



COMMUNITY DEVELOPMENT AGENCY  
**HOUSING AND FEDERAL GRANTS DIVISION**

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## Affordable Housing Requirements

### What You Need to Know for Fiscal Year 2023-24

**Summary:** Marin County is experiencing a severe shortage of affordable housing for low- and moderate-income households. In response, the County has developed 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 the local affordable housing regulations that correspond to each development type is below; a summary of each requirement follows the table.

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

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

<sup>1</sup> Multi-unit housing includes duplexes, triplexes, fourplexes, apartments, and town house developments. Accessory Dwelling Units (ADUs), Junior Accessory Dwelling Units (JADUs), and agricultural worker housing are not included in this definition and do not convert a single residential unit into a multi-unit 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 the 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, single residential unit developments are charged an “affordable housing impact fee.” This fee mitigates the expected increase in demand for affordable housing due to employment growth that may be caused by 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 house 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, additions, and teardowns/rebuilds. Specifically, the fee applies to:

1. New **single residential units** with more than 2,000 square feet of Conditioned Floor Area;<sup>2</sup> and
2. Additions and teardowns<sup>3</sup>/rebuilds of single residential units that result in **over 500 square feet of added space** where the new total Conditioned Floor Area is greater than 2,000 square feet.

Generally, the total Conditioned Floor Area for the project determines the fee rate per square foot. The fee rate is then applied to either 1) the amount of floor area that exceeds 2,000 square feet (for new residences), or 2) the square footage of the addition (for additions). Refer to Table 2 on the next page for the fee schedule.

*Note for additions:* If there have been building permits issued for small residential additions ( $\leq 500$  square feet) on the property within the past two years from the date of the current application, the floor area of the previous permit(s) is added to the floor area of the current application.

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

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<sup>2</sup> 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.

<sup>3</sup> Teardowns must be consistent with the definition of “Vacant Lot” as stipulated in [Marin County Development Code Chapter 22.130.30](#).

| Table 2: Affordable Housing Impact Fee <sup>4</sup> |                     |   |
|---|---------------------|---|
| Conditioned Floor Area                              | Fee per square foot | If new ADU, JADU, or Ag. Worker Unit proposed concurrent to project |
| ≥ 3,000   | \$17.22             | \$8.61  |
| > 2,000 and < 3,000                                 | \$8.61              | \$0.00  |
| ≤ 2,000   | \$0.00              | \$0.00  |

Exceptions and Reductions:

1. Deed-restricted units that are affordable to low- and moderate-income households are **not** subject to the Affordable Housing Impact Fee.
2. Square footage designated for an Accessory Dwelling Unit (ADU) or dedicated as Agricultural Worker Housing is **not** subject to the Affordable Housing Impact Fee.
3. Depending 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 (refer to Table 2).

**Example calculation 1:**

(SF = square feet)

- A. Scenario: An owner of an existing 2,900 SF single residential unit proposes to add 800 SF.
  1. The total conditioned floor area of the single residential unit is  $2,900 \text{ SF} + 800 \text{ SF} = 3,700 \text{ SF}$ .
  2. Because the additions would result in a new total floor area greater than 3,000 SF, the project will be assessed at a fee rate in the “≥ 3,000” tier.
  3. In Fiscal Year 2023-24, the fee rate for the “≥ 3,000” tier is \$17.22/SF.
  4. To calculate the fee: Since the 800 SF addition would be subject to a fee rate of \$17.22/SF, the Affordable Housing Impact Fee for this project is  $800 \text{ SF} \times \$17.22/\text{SF} = \$13,776$ .

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<sup>4</sup> Rates are updated annually; Table 2 fee schedule effective July 1, 2023 - June 30, 2024.

**Example calculation 2:**

- B. Scenario: An owner of a vacant property or an existing structure being demolished proposes to build a 2,500 SF single residential unit and a 600 SF Accessory Dwelling Unit (ADU).
1. The total conditioned floor area is 2,500 SF + 600 SF = 3,100 SF.
  2. 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.
  3. However, because an ADU unit is proposed concurrent to the project, the fee rate for the “≥ 3,000” tier is \$8.61/SF in Fiscal Year 2023-24.
  4. To calculate the fee: The first 2,000 SF is deducted from the single residential unit to yield 500 SF, and the 600 SF ADU is not subject to a fee. The Affordable Housing Impact Fee for this project is 500 SF x \$8.61/SF = \$4,305.

**Inclusionary Zoning Policy and In-Lieu Fee**

All projects proposing the development of two or more new units or lots must dedicate 20% of the project as affordable housing (refer to [Marin County Code Chapter 22.22.090](#), “Inclusionary Housing Standards—Lot Creation”). In instances where calculation of the 20% inclusionary requirement results in a decimal fraction of a unit/lot less than or equal to 0.50, the project applicant is required to pay a proportional in-lieu fee (refer to Table 3 on the next page). The in-lieu fee for fiscal year 2023-24 is \$399,654.

Proposed inclusionary units must meet certain standards, which are enumerated in [Marin County Code Chapter 22.22.080](#), “General Housing Affordability Standards.”

The Inclusionary Zoning Policy applies to:

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

| <b>Table 3: Inclusionary housing calculation for residential development</b> |  |  |                     |
|--|--|--|---------------------|
| <b>Project Size<br/>(# of units)</b>   | <b>“Decimal Fraction”<br/>Inclusionary<br/>Requirement</b> | <b># Affordable<br/>Units Required</b> | <b>Fee Required</b> |
| 1  | 0.20   | Fee may apply                          | Fee may apply       |
| 2  | 0.40   | 0                                      | \$159,862           |
| 3  | 0.60   | 1                                      | None                |
| 4  | 0.80   | 1                                      | None                |
| 5  | 1.00   | 1                                      | None                |
| 6  | 1.20   | 1                                      | \$79,931            |
| 7  | 1.40   | 1                                      | \$159,862           |
| 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 [Marin County Code Chapter 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 Division at [affordablehousing@marincounty.org](mailto:affordablehousing@marincounty.org) or (415) 473-7309.

The Marin Housing Authority manages the County’s portfolio of below-market-rate affordable homeownership units. Contact Jeff Kelly at [jkelly@marinhousing.org](mailto:jkelly@marinhousing.org) for questions about how the sale price of inclusionary units is set.

### Commercial Linkage Fee

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, a Commercial Linkage Fee (otherwise known as a “jobs/housing linkage fee”) will be applied according to development type:

| <b>Table 4: Fees for non-residential development</b> |  |
|--|--|
| <b>Development Type</b>                              | <b>Fee<br/>(per square foot,<br/>unless otherwise noted)</b> |
| Manufacturing/Light Industry/Assembly                | \$3.74   |
| Office <sup>5</sup> /Research and Development        | \$7.19   |
| Warehouse  | \$1.94   |

<sup>5</sup> Office uses include those associated with professional, business, and medical services.

|  |   |
|--|---|
| Hotel/Motel <sup>6</sup>                   | \$1,745 per room  |
| Retail/Restaurant                          | \$5.40  |
| Residential Care Facility <sup>7</sup>     | \$24.81   |
| Medical-Extended Care <sup>8</sup>         | \$28.95   |
| Other types of non-residential development | Applicant to provide information and statistics on 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 a decimal fraction of the non-residential floor area. The requirements for this option are provided in [Marin County Development Code Chapter 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.

| <b>Table 5: Number of new affordable housing units required for new non-residential development</b> |   |
|---|---|
| <b>Development Type</b>   | <b># Affordable Housing Units (per square foot of non-residential floor area)</b> |
| Manufacturing/Light Industry/Assembly   | 0.000045  |
| Office <sup>9</sup> /Research and Development   | 0.000085  |
| Warehouse   | 0.000023  |
| Hotel/Motel <sup>10</sup>   | 0.000020  |
| Retail/Restaurant   | 0.000058  |

### For More Information

The Marin County Development Code, including Chapters [22.22](#) and [22.24](#), is available online.

Applicants may call (415) 473-6269 or visit the Community Development Agency’s Public Information Counter 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 Division at [affordablehousing@marincounty.org](mailto:affordablehousing@marincounty.org) or (415) 473-7309.

<sup>6</sup> Accessory uses within a hotel such as retail, restaurant, and meeting facilities will be subject to requirements for retail use.

<sup>7</sup> Refer to [Marin County Board of Supervisors Resolution No. 2016-122](#). This fee is updated annually; the rate listed in Table 5 is current for the period July 1, 2023 - June 30, 2024.

<sup>8</sup> Ibid.

<sup>9</sup> Office uses include those associated with professional, business, and medical services.

<sup>10</sup> Refer to footnote 6.