waiver amount that would act as an effective financial incentive for the waiver, the Board of Supervisors also supported a proposal to cap individual building permit fee reductions to \$1,500 per eligible JADU.

2018

On May 22, 2018, the Board of Supervisors approved amendments to the original authorizing resolution.² Those amendments included a clarification of the period during which a participating property owner would agree to refrain from using the unit as a short-term rental, and it required any violating property owner to refund the County.

On December 18, 2018, the Board of Supervisors approved amendments to the original authorizing resolution include changes made from 2018-2019,³ that added a fee reduction of up to \$3,500 for eligible ADUs and waived Roadway Impact Fees associated with the creation of eligible JADUs in addition to the existing fee reduction cap for JADUs of \$1,500.

2019

In October 2019, the Governor signed amendments to the State Government Code Section 65852.2 (AB 881, SB 13, AB68) and related legislation that require local agencies to reduce regulatory constraints, including limits on the development fees that local agencies can charge for ADUs. The Department of Public Works Traffic Mitigation Fee will no longer be charged for ADUs that are 750 square feet or less, pursuant to AB 881. Additionally, the Governor signed amendments to State Government Code Section 65583 (AB 671 and AB 139). These bills require Housing Elements to promote ADUs for affordable housing.

¹ Marin County Resolution No. 2017-132

² Marin County Resolution No. 2018-47

³ Marin County Resolution No. 2018-135

2020

In January 2020, the Board of Supervisors approved an expansion of ADU and JADU fee waivers that responds to the affordable housing crisis in Marin County by further incentivizing the development of ADUs that are rented to low- and moderate-income households. This program, which expired December 31, 2020, includes a waiver of up to \$2,500 for eligible ADUs rented at or above market rate⁴, up to \$5,000 in fees for an ADU that is rented at moderate-income rates (between 81-120% of Area Median Income guidelines), and up to \$10,000 in fees for an ADU that is rented at low-income rates (up to 80% of Area Median Income guidelines). These fees may include: Community Development Agency fees such as planning, building and safety, and environmental health services, and Department of Public Works fees such as traffic mitigation.

⁴ In 2019, eligible ADUs received a \$3,500 fee waiver under 2018-135.

ATTACHMENT 3

JADU/ADU PERMIT ANALYSIS

Since January 2019, the Building and Safety Division has received and approved 20 fee waiver applications for development of those units.¹ All 20 projects qualified for building permit fee reductions through the fee waiver program. The median fee waiver was \$713.

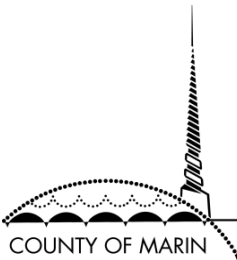
Since the initial authorization of the JADU fee reductions in December 2017, the Building and Safety Division has received and approved five fee waiver applications for development of those units.² All five projects qualified for building permit fee reductions through the fee waiver program. With a median fee waiver of \$547, four of the five participants received a full fee waiver and paid no building permit fees. The remaining JADU applicant received a fee reduction and paid \$710 above the established fee reduction cap of \$1500.

For three of the five JADU projects, the Department of Public Works assessed Roadway Impact Fees in a total amount of \$950, with an average fee of \$317. Two JADU projects were not charged a fee due to their modest construction valuations, which did not meet the minimum \$10,000 project valuation threshold for Roadway Impact Fees. To further encourage development of JADUs that do meet the minimum project valuation threshold for Roadway Impact Fees, your Board may authorize waiver of Roadway Impact Fees for eligible JADUs.

In 2017 and 2018 to date, the County Building and Safety Division received 22 applications and issued 11 building permits for ADUs, of which 20 required planning permits priced at a flat rate of \$515. The remaining two ADUs were exempt from Planning permits in accordance with criteria established in the Development Code.

¹ These figures do not include new room rentals, which the Development Code permits within a residence without a special zoning permit. The same the type of small food preparation facilities as Junior Accessory Dwelling Units are allowed for each room rental. Existing rooms may easily be converted into room rentals through submission of over-the-counter or online plumbing and electrical permits.

² These figures do not include new room rentals, which the Development Code permits within a residence without a special zoning permit. The same the type of small food preparation facilities as Junior Accessory Dwelling Units are allowed for each room rental. Existing rooms may easily be converted into room rentals through submission of over-the-counter or online plumbing and electrical permits.



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION



Accessory Dwelling Units (ADU)

Affordability Fee Waiver Information and Application | *Updated 04/2021*

County permit fees may be waived up to \$10,000 in exchange for a property owner’s agreement to restrict an accessory dwelling unit (ADU) for rent to a low-income or moderate-income household. Fee waivers are capped by targeted income levels (see table 1). Fees may include Community Development Agency fees such as planning, building and safety, and environmental health services. Note that the list of fees may not be all inclusive. Check with the Building and Safety Division of the Community Development Agency and the Department of Public Works for a specific list of fees associated with your project. Owners that wish to remove the income restrictions in the future must pay any previously waived fees. In order to be considered for fee waivers, owners should submit the attached Fee Waiver Application.

Complete the following steps to get started:

Step 1	Complete the attached application and send to the Housing & Federal Grants Division of the Community Development Agency: Email: affordablehousing@marincounty.org Address: Housing & Federal Grants Division 3501 Civic Center Drive, Suite 308 San Rafael, CA 94903
Step 2	Housing & Federal Grants staff will notify owners of approved applications and complete necessary documentation.
Step 3	Once approved, apply for a building permit with the County’s Building & Safety Department. * Fees will be reimbursed upon final inspection: Phone: (415) 473-6550 (Building & Safety) (415) 473-6269 (Planning) Address: Development Services Center 3501 Civic Center Drive, Suite 308 San Rafael, CA 94903 Effective June 8, 2020, the Development Services Center will be open for service by appointment only. Walk-in service will not be available. Enforcement of safety protocols such as physical distancing and face coverings will be in place for all customers and employees entering our public facility.

*project may need to consult with the Planning Division to acquire planning or septic permits prior to building stage

EXHIBIT A: FEE WAIVER CAPS

Table 1: Accessory Dwelling Unit Fees Waiver Caps by Income Level

The following list may not include all fees specific to individual projects.

Affordability Restrictions	Low-Income (up to 80% of area median income) ¹	Moderate-Income (81-120% of area median income)	Market Rate (No income restrictions)
Fee Waiver Cap	\$10,000	\$5,000	\$2,500

Fee	County Department	Fee Range	Fee Notes
Planning ADU Permit Fees	Community Development Agency	\$515	
Planning Coastal Permit Fees	Community Development Agency	\$5,641-\$8,633	Only required if ADU is in coastal zone
Building & Safety Permit Fees	Community Development Agency	\$6,500-\$10,000+	Cost depends on square footage of ADU
EHS Water & Septic Permit Fees	Community Development Agency	\$3,500-\$8,000+	Cost depends on system requirements Required only if the property is on septic

Note: This list is not inclusive of all the fees that would apply to a project. Check with the Building and Safety Division of the Community Development Agency and the Department of Public Works for a specific list of fees associated with your project.

- Building and Safety Division: (415) 473-6550
- Department of Public Works: (415) 473-6528

¹ Based on current median income as established by HUD:

<https://www.marinhousing.org/fiscal-year-2020-marin-county-income-limits#gsc.tab=0>

EXHIBIT B: ESTIMATED ADU FEES

Table 2:

Estimated Fees for New Structure
ADU (800 sq. ft.)
not in Coastal Zone or onsite Septic and Water

Table 3:

Estimated Fees for ADU as part of or adding
additional square feet to an Existing Structure
(600 sq. ft.)
not in Coastal Zone or onsite Septic and Water

The following is an estimate for a new construction 800 sq. ft ADU. For specific fees associated with your individual project, please consult with Building and Safety.

The following is an estimate. For specific fees associated with your individual project, please consult with Building and Safety.

Fee Type	Amount
Planning ADU Permit Fees	\$515
Planning Coastal Permit Fees	\$0
Building & Safety Permit Fees	\$8,300
EHS Septic & Water Permit Fees	\$0
DPW Traffic Mitigation Fee*	\$3,060
DPW Roadway Impact Fee*	\$110
TOTAL	\$11,985

Fee Type	Amount
Planning ADU Permit Fees	\$515
Planning Coastal Permit Fees	\$0
Building & Safety Permit Fees	\$4,600
EHS Septic & Water Permit Fees	\$0
DPW Traffic Mitigation Fee*	\$3,060
DPW Roadway Impact Fee*	\$0
TOTAL	\$8,175

**not reimbursed through this program*

EXHIBIT C: EXAMPLE ALLOWABLE RENT BY HOUSEHOLD INCOME

***AMI is the area median income.** The AMI is determined regionally, and households are considered “low-income” or “moderate-income” based on its relationship to this median income. Refer to the tables below for examples of low-income households, up to 80% AMI, and moderate-income households, 80 to 120% AMI. Maximum allowable rents may change based on household size, bedroom size, and qualified Section 8 tenant income.²

Table 4: Maximum Allowable Rent Low Income (up to 80% AMI*) by Household Size

	Renter Household Income Eligibility at 80% AMI			
Bedroom Size	Studio	1-Bedroom	2-Bedroom	3-Bedroom
80% Income Level	\$97,440	\$111,360	\$125,280	\$139,200
Maximum Allowable Rent	\$2436	\$2,610	\$3,132	\$3,620

Table 5: Maximum Allowable Rent Moderate Income (80 to 120% AMI*) by Household Size

	Renter Household Income Eligibility at 100% AMI			
Bedroom Size	Studio	1-Bedroom	2-Bedroom	3-Bedroom
100% Income Level	\$121,800	\$139,200	\$156,600	\$174,000
Maximum Allowable Rent	\$3,044	\$3,262	\$3,914	\$4,524

Income amounts and maximum allowable rent amounts determined by the California Tax Credit Allocation Committee (TCAC). Amounts are current, as of 04/01/2020.

² Section 8 Voucher holders are “low-income households”

FEE WAIVER APPLICATION ACCESSORY DWELLING UNIT

Property Owner Name:

Property Address:

APN:

Owner Phone:

Size of Proposed ADU: _____ floor area*

ADU Size (check one): Studio 1-bedroom 2-bedroom 3-bedroom

ADU Type~ New Converted

ADU Type (check one): Attached Detached Converted garage Converted primary dwelling

Ag Worker Unit**
(check one): Yes No

**must be at or under 1,200 sq. ft.

Income level ADU will be restricted to (check one): Low-Income (up to 80% AMI) *For rent range, see table 4* Moderate-Income (80-120% AMI) *For rent range, see table 5*

By checking this box, I certify that the intended tenant is not related to any member of the family. An exception may be granted as a reasonable accommodation for a family member with a disability.

The following documentation must be attached to this application:

- Legal Description of Property
- Grant Deed- must identify all owners of the property

Property Owner(s)
Agreement to limit rent requires the signature of all owners

Date

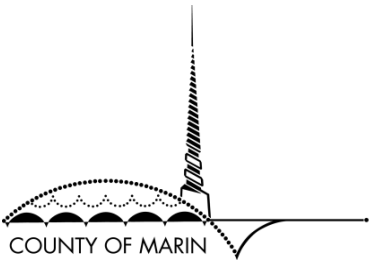
FOR INTERNAL USE ONLY

Planner Name: _____ **Approval Date:** _____

Fees Waived: Planning Coastal B&S EHS **Fee Totals:** _____

Comments:

*floor area is defined as the sum of the gross area of all floors in all buildings on a site, measured from the exterior faces of the exterior walls, including enclosed understory, basement, and attic space that can be easily converted to living area.



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION



Accessory Dwelling Units (ADU)

Affordability Fee Waiver Frequently Asked Questions (FAQs) | *Updated 04/2021*

1. What is an ADU? What about a JADU?

An Accessory Dwelling Unit (ADU), also known as an in-law unit, second unit, or cottage, is an additional residential dwelling unit on a single-family or multi-family residentially zoned property. An ADU can be an attached or detached dwelling unit, providing independent living facilities for one or more persons that has a full, separate kitchen (including stove, refrigerator, and sink), separate bathroom and separate entrance.

A Junior Accessory Dwelling Unit (JADU) is an additional, independent living unit generally created through the conversion of an existing bedroom in a single-family residentially zoned residence, and also has a separate entrance. A JADU does not need to have all the same features as an ADU, such as a separate bathroom. However, per the Marin County Development Code 22.130.030, the unit should have a wet bar (but not a full kitchen) and must be certified as a JADU by the Community Development Agency Director.

2. What permits and fees are required to build an ADU?

In Marin County, there are various permits and fees required to build an ADU. View the table below for the most common Building & Safety Division fees associated with ADUs. New California state law, effective January 1, 2020, prohibits charging impact fees for ADUs smaller than 750 square feet. Contact Building & Safety for a complete list of fees for your specific project.

The Department of Public Works also has fees in identified areas. Contact this department directly for more specifics related to your project: (415) 473-6528.

Fee	County Department	Fee Range	Fee Notes
Planning ADU Permit Fee	Community Development Agency	\$515	Only required if ADU is not exempt from Permit
Planning Coastal Permit Fee	Community Development Agency	\$5,641-\$8,633	Only required if ADU is in coastal zone
Building & Safety Permit Fee	Community Development Agency	\$6,500-\$10,000+	Depends on square footage of ADU
EHS Water & Septic Permit Fee	Community Development Agency	\$3,500-\$8,000+	Only required if a new or modifications to system needed

3. What is the maximum floor area of an ADU and a JADU?

In Marin, the maximum floor area of an ADU in a proposed primary residence or an existing or proposed detached accessory building is 1,200 square feet. The maximum floor area of an ADU attached to an existing primary residence is not to exceed 50% of the existing residence’s floor area. Any ADU exceeding 1,000 square feet will be required to provide at least two bedrooms.

The maximum floor area for a JADU is 500 square feet, and the unit must be within the proposed space of a single family dwelling or existing space of a single family dwelling or accessory structure, and may include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing accessory structure.

4. Will the ADU count towards the density/floor area ratio of my property?

Per Marin County Development Code 22.32.130, both ADUs and JADUs are accessory uses and do not count towards the allowable density for the lot upon which the accessory dwelling unit is located.

A detached residential accessory structure shall be subject to the floor area ratio¹ (FAR) requirements of the applicable zoning districts. However, new California state law holds that this FAR limitation must allow for the development of at least one 800 sq. ft. attached or detached ADU on every lot.

5. Can I use this fee waiver to build or convert a JADU?

No. This fee waiver program is only limited to ADUs. The County has a fee waiver program for JADUs in place, that began in early 2018. Applicants can receive a waiver of up to \$1,500 for the creation of a JADU at any income level. See the County’s press release [“More Enticements for Accessory Dwelling Units”](#), published January 14, 2020, for a comprehensive understanding of all the fee waivers offered for ADUs and JADUs in Marin.

6. What is the difference between building a new ADU and converting an existing structure, in terms of fees?

The fees associated with an ADU are related to the scope of work of the specific project, square footage and location. For a list of common fees and their requirements, view the table in response to question 2.

7. There is an existing unit on my property that was built without permits. Can it be legalized? Can I use the fee waiver to legalize it?

To legalize an existing unit, you will need to apply for a building permit with the Building & Safety Division of the Community Development Agency, and ensure the unit is brought up to current building, health and safety codes. The fee waiver may be applied to the cost associated with acquiring these permits and meeting these codes, in addition to construction costs as long as the unit is rented affordably.

¹ FAR is defined as the total floor area of all buildings on a lot, divided by the area of that lot.

8. Does my ADU need separate utilities (water meter, electricity or septic connection)? Can the fee waiver be used for this?

Consult your local utility service providers for their ADU guidelines, requirements, and any applicable fees prior to submitting a permit application. Many water and sewer districts do not require a separate meter but have connection and service fees for an ADU. Consult your water and sanitary districts prior to submitting a permit application. All utility configurations should provide the tenant with unobstructed access to shut-off valves and circuit breakers. For questions about the need to modify or expand your septic system, contact the Environmental Health Services Division at (415) 473-6907.

9. Can I build more than one ADU on my property?

A single-family zoned property in Marin County is limited to one ADU. However, you can build an ADU in addition to creating a JADU within the floor area of the primary residence. Multi-family zoned properties can have up to two detached ADUs (up to 800 square feet) or multiple converted ADUs, depending on the number of existing units. If you are interested in developing on your multi-family zoned property, contact the Planning Counter at (415) 473-6269, or in Suite 308 at the Civic Center, located at 3501 Civic Center Drive, San Rafael, CA 94903.

10. How many ADU fee waivers can I apply for?

A property owner may apply for fee waivers to develop the maximum allowable ADU units on their property. See the response to the previous question for more details.

11. Will adding an ADU raise my property taxes?

Property taxes are assessed by the County of Marin Assessor's Office. Building an ADU will not cause the basis of your property taxes to be reassessed, but an increment representing the added value of the new structure will be added. Further information is available by contacting the County's Assessor at (415) 473-7215 or by email at Assessor@marincounty.org.

12. Can my ADU be sold separately from my property?

At this time in unincorporated Marin County, an ADU can be rented but cannot be sold or otherwise conveyed separately from the primary residence as it is classified as an accessory building. If the property is sold, all permits and approved uses will transfer with the sale.

13. Can I rent out my ADU as a short-term rental?

No, an ADU created or legalized through a building permit application may not be rented as a short-term rental (i.e: AirBnb, VRBO, etc.) defined as rented for a term of 30 days or less.

14. Do I need to provide parking for my ADU? What about a JADU?

Per the Marin County Development Code Chapter 22.23.120, the lot on which the ADU is located should have a minimum of one off-street parking space assigned to a studio or one-bedroom ADU or

two off-street parking spaces assigned to a two-or-more bedroom ADU. The parking space(s) assigned to the ADU are in addition to those required of the primary residence.

Parking is **not** required for the following:

- A garage converted to an ADU
- The ADU is located within one half mile of a public transit stop (considered any bus stop)
- The ADU is located within an architecturally and historically significant historic district
- There is a car-share vehicle pick-up and drop-off site located within one block of the ADU
- On-street parking permits are required but not offered to the occupant of the ADU
- A JADU, where the unit is no more than 500 square feet in floor area and contained entirely within the same building as the primary residence
- A parking exception has been approved by the Department of Public Works

**15. At what income levels can I rent my ADU to qualify for the fee waiver program?
How much can I receive in waivers?**

There are three options to receive waivers for your ADU.

1. If rented at market rate, there are no income restrictions placed on the unit. In this scenario, you can receive up to \$2,500 in waivers.
2. If rented to a moderate-income household, the income restriction for the unit is set between 80 and 120% of the area median income. In this scenario, you can receive up to \$5,000 in waivers. Examples of maximum income levels of the renters are as follows:
 - Studio: \$121,800
 - 1-bedroom: \$139,200
 - 2-bedroom: \$156,600
 - 3-bedroom: \$174,000
3. If rented to a low-income household, the income restriction for the unit is set up to 80% of the area median income. In this scenario, you can receive up to \$10,000 in waivers. Examples of maximum income levels of the renters are as follows:
 - Studio: \$97,440
 - 1-bedroom: \$111,360
 - 2-bedroom: \$125,280
 - 3-bedroom: \$139,200

For rent limitations, see tables 4 and 5 of the ADU Fee Waiver Affordability packet.

16. How does the fee waiver work?

At Market-Rate Level: To receive a fee waiver for the creation of an ADU at market rate, the property owner will need to follow these steps:

1. Fill out and submit the ADU Fee Waiver Application
2. Receive notification of approval from the County
3. Once an application has been approved by County staff, the owner will consult with Building & Safety Division and the Department of Public Works to determine all the fees and permits needed for their specific project. Once a total cost for the project has been established, the owner will pay all fees.
4. The owner will be reimbursed up to \$2,500 for the creation of a market-rate ADU.

At Affordable-Income Level: To receive a fee waiver for the creation of an ADU intended to be occupied by a moderate-income or low-income household, the property owner will need to follow these steps:

1. Fill out and submit the following:
 - o ADU Fee Waiver Application,
 - o Notarized Deed of Trust and Assignment of Rents, and
 - o Secured Promissory Note

The latter two will outline the provisions required to receive the waiver from the Community Development Agency.

2. Receive notification of approval from the County
3. Once an application has been approved by County staff, the owner will consult with Building & Safety Division and the Department of Public Works to determine all the fees and permits needed for their specific project. Once a total cost for the project has been established, the owner will pay all fees.
4. The owner will be reimbursed up to \$5,000 for the creation of a moderate-income level ADU and up to \$10,000 for the creation of a low-income level ADU.
5. The reimbursement will be structured as a lien placed on the property, to ensure that the ADU is rented at the income level specified. If the unit is no longer rented at the income restricted in the lien for 60 days or longer, the property owner may be required to pay back the difference between the affordable housing and general fee waiver, with 5% simple interest accrued over time.

17. What documentation do I need to provide to show that I am renting to a tenant at the required income level? How often do I need to submit this documentation?

To receive a fee waiver for the creation of an ADU for a moderate-income or low-income household, the property owner will need to submit tenant income documentation to demonstrate that the household meets the income limitations annually or if there is a change in tenants, as noted in the response to question 15.

18. What happens if I no longer rent my ADU to a low-income or moderate-income tenant?

If the unit is no longer rented at the income restricted in the lien for 60 days or longer, the property owner will be required to pay back the difference between the affordable housing and general fee waiver, with 5% simple interest accrued over time. The details on this will be made available prior to signing the Deed of Trust and Assignment of Rents and Secured Promissory Note documents.

19. Can I rent the affordable ADU to a family member or employee?'

The affordable ADU may not be rented to any member of the family, including a parent, child, grandparent, grandchild, sister or brother. An exception may be granted as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists.

20. Can I build an ADU if my property is part of an HOA?

California state law AB 670 limits private restrictions, such as HOA Covenant, Conditions & Restrictions, or CC&Rs. AB 670 makes any governing HOA document void and unenforceable to the extent that it prohibits, or effectively prohibits, the construction of use of ADUs or JADUs. AB 670 does permit an HOA to place "reasonable restrictions" on ADUs and JADUs in common interest developments, as long as the restrictions do not discourage ADU or JADU construction or unreasonably increase the cost to construct them.

21. Does the property need to be owner-occupied?

Owner-occupancy will not be required for ADUs built between 1/1/2020 and 1/1/2025. Owner-occupancy would continue to be required where JADUs are permitted.

22. Can I rent to a Section 8 voucher holder? How will their income be considered?

Section 8 voucher holders are encouraged to apply for an ADU made affordable through the ADU Affordability Fee Waiver program. In fact, the County, and most recently the state, passed a Source of Income Protection ordinance, which bars landlords from discriminating a tenant or prospective tenants' use of third-party rental subsidies, such as Section 8/Housing Choice vouchers in California.

While Section 8 vouchers typically subsidize the difference between the tenants' payment (30% of their income) and market rate rents, these units would constitute a low-income households, and may receive waivers at this income threshold. Contact County staff directly for more information. Property owners with current Housing Assistance Payments ("HAP") contracts will not be required to submit annual documentation.

23. Where can I find more information about ADU policies in the County?

More information about Marin County’s ADU policies can be found through ADU Marin, a countywide resource for converting, reconfiguring or constructing ADUs and JADUs, at <https://adumarin.org/>. Additionally, specific details around ADU requirements can be found in chapters 22.32.120, 22.56 and 22.130 of the Marin County Development Code, available on the County’s Planning webpage.

Contact the Housing and Federal Grants Division for more information: (415) 473-7549 or affordablehousing@marincounty.org.