



# COMMUNITY DEVELOPMENT AGENCY

July 26, 2022

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

**SUBJECT:** Resolution to waive specified fees for permits associated with the Bolinas On-Site Wastewater Treatment Systems Pilot Project

Dear Supervisors:

**RECOMMENDATION:** Receive an update on the Bolinas On-Site Wastewater Treatment Systems (OWTS) Pilot Project and adopt a Resolution authorizing waiving of permit fees for properties participating in Pilot Project

**SUMMARY:** The Community Development Agency (CDA) is working with Bolinas Community Land Trust (BCLT) on a pilot project exploring modifications of the requirements associated with on-site wastewater treatment systems, commonly referred to as septic systems. Homes and businesses in Bolinas rely on these systems for wastewater treatment and disposal, and it can be challenging for property owners to meet applicable requirements especially when seeking to add Accessory Dwelling Units (ADUs). The purpose of the pilot is to explore an approach for modifying septic requirements in a way that maintains adequate wastewater treatment and supports the development of new ADUs for long-term housing. The Pilot Project was authorized in February 2021.

In implementing this Pilot Project, BCLT has found that property owners face cost barriers beyond the septic upgrades in adding or legalizing ADUs, and is therefore requesting waivers of permit fees. CDA discounts ADU permit fees by \$2,500 to \$10,000 depending on the owners' agreement to affordability restrictions, and DPW further waives road impact fees for specified ADUs. However, in working closely with BCLT and understanding the remaining obstacles, staff has concluded that meeting BCLT's request for further fee relief would incentivize participation in the Pilot Project and expand the benefits. CDA recommends at this time that your Board authorize an enhanced fee waiver to all ADUs (existing and proposed) in this Pilot Project that are to be used for long term housing. This enhanced fee waiver, outlined in the Resolution supporting the request, would apply to up to 25 participants in this Pilot Project.

**DISCUSSION:***Background*

On December 16, 2020, BCLT submitted the Bolinas On-Site Wastewater Treatment System Pilot Program Proposal (Pilot Project) to facilitate the development of up to 22 Accessory Dwelling Units (ADUs). The Board of Supervisors adopted on February 9, 2021, a Resolution authorizing this program by waiving certain County requirements governing OWTS. BCLT is coordinating the program with participating property owners and the Bolinas Community Public Utilities District (BCPUD).

The County supports increasing the development of ADUs as a strategy for increasing housing supply and affordability in Marin. As such, CDA is in the process of revising its wastewater system standards to safely accommodate ADUs and minimize the cost burden of the septic upgrades necessary. This Pilot Project is an opportunity to evaluate new standards which involve upgrading from existing Class III to Class II septic systems. BCLT has contracted with a licensed professional wastewater specialist to oversee the program and ensure compliance. Owing to water usage limits established by BCPUD and approved for this program as Resolution 681 by the BCPUD Board of Directors on March 3, 2021, the upgraded systems will be able to accommodate specified levels of additional development on the sites.

The septic system design waivers approved by your Board apply to requirements of the: California On-site Wastewater Treatment System Policy dated June 19, 2012 (OWTS Policy); Marin County Local Agency Management Plan (LAMP) dated April 26, 2016; and Marin County Regulations for the Design, Construction and Repair of individual Sewage Disposal Systems (Regulations) and include:

- (1) separation between the highest level of groundwater and the bottom of the dispersal system reduced to two (2) feet or 24 inches with supplemental treatment/pretreatment of the wastewater;
- (2) increasing the size of ADU's that may be permitted with the proposed systems from 500 square feet to 800 square feet; and
- (3) installation of a system that does not meet Class I OWTS standards as typically required for expansions of the scope intended.

*Program Update and Proposed Enhanced Fee Waiver*

Actual implementation of the OWTS upgrades is proceeding, with CDA-Environmental Health Services (EHS) inspections completed on approximately 10 properties and installations expected to begin in the next 60 days.

As discussed above, the Pilot Project relies on BCPUD's Limited Water Use Permit (LWUP), as wastewater system design is based on the amount of water use on a property. A stipulation of the Pilot Project was that a side letter or Memorandum of Understanding be established between BCPUD and CDA to establish mutually agreeable and adequate measures to ensure compliance by property owners with

the LWUP. CDA will work with BCPUD to finalize such an agreement simultaneous with the septic system upgrades.

As BCLT has worked with the program funders and with property owners since the program's initial launch, some important changes to the original program structure are now proposed. The first is that BCLT now has adequate funding available for 25 system upgrades, three more than the original 22 systems proposed, and five more than the 20 property owners currently participating. Therefore, should there be adequate interest of up to 25 properties and support from the Regional Water Quality Control Board, CDA proposes to accommodate them within the program.

Second, BCLT has found that for many prospective properties, the current permit fees, extended timelines and process remain a barrier to moving forward with the development or legalization of an additional housing unit on their property even with the necessary septic upgrades addressed. These fees can be associated with multiple aspects of the permitting requirements from both CDA and the Department of Public Works (DPW). The original Pilot Project did not include fee waivers because the expectation was that the ADUs would be deed restricted affordable, and therefore already eligible for existing fee waivers. However, in working with property owners, BCLT has found that deed restrictions would make ADUs less effective at incentivizing participation in the Pilot Project, potentially rendering them altogether infeasible.

Therefore, in order to further the Pilot Program's goal of ADU development, septic improvement, and information to support updated regulations, BCLT has requested that CDA extend an enhanced fee waiver to all ADUs (existing and proposed) in this Pilot Project that are to be used for long term housing – regardless of affordability-based deed restrictions. BCLT will monitor the properties to ensure ADUs are being used for long term housing, and the requirement would be recorded against the property titles. This enhanced fee waiver would be an increased incentive beyond the current ADU fee waiver program that waives fees from \$2,500 to \$10,000 depending on the owners' agreement to affordability restrictions. In considering this request, staff has noted that the ADUs in this program may be subject to further fees beyond CDA's, particularly the standard permit and impact fees required by DPW.

CDA recommends that your Board grant the authority for both CDA and DPW to waive fees at the discretion of the applicable Director, applying to up to 25 Pilot Project participants, because of the benefits for housing stock creation and the results from the septic system upgrades that could inform and facilitate future ADU production elsewhere in Marin. CDA at this time is requesting that your Board approve a Resolution granting the Director of the Community Development Agency and the Director of Public Works, as appropriate, the discretion to waive permit and/or impact fees for all septic system needs and all ADUs being used for long term housing on properties participating in this Pilot Project, based on their findings that the request would advance the goals of the Pilot Project and its public benefits.

Staff recommends that your Board adopt the proposed resolution to allow fee waivers for ADUs in long term residential use, for a period of four years and eleven months until June 30, 2027. Staff will continue to monitor and assess the effectiveness of the Pilot Project and provide a report at the completion of the Project to your Board.

**EQUITY IMPACT:** The Pilot Project seeks to advance equity generally by exploring affordable ways that OWTS can be designed, upgraded, or repaired, particularly to support added housing in the form of ADUs. As a direct benefit, the proposed fee waiver would make it easier for the property owners working with BCLT to participate fully in the project by reducing the cost of creating a new housing unit that would not be permissible absent the OWTS improvement. While such fee waivers are available for deed restricted ADUs, according to BCLT deed restriction would prevent some owners from participating in the program because they could not recoup the cost of the ADU and/or defray other costs of property ownership. On the whole, the Pilot Project and the proposed fee waiver would help advance CDA and your Board's goals for equity in the areas of housing and septic regulations.

**FISCAL IMPACT:** The proposed waiver could include fees associated with permits in CDA and in DPW, including Building, Planning, Environmental Health Services, DPW plan review, and DPW Road Impact.

On the CDA side, when a standard discount for long term housing use is applied, Planning and Building fees for an 800-square foot ADU are approximately \$10,000. Therefore, if all participating properties constructed or legalized an 800-square foot ADU with no deed restriction, the impact would be up to \$250,000 over the Pilot's five-year period. The general fund would offset the loss of revenue attributable to the waivers of the Building and EHS fees, since these programs operate on a cost-recovery basis. If some ADUs were deed restricted, the amount of the general fund offset would be reduced as the existing fee waivers for deed restricted ADUs are offset by the Housing Trust Fund.

DPW fees are calculated based on staff time and construction cost. Staff estimates that plan review and Road Impact fees associated with the Pilot Project might reach \$70,000. Plan review fees, which are cost-recovery and would therefore require offset from the general fund, would constitute approximately \$20,000 of this amount.

No proceeds from other permit fees would be used to fund these offsets, and no permittee in the County will pay more for a permit than the reasonable cost of providing the service for which the fee is charged.

Please feel free to contact us should you have any questions or concerns.

**REVIEWED BY:**       County Administrator       N/A  
                          Department of Finance       N/A  
                          County Counsel       N/A  
                          Human Resources       N/A

Respectfully submitted,



Sarah Jones  
Assistant Director

**Attachments**

Proposed Resolution

