



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

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**Affordable Housing Requirements: What You Need to Know
 Fiscal Year 2022-23**

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Summary: Marin County is experiencing a severe shortage of affordable housing for low- and moderate-income households. In response, the County has developed affordable housing requirements designed to mitigate the impact of new development on the affordable housing stock. As this impact varies by development type and size, the County has taken care to develop affordable housing policies that respond to the unique impacts created by various development types.

A table identifying what affordable housing provisions correspond to each development type is provided below; a summary of each requirement follows the table.

This handout is intended as a tool to provide general guidance for the public. Additional details and standards may be found in Marin County Development Code 22.22, titled “Affordable Housing Regulations.” Housing project applicants should consult the Community Development Agency for a specific evaluation of their project’s affordable housing requirements.

Table 1: Affordable housing requirements by development type		
Type of development	Requirement	Development Code section or ordinance number
New residences and residential floor area		
Single residential unit	Affordable Housing Impact Fee	22.22.090(A); Ordinance 3500
Multi-dwelling residential units ¹	Inclusionary Zoning Policy	22.22.020(B) or (C)
Lot creation		
With proposed dwellings	Inclusionary Zoning Policy	22.22.020(D)
Lots only	Inclusionary Zoning Policy	22.22.020(E)
Non-residential		
Non-residential only	Jobs/Housing Linkage Fee	22.22.100(A)
Mixed-use	Jobs/Housing Linkage Fee & Inclusionary Zoning Policy, or Affordable Housing Impact Fee	22.22.100(B)

¹ The definition of multi-family dwellings includes duplexes, triplexes, fourplexes, apartments, and town-house developments. Accessory Dwelling Units (ADUs), Junior Accessory Dwelling Units (JADUs), and agricultural worker housing are not considered in the calculation for the number of units for this definition and do not convert a single residential unit development into a multi-dwelling residential development. Marin County Code 22.130.030 (March 2017).

Applicants interested in incorporating affordable units above and beyond the minimum requirements may be eligible for a reduction or waiver of associated affordable housing impact fees or in-lieu fees. Additional incentives and concessions are detailed in Marin County Development Code Chapter 22.24 - "Affordable Housing Incentives;" please contact the Community Development Agency for more information.

Affordable Housing Impact Fee

Since 2008, new single residential unit developments are charged an "affordable housing impact fee" to mitigate the expected increase in demand for affordable housing due to employment growth associated with the new development. For example, anyone who moves into a new single residential unit will need the typical services provided by a robust economic community, such as gas stations, hospitals, and restaurants. Therefore, more affordable housing in the area will eventually be necessary to accommodate the people providing those services. Per Ordinance 3500, the County uses the estimated number of low- and moderate-income jobs generated by the new development to calculate an impact fee for single residential unit construction, teardowns, and major remodels. Specifically, the fee applies to:

1. New **single residential units** with more than 2,000 square feet of Conditioned Floor Area;² and
2. Teardowns³ and major remodels (additions) of single residential units that result in over 500 square feet of new space where the new total Conditioned Floor Area is greater than 2,000 square feet.

Affordable Housing Impact Fees are applied only to new, proposed floor area. However, the *new total* conditioned floor area of the single residential unit determines the fee *rate* for the project (Table 2).

Example calculation 1:

(SF = square feet)

- A. Scenario: An owner of an existing 2,500 SF single residential unit proposes to add 800 SF.
 1. The total conditioned floor area of the single residential unit is 2,500 SF + 800 SF = 3,300 SF.

² Conditioned Floor Area (CFA) is the floor area (in square feet) of enclosed conditioned space on all floors of a building, as measured at the floor level of the exterior surfaces of the exterior walls enclosing the conditioned space (California Energy Code). "Conditioned space" generally refers to any space within a building that can be heated and/or cooled.

³ Teardowns shall be consistent with the definition of "Vacant Lot" as stipulated in County Development Code § 22.130.30.

2. Because the addition would result in a new total floor area greater than 3,000 SF, the addition will be assessed at a fee rate in the “≥ 3,000” tier.
3. In Fiscal Year 2022/2023, the fee rate for the “≥ 3,000” tier is \$15.95/SF.
4. Since the 800 SF addition would be subject to a fee rate of \$15.95/SF, the Affordable Housing Impact Fee for this project is 800 SF x \$15.95/SF = \$12,760.

Example calculation 2:

- B. Scenario: An owner of a vacant property or an existing structure being demolished proposes to build a 4,500 SF single residential unit and a 700 SF Accessory Dwelling Unit (ADU).
1. Because the development would result in a new total floor area greater than 3,000 SF, the fee rate will be assessed in the “≥ 3,000” tier.
 2. However, because an ADU unit is proposed concurrent to the project, the fee rate for the “≥ 3,000” tier is \$7.98/SF in Fiscal Year 2022/2023.
 3. To calculate the fee, the first 2,000 SF is deducted from the single residential unit and the 700 SF ADU is not subject to a fee. The Affordable Housing Impact Fee for this project is 2,500 SF x \$7.98/SF = \$19,950.

Table 2: Affordable Housing Impact Fee ⁴		
Conditioned Floor Area	Fee per square foot	If new ADU, JADU, or Ag. Worker Unit proposed concurrent to project
≥ 3,000	\$15.95	\$7.98
> 2,000 and < 3,000	\$7.98	\$0.00
≤ 2,000	\$0.00	\$0.00

Exceptions and Reductions:

1. Deed-restricted units affordable to low- and moderate-income households, and square footage designated for an Accessory Dwelling Unit (ADU) or dedicated as Agricultural Worker Housing are **not** subject to the Affordable Housing Impact Fee.

⁴ Rates are updated annually; Table 2 fee schedule effective July 1, 2022 – June 30, 2023.

2. Dependent on the size of the single residential unit, the development of an ADU or Agricultural Worker unit concurrent with the home construction can qualify the project for a 50% reduction or waiver of this fee (Table 2).

Payment of the Affordable Housing Impact Fee is required prior to issuance of a Building Permit.

Inclusionary Zoning Policy

Marin County Code § 22.22.090 - "Inclusionary Housing Standards - Lot Creation" requires 20% of the total number of units or lots within a subdivision to be developed as or dedicated to affordable housing.

All projects proposing the development of two or more new units or lots must dedicate 20% of the project as affordable housing. In instances where application of the 20% inclusionary requirement results in a decimal fraction of a unit/lot less than or equal to 0.50, the project applicant shall be required to pay a proportional in-lieu fee (Table 3). The In-Lieu Participation Fee for Fiscal Year 2022/2023 is \$370,050.

Marin County Code § 22.22.080 - "General Housing Affordability Standards" enumerates standards that proposed inclusionary units must meet.

This policy applies to:

1. All **new multi-dwelling residential units**, including **condominiums** and conversions;
2. Any **subdivision** with a proposed development of one or more new dwellings; and
3. Any subdivision creating one or more new lots.

Table 3: Inclusionary housing calculation for residential development			
Project size (# of units)	"Decimal Fraction" Inclusionary Requirement	# affordable units required	Fee (\$) required
1	0.20	Fee may apply	Fee may apply
2	0.40	0	\$148,020
3	0.60	1	None
4	0.80	1	None
5	1.00	1	None
6	1.20	1	\$74,010
7	1.40	1	\$148,020
8	1.60	2	None
9	1.80	2	None
10	2.00	2	None

Applicants seeking a waiver and requesting to pay an in-lieu fee rather than fulfill the County’s inclusionary requirements should consult County Code Section 22.22.060 - “Waivers” to understand the conditions under which such a request might be granted.

Payment of any applicable affordable housing fees is required prior to filing of maps.

To learn more about how monthly rents are calculated for affordable rental units, contact the Housing and Federal Grants Division at affordablehousing@marincounty.org or (415) 473-7309.

The Marin Housing Authority manages the County’s portfolio of below-market rate affordable homeownership units. Contact Stephanie Lovette at slovette@marinhousing.org for an explanation of how the sale price of inclusionary units is set.

Jobs/Housing Linkage Fees

The inclusionary fee also applies to all projects proposing new non-residential floor area, including that proposed in mixed-use development projects. In such cases, residential and non-residential affordable housing requirements will be applied according to development type:

Table 4: Affordable housing fees for non-residential development	
Development type	Fee per square foot
Manufacturing/Light Industry/Assembly	\$3.74
Office ⁵ /Research and Development	\$7.19
Warehouse	\$1.94
Hotel/Motel ⁶	\$1,745 per room
Retail/Restaurant	\$5.40
Residential Care Facility ⁷	\$22.97
Medical-Extended Care ⁸	\$26.80
Other types of non-residential development	Applicant to provide information and statistics or new jobs generated by use of the development

Alternatively, applicants may propose to provide affordable housing for 25% of the need generated by the non-residential development. For certain development types, the number of residential units required to qualify for this option is quantified as a decimal fraction of the non-residential floor area; the requirements for this option are provided in Marin County Development Code

⁵ Office uses include those associated with professional, business, and medical services.

⁶ Accessory uses within a hotel such as retail, restaurant, and meeting facilities shall be subject to requirements for a retail use.

⁷ Resolution No. 2016-122. This fee is updated annually; the rate listed in Table 5 is current for the period July 1, 2022 – June 30, 2023.

⁸ Ibid.

§ 22.22.100(B), Table 3-4c and in Table 5, below. For development types not listed in Table 5, a specific nexus analysis may be required to establish the number of affordable housing units necessary to offset the impact of the non-residential development.

Table 5: Number of new affordable housing units required for new non-residential development	
Development type	Number of affordable housing units required per square foot of non-residential floor area
Manufacturing/Light Industry/Assembly	0.000045
Office ⁹ /Research and Development	0.000085
Warehouse	0.000023
Hotel/Motel ¹⁰	0.000020
Retail/Restaurant	0.000058

For Further Information

The Marin County Development Code, including Chapters **22.22** and **22.24**, are available online.

Applicants may visit the Community Development Agency’s Public Information Counter (415-473-6269) at the Marin County Civic Center located at 3501 Civic Center Drive, Suite 308, San Rafael, California.

Applicants may also contact the Community Development Agency’s Housing and Federal Grants Division at affordablehousing@marincounty.org or (415) 473-7309.

⁹ Office uses include those associated with professional, business, and medical services.

¹⁰ Accessory uses within a hotel such as retail, restaurant, and meeting facilities shall be subject to requirements for a retail use.