



COMMUNITY DEVELOPMENT AGENCY  
HOUSING AND FEDERAL GRANTS DIVISION

June 13, 2017

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

**SUBJECT:** Resolution proposing a minor amendment to the County's Rental Housing Impact Fee.

Dear Board Members:

**RECOMMENDATION:** Staff recommends that your Board conduct a public hearing and consider adoption of the proposed resolution to amend the method for calculating floor area in the current Rental Housing Impact Fee resolution (Attachment 1).

**SUMMARY:** On October 18, 2016, your Board held a public hearing and elected to adopt a resolution establishing an affordable housing impact fee for new multifamily rental development (Resolution No. 2016-123). That resolution establishes a methodology for calculating impact fees using Gross Floor Area. Community Development Agency (CDA) Building and Safety Division staff has concluded that these fees would be more appropriately calculated using Net Floor Area. This change constitutes the principal feature of the proposed amendment (Attachments 1 and 2).

**BACKGROUND:** Since 1980, Marin County has maintained an inclusionary zoning policy to support the strategic and essential development of affordable housing options throughout its jurisdiction. As initially adopted, this policy required a certain percentage of new ownership and rental units to be reserved for low-income households. In 2009, a California appellate court issued a decision that prevents the County from applying its inclusionary zoning policies to new rental developments.<sup>1</sup> In response, your Board elected to address this gap through the establishment of an applicable impact fee in the 2012 Development Code amendments (Marin County Code §22.22.020). No specific fee rate was established at that time; instead fees were evaluated on a case-by-case basis. In October 2016, the County adopted a fee schedule based on a nexus study to clarify the amount that prospective developers of these land use types can expect to pay (Resolution No. 2016-123; Attachments 3 and 4).

<sup>1</sup> *Palmer/Sixth Street Properties L.P. v. City of Los Angeles*, 175 Cal. App. 4<sup>th</sup> 1396 (2009).

**DISCUSSION:** The County’s affordable housing impact fees are assessed and collected by the CDA Building and Safety Division during its building permit process. The County’s Rental Housing Impact Fee is structured to exact fees on a per-unit basis, using a three-tier system (Table 1) that encourages the development of smaller units that are likely to be leased at more affordable rates. Accordingly, each residential unit is subject to a discrete calculation based on its floor area.

Table 1: Rental Housing Impact Fee	
Floor area per unit (sq. ft.) and additions	Fee per square foot
≤ 500	\$ 5/sq. ft.
500 < and < 1,000	\$ 10/sq. ft.
≥ 1,000	\$ 15/sq. ft.

Due to this specific method of assessment however, the use of Gross Floor Area to evaluate unit size can be problematic. The California Building Code<sup>2</sup> defines **Gross Floor Area** as:

“The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, and thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.”

Generally stated, Gross Floor Area expresses the floor area that lies within the exterior walls. Since area dedicated to interior walls is included in this figure, the use of Gross Floor Area presents an unnecessary complication; it requires staff to apportion and allocate area consumed by adjoining walls between apartments. Alternately, a Rental Housing Impact Fee assessment determined by Net Floor Area would require staff to calculate only the interior living space of each apartment. Net Floor Area is defined as the actual occupied area including, but not limited to unoccupied accessory areas such as corridors, stairways, ramps, toilet rooms, mechanical rooms, and closets.

**CONCLUSION:** This recommended modification better aligns with the definitions used to design the prototypical developments employed in the supporting nexus analysis (Attachment 5). The proposed change would result in a reduced burden on Building and Safety staff and clarify calculation methods and assessed costs for housing developers. Under typical circumstances this amendment would likely result in a slight fee decrease for housing developers. No projects eligible for the Rental Housing Impact Fee have been submitted to the Building and Safety Division since the adoption of Resolution 2016-123.

<sup>2</sup> 2016 California Building Code, Title 24

**FISCAL/STAFFING IMPACT:** As the size, layout, quantity, and frequency of future multifamily rental developments cannot be foreseen, staff is unable to estimate how the recommended modification may impact future revenues. The proposed resolution would result in no impact to the General Fund. All revenue generated by this fee will continue to be deposited in the County’s Housing Trust Fund (MUNIS fund number 2070) and dedicated to the development and preservation of housing affordable to low- and very-low-income households.

**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,

Debbi La Rue  
Planner

Brian Crawford  
Director

**Attachments:**

1. Resolution to amend the Rental Housing Impact Fee.
2. Track-changed version of Resolution No. 2016-123.
3. Staff report from October 18, 2016.
4. Staff report from August 23, 2016.
5. Rental Housing Impact Fee Nexus Analysis completed by Vernazza Wolfe Associates (“2015 Nexus Analysis”).

A full reference copy of this staff report and associated attachments are available for public review at the Board of Supervisors office, 3501 Civic Center Drive, Suite 329 (8:00 a.m. to 5:00 p.m., Monday through Friday) and at the Community Development Agency, Planning Division, 3501 Civic Center Drive, Suite 308 (8:00 a.m. to 4:00 p.m., Monday through Thursday, closed Fridays).