

## **Applicable Development Code Sections**

- a. Section 22.20.040 – Outdoor Construction Activities
  - i. Cited in Article V of the Development Code
- b. Chapter 22.22 – Affordable Housing Regulations
  - i. Cited in Table 5-1-c and Definitions, as well as Article V of the Development Code
- c. Chapter 22.24 – Affordable Housing Incentives
  - i. Cited in Development Code Section 22.22.110.A.3
- d. Chapter 22.28 – Signs
  - i. Cited in Sections 22.32.023.I, 22.32.0404.H, 22.32.160.C, Definitions, and Development Code Section 22.58.040.F
- e. Section 22.32.050 – Child Day-Care Facilities
  - i. Cited in Development Code Section 22.58.020 and Article V
- f. Section 22.32.120 – Residential Accessory Dwelling Units
  - i. Cited in Article V of the Development Code
- g. Chapter 22.34 – Transfer of Development Rights
  - i. Cited in Section 22.65.040.C.3.d and Definitions
- h. Chapter 22.40 – Application Filing and Processing, Fees
  - i. Cited in Section 22.70.030.C and Development Code Sections 22.48.030.A, 22.50.070, 22.56.030.A, 22.58.030.A, and 22.114.040.A
- i. Chapter 22.42 – Design Review
  - i. Cited in Sections 22.32.130.A.3.c, 22.32.130.D, Land Use Tables, and Definitions
- j. Chapter 22.44 – Master Plans and Precise Development Plans
  - i. Cited in Section 22.32.080.C.4.a and Definitions, as well as Development Code Sections 22.48.030 and Section 22.34.030.A
- k. Chapter 22.48 – Conditional Use Permits
  - i. Cited in Sections 22.32.030.B.6, 22.32.050.A, 22.32.050.E.1, 22.32.060.B, 22.32.080.C.2, 22.32.080.C.4.a, 22.32.100.B.7, 22.32.160, Land Use Tables, and Definitions
- l. Chapter 22.50 – Temporary Use Permits
  - i. Cited in Definitions

- m. Chapter 22.54 – Variances
  - i. Cited in Definitions
- n. Chapter 22.56 – Residential Accessory Dwelling Unit Permits
  - i. Cited in Section 22.32.140.E and Article
- o. Chapter 22.58 – Large Family Daycare Permits
  - i. Cited in Section 22.32.050.C.2 and Article V of the Development Code
- p. Chapter 22.59 – Homeless Shelter Permits
  - i. Cited in 22.32.095.B
- q. Chapter 22.60 – Permits for Signs
  - i. Cited in Development Code Section 22.28.020.A.4, 22.28.030, and 22.58.040.F
- r. Chapter 22.70 – Permit Implementation, Time Limits, Extensions
  - i. Cited in Development Code Sections 22.48.050, 22.50.030.A, 22.50.070, and 22.60.080
- s. Article VI – Subdivisions
  - i. Cited in Definitions, Land Use Table Footnotes, Development Code Sections included in this Volume.
- t. Chapter 22.114 – Appeals
  - i. Cited in Development Code Section 22.70.020.A
- u. Chapter 22.118 (Notices, Public Hearings, and Administrative Actions)
  - i. Cited in Development Code Sections 22.48.030.C, 22.50.0303.C, 22.70.050.B.4, and 22.114.040.B.1

## 22.20.040 – Outdoor Construction Activities

Outdoor construction activities that require Building Permits shall meet the standards enumerated below in addition to any other requirements imposed by Federal, State, or local agencies.

- A. Construction Signs.** Post a publicly visible sign with the construction supervisor's name, telephone number, and address to contact regarding dust control, noise control, and other complaints about the construction activities. Unless otherwise specified by the conditions of approval for a development project, construction signage shall consist of a single yard sign with a maximum area of six feet and a maximum height of six feet and the sign shall remain on site until the outdoor construction activities are completed.
- B. Dust Control.** The following dust control measures shall apply to projects involving ground disturbance that are subject to environmental review:
1. All unpaved exposed surfaces (e.g., parking areas, staging areas, soil piles, and graded areas, and unpaved access roads) shall be watered two times a day.
  2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  4. All vehicle speeds on unpaved roads shall be limited to a maximum of 15 miles per hour.
  5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California of Regulations). Clear signage shall be provided for construction workers at all access points.
  7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified emissions evaluator.
- C. Building verifications.** The following verifications shall be required during construction, under the conditions specified below, unless the Director waives or modifies the requirement due to unusual circumstances or conformance with the conditions of approval for a development project.
1. Setback verification is required for setback distances when the structure is located up to or within one foot of the minimum required setback on conventionally zoned properties and when the structure is located within five feet of a property line, right of way, or access easement on planned district zoned properties. In these cases, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification verify that the project complies with the approved setback distances as shown on the approved building permit plans and submit a written (stamped) Building Setback Certification to the Planning Division. The building setback verification can also be satisfied by having a licensed land surveyor or civil engineer with proper certification conduct a survey and install survey hubs with connecting colored line in locations that can be readily used by the Building and Safety Inspection staff to verify building setbacks in the field

prior to approval of the inspection. If new survey hubs are installed, the project land surveyor or civil engineer must submit a written (stamped) Setback Certification to the Planning Division confirming that the survey staking has been properly completed.

2. Building height verification is required if the building height is within two feet of the maximum height allowed for projects located on conventionally zoned properties. In these cases, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification submit a written (stamped) building Roof Elevation Certification confirming that the building conforms to the roof ridge elevations that are shown on the approved Building Permit plans, based on a benchmark that is noted on the plans.
3. Floor area ratio verification is required if the floor area ratio resulting from a project would be within two percent of the maximum floor area ratio allowed for projects located on conventionally zoned properties. In these cases, the applicant shall submit a written (stamped) building Floor Area Certification from the project surveyor or engineer confirming that the floor area of the building conforms to the floor area that is shown on the approved Building Permit plans.

**D. Archaeological, Historical, and Paleontological Resources.** In the event that archaeological, historic, or paleontological resources are discovered during any construction, construction activities shall cease, and the Agency shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. The disturbance of an Indian midden may require the issuance of an Excavation Permit by the Department of Public Works, in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.

**E. Roosting Bat Protection Measures.** For the purposes of protecting roosting bats, outdoor construction activity that involves tree removal in an area where a biological assessment has identified a high probability of roosting bats on site are subject to the requirements enumerated below before and during site preparation and construction activities, unless separate project mitigation measures have been adopted that override these requirements. These standards apply only to tree removal that takes place during the nesting seasons of March 1 and April 15 or between September 1 and October 15.

1. Trees identified as containing suitable roost habitat shall be removed using a two-step process if they are removed during the nesting season. Trees removed during the nesting season shall be felled the first day and left overnight before the felled trees are removed the following day or later.
2. A qualified biologist shall be responsible for overseeing the removal of trees that provide suitable bat habitat and will submit written confirmation to the County verifying that these measures have been undertaken.

**F. Nesting Bird Protection Measures (excluding Northern Spotted Owl).** For the purposes of protecting nesting birds, outdoor construction activity that involves tree removal, grading, or other site disturbances in an area where a biological assessment has identified a high probability of the presence of nesting birds are subject to the requirements enumerated below before and during site preparation and construction activities, unless separate project mitigation measures have been adopted that override these requirements.

1. Construction activities that may disturb birds shall be conducted outside the nesting season, which generally occurs between February 1 and August 15.
2. If commencing construction activities between August 16 and January 31 is infeasible and ground disturbance or tree removal needs to occur within the nesting season, a pre-construction nesting bird survey of the property shall be conducted by a qualified biologist. If no nesting birds are observed by the biologist, no further action is required, and construction activities shall occur within one week of the survey.
3. If active bird nests are observed during the pre-construction survey, a disturbance-free buffer zone shall be established around the nest tree(s) until the young have fledged, as determined by a qualified biologist.
4. To delineate the buffer zone around a nesting tree, orange construction fencing shall be placed at the specified radius from the base of the tree within which no machinery or workers shall intrude. After the fencing is in place, there will be no restrictions on grading or construction activities outside the prescribed buffer zones, but County staff during routine site inspections may verify that fencing remains in place.
5. Pre-construction surveys will be documented and provided to the County by the qualified biologist. If construction fencing is required, photographs of the fencing, directly after installation, will be submitted to the County.

**G. Northern Spotted Owl.** For the purposes of protecting Northern Spotted Owls (*Strix occidentalis caurina*), outdoor construction activity that involves tree removal, grading, or other site disturbances in an area where a biological assessment has identified a spotted owl nest within 500 yards of a project are subject to the requirements enumerated below before and during site preparation and construction activities, unless separate project mitigation measures have been adopted that override these requirements.

1. Construction activities that may disturb Northern Spotted Owls shall be conducted outside the nesting season, which occurs between February 1 and July 9.
2. If conducting construction activities between July 10 and January 31 is infeasible and construction or tree removal needs to occur within the nesting season, a pre-construction survey shall first be conducted by a qualified biologist. If no Northern Spotted Owls are observed by the biologist, no further action is required, and construction activities shall occur within one week of the survey.
3. If active bird nests are observed during the pre-construction survey, a disturbance-free buffer zone of 500 yards shall be established around the nest tree(s) until the young have fledged, as determined by a qualified biologist.
4. To delineate the buffer zone around a nesting tree, orange construction fencing shall be placed at the specified radius from the base of the tree within which no machinery or workers shall intrude.
5. Pre-construction surveys will be documented and provided to the County by the qualified biologist. If construction fencing is required, photographs of the fencing, directly after installation, will be submitted to the County.

## **CHAPTER 22.22 – AFFORDABLE HOUSING REGULATIONS**

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### **Sections:**

- 22.22.010 – Purpose of Chapter
- 22.22.020 – Applicability
- 22.22.030 – Application Filing
- 22.22.040 – Prohibitions
- 22.22.050 – Exemptions
- 22.22.060 – Waivers
- 22.22.080 – General Affordable Housing Standards
- 22.22.090 – Inclusionary Housing Standards – Lot Creation
- 22.22.100 – Non-Residential and Mixed Use Affordable Housing Standards
- 22.22.110 – Decision
- 22.22.120 – Affordable Housing Post Approval

### **22.22.010 – Purpose of Chapter**

Marin County is experiencing a shortage of homes affordable to the workforce of the county, seniors and individuals with disabilities. The California Legislature has found that the availability of housing is of vital statewide importance and a priority of the highest order, and that local governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

To help attain local and state housing goals, this Chapter requires new developments to contribute to the County's affordable housing stock through the provision of housing units, land dedication, and/or fees. This Chapter provides procedures and requirements applicable to development proposals in the unincorporated areas of Marin County, which are intended to achieve the following goals:

- A. Countywide Plan housing goals.** Enhance the public welfare and ensure that further residential and non-residential development contribute to the attainment of the housing goals of the Countywide Plan by increasing the production of affordable housing, and stimulating funds for development of affordable housing.
- B. Reduce affordable housing shortage.** Reduce the housing shortage for income qualifying households.
- C. Balanced community.** Achieve a balanced community with housing available for households with a range of income levels.
- D. Affordable housing requirements.** Ensure that remaining developable land within the County is utilized in a manner consistent with the County's housing policies and needs. This can be accomplished in part by applying the residential and non-residential affordable housing requirements or fees contained in this Chapter.

### **22.22.020 – Applicability**

The provisions of th Chapter apply to new development that entails the development of new residential floor area, lot creation, residential care facilities, and the development of new non-residential floor area. Additional applicability standards are enumerated below. Table 3-4a provides examples of housing and fee requirements for different types of development.

**TABLE 3-4a**  
**EXAMPLES OF AFFORDABLE HOUSING REQUIRMENTS**

Type of development	Requirement	Section
<b>New Residences and residential floor area</b>		
A. Single-family	Affordable Housing Impact fee	Ordinance 3500 (and subsequently amended)
B. Multi-family (rental)	20% of units (in-lieu fee for up to 0.5 unit)	22.22.020.B
C. Multi-family (ownership with subdivision map)	20% of units (In-lieu fee for up to 0.5 unit)	22.22.090.A
<b>Lot Creation</b>		
D. With proposed dwellings	20% of units (In-lieu fee for up to 0.5 unit)	22.22.090.A
E. Lots only	20% of lots (In-lieu fee for up to 0.5 unit)	22.22.090.A
<b>Non-residential/ Residential Care Facility</b>		
F. Non-residential/Residential Care only	Jobs/Housing Linkage fee	22.22.100.A
G. Mixed use	Jobs/Housing Linkage fee and/or units	22.22.100.B

- A. Single-family dwellings.** All new single-family dwellings greater than 2,000 square feet, except those located in subdivisions previously subject to an inclusionary requirement, shall pay an Affordable Housing Impact Fee per Ordinance 3500.
- B. Multi-family rental housing.** New multi-family housing developed without a subdivision map and where dwelling units cannot be sold separately shall provide affordable housing consistent with Section 22.22.090 (Inclusionary Housing Standards – Lot Creation). Increments of a unit shall pay a fee established by the Board of Supervisors and shall be updated annually by the Director to compensate for inflation based on the higher of either the construction cost index published in the Engineering News Record (ENR) or the CPI (Shelter Only). The payment of any applicable fees shall be due prior to issuance of Building Permits.
- C. Multi-family housing with a subdivision map.** All new multi-family housing and condominium conversions approved with a subdivision map or with dwelling units that can be sold separately, including multi-family housing, condominiums, townhouses, and stock cooperatives, shall provide affordable housing consistent with Section 22.22.090 (Inclusionary Housing Standards- Lot Creation).
- D. Lot creation with proposed dwellings.** Any subdivision with a proposed development of one or more dwellings shall provide affordable housing consistent with Section 22.22.090 (Inclusionary Housing Standards – Lot Creation).
- E. Lot creation without proposed dwellings.** Any subdivision creating one or more new lots shall provide inclusionary lots for the immediate or future development of affordable housing consistent with Section 22.22.090 (Inclusionary Housing Standards – Lot Creation).

- F. Non-residential developments.** Non-residential development shall pay a Jobs/Housing linkage fee consistent with Section 22.22.100 (Non-Residential and Mixed Use Affordable Housing Standards).
- G. Mixed use developments.** Mixed use developments are subject to both the non-residential and residential affordable housing requirements.
- H. Applicability to density bonus projects.** Any affordable housing units that qualify a project for a density bonus pursuant to Government Code Section 65915 must be provided in addition to the required affordable housing units and may not also be counted as affordable housing units pursuant to this Chapter.
- I. Affordable housing regulations.** The requirements of this Chapter shall be imposed only once on a given development approval. Affordable housing requirements imposed on a development shall be consistent with the affordable housing requirements in effect at the time of each successive Precise Development Plan or Design Review approved in conformance with a governing Master Plan. Subdivisions subject to an inclusionary requirement are also not subject to the Affordable Housing Impact Fee.

### **22.22.030 – Application Filing**

An affordable housing plan shall be submitted as part of the first application for any development project subject to this Chapter, except single-family dwellings subject to the Affordable Housing Impact Fee, and shall be processed, reviewed, and approved, conditionally approved, or denied concurrently with all other applications required for the project. Any request for a waiver of requirements of this Chapter must be submitted as part of the affordable housing plan.

### **22.22.040 – Prohibitions**

In Marin County, it is unlawful to restrict housing choice on the basis of race, color, disability, religion, sex, familial status, national origin, sexual orientation, marital status, ancestry, age, and source of income.

### **22.22.050 – Exemptions**

The following shall be exempt from the provisions of this Chapter: agricultural development; agricultural worker housing and all related accessory structures; development by special districts and authorities subject to the Marin Local Agency Formation Commission's (LAFCO) authority over boundaries and organization; residential accessory dwelling units; and residential projects developed at the targeted income level and percentage cited in the Housing Overlay Designation policies in the Countywide Plan. Affordable housing shall be exempt from Inclusionary Housing Standards.

### **22.22.060 – Waivers**

The review authority may grant a waiver to the requirements of this Chapter if an alternative affordable housing proposal demonstrates a better means of serving the County in achieving its affordable housing goals than the requirements of Chapter 22.22 (Affordable Housing Regulations).

- A. Residential projects.** The review authority may approve one or more of the following alternative means of compliance with the requirements of Section 22.22.090 (Inclusionary Housing Standards – Lot Creation) or the mixed use residential inclusionary requirements of Section 22.22.100.B (Mixed use development). Any proposed alternative means of compliance must include an analysis of fair housing implications to ensure that any proposed



off-site location will promote diversity. Required units or lots must be located in an unincorporated area of the County. Required units or lots may also be within the boundaries of a City or Town provided there is an inter-agency agreement with the County which defines the sharing of affordable housing resources and compliance with fair share housing allocations. The options below are listed in order of priority, with the provision of in-lieu fees being the lowest priority. The applicant must demonstrate that each option is infeasible before the County may consider the next option.

1. **Affordable units off-site.** Inclusionary units may be constructed on one or more sites not contiguous with the proposed development. The off-site property shall be located in an area with appropriate zoning, character and density, location, size, accessibility to public transportation, and other services, consistent with sound community planning principles and shall be devoid of contaminants and other hazardous wastes. The offsite location must include either a greater number of inclusionary units than required on-site or the same number of inclusionary units that are affordable at a lower income level.
2. **Lots.** The applicant may dedicate suitable real property to the County or its designee to develop the required inclusionary units. The property shall be located in an area with appropriate zoning, character and density, location, size, accessibility to public transportation, and other services, consistent with sound community planning principles and shall be devoid of contaminants and other hazardous wastes. The offsite location must include either a greater number of inclusionary units than required on-site or the same number of inclusionary units that are affordable to a lower income level. Required units may also be constructed within the boundaries of a City or Town provided there is an inter-agency agreement with the County which defines the sharing of affordable housing resources and compliance with fair share housing allocations.
3. **In-lieu fee.** The applicant may pay an in-lieu participation fee based on 125% of the requirement of Section 22.22.090 (Inclusionary Housing Standards – Lot Creation). The review authority shall apply the lowest preference to the payment of an in-lieu fee for compliance with the requirements of this chapter.

**B. Non-Residential Development and Residential Care Facilities.** If the review authority finds that an alternative provides a better means of serving the County in achieving its affordable housing goals, one or more of the following alternative means may be approved for compliance with the requirements of this chapter. Any proposed alternative means of compliance must include an analysis of fair housing implications to ensure that any proposed off-site location will promote housing diversity. Required units or lots must be located in an unincorporated area of the County. Required units or lots may also be within the boundaries of a City or Town provided there is an inter-agency agreement with the County which defines the sharing of affordable housing resources and compliance with fair share housing allocations. A combination of both income-restricted units and affordable housing fees may be allowed. The options below are listed in order of priority, with the provision of in-lieu fees being the lowest priority. The applicant must demonstrate that each option is infeasible before the County may consider the next option.

1. **Affordable units off-site.** Affordable units may be provided off-site on an adjacent property or on one or more sites not contiguous with the proposed development. The off-site property shall be located in an area with appropriate zoning, character and density, location, size, accessibility to public transportation, and other services, consistent with sound community planning principles and shall be devoid of contaminants and other hazardous wastes. The offsite location must include either a greater number of inclusionary units than required on-site or the same number of inclusionary units that are affordable to a lower income level.

2. **Lots.** The applicant may dedicate suitable real property to the County or its designee to be developed for affordable housing by the County, or a profit or nonprofit, private or public applicant. The off-site property shall be located in the same planning area, and shall be appropriately sized and zoned for development equivalent to or more than the residential units that are not created on-site. The property shall be offered in a condition that is suitable for development, including appropriate access and services, consistent with sound community planning principles and shall be devoid of contaminants and other hazardous wastes.
3. **In-lieu fee.** The applicant may pay an in-lieu participation fee based on 125% of the requirement of Section 22.22.090 (Inclusionary Housing Standards – Lot Creation). The review authority shall apply the lowest preference to the payment of an in-lieu fee for compliance with the requirements of this chapter.

### 22.22.080 – General Affordable Housing Standards

- A. **Eligible occupants.** All affordable housing units shall be sold or rented to Income Qualifying Households, at income levels established pursuant to the applicable affordable housing requirement, as certified by the County or its designee.
- B. **Income restriction.** All affordable housing units shall be income-restricted in perpetuity, unless the review authority reduces the term of the affordability requirement to reflect the maximum term that is permitted by Federal or State financing sources.
- C. **Affordable unit cost.** Required ownership units shall be affordable to households at 60 percent of the Area Median Income, adjusted for household size. Any affordable rental units proposed by an applicant shall be offered at an affordable rent not exceeding 30 percent of the gross income of households earning at most 50 percent of Area Median Income, adjusted for household size. The housing unit prices shall be established by the County or its designee and shall be based on the number of bedrooms. See Article VIII for definitions of Affordable Ownership Cost, Affordable Rent and Area Median Income.
- D. **Location of affordable housing units.** All required affordable housing units on-site shall be disbursed throughout the development. This requirement may be modified for cause by the review authority.
- E. **Design and character of affordable housing units.** Required affordable housing units shall contain on average the same number of bedrooms as the market rate units in a residential development, and shall be compatible with the exterior design and use of the remaining units in appearance, materials, amenities, and finished quality. Residential units constructed on behalf of, or funded by a public entity, must comply with the Department of Justice's *Standards for Accessible Design and other relevant state and federal requirements for accessibility*.
- F. **Lots dedicated to affordable housing.** Any required inclusionary lot shall be offered in a condition that is suitable for development, including appropriate access and services, consistent with sound community planning principles, and shall be devoid of contaminants and other hazardous wastes.
- G. **Use and payment of affordable housing fees.** Affordable housing fees (including Affordable Housing Impact Fees, Rental Housing Impact Fees, Jobs/Housing linkage fees, and In-lieu fees) shall be used by the County or its designee for the purpose of developing and preserving

affordable housing for income qualifying households, with preference for use in the unincorporated areas of the county.

- H. Requested rental affordable housing.** An applicant may request to provide affordable rental units as an alternative to the provision of ownership units otherwise required by Sections 22.22.090 (Inclusionary Housing Standards – Lot Creation) and 22.22.100 (Non-Residential and Mixed Use Affordable Housing Standards) or as an alternative to the Rental Housing Impact Fee. To ensure compliance with the Costa-Hawkins Act (Chapter 2.7 of Title 5 of Part 4 of Division 3 of the California Civil Code) the County may only approve such a proposal if the applicant agrees in a rent regulatory agreement with the County to limit rents in consideration for a direct financial contribution or a form of assistance specified in Chapter 4.3 commencing with Section 65915 of Division 1 of Title 7 of the Government Code. All affordable rental units proposed by an applicant shall comply with all provisions related to rentals in Section 22.22.080 (General Affordable Housing Standards).

### **22.22.090 – Inclusionary Housing Standards – Lot Creation**

This Section addresses the inclusionary housing standards for lot creation with or without proposed dwellings and the residential portion of mixed use developments. This Section also provides the means to levy in-lieu fees for the construction of affordable housing in cases where the inclusionary requirement includes a decimal fraction of a unit or lot or when a combination of both inclusionary units and an in-lieu fee is required.

- A. Number of inclusionary units/lots required.** 20 percent of the total number of dwelling units or lots within a subdivision shall be developed as, or dedicated to, affordable housing. Where the inclusionary housing calculation results in a decimal fraction greater than 0.50, the fraction shall be rounded up to one additional dwelling unit or lot. Where the inclusionary housing calculation results in any decimal fraction less than or equal to 0.50, the project applicant shall pay an in-lieu fee proportional to the decimal fraction.
1. Lots developed with a primary residence as of July 13, 2006 shall be deducted from the total number of lots in the proposed subdivision for the purpose of applying the inclusionary requirement.
- B. In-lieu fee.** A fee may be required in addition to inclusionary units or lots in cases where the inclusionary requirement includes a decimal fraction of a unit or lot or when a combination of both inclusionary units and in-lieu fees is required. The current fee as established by the County shall be multiplied by the fraction of the inclusionary requirement to determine the applicable fee to be paid.

### **22.22.100 – Non-Residential, Mixed Use, and Residential Care Facility Affordable Housing Standards**

Developments with no residential component are required to pay a Jobs/Housing linkage fee. Mixed use developments proposing residential rental units are required to pay a Jobs/Housing linkage fee for the non-residential component and a Rental Housing Impact Fee for the residential component. Mixed use developments proposing residential units which can be sold separately shall comply with the applicable provision of Section 22.22.020.C through E (Applicability). Mixed use development shall also provide new affordable units for the non-residential component consistent with Table 3-4c rather than payment of a Jobs/Housing Linkage Fee. All required affordable housing units shall comply with Section 22.22.080 (General Affordable Housing Standards).

- A. Non-residential development and Residential Care Facilities.** The Jobs/Housing linkage fees for all non-residential development shall be determined based on the development type and floor area of the development; see Table 3-4b below. Alternatively, an applicant for a non-residential development may propose to provide the number of new affordable units required by Table 3-4c, based on relevant data from the applicant or information from the County’s relevant housing studies, at the discretion of the Director. All affordable housing units shall comply with Section 22.22.080 (General Affordable Housing Standards).

**TABLE 3-4b**  
**AFFORDABLE HOUSING FEES FOR NON-RESIDENTIAL DEVELOPMENT AND**  
**RESIDENTIAL CARE FACILITIES**  
**(Per square foot of floor area<sup>1</sup> unless noted otherwise)**

Development Type	Fee per square foot
Manufacturing/Light Industry/Assembly	\$3.74
Office <sup>2</sup> /Research and Development	\$7.19
Warehouse	\$1.94
Hotel/Motel <sup>3</sup>	\$1,745 per room
Retail/Restaurant	\$5.40
Residential Care Facility <sup>4</sup>	\$18.00
Medical- Extended Care <sup>4</sup>	\$21.00
Other types of non-residential development	Applicant to provide information and statistics on new jobs generated by the use of the development.

<sup>1</sup> For purposes of this Chapter, the floor area excludes all areas permanently allocated for vehicle parking, unless such areas are used for commercial or industrial purposes.

<sup>2</sup> Office uses include those associated with professional, business, and medical services.

<sup>3</sup> Accessory uses, such as retail, restaurant, and meeting facilities within a hotel shall be subject to requirements for a retail use.

<sup>4</sup> This base fee, established in 2016, increases annually pursuant to Board of Supervisors Resolution 2016-122.

- B. Mixed use development.** Mixed use developments are subject to both the non-residential and residential affordable housing requirements. The residential inclusionary requirement shall be calculated consistent with the applicable Section 22.22.090 (Inclusionary Housing Standards – Lot Creation) and the non-residential inclusionary requirement shall be calculated consistent with Section 22.22.100.A (Non-residential development) above, except as described in this section. These requirements shall be combined to produce the total affordable unit and fee requirement.

1. **Mixed use development with ownership housing.** Where a mixed use development is proposed and the proposed residences can be sold separately, affordable housing units shall be provided for the non-residential development rather than payment of a linkage fee.
  - a. The number of affordable units required for non-residential development shall be established by multiplying the floor area of the development times the development type in Table 3-4c below. Other types of non-residential development shall provide housing for 25% of the income qualifying employee households associated with the new non-residential development.
  - b. Where the required unit calculation results in any decimal fraction less than or equal to 0.50, the project applicant shall pay a fee proportional to the decimal fraction in compliance with Table 3-4b. Any decimal fraction greater than 0.50 shall be interpreted as requiring one additional dwelling unit.

**TABLE 3-4c**  
**NUMBER OF NEW AFFORDABLE HOUSING UNITS REQUIRED FOR**  
**NEW NON-RESIDENTIAL DEVELOPMENT**

Development Type	Number of required Affordable Housing Units per square foot of floor area <sup>1</sup>
Manufacturing/Light Industry/Assembly	0.000045
Office <sup>2</sup> /Research and Development	0.000085
Warehouse	0.000023
Hotel/Motel <sup>3</sup>	0.000020
Retail/Restaurant	0.000058

<sup>1</sup> Developments are required to provide 25% of the housing need generated by a non-residential development. For purposes of this Chapter, the floor area excludes all areas permanently allocated for residential vehicle parking, unless such areas are used for commercial or industrial purposes.

<sup>2</sup> Office uses include those associated with professional, business, and medical services.

<sup>3</sup> Accessory uses, such as retail, restaurant, and meeting facilities within a hotel shall be subject to requirements for a retail use.

2. **Housing Provisions.** Affordable housing units provided under this Section shall comply with the Section 22.22.080 (General Affordable Housing Standards).

### 22.22.110 – Decision

**A. Conditions of approval.** Any approval that is subject to the requirements of this Chapter shall contain conditions of approval that will ensure compliance with the provisions of this Chapter. The conditions of approval shall:

1. Specify the construction of the affordable units and/or the timing of payment of fees. All affordable housing units and other phases of a development shall be constructed prior to, or concurrent with, the construction of the primary project unless the review authority approves a different schedule;
2. Specify the number of units at appropriate price levels, as determined by the review authority;
3. Specify provisions for any incentives granted pursuant to Chapter 22.24 (Affordable Housing Incentives) where applicable;
4. Determine when in-lieu fees shall be paid, including whether payment shall be made prior to recordation of the map or issuance of any building permit.
5. Require a written agreement between the County and the applicant prior to recordation of any final or parcel map or issuance of any building permit which indicates the number, type, location, size, and construction scheduling of all affordable housing units, and the reasonable information that shall be required by the County for the purpose of determining compliance with this Chapter. This agreement shall also specify provisions for income certification and screening of potential purchasers and/or renters of units, and specify resale control mechanisms, including the financing of ongoing administrative and monitoring costs. The applicant shall be responsible for any direct costs associated with the negotiation of this agreement.

**B. Project review procedure.** Affordable housing plans shall be analyzed by the County to ensure that the plan is consistent with the purpose and intent of this Chapter.

**22.22.120 – Affordable Housing Post Approval**

- A. Administration.** The County or its designee shall monitor required affordable housing units.
- B. Required inclusionary units:** In addition to the standards in Section 22.22.090 (Inclusionary Housing Standards – Lot Creation) the review authority shall insure that the following standards are applied to required affordable housing units.
- 1. Limitation on Resale Price.** In order to maintain the affordability of the housing units constructed in compliance with this Chapter, the County shall impose the following resale condition. The price received by the seller of a resale unit shall be the lowest of the following:
    - a. Median income.** The original price paid by the seller increased by an amount equal to purchase price multiplied by the percentage increase in the median household income for the San Francisco Primary Metropolitan Statistical Area since the date of purchase;
    - b. Index price.** The original price increased by an amount equal to the original price multiplied by the percentage increase in the Consumer Price Index for the San Francisco Bay Area since the date of purchase; or
    - c. Fair market value.** The fair market value of the resale unit as determined by an appraiser approved by the County or its designee and paid for by the seller.
  - 2. Eligible purchasers.** Ownership inclusionary units shall be sold and resold from the date of the original sale only to income qualifying households, as determined to be eligible for inclusionary units by the County or its designee, in compliance with the requirements of this Chapter.
    - a.** Every purchaser of an inclusionary housing unit shall certify by a form acceptable to the County or its designee that the unit is being purchased for the purchaser's primary place of residence. The County or its designee shall verify this certification. Failure of the purchaser to maintain eligibility for a homeowner's property tax exemption shall be construed to mean that the inclusionary unit is not the primary place of residence of the purchaser.
    - b.** The seller shall not levy or charge any additional fees nor shall any "finders' fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.
    - c.** The County or its designee shall advertise the inclusionary units to the general public. Upon notification of the availability of ownership units by the applicant, the County or its designee shall seek and screen qualified purchasers through a process involving applications and interviews. Where necessary, the County or its designee shall hold a lottery to select purchasers from a pool of income-eligible applicants.
  - 3. Income restrictions.** The owners of any inclusionary unit shall, upon purchase, sign and record appropriate resale and other restrictions, deeds of trust, and other documents as provided by the County or its designee, stating the restrictions imposed in compliance with this Chapter. The recorded documents shall afford the grantor and the County the right to enforce the restrictions. The restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this Chapter.

4. **Notice of resale restrictions.** The County or its designee shall advise all prospective purchasers of the resale restriction applicable to ownership inclusionary units.
  5. **Monitoring of Resales.** The County or its designee shall be given the responsibility of monitoring the resale of ownership inclusionary units. The County or its designee shall have the option to commence purchase of ownership inclusionary units after the owner gives notification of intent to sell or in the event of any default or violation of the income restrictions. Any abuse in the resale provisions shall be referred to the County for appropriate action.
- C. **Requested affordable housing rental units.** In addition to the standards in Section 22.22.080 (General Affordable Housing Standards), the Review Authority shall insure that the following standards are applied to any requested affordable rental units after they are constructed.
1. **Advertising and screening.** The applicant or owner shall agree to advertise available rental housing, screen applicants, and perform annual income certifications for the affordable rental units, or retain a qualified entity to do so. The applicant or owner shall have final discretion in the selection of eligible tenants, provided that the same rental terms and conditions are applied to tenants of income-restricted units as are applied to all other tenants, with the exception of rent levels, household income, and any requirements of government subsidy programs.
  2. **Recorded agreements.** For any requested rental units, the owner shall enter into recorded agreements with the County and take appropriate steps necessary to ensure that the required affordable rental units are provided, and that they are rented to income qualifying households. Recorded documentation may include a Marketing Plan, Rent Regulatory Agreement, Compliance Report, Notice of Affordability Restrictions on Transfer of Property, and other documents as may be required by the County to maintain the continued affordability of the affordable units.
  3. **Monitoring.** The owner shall be required to provide tenant income qualification reports to the County or its designee for monitoring on an annual or biennial basis.

## **CHAPTER 22.24 – AFFORDABLE HOUSING INCENTIVES**

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### **Sections:**

22.24.010 – Purpose of Chapter

22.24.020 – County Incentives for Affordable Housing

22.24.030 – Density Bonus and Other Incentives Pursuant to State Law

### **22.24.010 – Purpose of Chapter**

This Chapter provides procedures for granting incentives for the construction of affordable housing to encourage the production of affordable housing and to achieve the following additional goals:

- A. Countywide Plan goals and policies.** To implement goals and policies contained in the Countywide Plan providing for incentives for the construction of affordable housing.
- B. Compliance with State law.** To comply with the provisions of Government Code Section 65915, which mandates the adoption of a County ordinance specifying procedures for providing density bonuses and other incentives and concessions, as required by that section.

### **22.24.020 – County Incentives for Affordable Housing**

The incentives provided by this Section 22.24.020 are available to residential development projects which either: 1) comply with Chapter 22.22 (Affordable Housing Regulations); 2) are comprised of income-restricted housing that is affordable to income qualifying households; or 3) are developed pursuant to the Housing Overlay Designation policies included in the Countywide Plan. Residential development projects which have been granted a density bonus pursuant to Section 22.24.030 (Density Bonus and Other Incentives Pursuant to State Law) are not eligible for the County density bonus described in subsection (C) below but may be granted the other incentives included in this section.

- A. Density for Affordable Housing Projects.** For affordable housing located in all districts that allow residential uses, allowable density will be established by the maximum Marin Countywide Plan density range, subject to all applicable Countywide Plan policies.
- B. Where allowed.** Development of affordable housing may be allowed in any zoning district provided that the review authority first finds that residential uses are allowed by the applicable Countywide Plan land use designation.
- C. County density bonus.** The density bonus allowed by this Section shall not be combined with the density bonus permitted by Section 22.24.030 (Density Bonus and Other Incentives Pursuant to State Law) or with any other density bonus. No single residential development project shall be granted more than one density bonus.
  - 1. Eligibility.** The County density bonus may be granted only where the proposed density (including the density bonus) complies with all applicable Countywide Plan policies, including traffic standards, environmental standards, and Countywide Plan designations.



2. **Determination of bonus.** The granting of this density bonus shall be based on a project-by-project analysis and the determination that the increase in density will not be detrimental to the public health, safety, welfare, and/or environment.
  3. **Amount of bonus.** The review authority may grant an increase in density of up to 10 percent of the number of dwelling units normally allowed by the applicable zoning district in a proposed residential development or subdivision.
- D. Interior design.** The applicant may have the option of reducing the interior amenity level and the square footage of affordable housing below that of large market-rate units, provided that all of the dwelling units conform to the requirements of County Building and Housing Codes and the Director finds that the reduction in interior amenity level will provide a quality and healthy living environment. The County strongly encourages the use of green building principles such as the use of environmentally preferable interior finishes and flooring, as well as the installation of water and energy efficient hardware, wherever feasible.
- E. Unit types.** In a residential development which contains single-family detached homes, affordable housing may be attached living units rather than detached homes or may be constructed on smaller lots, and in a residential project that contains attached multistory dwelling units, affordable housing may contain only one story, provided that all of the dwelling units conform to the requirements of County Building and Housing Codes and the Director finds that the modification of the design will provide a quality living environment.
- F. On-site affordable housing included with non-residential development.** As an inducement to the development of on-site affordable housing in non-residential development, the County may grant a reduction in the site development standards of this Development Code or architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission in compliance with State law (Health and Safety Code Sections 18901 et seq.), including, but not limited to setback, coverage, and/or parking requirements.
- G. Affordable housing on mixed use and industrial sites.** In commercial/mixed use and industrial land use categories, as designated in the Countywide Plan, the floor-area ratio may be exceeded for affordable housing, subject to any limitations in the Countywide Plan. For housing that is affordable to moderate-income households, the floor area ratio may be exceeded in areas with acceptable levels of traffic service, subject to any limitations in the Countywide Plan, and so long as the level of service standard is not exceeded.
- H. Impacted roadways.** In areas restricted to the lowest end of the density range due to vehicle Level of Service standards, affordable housing developments will be considered for densities higher than the lowest end standard per the Countywide Plan.
- I. Fee waivers.** The County may waive any County fees applicable to the affordable housing units of a proposed residential, commercial, or industrial development. In addition, for projects developed pursuant to Housing Overlay Designation policies and for income-restricted housing that is affordable to income qualifying households, the Director may waive fees or transfer In-lieu Housing Trust funds to pay for up to 100 percent of Community Development Agency fees, based on the proportion of the project that is affordable to income qualifying households and the length of time that the housing shall remain affordable.

- J. Projects developed pursuant to Housing Overlay Designation policies.** Residential development projects developed in conformance with Housing Overlay Designation policies may be granted adjustments in development standards, such as parking, floor area ratio, and height, as provided in the Countywide Plan, not to exceed unit counts identified in the Countywide Plan.
- K. Technical assistance.** In order to emphasize the importance of securing affordable housing as a part of the County's affordable housing program, the County may provide assistance in obtaining financial subsidy programs to applicants.
- L. Priority processing.** The County shall priority process projects developed pursuant to Housing Overlay Designation policies and affordable housing developments that are affordable to income qualifying households.

### **22.24.030 – Density Bonus and Other Incentives Pursuant to State Law**

This Section specifies procedures for providing density bonuses and other incentives and concessions as required by State law (Government Code Section 65915).

- A. Density bonuses; calculation of bonuses.** Pursuant to State law, a residential development project is eligible for a density bonus if it meets the requirements as described below and shown in Table 3-5a.
  1. The residential development project must result in a net increase of at least 5 dwelling units.
  2. A residential development project is eligible for a 20 percent density bonus if the applicant seeks and agrees to construct any one of the following:
    - a. 10 percent of the units at affordable rent or affordable ownership cost for low income households;
    - b. 5 percent of the units at affordable rent or affordable ownership cost for very low income households; or
    - c. A senior citizen housing development of 35 units or more as defined in Section 51.3 of the Civil Code.
  3. A residential development project is eligible for a 5 percent density bonus if the applicant seeks and agrees to construct the following, in addition to the inclusionary units required by Chapter 22.22 and in addition to any affordable units required by Housing Overlay Designation policies:
    - a. 10 percent of the units at affordable ownership cost for moderate income households,
    - b. Located in a common interest development, as defined in Section 1351 of the Civil Code; and
    - c. All of the dwelling units in the project are offered to the public for purchase.

4. The density bonus for which the residential development project is eligible shall increase if the percentage of units affordable to very low, low, and moderate income households exceeds the base percentage established in subsections (2) and (3) above, as follows:
  - a. Very low income units – For each 1 percent increase above 5 percent in the percentage of units affordable to very low income households, the density bonus shall be increased by 2.5 percent, up to a maximum of 35 percent.
  - b. Low income units – For each 1 percent increase above 10 percent in the percentage of units affordable to low income households, the density bonus shall be increased by 1.5 percent, up to a maximum of 35 percent.
  - c. Moderate income units – For each 1 percent increase above 10 percent in the percentage of units affordable to moderate income households, the density bonus shall be increased by 1 percent, up to a maximum of 35 percent.

**TABLE 3-5a  
CALIFORNIA STATE DENSITY BONUS CALCULATION  
PER GOVERNMENT CODE SECTION 65915**

Income Category	% Affordable Units*	Bonus Granted	Additional Bonus for Each 1% Increase in Affordable Units*	% Affordable Units Required for Maximum 35% Bonus*
Very low income	5%	20%	2.5%	11%
Low income	10%	20%	1.5%	20%
Moderate income (for-sale common interest development only)	10%	5%	1%	40%
Senior citizen housing development of 35 units or more	--	20%	--	--
*Note: Required inclusionary units and any affordable units required by Housing Overlay Designation policies will not be counted as affordable units for the purpose of granting incentives and concessions.				

5. The following provisions apply to the calculation of density bonuses:
  - a. Each residential development project is entitled to only one density bonus, which may be selected based on the percentage of either units affordable to very low income households, units affordable to low income households, or units affordable to moderate income households, or the project's status as a senior citizen housing development. Density bonuses from more than one category may not be combined.
  - b. Consistent with Section 22.24.030.A.2 and 22.24.030.A.3 (Density bonuses; calculation of bonuses), required inclusionary units and any affordable units required by Housing Overlay Designation policies will not be counted as affordable units for the purpose of granting a density bonus. Affordable units qualifying a project for a density bonus must be provided in addition to required inclusionary

units, in addition to affordable units required by Housing Overlay Designation policies, and must be included in the base density.

- c. When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded up to the next larger integer. When calculating the number of required affordable units, any calculations resulting in fractional units shall be rounded up to the next larger integer.
  - d. The density bonus units shall not be included when determining the number of affordable units required to qualify for a density bonus.
  - e. A project proposed below the base density may qualify for incentives and concessions if it meets the requirements of Section 22.24.030.B.3 (Incentives and concessions).
  - f. The applicant may request a lesser density bonus than the project is entitled to, but no reduction will be permitted in the number of required affordable units.
  - g. The County may, at its sole discretion, grant a density bonus exceeding the state requirements where the applicant agrees to construct a greater number of affordable housing units or at greater affordability than required by this subsection (A). If an additional density bonus is granted by the County and accepted by the applicant, the additional density bonus shall be considered an incentive or concession for purposes of Section 65915.
6. Density bonuses may also be granted for child care facilities, and land donation in excess of that required by Chapter 22.22 (Affordable Housing Regulations), pursuant to Government Code Sections 65915(h) and 65915(i).

**B. Incentives and concessions.** Subject to the findings included in Section 22.24.030.E (Review of application), when an applicant seeks a density bonus and requests incentives or concessions, the County shall grant incentives or concessions as shown in Table 3-5b and as described in this section.

**TABLE 3-5b  
DENSITY BONUS INCENTIVES AND CONCESSIONS  
REQUIRED BY GOVERNMENT CODE SECTION 65915**

Affordability Category	% of Units		
Very low income (Health & Safety Code Section 50105)	5%	10%	15%
Low income (Health & Safety Code Section 50079.5)	10%	20%	30%
Moderate-income (ownership units only) (Health & Safety Code Section 50093)	10%	20%	30%
<b>Maximum Incentive(s)/Concession(s)</b>	<b>1</b>	<b>2</b>	<b>3</b>
<b>Notes:</b>			
(A) A concession or incentive may be requested only if an application is also made for a density bonus, except as may be permitted pursuant to Section 22.24.030.B.3.			
(B) Required inclusionary units and any affordable units required by Housing Overlay Designation policies will not be counted as affordable units for the purpose of granting incentives and concessions.			
(C) Concessions or incentives may be selected from only one category (very low, low, or moderate).			
(D) No concessions or incentives are available for land donation or senior housing.			
(E) Day care centers may have one concession or a density bonus at the County's option, but not both.			

1. For the purposes of this section, incentive or concession means the following:
  - a. A reduction in the site development standards of this Development Code or other County policy, or local architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission in compliance with State law (Health and Safety Code Sections 18901 et seq.), including, but not limited to height, setback, coverage, floor area, and/or parking requirements, which result in identifiable, financially sufficient, and actual cost reductions based upon appropriate financial analysis and documentation as specified in Section 22.24.030.D (Application for density bonus, incentives and concessions).
  - b. Approval of mixed use zoning in conjunction with the proposed residential development project if non-residential land uses will reduce the cost of the residential development, and the non-residential land uses are compatible with the residential development project and existing or planned surrounding development.
  - c. Other regulatory incentives or concessions proposed by the applicant or the County that will result in identifiable, financially sufficient, and actual cost reductions, including those incentives listed in Section 22.24.020 (County Incentives for Affordable Housing), and based upon appropriate financial analysis and documentation as specified in Section 22.24.030.D (Application for density bonuses, incentives and concessions).
2. Nothing in this section requires the provision of direct financial incentives for the residential development project, including but not limited to the provision of financial subsidies, publicly owned land, fee waivers, or waiver of dedication requirements. The County at its sole discretion may choose to provide such direct financial incentives. Any such incentives may require payment of prevailing wages by the residential development project if required by State law.

3. The County, at its sole discretion, may provide incentives or concessions for a residential development project that is eligible for a density bonus pursuant to Section 22.24.030.A (Density bonuses; calculation of bonuses) but where the applicant does not request a density bonus, providing the following findings can be made:
  - a. The project is a deed-restricted housing development that is affordable to very low or low income persons, or is any residential development project developed pursuant to the Housing Overlay Designation policies included in the Countywide Plan.
  - b. The incentive or concession is in compliance with the California Environmental Quality Act and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.
4. Pursuant to Government Code Section 65915(p), an applicant for a residential development project that is eligible for a density bonus pursuant to Section 22.24.030.A may request that onsite vehicular parking ratios, inclusive of accessible and guest parking not exceed the following standards:
  - a. For zero to one bedroom dwelling units: 1 onsite parking space.
  - b. For two to three bedroom dwelling units: 2 onsite parking spaces.
  - c. For four or more bedroom dwelling units: 2.5 onsite parking spaces.
  - d. Onsite parking may include tandem and uncovered parking

If a development includes the maximum percentage of extremely low, low or very low income units provided for in Section 22.24.030(B) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resource Code, and there is unobstructed access to the major transit stop from the development, then upon the request of the developer, the vehicular parking ratio, inclusive of accessible and guest parking, shall not exceed 0.5 spaces per bedroom or the ratios set below, whichever are lower. For purposes of this paragraph, a development is considered to have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

If a development consists solely of rental units, exclusive of a manager's unit(s), with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, the number of required parking spaces, inclusive of accessible parking and guest parking, shall not exceed the following ratios:

- a. If the development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development: 0.5 spaces per unit.
- b. If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code: 0.5 spaces per unit, provided the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

- c. If the development is a special needs housing development, as defined in Section 51312 of the Health and Safety Code: the ratio shall not exceed 0.3 spaces per unit. The development must have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
- d. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

For purposes of this subsection, a development may provide on-site parking through tandem parking (provided that the parking spaces in tandem are for the same unit) or uncovered parking, but not through on-street parking.

- 5. An applicant for a residential development project that is eligible for a density bonus pursuant to Section 22.24.030.A and who requests a density bonus, incentives, or concessions may seek a waiver of development standards that have the effect of physically precluding the construction of the project with the density bonus or with the incentives or concessions permitted by this section.

**C. Standards for affordable housing units.** Affordable units that qualify a residential development project for a density bonus pursuant to this section shall conform to the provisions applicable to affordable housing units as established in Chapter 22.22.080.A through E (General Affordable Housing Standards), 22.22.110 (Decision and Findings), and 22.22.120 (Affordable Housing Post Approval), except:

- 1. Rental prices shall be determined pursuant to Health and Safety Code Section 50053 and Section 6922, Title 25, California Code of Regulations, and the units shall be affordable for at least 30 years.
- 2. Sales prices shall be determined pursuant to Health and Safety Code Section 50052.5 and Section 6924, Title 25, California Code of Regulations. Units affordable to very low and low income households shall be affordable for 30 years or as long as a period of time permitted by current law, and units affordable to moderate income households shall be affordable in perpetuity.

**D. Application for density bonus, incentives, and concessions.** Any request for a density bonus, incentive, concession, parking reduction, or waiver pursuant to Section 22.24.030 shall be included in the affordable housing plan submitted as part of the first approval of any residential development project and shall be processed, reviewed, and approved, conditionally approved, or denied concurrently with all other applications required for the project. The affordable housing plan shall include, for all affordable units that qualify a residential development project for a density bonus pursuant to this section, the information that is required for inclusionary units as specified in Section 22.22.030 (Application Filing). In addition, when requested by staff, the affordable housing plan shall include the following information:

- 1. A description of any requested density bonus, incentive, concession, waiver of development standards, or modified parking standard.
- 2. Identification of the base project without the density bonus, number and location of all affordable units qualifying the project for a density bonus, and identification of the density bonus units.

3. A pro forma demonstrating that any requested incentives and concessions result in identifiable, financially sufficient, and actual cost reductions, unless the request for incentives and concessions is submitted pursuant to Section 22.24.030.B.3 (Incentives and concessions). The pro forma shall include: (a) the actual cost reduction achieved through the incentive or concession; and (b) evidence that the cost reduction allows the developer to provide affordable rents or affordable sales prices.
4. For waivers of development standards: evidence that the development standards for which the waivers are requested would have the effect of physically precluding the construction of the residential development project at the density or with the incentives or concessions requested.
5. The County may require that any pro forma submitted pursuant to Section 22.24.030.D.3 include information regarding capital costs, equity investment, debt service, projected revenues, operating expenses, and such other information as is required to evaluate the pro forma. The cost of reviewing any required pro forma data, including but not limited to the cost to the County of hiring a consultant to review the pro forma, shall be borne by the applicant.
6. If a density bonus is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings in Government Code Section 65915(h) can be made.
7. If a density bonus or concession is requested for a child care facility, the application shall provide evidence that the findings in Government Code Section 65915(i) can be made.
8. If a request for a density bonus, incentive, concession, parking reduction, or waiver is submitted after the first approval of any residential development project, an amendment to earlier approvals may be required if the requested density bonus, incentive, concession, parking reduction, or waiver would modify either the earlier approvals or the environmental review completed pursuant to the California Environmental Quality Act.

**E. Review of application.** Any request for a density bonus, incentive, concession, parking reduction, or waiver pursuant to this Section 22.24.030 shall be submitted as part of the first approval of any residential development project and shall be processed, reviewed, and approved or denied concurrently with the discretionary applications required for the project.

1. Before approving a request for a density bonus, incentive, concession, parking reduction, or waiver, the review authority shall make the following findings, as applicable:
  - a. The residential development project is eligible for a density bonus and any concessions, incentives, waivers, or parking reductions requested; conforms to all standards for affordability included in this chapter; and includes a financing mechanism for all implementation and monitoring costs.
  - b. Any requested incentive or concession will result in identifiable, financially sufficient, and actual cost reductions based upon appropriate financial analysis and documentation if required by Section 22.24.030.D unless the incentive or concession is provided pursuant to Section 22.24.030.B.3.
  - c. If the density bonus is based all or in part on dedication of land, all of the findings included in Government Code Section 65915(h) can be made.



- d. If the density bonus, incentive, or concession is based all or in part on the inclusion of a child care facility, all of the findings included in Government Code Section 65915(i) can be made.
  - e. If the incentive or concession includes mixed uses, all of the findings included in Government Code Section 65915(k)(2) can be made.
  - f. If a waiver is requested, the waiver is necessary because the development standards would have the effect of physically precluding the construction of the residential development project at the densities or with the incentives or concessions permitted by this Section 22.24.030.
2. The review authority may deny a request for an incentive or concession for which the findings set forth in Section 22.24.030.E.1 (Review of application) above can be made only if it makes a written finding, based upon substantial evidence, of one of the following:
    - a. The incentive or concession is not required to provide for affordable rents or affordable ownership costs; or
    - b. The incentive or concession would have a specific adverse impact upon public health or safety, or the physical environment, or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low, very low and moderate income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions, as they existed on the date that the application was deemed complete; or
    - c. The incentive or concession would be contrary to State or federal law.
  3. The review authority may deny a request for a waiver for which the findings set forth in Section 22.24.030.E.1 above can be made only if it makes a written finding, based upon substantial evidence, of one of the following:
    - a. The modification would have a specific adverse impact upon health, safety, or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low, very low and moderate income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete; or
    - b. The modification would have an adverse impact on any real property that is listed in the California Register of Historic Resources; or
    - c. The incentive or concession would be contrary to State or federal law.

4. The review authority may deny a density bonus, incentive, or concession that is based on the provision of child care facilities and for which the required findings can be made only if it makes a written finding, based on substantial evidence, that the County already has adequate child care facilities.

## **CHAPTER 22.28 – SIGNS**

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### **Sections:**

- 22.28.010 – Purpose of Chapter
- 22.28.020 – Applicability
- 22.28.030 – General Restrictions for All Signs
- 22.28.040 – General Standards for Permanent Sign By Use
- 22.28.050 – Standards for Specific Sign Types
- 22.28.060 – Temporary Sign Standards

### **22.28.010 – Purpose of Chapter**

The purpose of this Chapter is to promote the public health, safety, and welfare of the County through a comprehensive system of reasonable, effective, consistent, content-neutral, and nondiscriminatory sign/display standards and requirements to:

- A. Promote and accomplish the goals, policies, and objectives of the General Plan;
- B. Balance public and private objectives by allowing adequate avenues for both commercial and non-commercial messages;
- C. Recognize free speech rights by regulating signs in a content-neutral manner;
- D. Improve pedestrian and traffic safety by promoting the free flow of traffic and the protection of pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting, and/or illegible signage;
- E. Enhance and improve properties and neighborhoods by encouraging signs which are compatible with and complementary to related structures and uses and harmonious with their surroundings;
- F. Prevent property damage, personal injury, and litter caused by signs that are improperly constructed or poorly maintained;
- G. Allow signs to serve as an effective channel of communication through flexible standards applicable in certain circumstances; and
- H. Provide clear and unambiguous sign standards that enable fair and consistent enforcement.

### **22.28.020 – Applicability**

- A. **Applicability.**
  1. This Chapter applies to all signs within the County unless specifically exempted.
  2. Nothing in this Chapter shall be construed to prohibit a person from holding a sign while picketing or protesting on public property that has been determined to be a traditional or designated public forum, so long as the person holding the sign does not block ingress

and egress from buildings, create a safety hazard by impeding travel on sidewalks, in bike or vehicle lanes, or on trails, or violate any other reasonable time, place, and manner restrictions adopted by the County.

3. The provisions of this Chapter shall not require alteration of the display of any registered mark, or any trademark, service mark, trade name, or corporate name that may be associated with or incorporated into a registered mark, where such alteration would require the registered mark to be displayed in a manner differing from the mark as exhibited in the certificate of registration issued by the United States Patent and Trademark Office. It is the responsibility of the applicant to establish that a proposed sign includes a registered mark.
4. Permanent signs shall be constructed, installed, or altered, only with the approval of a Sign Permit or Sign Review, and in compliance with all applicable provisions of this Chapter and Chapter 22.60. Signs that are exempt from the provisions of this Chapter are described in Section 22.60.020.B (Permits for Signs-Exemptions). Prohibited signs are described in Subsection 22.28.030.B (Prohibited Signs).

#### **B. Interpretations.**

1. This Chapter is not intended to and does not restrict speech on the basis of its content, viewpoint, or message. No part of this Chapter shall be construed to favor commercial speech over non-commercial speech. A non-commercial message may be substituted for any commercial message displayed on a sign, or the content of any non-commercial message displayed on a sign may be changed to a different non-commercial message, without the need for any approval or permit, provided that the size of the sign is not altered. To the extent any provision of this Chapter is ambiguous, the term shall be interpreted not to regulate on the basis of the content of the message.
2. Where a particular type of sign is proposed in a permit application, and the type is not expressly allowed, restricted, or prohibited by this Chapter, the Director shall approve, conditionally approve, or deny the application based on the most similar sign type that is expressly regulated by this Chapter.

### **22.28.030 – General Restrictions for All Signs**

Signs shall only be erected, placed, constructed, altered, maintained, or otherwise located in compliance with the permit requirements or exemptions of Chapter 22.60 (Permits for Signs).

#### **A. Location restrictions.** Signs may not be placed in the following locations, except where specifically authorized:

1. Within, on, or projecting over County right-of-way;
2. On public property;
3. Any location that obstructs the view of any authorized traffic sign, signal, or other traffic control device;

4. Signs tacked, painted, burned, cut, pasted, or otherwise affixed to cliffs, hillsides, trees, light and utility poles, posts, fences, ladders, or similar supports that are visible from the public right-of-way;
5. Any sign mounted, attached, or painted on a trailer, boat, or motor vehicle parked to provide advertising visible from the public right-of-way or parked on public property to clearly provide advertising close to the public right-of-way;
6. Signs constructed or placed in such a manner as to prevent or interfere with free ingress to or egress from any door, window, or any exit way required by the Building Code or Fire Department standards;
7. Any location that impairs pedestrian and vehicular safety;
8. Signs constructed or placed in such a way as to be confused with any authorized traffic signal or device; and
9. Roof signs.

**B. Prohibited signs.** The following signs are prohibited:

1. Digital displays that can distract drivers;
2. Billboards;
3. Signs advertising a use no longer in operation;
4. Feather signs;
5. Signs in storage or in the process of assemblage or repair, that are located outside of a premise other than that advertised on the sign, and are visible from a public right-of-way; and
6. Stuffed or inflated animals or characters used as signs.

**C. Display restrictions.** Signs with the following display features are prohibited:

1. Lighting devices with intermittent, flashing, blinking, or varying intensity or light or color, including animation or motion picture, or any lighting effects creating the illusion of motion, as well as laser or hologram lights unless explicitly allowed by this Chapter (e.g., electronic message center signs);
2. Sound, odor, or smoke;
3. Sign with reflective material;
4. Banners, pennants, streamers except in conjunction with an athletic event, carnival, circus, fair, or during the first 30 days of occupancy of a new structure or operation of a new business in compliance with Section 22.28.060 (Temporary Sign Standards);

5. Signs, other than clocks or meteorological devices, having moving parts or parts so devised that the sign appears to move or to be animated. Barber poles no larger than three feet high and 10 inches in diameter are excepted from this restriction;
6. Any changeable copy LED signs, except fixed illumination display signs used to indicate that a business is “open”, display prices, or to confirm an order placed in a drive through lane; and
7. Strings of lights arranged in the shape of a product, arrow, or any commercial message.

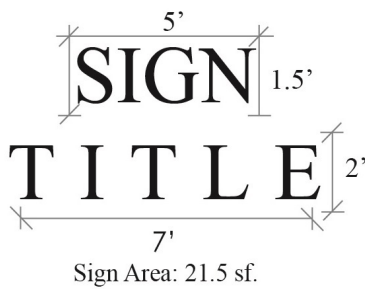
**D. Utility clearance.** The owner of any sign shall maintain legal clearance from communications and electrical facilities. No sign shall be constructed, erected, installed, maintained or repaired in any manner that conflicts with any rule, regulation or order of the California Public Utilities Commission pertaining to the construction, operation and maintenance of public utility facilities.

**E. Sign message.** Any permitted sign may contain, in lieu of any other message or copy, any lawful non-commercial message, so long as the sign complies with the size, height, area, location, and other requirements of this Chapter.

**F. Sign measurement criteria.** Sign area and sign height are measured as follows:

1. **Sign area measurement.** The surface area of a sign shall be measured as the limits of the message, background, and any frame or outline that does not include any materials used exclusively for structural support. Where a sign message has no background material or where the background is an undifferentiated wall, the area shall be measured as the smallest rectangular shape that encompasses the total message. The area of a conic, cylindrical, spherical or multi-faced sign shall be its maximum projection onto a vertical plane (e.g., for a two-faced sign, only one side shall be measured).

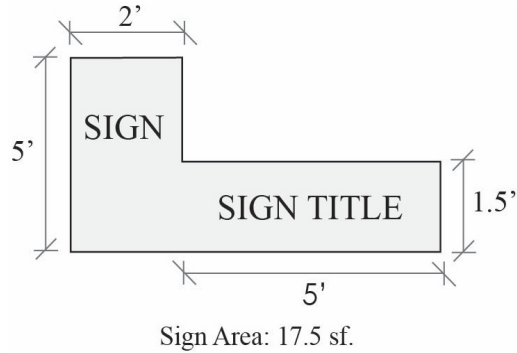
**FIGURE 3-11**



**FIGURE 3-12**



**FIGURE 3-13**



2. **Sign height measurement.** Sign height is measured as follows:

a. **Building mounted signs**

- i) For all single-family residential, duplex and multi-family residential uses and mobile home parks, the height of building mounted signs is measured as the vertical distance from the grade below the sign to the top of the highest element of the sign.
- ii) Freestanding signs. The height of a freestanding sign is measured as the vertical distance from grade to an imaginary plane located the allowed number of feet above and parallel to the grade to the top of the highest element of the sign.

**FIGURE 3-14**

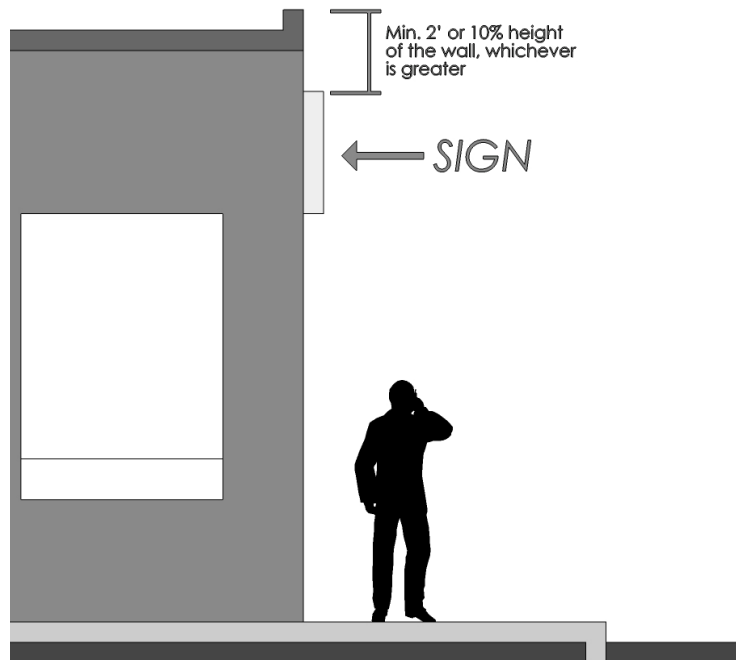


FIGURE 3-15

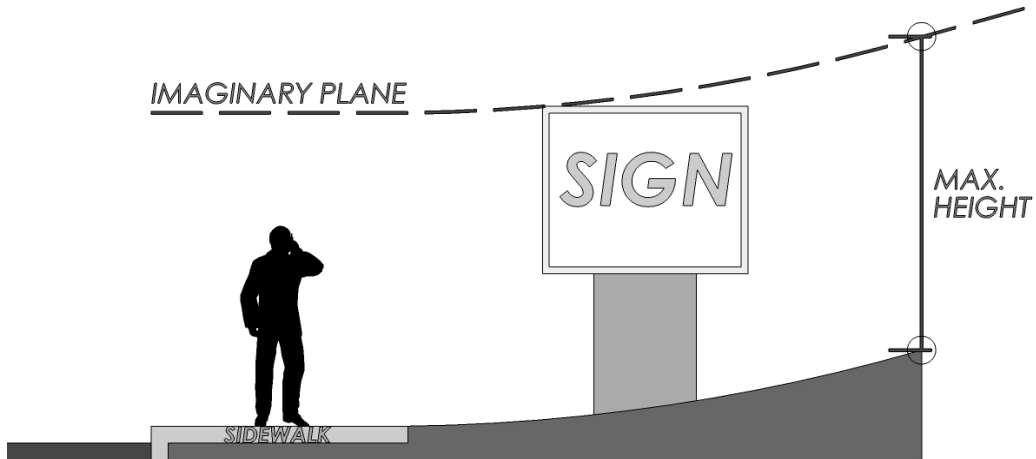
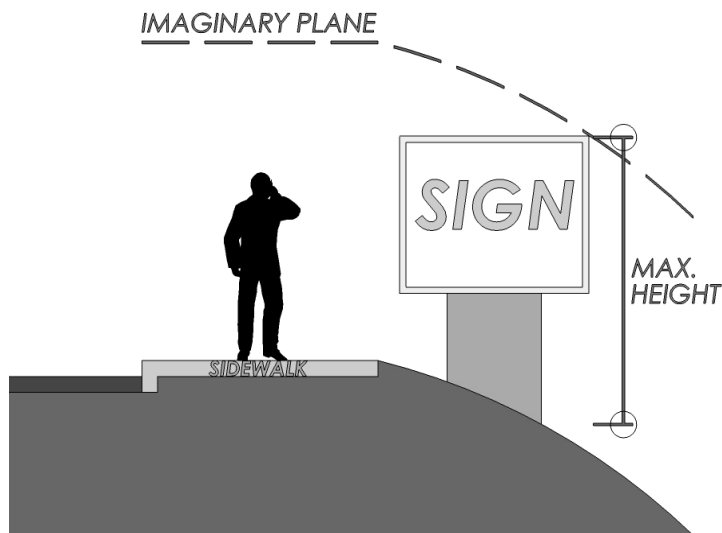


FIGURE 3-16



- G. Sign placement at intersection.** Freestanding signs shall not obstruct sight distance as established by the County Code (Chapter 13.18) and Section 22.20.050.A.2 (Fencing and Screening Standards - Corner lots).
- H. Sign illumination.** Sign illumination must be designed to minimize light and glare on surrounding rights-of-way and properties according to the following standards:
1. Sign illumination must be limited to avoid light projection or reflection into residential zones;
  2. Sign illuminations must not blink, flash, flutter, or change light intensity, brightness, or color unless consistent with standards for electronic message center signs;



3. Neither the direct nor reflected light from primary light sources may create hazards for pedestrians or operators of motor vehicles;
4. Internally illuminated signs shall meet the night-time brightness standards for electronic message center signs. Externally illuminated signs must be illuminated only with steady and stationary light sources directed solely onto the sign without causing glare.
5. Electronic message center signs
  - a. Electronic message center signs must not flash, blink, flutter, include intermittent or chasing lights, or display video messages (i.e., any illumination or message that is in motion or appears to be in motion). Electronic messages signs may display changing messages provided that each message is displayed for no less than four seconds.
  - b. One electronic message center sign may be allowed per property.
  - c. Night-time brightness.
    - i) Night-time brightness must be measured with an illuminance meter set to measure foot candles accurate to at least two decimals. Illuminance must be measured with the electronic message off, and again with the electronic message displaying a white image for a full color-capable electronic message or a solid message for a single-color electronic message.
    - ii) All measurements must be taken perpendicular to the face of the electronic message at the following distance:
 
$$\text{Measurement Distance} = \sqrt{\text{Area of Sign Sq. Ft.} \times 100}$$
    - iii) The difference between the off and solid message measurements shall not exceed 0.3 foot candles at night.
  - d. Electronic message center signs must be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions (e.g., photocell technology), or that can be adjusted to comply with the 0.3-foot candle requirement.

### **22.28.040 – General Standards for Permanent Signs By Use**

Permanent signs shall comply with the sign area, height, number, type, and other requirements of this Section.

#### **A. Single Family Residential or Duplex (including home occupations and bed and breakfasts):**

- Maximum number of signs - one
- Maximum area- four square feet
- Maximum Height- six feet above grade

#### **B. Multi-family Residential Developments/Subdivisions/Mobile Home Parks**

- Maximum number of signs - one
- Maximum area- 6 square feet

Maximum Height- 10 feet above grade

**C. Agricultural Uses:**

Maximum number of signs - one

Maximum area- 12 square feet

Maximum Height- A minimum distance from the top of the wall or parapet of two feet or 10% of the height of the wall, whichever is greater

**D. Institutional or Civic Uses:**

Maximum number of signs - two

Maximum area- 24 square feet

Maximum Height- A minimum distance from the top of the wall or parapet of two feet or 10% of the height of the wall, whichever is greater

**E. Commercial or Industrial Uses:**

Maximum number of signs - two

Maximum area -

- Ground floor: One square foot per one linear foot of wall to which the sign is mounted, to a maximum of 50 square feet
- Upper floor: 24 square feet

Maximum Height - A minimum distance from the top of the wall or parapet of two feet or 10% of the height of the wall, whichever is greater

**F. Outdoor Uses, including Outdoor Commercial Recreation, Outdoor Retail Sales and Activities, and Temporary Outdoor Retail Sales:**

Maximum number of signs - one

Maximum area - 0.5 square feet per one linear foot of distance of the property line that the sign faces most directly, up to a maximum of 50 square feet

Maximum Height - A minimum distance from the top of the wall or parapet of two feet or 10% of the height of the wall, whichever is greater

**22.28.050 – Standards for Specific Sign Types**

All signs shall comply with the standards established in Table 3-6 (Standards for Specific Sign Types). Each sign type listed in this Section shall be included in the calculation of the total sign area for signs allowed on a development site by this Section. Each sign shall also comply with the sign area, height, and other requirements of 22.28.040 (General Standards for Permanent Signs by Use), and all other applicable provisions of this Chapter. Any non-commercial message may be substituted for the sign copy on any commercial sign allowed by this Chapter.

**TABLE 3-6  
STANDARDS FOR SPECIFIC SIGN TYPES**

Sign Type	Maximum Number	Maximum Area	Maximum Height	Included in maximum number and area of signs?	Permit Required?	Additional Requirements
Awning Sign	n/a	1 sf/1 linear foot of awning width	See 22.28.050.A.1	Yes	Yes	22.28.050.A.1
Canopy Sign	n/a	1 sf/1 linear foot of canopy width	See 22.28.050.A.2	Yes	Yes	22.28.050.A.2
Changeable Copy Sign	n/a	See 22.28.050.A.3		Yes	Yes	22.28.050.A.3
Directory Sign	1/bldg. entrance	20 sf	See 22.28.050.A.4	No <sup>1</sup>	Yes	22.28.050.A.4
Freestanding Sign	See Table 3-7			Yes	Yes	22.28.050.A.5
Projecting Sign	1/bldg. entrance	12 sf	See 22.28.050.A.6	Yes	Yes	22.28.050.A.6
Suspended Sign	1/bldg. entrance	8 sf	See 22.28.050.A.7	Yes	Yes	22.28.050.A.7
Wall Sign	See Table 3-7			Yes	Yes	22.28.050.A.8
Window Sign	n/a	50% of window area <sup>2</sup>	See 22.28.050.A.9	No	No	22.28.050.A.9

**End Notes:**

<sup>1</sup> Only if not visible from the public right-of-way. If the sign is visible from the public right-of-way, it must be considered a freestanding or building mounted sign and will be included in the limitations for maximum number of signs and sign area.

<sup>2</sup> Maximum window sign area includes both permanent and temporary window signs.

A. **Supplemental standards by sign type.** In addition to the standards in 22.28.040 (General Standards for Permanent Signs by Use), signs must comply with the following supplemental

standards applicable to the specific sign type. Each sign must also comply with the requirements of Section 22.28.030 (General Restrictions for All Signs) and all other applicable provisions of this Chapter.

1. **Awning sign.** The following standards apply to awning signs (Figure 3-17), in addition to the standards in Table 3-6 (Standards for Specific Sign Types).

- a. **Mounting Height.**

- (1) Maximum 25 feet on ground floor awnings; and
- (2) Minimum eight feet from the bottom of the awning to the nearest grade or sidewalk.

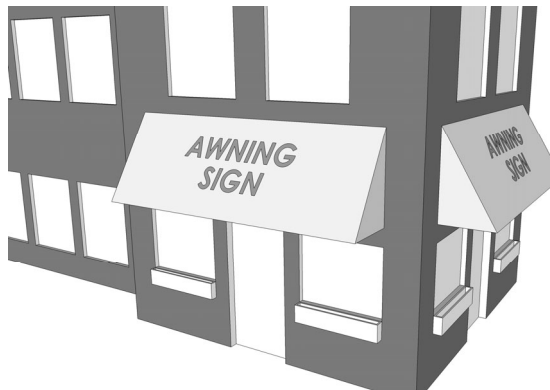
- b. **Sign Placement.**

- (1) Only above the doors and windows of the ground floor of a building;
- (2) An awning shall not project above, below or beyond the edges of the face of the building wall or architectural element on which it is located;
- (3) Displayed only on the vertical surface of an awning; and
- (4) Sign width shall not be greater than 60% of the width of the awning face or valence on which it is displayed.

- c. **Setback from Back of Curb.** Minimum 18 inches.

- d. **Illumination.** Not permitted.

**FIGURE 3-17**



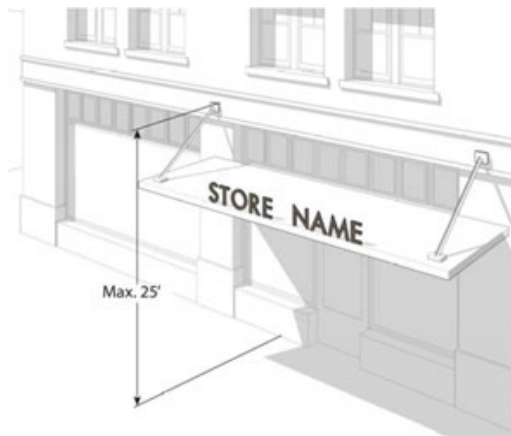
2. **Canopy sign.** The following standards apply to canopy signs (Figure 3-18), in addition to the standards in Table 3-6 (Standards for Specific Sign Types).

- a. **Mounting height.**

- (1) Maximum 25 feet on ground floor canopies (see Figure 3-18);

- (2) Minimum eight feet from the bottom of the canopy to the nearest grade or sidewalk.
- b. **Sign placement.**
- (1) Only above the doors and windows of the ground floor of a building;
  - (2) A canopy shall not project beyond the edges of the face of the building wall or architectural element on which it is located; and
  - (3) Shall not extend horizontally a distance greater than 60% of the width of the canopy on which it is displayed.
- c. **Setback from back of curb.** Minimum 18 inches
- d. **Illumination.** Internal illumination allowable only in commercial zoning districts. Internal illumination only for the letters or logos mounted on a canopy. May also be non-illuminated.

FIGURE 3-18



3. **Changeable copy sign.** The following standards apply to changeable copy signs, including non-flashing electronic message center signs, (Figure 3-19), in addition to the standards in Table 3-6 (Standards for Specific Sign Types):
  - a. For a non-commercial use, up to 50 percent but not exceeding 50 square feet of the allowed sign area may be used for changeable copy;
  - b. For a multi-commercial use, over 50 percent but not exceeding 100 square feet of the allowed sign area may be used for changeable copy; and
  - c. **Illumination.** Internal illumination allowable only in commercial zoning districts. Illumination permitted in accordance with Section 22.28.030.H (Sign Illumination). May also be non-illuminated.

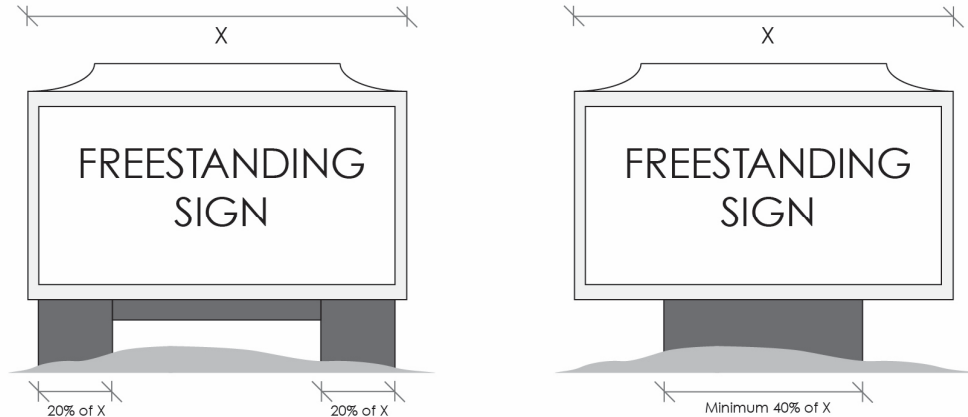
**FIGURE 3-19**

3. **Directory signs.** The following standards apply to directory signs (Figure 3-20), in addition to the standards in Table 3-6 (Standards for Specific Sign Types).
  - a. **Maximum sign height.**
    - (1) Ground mounted directory signs must not exceed six feet;
    - (2) Structure mounted directory signs must not exceed six feet from the bottom of the sign to the top of the sign, with the top of the sign no more than 12 feet above ground level; and
    - (3) Ground mounted directory signs must comply with the standards for freestanding signs in Subsection 22.28.050.A.5 (Freestanding signs).
  - b. **Illumination.** Internal illumination allowable only in commercial zoning districts. Illumination permitted in accordance with Section 22.28.030.H (Sign Illumination)

**FIGURE 3-20**

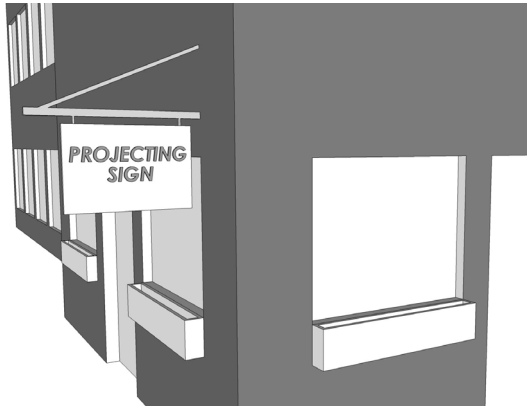
5. **Freestanding signs.** The following standards apply to freestanding signs (Figure 3-21), in addition to the standards in Table 3-6 (Standards for Specific Sign Types).
  - a. **Setback.** Minimum one foot from a property line in non-residential zones, and a minimum of five feet from a property line in residential zones.

- b. **Landscaping.** Freestanding signs must be surrounded by minimum of 70 square feet of landscaping.
- c. **Illumination.** Internal illumination allowable only in commercial zoning districts. Permitted in accordance with Section 22.28.030.H (Sign Illumination).
- d. **Base width.** Freestanding signs larger than four square feet or taller than three feet must include a sign base with an aggregate width of at least 40% of the width of the sign face. See Figure 3-21.
- e. **Separation.** Multiple freestanding signs should be separated by a minimum of 60 feet to ensure adequate visibility for all signs. The Director may modify this requirement where the locations of existing signs on adjacent properties would make the 60-foot separation impractical.

**FIGURE 3-21**

- 6. **Projecting signs.** The following standards apply to projecting signs (Figure 3-22), in addition to the standards in Table 3-6 (Standards for Specific Sign Types).
  - a. **Vertical clearance.** Minimum eight feet from bottom of the sign to finished grade below.
  - b. **Projection into public right-of-way.** Signs must not encroach into the County right-of-way and must not encroach into State right-of-way unless authorized by the State.
  - c. **Maximum sign height.** Top of sign maximum 14 feet above finish grade below.
    - (1) Projecting signs must not extend more than six feet from a structure wall;
    - (2) Projecting signs must be double-sided.
  - d. **Illumination.** Internal illumination allowable only in commercial zoning districts. Permitted in accordance with Section 22.28.030.H (Sign Illumination).

FIGURE 3-22



7. **Suspended signs.** The following standards apply to suspended signs (Figure 3-23), in addition to the standards in Table 3-6 (Standards for Specific Sign Types).
  - a. **Vertical clearance.** Minimum eight feet from bottom of the sign to finished grade below.
  - b. Limited to ground level businesses only.
  - c. **Illumination.** Internal illumination allowable only in commercial zoning districts. Permitted in accordance with Section 22.28.030.H (Sign Illumination).

FIGURE 3-23

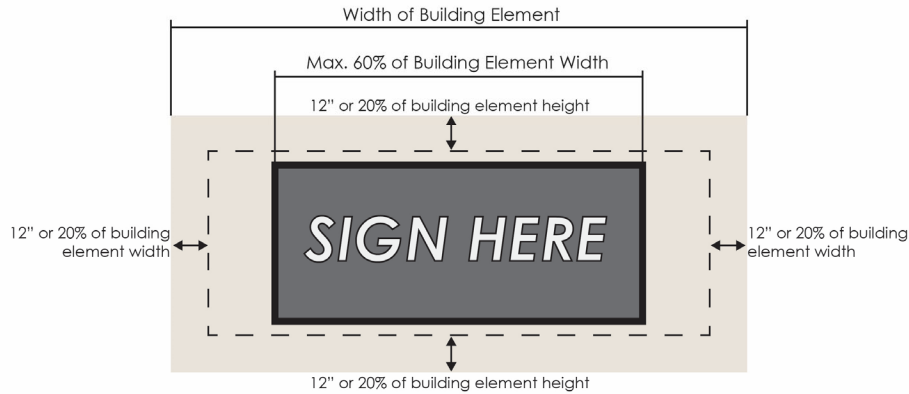


8. **Wall Signs.** The following standards apply to wall signs (Figure 3-25), in addition to the standards in Tables 3-7 (Standards for All Temporary Signs On Private Property) and 3-6 (Standards for Specific Sign Types).
  - a. **Sign placement.** The total sign area for wall signs on single-tenant or multi-tenant buildings may be placed on any building elevation, except:
    - i) No sign shall face an adjoining residential zone;
    - ii) Signs shall be placed the lesser of 12 inches or 20% of the width and height of the building element on which they are mounted (See Figure 3-24);



- iii) The width of the sign shall not be greater than 60% of the width of the building element on which it is displayed; and
- iv) Individual tenants in multi-tenant buildings are permitted building mounted signs only on the primary entrance elevation of the space occupied by the business.

**FIGURE 3-24**

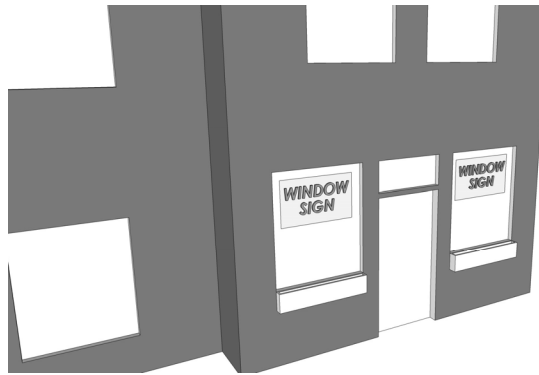


- b. **Projection.** A wall sign must not project more than 12 inches from the surface to which it is attached.
- c. **Illumination.** Internal illumination allowable only in commercial zoning districts. Permitted in accordance with Section 22.28.030.H (Sign Illumination).

**FIGURE 3-25**



- 9. **Window signs.** The following standards apply to window signs (Figure 3-26), in addition to the standards in Table 3-6 (Standards for Specific Sign Types).
  - a. **Location.** Window signs are only allowed on first story windows.
  - b. **Other standards.** Temporary signs placed in a window also count toward maximum allowable window sign area.

**FIGURE 3-26**

### 22.28.060 – Temporary Sign Standards

- A. Purpose.** The proliferation of temporary signs can be a distraction to the traveling public and creates aesthetic blight and litter that threatens the public health, safety, and welfare. The purpose of these regulations is to ensure that temporary signs do not create a distraction to the traveling public by eliminating the aesthetic blight and litter caused by temporary signs.
- B. General to all.** All temporary signs must comply with the following:
1. Wall banners shall not be displayed for more than 30 days per year and other authorized temporary signs shall not be displayed for more than 100 days per year without Temporary Sign Permit approval;
  2. Temporary signs must not be placed on or affixed to any County property, including County rights-of-way, except as specifically authorized in connection with a special event permitted in the County; and
  3. Temporary signs shall not be placed in the clear view zone at street intersections (Section 22.20.050.A.2) or driveways (refer to Chapter 13.18 (Visibility Obstructions) of the County Code).
- C. Standards for temporary signs.** Temporary signs placed on private property are allowed in all zoning districts in compliance with the following standards:
1. **Time, place, and manner restrictions for temporary signs on private property.** Temporary signs on private property shall comply with the standards provided in Table 3-7 (Standards for All Temporary Signs on Private Property).

**TABLE 3-7  
STANDARDS FOR ALL TEMPORARY SIGNS ON PRIVATE PROPERTY**

<b>Standards Applicable to All Zones</b>	
Placement	Shall not create a hazard for pedestrian or vehicular traffic. Shall not be placed on a sidewalk or pedestrian pathway.
Height and width	Refer to Table 3-8 for height and width standards for individual temporary signs.
Prohibited elements	Any form of illumination, including flashing, blinking, or rotating lights. Animation. Reflective materials. Attachments, including, but not limited to, any balloons, ribbons, loudspeakers, etc.
Design and construction	Must be professionally crafted and of sufficient weight and durability to withstand wind gusts, storms, etc.
Permitting	Refer to Section 22.60.060.A (Temporary Sign Permit Procedures).
<b>Commercial, Industrial, and Other Non-Residential Zones</b>	
Period of use	Refer to Section 22.60.060.B (Duration of Temporary Sign Permit).
Area of all temporary signs at any one time	Max. 24 sq. ft. per business; excludes the area of temporary window signs and wall banner signs.
Number of Signs	Unlimited except that the total sign area of all temporary signs not exceed 24 sq. ft. per business.
<b>All Residential Zones</b>	
Period of use	No limitation.
Area of all temporary signs at any one time	Max. 16 sq. ft. per lot.
Number of Signs	Unlimited except that the total sign area of all temporary signs shall not exceed 16 sq. ft.

2. **Types of Temporary Signs.** Temporary signs shall comply with the standards provided in Table 3-8 (Standards for Specific Temporary Sign Types).

**TABLE 3-8  
STANDARDS FOR SPECIFIC TEMPORARY SIGN TYPES**

Temporary Sign Type <sup>1</sup>	Standard			Other Requirements
	Height (Max.)	Width (Max.)	Area (Max.)	
A-Frame Sign	4 feet above grade	3 feet	6 sq. ft. on each side	Only permitted in non-residential zones.
Yard Sign	6 feet above grade	--	6 sq. ft.	Installed securely in the ground.
Wall Banner	Mounting height – max. 25 feet to the top of the wall banner.		24 sq. ft.	Not included in the total sign area for all temporary signs. May only be mounted on a building wall. Only one banner sign is allowed per property at any one time.
Window Sign	--	--	The area of temporary and permanent window signs combined shall not exceed 50% of the area of the window on or within which they are displayed.	Placed no higher than 1st story windows. Inside mounting required. Not included in the total sign area for all temporary signs.
Number of Signs	Subject to Table 3-6 except for banner signs			

**End Notes:**

- <sup>1</sup> Other temporary sign types may be allowed (e.g. fuel pump topper signs or wraps around waste receptacles) provided the max area limitation for all temporary signs is not exceeded.

## 22.32.050 – Child Day-Care Facilities

This Section establishes standards for the County review of child day-care facilities, in conformance with State law (Health and Safety Code Section 1596.78), including the limitations on the County's authority to regulate these facilities.

These standards apply in addition to all other applicable provisions of this Development Code and any requirements imposed by the California Department of Social Services through its facility licensing procedures. Licensing by the Department of Social Services is required for all child day-care facilities.

- A. Applicability.** Where allowed by Article II (Zoning Districts and Allowable Land Uses) child day-care facilities shall comply with the standards of this Section. As provided by State law (Health and Safety Code Sections 1596.78, et seq.), small and large family day-care homes are allowed within any single-family residence located in an agricultural or residential zoning district. Child day-care centers are allowed in the zoning districts determined by Article II (Zoning Districts and Allowable Land Uses), subject to Use Permit approval, in compliance with Chapter 22.48 (Conditional Use Permits), and all of the standards in Subsection D, below.

These standards apply in addition to all other applicable provisions of this Development Code and any requirements imposed by the California Department of Social Services. Licensing by the Department of Social Services is required for all child day-care facilities. A California Department of Social Services license for a child day-care facility shall be obtained and evidence of the license shall be presented to the Agency prior to establishing any child day-care facility.

- B. Definitions.** Definitions of the child day-care facilities regulated by this Section are in Article VIII (Development Code Definitions) under “Child Day-Care Facilities”.

**C. Large family day-care homes.**

- 1. Permit requirement.** A large family day-care home shall require the approval of a Large Family Day-care Permit by the Director.
- 2. Standards for large family day-care homes.** As allowed by Health and Safety Code Sections 1597.46 et seq., a large family day-care home shall be approved if it complies with the criteria for Large Family Day-care Permit in Chapter 22.58 of this Development Code.

**D. Child day-care centers.**

- 1. Permit requirement.** A child day-care center shall require approval of a Use Permit in compliance with Chapter 22.48 (Conditional Use Permits).
- 2. Standards for child day-care centers.** The following standards apply to child day-care centers in addition to the standards in Subsection 22.32.050.C.2.
  - a. Fencing.** A six-foot high fence or wall shall be constructed on all property lines or around the outdoor activity areas, except in the front yard or within a traffic safety visibility area. All fences or walls shall provide for safety with controlled points of entry in compliance with 22.20.050 (Fencing and Screening Standards).

- b. Outdoor lighting.** On-site exterior lighting shall be allowed for safety purposes only, shall consist of low wattage fixtures, and shall be directed downward and shielded, subject to the approval of the Director.
  
- c. Swimming pools/spas prohibited.** No swimming pool/spa shall be installed on the site after establishment of the child day-care center, due to the high risk and human safety considerations. Any pool/spa existing on the site prior to application for approval of a child day-care center shall be removed prior to establishment of the use, unless the Director determines that adequate, secure separation exists between the pool/spa and the facilities used by the children.

## 22.32.120 – Residential Accessory Dwelling Units

**A. Purpose.** This Section is intended to accomplish the following:

1. Meet the County's projected housing needs and provide diverse housing opportunities;
2. Provide needed income for homeowners;
3. Provide accessory dwelling units which are safe and built to code;
4. Provide accessory dwelling units which are compatible with the neighborhood and the environment; and
5. Comply with provisions of State law, including those contained in Section 65852.2 of the California Government Code.

**B. Applicability.** The provisions of this Section shall apply to residential accessory dwelling units and junior accessory dwelling units.

**C. Exemptions.**

1. Within a single family residential zone, an application for a building permit to create one accessory dwelling unit per single-family residential lot is exempt from the standards of this section if the following applies: (1) the unit is entirely contained within a legal single-family residence that was in existence as of January 1, 2017 or a legal residential accessory structure that was in existence as of January 1, 2017; (2) the unit has independent exterior access from the existing residence, and; (3) the side and rear setbacks are sufficient for fire safety. This exemption does not apply if a property owner is developing a new residence on a property and seeking to convert the existing residence on that property to an Accessory Dwelling Unit.
2. A junior accessory dwelling unit is exempt. A property owner may voluntarily have a living space recognized as a junior accessory dwelling unit if it meets all of the following eligibility criteria:
  - A. The unit shall be no more than 500 square feet in size and contained entirely within a single-family structure.
  - B. The unit shall have a wetbar but shall not have a kitchen.
  - C. The unit shall have a separate entrance from the main entrance to the building, with an interior entry to the main living area. The unit may include a second interior doorway for sound attenuation.
  - D. The unit shall be the only junior accessory dwelling unit on the property.
  - E. The property shall be owner occupied, except that owner occupancy is not required if the owner is a government agency, land trust, or housing organization.
  - F. The property owner has recorded a deed restriction, which shall run with the land, that stipulates the following:

- A prohibition on the sale of the unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.
- A restriction on the size and attributes of the unit that conforms to this section.

A copy of the recorded deed restriction must be provided to the agency.

- D. Design Characteristics.** A residential accessory dwelling unit shall be designed and constructed in conformance with the criteria listed below:
1. An accessory dwelling unit shall be built as a permanent residence with a kitchen as well as both a separate bathroom and separate entrance intended for the use of the occupants.
  2. The maximum floor area of an accessory dwelling unit shall not exceed 1,200 square feet.
  3. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
  4. Requirements for utility hookups and fire sprinklers shall comply with California Government Code Section 65852.2.
- E. Parking criteria.** Accessory Dwelling Units are subject to the parking requirements of the Department of Public Works.
- F. Setbacks.** No setbacks shall be required to convert a legal garage into an accessory dwelling unit. In addition, setbacks of no more than five feet in the rear and side yards shall be required for an accessory dwelling unit that is constructed above a garage.
- G. Building and Septic Code.** The accessory dwelling unit shall meet all applicable building and septic codes adopted by the County.
- H. Density.** The accessory dwelling unit shall be the only additional accessory dwelling unit on the lot. However, a property owner may have both one accessory dwelling unit and one junior accessory dwelling unit on a single lot. Accessory dwelling units and junior accessory dwelling units are accessory uses and do not count towards the allowable density for the lot upon which the accessory dwelling unit is located.
- I. Limitation on sale.** An accessory dwelling unit may be rented but shall not be sold separately from the single-family unit.
- J. Accessory Dwelling Unit Permitting Procedure.** Applications for Accessory Dwelling Unit Permits shall be approved ministerially without discretionary review or public hearing, pursuant to the Accessory Dwelling Unit Permit requirements established in Chapter 22.56 (Accessory Dwelling Unit Permits).
- K. Recordation of Residential Accessory Dwelling Unit Permits.** Any Residential Accessory Dwelling Unit Permit granted in compliance with this Section may be recorded in the County Recorder's Office as an informational document in reference to the title of the subject property.
- L. Periodic report.** The Agency shall periodically prepare a report to the Commission and Board on the status of this Section. The report shall include information about the number, size, type, and rent,



as available, of each accessory dwelling unit by neighborhood. The report shall provide a basis for an evaluation of the effectiveness of this Section.

## **CHAPTER 22.34 – TRANSFER OF DEVELOPMENT RIGHTS**

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### **Sections:**

- 22.34.010 – Purpose of Chapter
- 22.34.020 – Applicability of TDR Provisions
- 22.34.030 – TDR Process
- 22.34.040 – TDR Development Design

### **22.34.010 – Purpose of Chapter**

This Chapter provides for a transfer of development rights (TDR) process that can allow the relocation of potential development from areas where environmental or land use impacts could be severe, to other areas where those impacts can be minimized, while still granting appropriate development rights to each property.

### **22.34.020 – Applicability of TDR Provisions**

- A.** The participation of a property owner in TDR shall be on a voluntary basis and shall be subject to Master Plan approval, in compliance with Chapter 22.44 (Master Plans and Precise Development Plans).
- B.** The owners of properties adjacent to an application for a TDR may participate on a voluntary basis.
- C.** The properties covered in the application shall be subject to the provisions of the Countywide Plan, the Local Coastal Program or a Community Plan policy that recommends TDR as an implementation measure.
- D.** The properties covered in the application shall be located within the A3 to A60, ARP, C-ARP, or C-APZ zoning districts.

### **22.34.030 – TDR Process**

The number of residential dwelling units allowed on one property (the donor property) may be transferred and built on another property (the receiving property), resulting in a higher density of development than that normally allowed on the receiving property by the applicable zoning district, as provided by this Section.

- A. Approval process.** The use of TDR requires Master Plan approval, in compliance with Chapter 22.44 (Master Plans and Precise Development Plans).
- B. Findings.** Approval of a TDR application shall require that the review authority first make the following findings, in addition to the findings required for a Master Plan as provided in Subsection A. (Approval process), above:
  - 1. TDR is necessary to conserve the site from which the density is proposed to be transferred.

2. The site receiving the density can accommodate it.
3. The proposed TDR is consistent with any TDR criteria established in the Countywide Plan, the Local Coastal Program, a Community Plan policy that recommends TDR as an implementation measure, or zoning district identified in Section 22.34.020.D (Applicability of TDR Provisions), above.

- C. Conservation easements or restrictions.** A condition of TDR between properties is that the property proposed for restricted development or conservation shall have conservation easements or restrictions recorded against it which reflect the conditions of approval of the Master Plan and which restrict the future development or division of the donor property in compliance with those conditions.

The conservation easements or restrictions shall be recorded against the donor property prior to the recording of a parcel map or final map or the issuance of construction permits for the receiving property.

### **22.34.040 – TDR Development Design**

- A. Density bonuses.** Density bonuses shall be considered if the proposed TDR meets the criteria contained in the Countywide Plan, the Local Coastal Program, or a Community Plan.
- B. Clustering.** Clustering shall be considered when applying for a TDR. Generally, structures should be clustered or sited in the most accessible, least visually prominent, and most geologically stable portion or portions of the site, consistent with the need for privacy to minimize visual and sound intrusion into each unit's indoor and outdoor living area from other living areas. Clustering is especially important on open grassy hillsides. In areas with wooded hillsides, a greater scattering of structures may be preferable to save trees and minimize visual impacts.

The prominence of construction can be minimized by placing structures so that they will be screened by existing vegetation, wooded areas, rock outcroppings and depressions in the topography. In areas where usable agricultural land exists, residential development shall be clustered or sited so as to minimize disruption of existing or possible future agricultural uses.



## **CHAPTER 22.40 – APPLICATION FILING AND PROCESSING, FEES**

### **Sections:**

- 22.40.010 – Purpose of Chapter
- 22.40.020 – Review Authority for County Land Use and Zoning Decisions
- 22.40.030 – Application Submittal and Filing
- 22.40.040 – Establishment of Application Fees
- 22.40.050 – Application Review for Discretionary Permits
- 22.40.052 – Application Review for Ministerial Planning Permits
- 22.40.055 – Review of Previously Denied Applications
- 22.40.060 – Environmental Review
- 22.40.070 – Staff Report and Recommendations
- 22.40.080 – Post Approval

### **22.40.010 – Purpose of Chapter**

This Chapter provides procedures and requirements for the preparation, submission, filing, and initial processing of development applications, land use permits, and other entitlements required by this Development Code. The procedures and requirements for the preparation, submission, and filing of applications established by the Subdivision Map Act are contained in Article VI (Subdivisions).

### **22.40.020 – Review Authority for County Land Use and Zoning Decisions**

State law (Government Code Sections 65900 et seq.) provides authority for the County to establish procedures to ensure that the purposes of this Development Code are achieved. Table 4-1 (Review Authority) identifies the County official or authority responsible for reviewing and making recommendations and decisions on each type of discretionary permit, entitlement, or amendment, as well as the proper authority to administer appeals.

In any case where a project involves applications for more than one entitlement, and entitlements require review and approval by different review authorities, all entitlements shall be reviewed and decided upon by the highest Review Authority. For example, where a project involves applications for a Use Permit (normally approved by the Zoning Administrator), and a Tentative Map proposing five or more parcels (normally approved by the Planning Commission), both applications shall be reviewed and decided by the Planning Commission.

**TABLE 4-1  
REVIEW AUTHORITY FOR DISCRETIONARY APPLICATIONS**

Type of Permit or Decision	Role of Review Authority			
	Director	Zoning Administrator	Planning Commission	Board of Supervisors
Coastal Permit, Administrative	Decide		Appeal Action	Appeal Action
Coastal Permit, Public Hearing	Recommend	Decide	Appeal Action	Appeal Action
Community or Countywide Plan Amendment	Recommend		Recommend	Decide
Design Review	Decide		Appeal Action	Appeal Action
Development Code Amendment	Recommend		Recommend	Decide
Floating Home Exception	Decide		Appeal Action	Appeal Action
Interpretations	Decide		Appeal Action	Appeal Action
Lot Line Adjustment	Decide		Appeal Action	Appeal Action
Master Plan	Recommend		Recommend	Decide
Precise Development Plan	Decide		Appeal Action	Appeal Action
Sign Review	Decide		Appeal Action	Appeal Action
Site Plan Review	Decide		Appeal Action	Appeal Action
Temporary Use Permit	Decide		Appeal Action	Appeal Action
Tentative Map	Recommend	Decide	Appeal Action	Appeal Action
Tree Removal Permit	Decide		Appeal Action	Appeal Action
Use Permit	Recommend	Decide	Appeal Action	Appeal Action
Variance	Decide		Appeal Action	Appeal Action
Zoning Map Amendment	Recommend		Recommend	Decide

**Notes:**

1. "Recommend" means that the Review Authority makes a recommendation to the decision-making body; "Decide" means that the Review Authority makes the final decision on the matter; "Appeal Action" means that the Review Authority may consider and decide upon appeals of the decision of an earlier decision-making body, in compliance with Chapter 22.114 (Appeals).
2. In any case where a project involves applications for more than one entitlement, and entitlements require review and approval by different review authorities, all entitlements shall be reviewed and decided upon by the highest Review Authority.
3. In some circumstances, the adopted fee schedule may indicate a specific level of permit with terms such as "minor", "regular", or "major". These terms are used for the purpose of establishing fees but do not change the underlying permit type or findings necessary for approval.

**22.40.030 – Application Submittal and Filing**

**A. Applicability.** This Section shall apply to the submission and processing of the following development applications:

**1. Discretionary Permit Applications**

- a. Design Reviews;
- b. Floating Home Exceptions;
- c. Master Plans;
- d. Temporary Use Permits;
- e. Tentative Maps and Vesting Tentative Maps;
- f. Lot Line Adjustments;
- g. Site Plan Reviews;
- h. Tree Removal Permits;
- i. Use Permits;
- j. Variances; and
- k. Sign Reviews.

**2. Ministerial Planning Decisions**

- a. Certificates of Compliance
- b. Homeless Shelter Permits
- c. Large Family Day-care Permits
- d. Residential Accessory Dwelling Unit and Junior Accessory Dwelling Unit Permits
- e. Sign Permits
- f. Use Permit Renewals
- g. Permit exemptions

**B. Eligibility for submittal of an application.** Development applications may be made only by an owner or lessee of real property, an agent of the owner or lessee, or a person who has entered into a contract to purchase or lease real property contingent on the ability to obtain certain development approvals under this Development Code. All ownership interests shall be parties to the application.

**C. Required contents.** Each development application and other matters pertaining to this Development Code shall be submitted by an eligible person to the Agency. The application shall be made on the County application form available from the Agency's public information

counter, and shall include all required fees, plans, reports, and other information listed on the Agency's published submittal requirements. Additional information may be required.

- D. Application complete.** A development application shall be considered complete and filed for processing when it has been determined to be complete in compliance with Section 22.40.050 (Initial Application Review for Discretionary Permits) and 22.40.052 (Initial Application Review for Ministerial Planning Permits).

#### **22.40.040 – Establishment of Application Fees**

The Board shall establish a schedule of fees for the processing of the development applications, permits, amendments, and other matters pertaining to this Development Code. The Board may change or modify the schedule of fees from time to time. The processing of an application filed in compliance with this Development Code shall not commence until all required fees and deposits have been received by the Agency.

#### **22.40.050 – Application Review for Discretionary Permits**

- A. Applicability.** This Section shall apply to the types of Discretionary Permits listed in Section 22.40.030 (Application Submittal and Filing).
- B. Processing of an application.** All discretionary permit applications submitted to the Agency, in compliance with this Development Code, shall be initially processed as described below. More than one application may be required for proposed projects requiring more than one type of entitlement or approval.
- 1. Referral of application.** A discretionary permit application submitted, in compliance with this Development Code, may be referred to any public agency or other organization that may be affected by, or have an interest in, the proposed land use or development project. The purpose of the referral is to provide other public agencies and organizations the opportunity to provide their comments on aspects of the proposed project which are of concern or interest. Recommended conditions of approval from referral agencies will be considered when making a decision on a development application.

The referral shall be made at the discretion of the Director, or where otherwise required by this Development Code, State, or Federal law.

Examples of agencies and organizations which often receive referred applications for comment are fire protection districts, the County Open Space District, the Department of Public Works, the Department of Environmental Health, utility and public service agencies, school districts, the Army Corps of Engineers, the California Department of Fish and Game, local advisory design review boards, the cities and towns of Marin, and other community associations.

- 2. Completeness review.** Within 30 days of receiving a discretionary permit application(s) for processing, the Agency shall review the application(s) for completeness and accuracy of required information before it is accepted as being complete and officially filed. See Section 22.40.030.C (Application Submittal and Filing – Required contents) for further information.



3. **Completeness determination.** A discretionary permit application will be deemed to be complete when the applicant has submitted all of the information and fees required by the Agency for completeness. This determination shall be made by the Agency, within 30 days; otherwise, the application will be deemed complete. The determination of completeness for a discretionary permit application that requires a legislative action shall be made within 30 days after action on the legislative decision by the Marin County Board of Supervisors. A determination of completeness for environmental review purposes may precede legislative actions in compliance with the California Environmental Quality Act.

When an application is determined to be incomplete, the applicant may complete and resubmit the application, and the Agency shall make a determination of the completeness of the resubmitted application within 30 days. The time used by the applicant to submit the additional required information shall not be considered part of the time within which the determination of completeness shall occur. The time available to the applicant for submittal of additional information is limited by Section 22.40.050.B.5 (Initial Application Review – Expiration of application), below.

This section is intended to carry out Government Code section 65943, and nothing precludes the applicant and the County from mutually agreeing to an extension of any time limit provided by Government Code 65943. This section does not apply when preempted by other Federal or State laws or regulations; in those situations, the timelines specified by the Federal or State laws or regulations shall govern.

4. **Notification of applicant.** The Agency shall inform the applicant in writing within 30 days following the submission of the application(s) that:
  - a. The application is complete and has been accepted for filing; or
  - b. The application is incomplete and that additional information, specified in the written notice, shall be provided by the applicant.
5. **Expiration of application.** If the information required by the Agency, for completeness review, is not submitted within the time limits listed below, the discretionary permit application shall expire unless the applicant requests an extension prior to the expiration date, and the Director grants the extension.
  - a. **General time limit.** An incomplete discretionary permit application shall expire 30 days following the date the Agency provides written notice that the application is incomplete, unless the Director grants extensions, not to exceed one year. This time limit shall not apply to Section 22.40.050.B.5.b (Initial Application Review for Discretionary Permits – Enforcement cases) below.
  - b. **Enforcement cases.** An incomplete discretionary permit application, submitted to resolve a code enforcement matter, shall expire 30 days following the date the Agency provides written notice that the application is incomplete, unless the Director grants extensions not to exceed a total of 90 days. See Chapter 22.122 (Enforcement of Development Code Provisions) for further information.
6. **Time extension request.** The applicant may request additional time to submit the information required by the Agency to determine completeness of the application. The applicant shall request an extension, in writing to the Director, prior to the expiration of the time limit for completeness, as stated in Section 22.40.050.B.5 (Initial Application Review – Expiration of application), above.

7. **Resubmittal after expiration of application.** In the event that a discretionary permit application expires, the applicant may submit a new application, and all required fees, to the Agency in compliance with this Development Code, and the application review process will begin again.
8. **Appeal of determination.** The applicant and others may file an appeal of the Agency's completeness determination, in compliance with Chapter 22.114 (Appeals).
9. **Summary Denial.** In those instances where a discretionary application is subject to environmental review, but is not consistent with the mandatory findings for approval, a summary denial of the project may be issued before conducting environmental review.
10. **Additional information required for environmental review.** After a discretionary permit application has been determined to be complete, the Agency may require the applicant to submit additional information necessary to conduct environmental review of the project, in compliance with Section 22.40.060 (Environmental Review), below.

#### **22.40.052 – Application Review for Ministerial Planning Permits**

- A. **Applicability.** This Section shall apply to the types of Ministerial Planning Permits listed in Section 22.40.030 (Application Submittal and Filing).
- B. **Processing of an application.** All ministerial planning permit applications submitted to the Agency, in compliance with this Development Code, shall be initially processed as described below. More than one application may be required for proposed projects requiring more than one type of entitlement or approval.
  1. **Referral of application.** A ministerial planning permit application submitted, in compliance with this Development Code, may be referred to any public agency or other organization that may be affected by, or have an interest in, the proposed land use or development project. The purpose of the referral is to provide other public agencies and organizations the opportunity to provide their comments on aspects of the proposed project which are of concern or interest. Recommended conditions of approval from referral agencies will be considered when making a decision on a development application.

The referral shall be made at the discretion of the Director, or where otherwise required by this Development Code, State, or Federal law.
  2. **Completeness review.** After receiving a ministerial planning permit application(s) for processing, the Agency shall review the application(s) for completeness and accuracy of required information before it is accepted as being complete and officially filed. See Section 22.40.030.C (Application Submittal and Filing – Required contents) for further information.
  3. **Completeness determination.** A ministerial planning permit application that requires a ministerial decision will be deemed to be complete when the applicant has submitted all of the information and fees required by the Agency for completeness.

When a ministerial planning permit application is determined to be incomplete, the applicant may complete and resubmit the application, and the Agency shall make a determination of the completeness of the resubmitted application. The time used by the applicant to submit the additional required information shall not be considered part of

the time within which the determination of completeness shall occur. The time available to the applicant for submittal of additional information is limited by Section 22.40.052.B.7 (Initial Application Review for Ministerial Planning Permits – Resubmittal after expiration of application), Resubmittal after expiration of application, below.

4. **Notification of applicant.** The Agency should inform the applicant in writing following review of a submitted ministerial planning permit application(s) that:
  - a. The application is complete and has been accepted for filing; or
  - b. The application is incomplete and that additional information, specified in the written notice, shall be provided by the applicant.
5. **Expiration of application.** If the information required by the Agency, for completeness review, is not submitted within the time limits listed below, the ministerial planning permit application shall expire unless the applicant requests an extension prior to the expiration date, and the Director grants the extension.
  - a. **General time limit.** An incomplete ministerial planning permit application shall expire 30 days following the date the Agency provides written notice that the application is incomplete, unless the Director grants extensions, not to exceed one year. This time limit shall not apply to Section 22.40.052.B.5.b (Initial Application Review for Ministerial Planning Permits – Enforcement cases) below.
  - b. **Enforcement cases.** An incomplete ministerial planning permit application, submitted to resolve a code enforcement matter, shall expire 30 days following the date the Agency provides written notice that the application is incomplete, unless the Director grants extensions not to exceed a total of 90 days. See Chapter 22.122 (Enforcement of Development Code Provisions) for further information.
6. **Time extension request.** The applicant may request additional time to submit the information required by the Agency to determine completeness of the application. The applicant shall request an extension, in writing to the Director, prior to the expiration of the time limit for completeness, as stated in Section 22.40.052.B.5 (Initial Application Review Ministerial Planning Permits – Expiration of application), above.
7. **Resubmittal after expiration of application.** In the event that a ministerial planning permit application expires, the applicant may submit a new application, and all required fees, to the Agency in compliance with this Development Code, and the development review process will begin again.
8. **Timing of Decisions.** If any discretionary permits are required for a project in addition to a ministerial planning permit, then the ministerial planning permit shall not be issued until final decisions on all discretionary permits have been rendered and their applicable appeal periods have elapsed.
9. **Decision.** The Director shall make all determinations regarding ministerial planning permits. The Director's determinations regarding ministerial planning permits are not appealable.

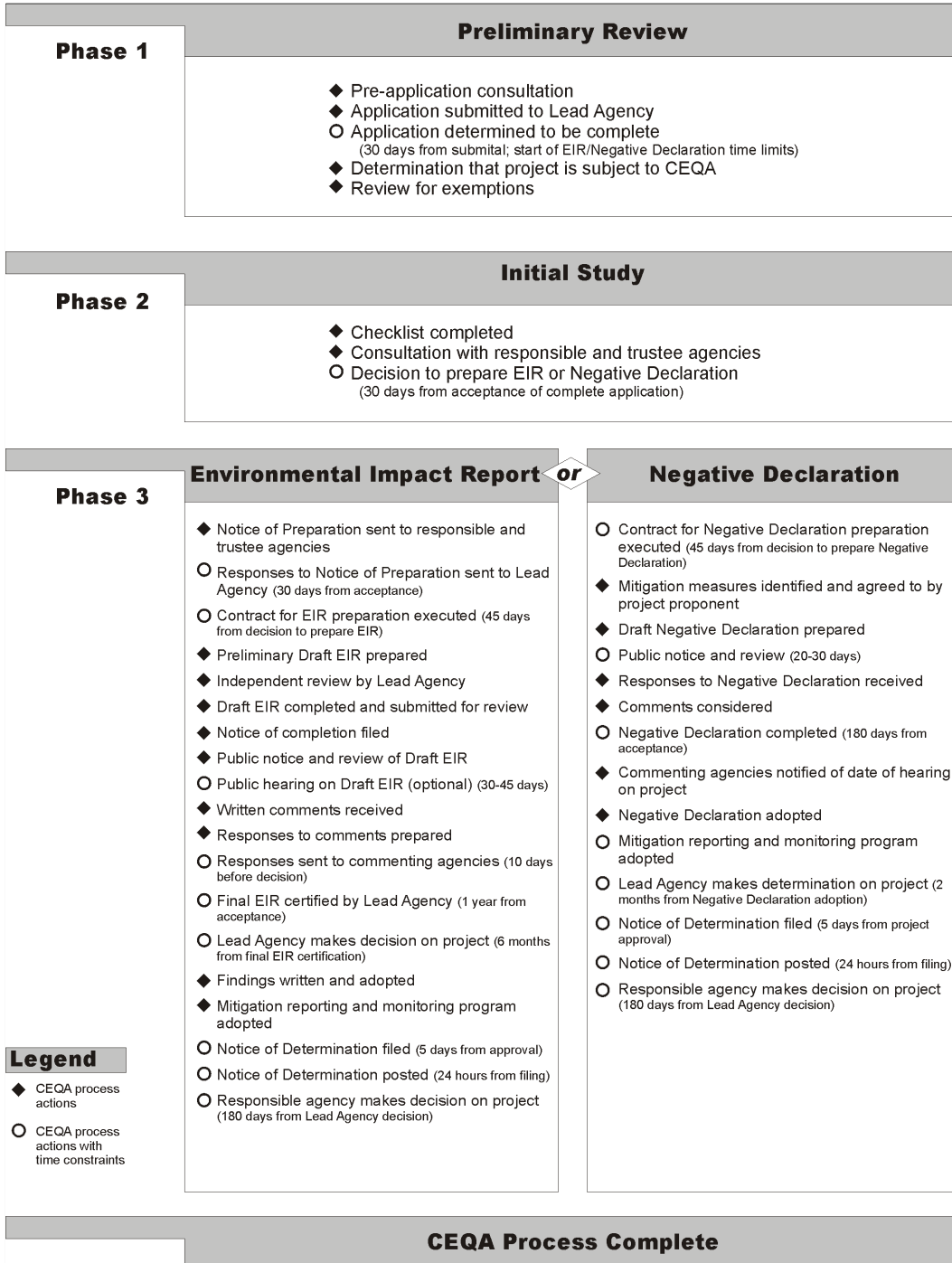
**22.40.055 – Review of Previously Denied Applications for Discretionary Permits**

- A. Applicability.** This Section shall apply to development applications listed in Section 22.40.030 (Application Submittal and Filing) that have previously been denied.
- B. Review Eligibility.** All permit applications submitted to the Agency, in compliance with this Development Code, that are substantially the same as an application that was previously denied, as determined by the Director, shall not be processed within six months of the date of final action.
- C. Processing of a previously denied application.** All permit applications submitted to the Agency, in compliance with this Development Code, shall be processed in accordance with Section 22.40.040 (Establishment of Application Fees) and 22.40.050 (Initial Application Review).

**22.40.060 – Environmental Review**

- A. Review procedures.** After the Agency has accepted an application for filing, the proposed project shall be reviewed in compliance with the California Environmental Quality Act (CEQA) and the County Environmental Impact Report Guidelines. See Figure 4-1 (Review Authority).
- B. Environmental determinations.** Environmental determinations shall be made by the Director in compliance with the County Environmental Impact Report Guidelines and the California Environmental Quality Act.
- C. Expiration of application subject to environmental review.** When a funding request is sent to an applicant to pay for the costs of environmental review, the funding shall be submitted within thirty days of the request or the project application shall expire. A one-time extension of up to 90 days for the submittal of funds may be granted by the Director before the application expires.

**FIGURE 4-1  
REVIEW AUTHORITY FOR ENVIRONMENTAL DETERMINATIONS**



**Legend**

- ◆ CEQA process actions
- CEQA process actions with time constraints

SOURCE: CEQA Deskbook

**22.40.070 – Staff Report and Recommendations for Discretionary Permits**

- A. Staff evaluation.** The Agency staff shall review all discretionary applications submitted in compliance with this Article to determine whether or not they comply and are consistent with the provisions of this Development Code, other applicable provisions of the County Code, and the Countywide Plan and Community Plans. Agency staff shall provide a recommendation to the Director, Zoning Administrator, Commission, and/or Board, as applicable, on whether the application should be approved, approved subject to conditions, or denied.
- B. Decision or Staff Report.** The Director shall prepare a written Decision for administrative actions for which the Director has final authority. When the Director does not have final authority, the Director shall prepare a written report for recommendations to the Zoning Administrator, Commission, and the Board. The decision or report shall include:
1. A decision or recommendation for approval, approval with conditions, or denial of the application, where appropriate.
  2. Findings of fact regarding the development project’s consistency with the Countywide Plan, any applicable Community or land use plan, and those findings specifically identified for each planning permit. In those instances when decisions are being issued administratively, summary findings may suffice for minor projects.
  3. Pursuant to the California Housing Accountability Act, the agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the housing development project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless first making written findings, based upon a preponderance of the evidence in the record, as required by Govt. Code 65589.5:
  4. Information on how the decision may be appealed to a higher decision making authority.
- C. Report distribution.** A staff report shall be furnished to the applicants at the same time as it is provided to the Zoning Administrator, members of the Commission, and/or Board, and any interested parties, prior to a hearing on the application.

**22.40.080 – Post Approval**

After an entitlement or development permit application is approved, the entitlement is subject to the expiration, extension, performance guarantee, and other applicable provisions of Chapter 22.70 (Permit Implementation, Time Limits, Extensions).

## **CHAPTER 22.42 – DESIGN REVIEW**

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### **Sections:**

- 22.42.010 – Purpose of Chapter
- 22.42.020 – Applicability
- 22.42.025 – Exemptions from Design Review
- 22.42.048 – Design Review Waiver
- 22.42.050 – Application, Filing, Processing, and Review
- 22.42.055 – Project Review Procedures
- 22.42.060 – Decision and Findings

### **22.42.010 – Purpose of Chapter**

This Chapter provides procedures for Design Review for proposed discretionary development throughout the unincorporated areas of the County. Design Review consists of a review of plans and proposals for land use and design of physical improvements in order to implement the goals of the Countywide Plan and is intended to ensure that:

- A. Sound and creative design principles are used by applicants in designing proposed projects, which will result in high quality site planning and architectural design, and the innovative use of materials, construction methods, and techniques;
- B. Site planning, building design, and construction practices promote resource conservation through climate responsive design, use of renewable energy and resources, and cost effective use of resource conserving materials where practicable and feasible;
- C. The natural beauty of the County, and the public's ability to use and enjoy it, are preserved and encouraged;
- D. The design of the built environment respects and preserves the natural beauty of the County and the environmental resources found within;
- E. The exterior appearance of proposed structures, along with their associated landscaping, parking, signs, etc. is compatible and harmonious with the design, scale, and context of surrounding properties;
- F. The development of paper streets and/or vacant properties which adjoin paper streets is undertaken in such a way as to minimize the impacts associated with the development of paper streets; and
- G. Conflicts between land uses are eliminated, environmental values of the site are preserved, and adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design, or placement are minimized or eliminated.

### **22.42.020 – Applicability**

New structures and exterior physical improvements, as well as additions, extensions, and exterior changes of or to existing structures and/or relocation of physical improvements, for either a single or



multiple contiguous lots, as described in Subsections A, B and C below, shall be subject to Design Review, except as otherwise provided in Section 22.42.025 (Exemptions from Design Review) and 22.42.048 (Design Review Waivers).

- A. Planned Zoning Districts (combining coastal zones included).** Residences, non-residential structures, accessory structures, agricultural structures, and other physical improvements in all Planned zoning districts.
- B. Conventional Zoning Districts.** Residential development and residential accessory structures in Conventional zoning districts on a lot that would contain more than 3,500 square feet of floor area with the proposed development and/or where the proposed development of primary structures would be greater than 30 feet in height or 15 feet in height for residential accessory structures.
- C. Permit Waivers.** Any waiver or exception to a standard specifically identified in this Development Code as being subject to this Chapter as well as Variance waivers identified in Chapter 22.54 (Variances).
- D. Substandard Building Sites.** Where a vacant legal lot is proposed for single-family residential development, and when the lot is at least 50 percent smaller in total area than required for new lots under the applicable zoning district or slope regulations, in compliance with Section 22.82.050 (Hillside Subdivision Design Standards), whichever is more restrictive, the proposed development shall be subject to the requirements of this Chapter. In these instances, any exemption from Design Review provided by Section 22.42.025 (Exemptions from Design Review) shall be void and setback requirements shall be waived. The subsequent development and physical improvements of these properties shall continue to be subject to the requirements of this Chapter.

### 22.42.025 – Exemptions from Design Review

Development and physical improvements listed below in Subsections A to R are exempt from Design Review, except where a Community Plan adopted by the Board of Supervisors requires Design Review to implement specific design standards. In addition, where a conflict arises between conditions of approval of a discretionary permit and the exemptions listed below, the project-specific conditions of approval shall be the applicable regulations.

- A. Single-family Additions and Residential Accessory Structures in Planned Districts.** Single-family residential additions and residential accessory structures on a lot with existing and proposed floor area not exceeding 3,500 square feet in a Planned District (see Chapter 22.16 Discretionary Development Standards) that meet the standards in Tables 4-2 and 4-3. This exemption does not apply if work authorized under a previous exemption has not received approval of a final inspection from the Building and Safety Division or if work authorized under a previous Design Review has not received approval of a final inspection from the Building and Safety Division. If the residence or accessory structure was not subject to Design Review, additions would not qualify for an exemption if a final inspection by the Building and Safety Division has not been approved or was approved less than 24 months ago.

**TABLE 4-2  
STANDARDS FOR EXEMPTION FROM DESIGN REVIEW FOR ONE-STORY  
ADDITIONS TO SINGLE-FAMILY RESIDENCES AND FOR DETACHED ACCESSORY**

**STRUCTURES IN PLANNED DISTRICTS**

<b>Standards</b>		<b>One-Story Single-family Additions and Detached Accessory Structure</b>
Max. increase in floor area		750 sq. ft. or 20% of the existing floor area, whichever is less
Max. total floor area		3,500 sq. ft. or the applicable floor area ratio (FAR) limit under the zoning district or in a Community Plan, whichever is more restrictive
Max. height	Single-family Addition	20 ft. or the coastal zoning height standards, whichever is more restrictive
	Detached Accessory Structure	15 ft.
Min. lot area		Not applicable
Min. setbacks		5 ft. to all property lines on lots up to 6,000 sq. ft. 6 ft. to all property lines on lots up to 7,500 sq. ft. 10 ft. to all property lines on lots up to 10,000 sq. ft. 15 ft. to all property lines on lots > 10,000 sq. ft. (Or the required setbacks in a Community Plan, Master Plan, or subdivision, whichever is more restrictive)
Environmental Protection (Countywide Plan Consistency)		Outside of a Stream Conservation Area and Wetland Conservation Area

**TABLE 4-3  
STANDARDS FOR EXEMPTION FROM DESIGN REVIEW FOR MULTI-STORY  
ADDITIONS TO SINGLE-FAMILY RESIDENCES IN PLANNED DISTRICTS**

<b>Standards</b>	<b>Multi-Story Single-family Addition</b>
Max. increase in floor area	750 sq. ft. or 20% of the existing floor area, whichever is less
Max. total floor area	3,000 sq. ft.
Max. height (Multi-story Additions)	30 ft. in non-coastal zone; 25 ft. in coastal zone or the coastal zoning height standards, whichever is more restrictive; 20 ft. in stepback zone (See SFR Design Guideline B-1.1)
Min. lot area	Not Applicable
Min. setbacks	5 ft. for lots up to 6,000 sq. ft. 6 ft. for lots up to 7,500 sq. ft. 10 ft. for lots up to 10,000 sq. ft. 15 ft. for lots > 10,000 sq. ft. (Or the required setbacks in a Community Plan, Master Plan, or subdivision, whichever is more restrictive)
Environmental Protection (Countywide Plan Consistency)	Outside of a Stream Conservation Area and Wetland Conservation Area

- B.** Agricultural accessory structures that comply with the Stream Conservation Area and Wetland Conservation Area setbacks established in the Countywide Plan, the Planned District Development Standards for agricultural zones (Sections 22.08.040, 22.16.040) and Article V (Coastal Zones - Permit Requirements and Development Standards), and that are 300 feet or more from a property line of an abutting lot in separate ownership, and which are at least 300 feet from a street. The minimum setback to qualify for an exemption is reduced to 50 feet for an agricultural accessory structure that does not exceed 2,000 square feet in size. This exception does not apply to facilities for processing or retail sale of agricultural products.
- C.** In the A-2, C1, H1, RA, RR, RE, R1, R2, and VCR zones, open fencing, such as wood post and welded wire mesh, on lots greater than 20,000 square feet. The fencing shall be limited to eight feet in height above grade, be located outside of any required front or street side yard setback, and comply with the standards in Chapter 13.18 (Visibility Obstructions) of the County Code.
- D.** In Planned Districts, fences or screening walls that comply with the fence standards in Section 22.20.050 (Fencing and Screening Standards), Single-family Residential Design Guideline D-1.7 (Exterior Materials and Colors), and applicable design standards in a Community Plan which shall have precedence over the Single-family Residential Design Guidelines. In addition, the following standards must be met:
- For purposes of compliance with Section 22.20.050, the front and street side yards shall be no less than ten feet for lots up to one acre and fifteen feet on lots greater than one acre.

2. Fences or walls proposed within the front and street side yards or on the property line defining such yards are limited to six feet in height with the entire section or portion of the fence or wall above four feet in height limited to a surface area that is at least 50% open and unobstructed by structural elements.
  3. Fences and screening walls located outside the front and street side yards are limited to six feet in height.
- E.** In the A, A-2, C1, H1, RA, RR, RE, R1, R2, and VCR zones, bridges that comply with the height limits and standards specified in Section 22.20.055 (Bridge Standards).
- F.** In Planned Districts, attached front and rear yard porches not exceeding a maximum height of twenty feet, not exceeding a maximum area of 200 square feet, and having setbacks of at least ten feet.
- G.** In Planned Districts, attached or detached decks not exceeding a maximum height of five feet above grade (excluding hand railings and other safety features) and having setbacks of at least five feet.
- H.** In Planned Districts, replacing existing authorized driveways and widening driveways to meet minimum Title 24 or fire code standards (retaining walls must comply with Section 22.20.090(C)(6) (Setback requirements and exceptions), in addition to other applicable standards). This exemption excludes relocation of existing driveways.
- I.** In Planned Districts, construction of new retaining walls that comply with the standards in Section 22.20.052 (Retaining Wall Standards), and in all zoning districts, replacement of existing retaining walls up to eight feet in height above grade.
- J.** Swimming pools and spas that do not exceed a height of thirty inches above grade (including integrated retaining walls) and have setbacks of at least 10 feet.
- K.** In Planned Districts, new and replacement skylights, doors, and windows (including bay windows), and similar attached architectural features, provided they have setbacks of at least five feet.
- L.** Roof-mounted solar photovoltaic systems that do not exceed a height of two feet above the height limit specified by the governing zoning district on residential and agricultural buildings.
- M.** Roof-mounted solar photovoltaic systems that do not exceed a height of six feet above the roof of a commercial, industrial, or institutional building provided that the height does not exceed six feet above the maximum height for the building allowed by the governing zoning district.
- N.** Changes to any approved exterior color or material, unless review is required by prior conditions of Design Review or other discretionary permit approval.
- O.** Signs subject to the regulations of Chapter 22.28 (Signs) and Chapter 22.60 (Permits for Displays and Signs).
- P.** Additions up to 500 square feet, exterior remodeling, and site improvements to commercial, industrial, and institutional properties that the Director determines to be minor and incidental in nature and which are in compliance with the purpose of this chapter.

- Q. Other work that the Director determines to be minor and incidental in nature, and which is in compliance with the purpose of this Chapter.
- R. Repair or in-kind reconstruction work on legal structures.

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**22.42.050 – Application, Filing, Processing, and Noticing**

- A. **Purpose.** This Section provides procedures for filing, processing, and noticing of Design Review applications.
- B. **Filing and processing.** All Design Review applications shall be completed, submitted, and processed in compliance with Chapter 22.40 (Application Filing and Processing, Fees) and Section 22.40.050 (Initial Application Review for Discretionary Permits).

Design Review application forms are available at the Agency's public service counter.

- C. **Notice of action and/or hearing date.** Administrative decisions and public hearings on a proposed Design Review application shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). The Director may provide expanded public notice to ensure maximum public awareness of any Design Review application.
- D. **Applicability to approved projects.** On conventionally-zoned lots, where new or additional floor area previously approved without Design Review had not received a final inspection by the Building and Safety Division, and where the scope of work is proposed to be modified to include additional floor area that would trigger Design Review pursuant to Section 22.42.020.B or 22.42.020.D, the scope of the Design Review shall include all new or additional floor area that has not received a final inspection.

**22.42.055 – Project Review Procedures**

- A. Design Review Procedures.** The Director shall approve, conditionally approve, or deny all Design Review applications in compliance with Section 22.42.060 (Decision and Findings), except as otherwise provide in Subsections B and C, below.
- B. Zoning Administrator review.** When the Design Review application is associated with a permit application that requires a public hearing, the Design Review action may be taken by the Zoning Administrator.
- C. Referral to Commission.** When the Director finds that significant policy issues are raised by the proposed project, the Director may refer the Design Review application to the Planning Commission for a final action.

**22.42.060 – Decision and Findings**

The Review Authority shall issue the decision and the findings upon which the decision is based. The Review Authority may approve or conditionally approve an application only if all of the following findings are made:

- A.** The proposed development complies with either the Single-family or Multi-family Residential Design Guidelines, as applicable, the characteristics listed in Chapter 22.16 (Discretionary Development Standards) and any applicable standards of the special purpose combining districts provided in Chapter 22.14 of this Development Code.
- B.** The proposed development provides architectural design, massing, materials, and scale that are compatible with the site surroundings and the community.
- C.** The proposed development results in site layout and design that will not eliminate significant sun and light exposure or result in light pollution and glare; will not eliminate primary views and vistas; and will not eliminate privacy enjoyed on adjacent properties.
- D.** The proposed development will not adversely affect and will enhance where appropriate those rights-of-way, streetscapes, and pathways for circulation passing through, fronting on, or leading to the property.
- E.** The proposed development will provide appropriate separation between buildings, retain healthy native vegetation and other natural features, and be adequately landscaped consistent with fire safety requirements.

## **CHAPTER 22.44 – MASTER PLANS AND PRECISE DEVELOPMENT PLANS**

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### **Sections:**

- 22.44.010 – Purpose of Chapter
- 22.44.020 – Applicability
- 22.44.030 – Exemption from Master Plan and Master Plan Amendments
- 22.44.040 – Waiver of Master Plan Amendment and Precise Development Plan Amendment
- 22.44.050 – Application Filing, Processing, and Review
- 22.44.060 – Master Plan Content
- 22.44.070 – Action on Master Plan and Master Plan Amendment Applications
- 22.44.080 – Master Plan Rescission Applications

### **22.44.010 – Purpose of Chapter**

This Chapter provides procedures for the filing, processing, and adoption of Master Plans. These procedures are intended to:

- A. Align with California State Law governing common interest developments;
- B. Allow for phased developments;
- C. Establish site specific development criteria to ensure that development enhances or is compatible with the surrounding neighborhood character;
- D. Promote clustering of structures to preserve open land areas and avoid environmentally sensitive areas;
- E. Protect natural resources, scenic quality, and environmentally sensitive areas.

### **22.44.020 – Applicability**

This Chapter applies to all existing Master Plans and Precise Development Plans, to Planned Developments in Planned zoning districts, and to subdivisions in Planned zoning districts that are subject to Final Maps. Master Plans or Master Plan amendments, as appropriate, are required for these types of projects unless they are exempt or waived by the provisions of this Chapter.

### **22.44.030 – Exemptions from Master Plans and Master Plan Amendments**

The following types of development are exempt from the requirements of a Master Plan or Master Plan amendment:

- A. Affordable housing, except where an applicable Community Plan or community based visioning plan approved by the Board contains policies that directly require Master Plans for development on specific properties.

- B. For non-residential development, a change in use where the proposed use is allowed as a permitted use in the zoning district, as identified with “P” in the land use tables in Article II (Zoning Districts and Allowable Land Uses) provided there is no increase in building area.
- C. Development that the Director determines is minor and incidental to a principally permitted use on the site.

### **22.44.040 – Waiver of Master Plan Amendment and Precise Development Plan Amendment**

In response to a proposal to deviate from the standards of a Master Plan adopted prior to January 1, 2017, the requirement for a Master Plan amendment is waived for an eligible project provided it meets the waiver criteria listed below, and the project shall instead be subject to a Conditional or Master Use Permit and/or Design Review, in compliance with Chapters 22.48 (Conditional Use Permit) 22.49 (Master Use Permit), 22.42 (Design Review) and this Section.

All Precise Development Plan amendments are subject to Chapter 22.42 (Design Review), since the Precise Development Plan is an antiquated entitlement.

- A. **Projects eligible for waiver.** The following types of projects are eligible for waiver of Master Plan amendment requirements:
  1. In general, a Master Plan and Design Review are required for the review of the design features proposed in large or otherwise major projects, and a Design Review may be required for the review of the design features proposed in small or otherwise minor projects.
  2. The types of projects that are eligible for a waiver from the requirements for a Master Plan amendment are provided below:
    - a. Commercial: Additions of up to 15,000 sq. ft. of new building area
    - b. Residential: Up to 5 units/lots (subdivision)
    - c. Mixed use: Single-phased projects of any size in mixed-use districts, or multi-phased development of up to 15,000 sq. ft. of new building area
- B. **Criteria for waiver.** In order for the requirements of a Master Plan amendment to be waived, a project that is eligible for waiver must meet the following criteria:
  1. Be consistent with the Countywide Plan and any applicable Community Plan and Local Coastal Program;
  2. Be designed so that potential impacts can be properly addressed through Use Permit and/or Design Review procedures, in compliance with Chapters 22.48 (Conditional Use Permits) or 22.49 (Master Use Permits) and 22.42 (Design Review). These impacts may include, but are not limited to: drainage, erosion, grading, landscaping, including appropriate tree and native vegetation preservation/retention, and circulation and transportation.
  3. Not involve a Transfer of Development Rights; and
  4. Exhaust the potential for residual development based on the zoning district densities or be implemented in a single phase within a limited and pre-determined period of time.



**22.44.050 – Application Filing, Processing, and Review**

- A. Filing.** An application for a Master Plan shall be submitted, filed, and processed in compliance with and in the manner described in Chapter 22.40 (Application Filing and Processing, Fees).

Master Plan application forms are available online and at the Agency's public service counter.

1. **Area covered by plan.** The area of the Master Plan shall include at least all contiguous properties under the same ownership. The area covered by a proposed plan may also include multiple ownerships.
2. **Processing.** A Master Plan may be reviewed in conjunction with other land use permits, with only a Master Use Permit, or the Agency may require that a Master Plan be approved before reviewing any other land use permit applications.
3. **Development Agreement.** A Master Plan may be approved in conjunction with a Development Agreement (Govt. Code 65865)
4. **Application materials.** Applications for Master Plan or Master Plan amendment approval shall include the information and materials required by Section 22.40.030 (Application Submittal and Filing).

- B. Project review procedure.** Each application shall be analyzed by the Agency to ensure that the application is consistent with the purpose and intent of this Chapter and with the Countywide Plan and Community or Specific Plans.

**22.44.060 – Master Plan Content**

- A.** A new Master Plan shall set forth criteria for future development. Such criteria may be required to include the following:

1. Density, lot areas and dimensions.
2. Development areas, open space areas, and environmental buffers.
3. Site planning, circulation and parking.
4. Areas of grading, storm water management, and landscaping.
5. Structure height, building and floor area, floor area ratio, lot coverage, and setbacks.
6. Architectural and site design.

- B.** A new Master Plan shall establish clear and unambiguous review procedures for future development, including:

1. Development subject to ministerial review to ensure compliance with established Master Plan criteria.
2. Development subject to discretionary review to ensure compliance with established Master Plan criteria.
3. Procedures to deviate from established Master Plan criteria.

- C.** Master Plan amendments shall be reviewed on the basis of the proposed revisions, and need not establish new development criteria or review procedures for future development.

## 22.44.070 – Action on Master Plan and Master Plan Amendment Applications

### A. Master Plan and Master Plan amendment adoption:

1. **Action by Commission.** The Commission may recommend approval, conditional approval, or denial of an application. The Commission's actions may specify any condition which is likely to benefit the general welfare of future residents in the development and the purposes of the district, or mitigate any impacts which may result from implementation of the development.
2. **Action by Board.** The Board may approve, conditionally approve, or deny the Master Plan as recommended by the Commission. Any modification of the plan may be referred back to the Commission. The decision is a legislative act and shall be adopted by ordinance.

When a Master Plan is processed concurrently with any other permit or entitlement, the Board shall be the final authority on all associated permits and entitlements.

3. **Findings for Master Plans and Master Plan amendments.** Master Plan and Master Plan amendment applications may only be approved or conditionally approved when they are consistent with the findings listed below.
  - (1) The Master Plan or Master Plan amendment is consistent with the goals, policies, objectives, and programs of the Countywide Plan and any applicable Community Plan.
  - (2) The Master Plan or Master Plan amendment is consistent with all standards of the governing conventional zoning district, if applicable.
  - (3) The Master Plan or Master Plan Amendment is suitable for the site, and the future development would be able to conform to the Discretionary Development Standards.
  - (4) The proposed Master Plan or Master Plan amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

- B. **Notice of action and/or hearing date.** Public hearings on a proposed Master Plan or Master Plan amendment applications shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). The Director may provide expanded public notice to ensure maximum public awareness of an application. In addition to the requirements of Chapter 22.118 (Notice, Public Hearings, and Administrative Actions), where a Master Plan or an amendment to a Master Plan is proposed, a public notice may be mailed or delivered at least 10 days prior to the decision to all owner(s) of real property that comprise the area encompassed by the Master Plan that is the subject of the amendment.

**22.44.080 – Master Plan Rescission Applications****A. Master Plan Rescission:**

- 1. Action by Commission.** The Commission may recommend approval, conditional approval, or denial of an application to rescind a vested Master Plan.
- 2. Action by Board.** The Board may approve, conditionally approve, or deny an application to rescind a vested Master Plan as recommended by the Commission. The decision is a legislative act and shall be adopted by ordinance.

**B. Notice of action and/or hearing date.** Public hearings on a proposed Master Plan rescission application shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). The Director may provide expanded public notice to ensure maximum public awareness of an application. In addition to the requirements of Chapter 22.118 (Notice, Public Hearings, and Administrative Actions), a public notice may be mailed or delivered at least 10 days prior to the decision to all owner(s) of real property that comprise the area encompassed by the Master Plan that is the subject of the amendment.

**22.46.040 – Decision and Findings**

The Review Authority shall issue the decision and the findings upon which the decision is based. The Review Authority may approve, conditionally approve, or deny an application.

**A. Findings.** The Director may approve, or conditionally approve a Floating Home Exception Permit only if all of the following findings are made:

1. The requested exception will not adversely or substantially diminish:
  - a. Light and ventilation to floating homes berthed adjacent to the proposed floating home; and
  - b. Existing views and/or view corridors enjoyed by owners or tenants of neighboring or adjoining floating homes and floating home sites. The term "neighbor" is not to be construed to mean the owners or occupants of land-based properties or improvements.
2. The size of the requested exception is:
  - a. Comparable and compatible with the size of neighboring floating homes; and
  - b. Will not encroach into any right-of-way, fairway, adjoining berth or any required open space.
3. The requested exception is the minimum necessary to satisfy the objectives sought by the owner and/or builder of the floating home.
4. The requested exception will not result in any detriment to other floating homes in the immediate vicinity of the proposed floating home.
5. The exception will not result in public health and safety hazards, including applicable fire safety standards.

## **CHAPTER 22.48 – CONDITIONAL USE PERMITS**

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### **Sections:**

- 22.48.010 – Purpose of Chapter
- 22.48.020 – Applicability
- 22.48.030 – Application Filing, Processing, and Review
- 22.48.040 – Decision and Findings
- 22.48.050 – Post Approval

### **22.48.010 – Purpose of Chapter**

This Chapter provides procedures for Conditional Use Permits, where required by Article II (Zoning Districts and Allowable Land Uses) and Article V (Coastal Zones – Development and Resource Management Standards), which are intended to allow for an activity or use that is unique or whose effects on the surrounding environment cannot be determined prior to being proposed for a particular location.

### **22.48.020 – Applicability**

This Chapter shall apply to all conditional land use activities identified in Article II (Zoning Districts and Allowable Land Uses), and Article V (Coastal Zones – Permit Requirements and Development Standards), as applicable.

### **22.48.030 – Application Filing, Processing, and Review**

- A. Filing.** An application for a Conditional Use Permit shall be submitted, filed, and processed in compliance with and in the manner described in Chapter 22.40 (Application Filing and Processing, Fees).

Conditional Use Permit application forms are available online and at the Agency's public service counter.

- B. Project review procedure.** Each Conditional Use Permit application shall be analyzed by the Agency to ensure that the application is consistent with the purpose and intent of this Chapter.
- C. Hearings and notice.** Public hearings on a proposed Conditional Use Permit application shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).

The Zoning Administrator shall hold a public hearing, or the Director shall refer the application to the Commission for a public hearing, in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). This hearing shall include a review of the configuration, design, location, and potential impacts of the proposed use.

### **22.48.040 – Decision and Findings**

After a public hearing, the Review Authority shall record and file the decision and the findings upon

## **CHAPTER 22.48 – CONDITIONAL USE PERMITS**

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### **Sections:**

- 22.48.010 – Purpose of Chapter
- 22.48.020 – Applicability
- 22.48.030 – Application Filing, Processing, and Review
- 22.48.040 – Decision and Findings
- 22.48.050 – Post Approval

### **22.48.010 – Purpose of Chapter**

This Chapter provides procedures for Conditional Use Permits, where required by Article II (Zoning Districts and Allowable Land Uses) and Article V (Coastal Zones – Development and Resource Management Standards), which are intended to allow for an activity or use that is unique or whose effects on the surrounding environment cannot be determined prior to being proposed for a particular location.

### **22.48.020 – Applicability**

This Chapter shall apply to all conditional land use activities identified in Article II (Zoning Districts and Allowable Land Uses), and Article V (Coastal Zones – Permit Requirements and Development Standards), as applicable.

### **22.48.030 – Application Filing, Processing, and Review**

- A. Filing.** An application for a Conditional Use Permit shall be submitted, filed, and processed in compliance with and in the manner described in Chapter 22.40 (Application Filing and Processing, Fees).

Conditional Use Permit application forms are available online and at the Agency's public service counter.

- B. Project review procedure.** Each Conditional Use Permit application shall be analyzed by the Agency to ensure that the application is consistent with the purpose and intent of this Chapter.
- C. Hearings and notice.** Public hearings on a proposed Conditional Use Permit application shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).

The Zoning Administrator shall hold a public hearing, or the Director shall refer the application to the Commission for a public hearing, in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). This hearing shall include a review of the configuration, design, location, and potential impacts of the proposed use.

### **22.48.040 – Decision and Findings**

After a public hearing, the Review Authority shall record and file the decision and the findings upon

which the decision is based. The Review Authority may approve a Conditional Use Permit application, with or without conditions, only if all of the following findings are made:

- A. The proposed use is allowed, as a conditional use, within the subject zoning district and complies with all of the applicable provisions of this Chapter.
- B. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.
- C. That granting the Conditional Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

### **22.48.050 – Post Approval**

The following shall apply subsequent to the approval of a Conditional Use Permit application. These procedures are in addition to those identified in Section 22.40.080 (Post Approval) and Chapter 22.70 (Permit Implementation, Time Limits, Extensions).

- A. **Conditional Use Permit to run with the land.** A Conditional Use Permit granted in compliance with the provisions of this Chapter shall continue to be valid upon a change of ownership of: the site, business, service, use, or structure that was the subject of the permit application.
- B. **Changes to conditions and standards.** The review authority may approve minor changes to required conditions and operating standards of an approved Conditional Use Permit, in compliance with the provisions of this Chapter and Section 22.70.060 (Changes to an Approved Project).
- C. **Time Limits.** Notwithstanding any other provisions of this Development Code, a Conditional Use Permit shall expire if the use ceases to operate for a five-year period or greater, unless a Use Permit Renewal is granted to extend that period of time.

## **CHAPTER 22.50 – TEMPORARY USE PERMITS**

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### **Sections:**

- 22.50.010 – Purpose of Chapter
- 22.50.020 – Applicability
- 22.50.030 – Application Filing, Processing, and Review
- 22.50.040 – Allowed Temporary Uses
- 22.50.050 – Development Standards
- 22.50.060 – Decision and Findings
- 22.50.070 – Post Approval

### **22.50.010 – Purpose of Chapter**

This Chapter establishes procedures for allowing short-term uses which may not meet the normal development or use standards applicable to the subject zoning district, but which may be acceptable because of their temporary nature.

This Chapter provides a review process for a proposed use to ensure that basic health, safety, and general community welfare standards are met. This Chapter also provides a process for Agency approval of a suitable temporary use with the minimum necessary conditions or limitations consistent with the temporary nature of the use.

### **22.50.020 – Applicability**

This Chapter shall apply to all land use activities in all zoning districts defined in Article II (Zoning Districts and Allowable Land Uses), and Article V (Coastal Zones – Development and Resource Management Standards).

### **22.50.030 – Application Filing, Processing, and Review**

- A. Filing.** Application for a Temporary Use Permit shall be submitted, filed, and processed in compliance with and in the manner described in Chapter 22.40 (Application Filing and Processing, Fees).

Temporary Use Permit application forms are available online and at the Agency's public service counter.

- B. Project review procedure.** Each Temporary Use Permit application shall be analyzed by the Agency to ensure that the application is consistent with the purpose and intent of this Chapter.
- C. Notice of action.** An administrative decision on a proposed Temporary Use Permit application shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Decisions).



## 22.50.040 – Allowable Temporary Uses

The following temporary uses may be allowed subject to the issuance of a Temporary Use Permit. Uses that do not fall into the categories listed below shall comply with the use and development standards and permit requirements that otherwise apply to the subject site.

- A. Holiday product sales lots.** Lots used for the sale of seasonal holiday products, and the establishment of an accessory temporary residence and/or security trailer on the sales lots may be approved when needed for the provision of security.

A permit shall not be required when the temporary sales lot is used in conjunction with an established commercial business which has been issued a valid County Business License, provided that the activity does not consume more than 15 percent of the total parking spaces on the site and does not impair vehicle access.

Examples of temporary holiday sales lots are Christmas tree lots, pumpkin patches, and other seasonal holiday products. The uses may be located on vacant parcels or within existing parking lots.

- B. Mobile home used as a temporary residence.** A mobile home may be approved as a temporary residence when a valid Building Permit for a new residence is in effect. Two years after the date of issuance of the residential Building Permit, and/or two months after the final inspection of the single-family residence constructed pursuant to the residential building permit, the mobile home shall be removed from the project site, unless the Temporary Use Permit specifies a different time frame.

- C. Temporary construction yards and on-site storage containers.** An off-site temporary construction yard may be approved when the temporary construction yard is needed in conjunction with the construction of an approved development project. The temporary location of a storage container on the site of a construction project may be approved to securely store furniture, tools or construction materials.

A temporary construction yard or location of a storage container may be approved in conjunction with other development permits when at least one of the following conditions exist:

1. When a valid Building or Grading Permit is in effect, and the construction or remodeling of a development project is taking place; or
2. When an applicant can demonstrate that a temporary construction yard or storage container is needed on a short term basis while permanent site work is being conducted.

- D. Temporary office.** A temporary office may be approved as an accessory use, or as the first phase of a development project.

- E. Fuels management.** Temporary livestock grazing may be approved on a short term basis in any zoning district as a means of managing vegetation for fire protection purposes.

- F. Temporary operations or events.** Short term operations or events may be approved as a modification to an existing legal or legal non-conforming use for a trial period as a means of evaluating the appropriateness of allowing the operations to continue for a longer duration or events to occur on a regular basis pursuant to a Use Permit approval.

- G. Temporary real estate office.** A temporary real estate office may be approved within the area of an approved residential development project only for the sale of homes and/or lots.
- H. Temporary work trailers.** A trailer, coach, or mobile home may be approved as a temporary work site for employees of a business when at least one of the following conditions exist:
  1. When a valid Building Permit is in effect, and the construction or remodeling of a permanent residential, commercial, or industrial structure is taking place; or
  2. When an applicant can demonstrate that a temporary trailer is needed on a short-term basis.
- I. Temporary retail establishments and restaurants.** Retail establishments and restaurants that will operate on a short-term basis.
- J. Educational Tours.** Educational tours in ARP zoning districts may be subject to a Temporary Use Permit as indicated in section 22.32.065.
- K. Similar temporary uses.** Other temporary uses which, in the opinion of the Director, are similar to and compatible with the zoning district and surrounding land uses may be approved. The maximum time period for which these types of uses shall be allowed will depend upon the particular circumstances involved.

### **22.50.050 – Development Standards**

Standards for floor areas, heights, landscaping, off-street parking areas, setbacks, and other structure and property development standards that apply to the category of use or the zoning district of the subject site (see Articles II (Zoning Districts and Allowable Land Uses) and III (Site Planning and General Development Regulations)) shall be used as a guide for determining the appropriate development standards for temporary uses. However, the Director may authorize variation from the specific standards, as deemed appropriate in the Temporary Use Permit.

### **22.50.060 – Decision and Findings**

The Director may approve or conditionally approve a Temporary Use Permit, only if the proposed temporary use is in compliance with Section 22.50.040 (Allowable Temporary Uses), above, and if all of the following findings are made:

- A.** The establishment, maintenance or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.
- B.** The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- C.** Approved measures for removing the use and restoring the site will ensure that the temporary use causes no changes to the site that will limit the range of possible future land uses otherwise allowed by this Development Code.

In order to make the determinations and findings listed above, the Review Authority shall take into consideration the temporary nature of the requested land use activity.

**22.50.070 – Post Approval**

The following shall apply subsequent to the approval of a Temporary Use Permit application. These procedures are in addition to those identified in Section 22.40.080 (Post Approval) and Chapter 22.70 (Permit Implementation, Time Limits, Extensions).

- A. Condition of site following temporary use.** Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used in compliance with the provisions of this Development Code. A bond may be required prior to initiation of the use to ensure cleanup after the use is finished.
  
- B. Time limits.** The Notice of Decision for a Temporary Use Permit shall specify the permit duration. However, Temporary Use Permits may only be approved for a maximum of two years. Temporary Use Permits may not be renewed, but a new Temporary Use Permit may be issued for the same use on the same site.

## CHAPTER 22.54 – VARIANCES

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### Sections:

- 22.54.010 – Purpose of Chapter
- 22.54.020 – Applicability
- 22.54.030 – Application Filing, Processing, and Review
- 22.54.040 – Exemptions
- 22.54.045 – Waivers
- 22.54.050 – Decision and Findings

### 22.54.010 – Purpose of Chapter

This Chapter provides procedures for the adjustment from the development standards of this Development Code only when, because of special circumstances applicable to the property, including location, shape, size, surroundings, or topography, the strict application of this Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts. Any Variance granted shall be subject to conditions that will ensure that the Variance does not constitute a granting of special privilege(s) inconsistent with the limitations upon other properties in the vicinity and zoning district in which the property is situated.

The power to grant Variances does not extend to land use regulations; flexibility in use regulations is provided in Chapter 22.48 (Conditional Use Permits).

### 22.54.020 – Applicability

The provisions of this Chapter shall apply to all development which does not comply with the standards of this Development Code. A Variance may be granted to vary or modify the strict application of the regulations or provisions contained in this Development Code. Variances cannot be granted for relief from use limitations and minimum lot size and density requirements. Variances provide relief from standards relating to height, floor area ratio, and setbacks.

### 22.54.030 – Application Filing, Processing, and Review

- A. Filing.** An application for a Variance shall be submitted, filed, and processed in compliance with and in the manner described in Chapter 22.40 (Application Filing and Processing, Fees). It is the responsibility of the applicant to establish evidence in support of the findings required by Section 22.54.050 (Decision and Findings).

Variance applications are available online and at the Agency's public service counter.

- B. Project review procedure.** Each application shall be analyzed by the Agency to ensure that the application is consistent with the purpose and intent of this Chapter.
- C. Action on Variances.** Decisions on Variances may be issued by the Director, in compliance with this Chapter, or referred to the Commission for action.
- D. Notice of action and/or hearing date.** Administrative decisions and public hearings on a proposed Variance application shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).

**22.54.040 – Exemptions**

- A. Reconstruction of legal or legal non-conforming structures that were damaged or destroyed by a natural disaster is exempt from Variance requirements.
- B. The conversion of garages to accessory dwelling units or construction of accessory dwelling units above garages that encroach into setbacks but otherwise meet the applicable development standards.

**22.54.045 – Waivers**

A Variance requirement shall be waived and the project shall instead be subject to Chapter 22.42 - Design Review, provided it meets one of the following criteria:

- A. The cubical contents of the structure may only be increased with minor dormers and bay windows that provide headroom or for projects that are addressed in this Waivers section.
- B. In situations where development is proposed within the footprint of a legal or legal non-conforming building, the floor area ratio may increase by an amount not to exceed 35 percent or 300 square feet, whichever is more restrictive, except that such area limitations do not apply to circumstances in flood zones that are addressed below in section 22.54.040.C.
- C. In situations where development is proposed within the footprint of a legal or legal non-conforming building, the floor area ratio may increase above 30 percent if the increase in floor area is due to a Federal or County requirement that an existing structure be raised above the base flood elevation. In this instance, the finished floor of the first level above the base flood elevation shall not be more than 18 inches above the base flood elevation. Floor area underneath the proposed additions does not qualify for this exemption.
- D. Existing legal non-conforming setbacks may be maintained if a structure is being raised to conform to a Federal or County requirement that an existing structure be raised above the base flood elevation. In this instance, the finished floor of the first level above the base flood elevation shall not be more than 18 inches above the base flood elevation. Development underneath the proposed additions does not qualify for this exemption.
- E. The height of a roof of an existing primary structure that encroaches into a required setback is being lowered by any height or is being raised by not more than three feet in height above the existing roof, or to a maximum of 30 feet above grade, whichever is more restrictive.
- F. Detached accessory structures, retaining walls, fences and screening walls, and primary agricultural structures that would otherwise need to meet height and setback requirements, may vary from those requirements.
- G. Primary residential buildings exceeding a height of 30 feet but not exceeding a height of 35 feet above grade in conventional districts.
- H. Roof decks above a lower level of a residence may encroach by as much as 10 feet into a front or rear yard setback, four feet beyond the standard projection allowed in Table 3-1 of section 22.20.090.

**22.54.050 – Decision and Findings**

The Review Authority shall issue a notice of decision in writing with the findings upon which the decision is based, in compliance with State law (Government Code Section 65906). The Review Authority may approve an application, with or without conditions, only if all of the following findings are made:

- A. There are special circumstances unique to the property (e.g., location, shape, size, surroundings, or topography), so that the strict application of this Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.
- B. Granting the Variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.
- C. Granting the Variance does not result in special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the real property is located.
- D. Granting the Variance will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

## **CHAPTER 22.56 – RESIDENTIAL ACCESSORY DWELLING UNIT PERMITS**

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### **Sections:**

22.56.010 – Purpose of Chapter

22.56.020 – Applicability

22.56.030 – Application Filing, Processing, and Review of Accessory Dwelling Units

22.56.040 – Exemptions

22.56.050 – Decision and Findings for Accessory Dwelling Units

### **22.56.010 – Purpose of Chapter**

This Chapter establishes a procedure to allow accessory dwelling units and junior accessory dwelling units.

### **22.56.020 – Applicability**

The provisions of this Section shall apply to accessory dwelling units, including junior accessory dwelling units, in the unincorporated portions of the County. While accessory dwelling unit permits are required, a property owner may have a junior accessory dwelling unit certified by the County on a purely voluntary basis provided it meets all the eligibility requirements, or forego such recognition at the owner's discretion.

### **22.56.030 – Application Filing, Processing, and Review of Accessory Dwelling Unit Permits**

- A. Filing.** Application for an Accessory Dwelling Unit Permit shall be submitted, filed, and processed in compliance with and in the manner described for ministerial planning permit applications in Chapter 22.40 (Application Filing and Processing, Fees).

Accessory Dwelling Unit Permit applications are available online and at the Agency's public service counter.

- B. Project review procedure.** Each Accessory Dwelling Unit Permit application shall be analyzed by the Agency to ensure that the application is consistent with the purpose and intent of this Chapter, and the findings specified for accessory dwelling units. If a discretionary permit related to the accessory dwelling unit development is required, findings of consistency with the Countywide Plan and applicable community plan shall be made as part of the approval of the discretionary permit. Once a decision has been rendered on an accessory dwelling unit application, notice of that decision shall be referred to any special districts or County agencies that provide services to the subject property.

- C. Action on Accessory Dwelling Unit Permit.** The Director shall act upon the Accessory Dwelling Unit Permit after any discretionary permits related to the development have been issued and any appeals related to those discretionary permits have been acted upon.

**22.56.040 – Exemptions**

- A. Within a single family residential zone, an application for a building permit to create one accessory dwelling unit per single-family residential lot is exempt from Accessory Dwelling Unit requirements if the following applies: (1) the unit is entirely contained within a legal single-family residence that was in existence as of January 1, 2017 or a legal residential accessory structure that was in existence as of January 1, 2017; (2) the unit has independent exterior access from the existing residence, and; (3) the side and rear setbacks are sufficient for fire safety. This exemption does not apply if a property owner is developing a new residence on a property and seeking to convert the existing residence on that property to an Accessory Dwelling Unit.
- B. Junior accessory dwelling units are exempt from the requirements of this section and may be certified by the Director provided they meet all the eligibility criteria of section 22.32.120.

**22.56.050 – Decision and Findings for Accessory Dwelling Units**

The Director may only approve or conditionally approve an application for an accessory dwelling unit if all of the following findings are made:

- A. In the Tamalpais Community Plan Area, the accessory dwelling unit would be located on the same lot on which the owner of record maintains a primary residence. A property owner of an accessory dwelling unit may request an exemption from the Tamalpais owner-occupancy requirement for a period of two years for good cause such as temporary job transfer or settlement of an estate that involves the property. Public notice shall be given prior to a decision of exemption. The exemption may be extended for up to two years at a time subject to new public noticing for each exemption. Exemptions may be granted without a public hearing.
- B. The accessory dwelling unit meets all Design Characteristics and other standards listed in Section 22.32.120 of this Development Code.
- C. If the lot is not served by a local sanitary district, adequate on-site sewage disposal will be available in compliance with County and State regulations.
- D. If the lot is not served by a local water district, adequate well water supplies exist to serve the accessory dwelling unit in compliance with County and State regulations.
- E. The addition of an accessory dwelling unit would incorporate materials, colors, and building forms that are compatible with the existing residence on the property.
- F. An accessory dwelling unit shall be located outside of the Stream Conservation Area and identified Wetland Conservation Areas except under the following circumstances: (1) the unit is created within an existing authorized primary or accessory structure through the alteration of existing floor area without increasing the cubical contents of the structure (with the exception of minor dormers, bay windows, and stairwells); and (2) no site disturbance related to the provision of parking and access improvements or other construction encroaches into a Stream Conservation Area or Wetland Conservation Area.



## **CHAPTER 22.58 – LARGE FAMILY DAY-CARE PERMITS**

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### **Sections:**

22.58.010 – Purpose of Chapter

22.58.020 – Applicability

22.58.030 – Application Filing, Processing, and Review

22.58.040 – Decision and Findings for Large Family Day-care Permits

### **22.58.010 – Purpose of Chapter**

This Section establishes standards for the County review of large family day-care facilities, in conformance with State law (Health and Safety Code Section 1596.78), including the limitations on the County's authority to regulate these facilities.

### **22.58.020 – Applicability**

As provided by State law (Health and Safety Code Sections 1596.78, et seq.), large family day-care homes are allowed within any single-family residence located in an agricultural or residential zoning district. These standards apply in addition to all other applicable provisions of this Development Code, including Section 22.32.050 (Child Day-Care Facilities), and any requirements imposed by the California Department of Social Services.

### **22.58.030 – Application Filing, Processing, and Review**

- A. Filing.** Application for a Large Family Day-care Permit shall be submitted, filed, and processed in compliance with and in the manner described for ministerial permits in Chapter 22.40 (Application Filing and Processing, Fees).

Large Family Daycare Permit applications are available online and at the Agency's public service counter.

- B. Project review procedure.** Each Large Family Day-care Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and findings of this Chapter.

### **22.58.040 – Decision and Findings for Large Family Day-care Permits**

As allowed by Health and Safety Code Sections 1597.46 et seq., The Director may approve or conditionally approve a Large Family Day-care Permit if it complies with the following criteria listed below.

- A. Fire protection.** The facility shall contain a fire extinguisher and smoke detector devices and comply with all standards established by the County Fire Department.
- B. Location requirements.** No residential lot shall be bordered on more than one side by a large family day-care home. The Director shall also determine that the proposed facility will not result in an over concentration of child day-care facilities to the detriment of the neighborhood.

- C. **Noise standards.** A facility within or adjoining any residential zoning district may only operate up to 14 hours per day and may only conduct outdoor activities between the hours of 7:00 A.M. and 7:00 P.M. The actual hours of operation shall be specified in the permit.
- D. **Passenger loading area.** A drop-off and pick up area shall be established to ensure that children are not placed at risk and street traffic is not unduly interrupted. The driveway may serve as a drop-off area, provided that the driveway is not required to remain available for resident or employee parking.
- E. **Parking.** Adequate off-street parking shall be available to accommodate residents of the site and all employees, staff and/or volunteers engaged at the child day-care facility. On-street parking may be substituted for the required off-street parking for employees and/or volunteers if the applicant can demonstrate to the satisfaction of the Director that there is adequate on-street parking for this purpose in the immediate area without creating a parking problem for adjacent uses.
- F. **Signs.** All on-site signs shall be in compliance with Chapter 22.28 (Signs) and Chapter 22.60 (Permits for Signs).
- G. **Zoning district requirements.** The facility shall conform to all property development standards of the applicable zoning district.
- H. **Permit compliance review.** A Large Family Day-care Permit shall require an administrative permit compliance review two years following issuance of the permit to ensure that the facility complies with all standards and does not result in an overconcentration of child care facilities in the neighborhood. The Director shall issue administrative criteria for determining overconcentration. Additional compliance review may be required by the Director if necessary.

## **CHAPTER 22.59 – HOMELESS SHELTER PERMITS**

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### **Sections:**

22.59.010 – Purpose of Chapter

22.59.020 – Applicability

22.59.030 – Application Filing, Processing, and Review

22.59.070 – Decision and Findings for Homeless Shelter Permits

### **22.59.010 – Purpose of Chapter**

This Section establishes permit requirements for the County review of any facility proposed for use as a homeless shelter.

### **22.59.020 – Applicability**

Where allowed by Article II (Zoning Districts and Allowable Land Uses), homeless shelters shall comply with the standards of Section 22.32.095 (Homeless Shelters). Homeless shelter means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

### **22.59.030 – Application Filing, Processing, and Review**

- A. Filing.** Application for a Homeless Shelter Permit shall be submitted, filed, and processed in compliance with and in the manner described for ministerial permits in Chapter 22.40 (Application Filing and Processing, Fees).

Homeless Shelter Permit applications are available online and at the Agency's public service counter.

- B. Project review procedure.** Each Homeless Shelter Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and findings of this Chapter.

### **22.59.040 – Decision and Findings for Homeless Shelter Permits**

The Director may approve or conditionally approve a Homeless Shelter Permit if it complies with standards as set forth in Chapter 22.32.095, and comply with all standards established by the County Fire Department or local Fire Protection District as applicable.

## **CHAPTER 22.60 – PERMITS FOR SIGNS**

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### **Sections:**

- 22.60.010 – Purpose
- 22.60.020 – Applicability
- 22.60.030 – Master Sign Program Procedures
- 22.60.040 – Sign Review Procedures
- 22.60.050 – Sign Permit Procedures
- 22.60.060 – Temporary Sign Permit Procedures
- 22.60.070 – Appeal Procedures
- 22.60.080 – Expiration and Extension

### **22.60.010 – Purpose**

This Chapter establishes the permitting requirements for permanent and temporary signs to ensure compliance with the applicable provisions of this Development Code.

### **22.60.020 – Applicability**

**A. Sign Authorization.** Before a sign is erected, moved, altered, replaced, suspended, displayed, or attached to a surface, whether permanent or temporary, appropriate authorization from the Director is required, unless otherwise specified in this Chapter. This Chapter establishes four types of procedures for the review and approval of a new sign:

1. **Master Sign Program.** A Master Sign Program is a discretionary planning permit that may be issued by the Director, in compliance with this Chapter, or referred to the Commission for action.

A Master Sign Program is required for the installation of signs that do not comply with the standards specified in 22.28.040 – General Standards for Permanent Signs By Use or 22.28.050 – Standards for Specific Sign Types on any lot with four or more businesses or tenant spaces, unless signs that deviate from the standards are being proposed to be mounted on the primary entrance elevation for only one of the individual tenant spaces. A Sign Program may be requested by an applicant for a lot with fewer than four businesses or tenant spaces, but it is not required.

The Master Sign Program shall detail the standards for signs to be installed on the property in the future with ministerial Sign Permit approval, rather than detailing the design of particular individual signs.

2. **Sign Review.** Sign Review is a discretionary planning permit that may be issued by the Director, in compliance with this Chapter, or referred to the Commission for action. Sign Review is required for the following signs:
  - a. Signs that do not comply with the standards specified in 22.28.040 – General Standards for Permanent Signs By Use or 22.28.050 – Standards for Specific Sign Types, and;
  - b. Freestanding signs;

- c. Internally illuminated signs.
3. **Sign Permit.** A ministerial Sign Permit issued in compliance with the requirements of Section 22.60.050 (Sign Permit Procedures) is required for the following signs:
    - a. All signs as specified in Section 22.28.040.A (General Standards for Permanent Signs by Use) unless specifically exempted in Section 22.60.020.B (Exemptions) or a Sign Review is required as identified in Chapter 22.28 (Signs);
    - b. All signs authorized in a Sign Program.
  4. **Temporary Sign Permit.** A ministerial Temporary Sign Permit issued in compliance with the requirements of Section 22.60.060 (Temporary Sign Permit Procedures) is required for the following temporary signs as identified in Section 22.28.060 (Temporary Sign Standards):
    - a. A wall banner displayed for more than a maximum of 30 days per year; and
    - b. Another authorized type of temporary sign displayed for more than 100 days per year.

**B. Exemptions.** The provisions of this Chapter do not apply to the following signs:

1. Any sign, posting, notice or similar signs placed, installed or required by law by the County, or a Federal or State governmental agency in carrying out its responsibility to protect the public health, safety, and welfare, including but not limited to, the following:
  - a. Emergency and warning signs necessary for public safety or civil defense;
  - b. Traffic and parking signs erected and maintained by an authorized public agency or approved by an authorized public agency;
  - c. Signs required to be displayed by law;
  - d. Numerals and lettering identifying the address from the street to facilitate emergency response and compliant with County requirements;
  - e. Signs directing the public to points of interest; and
  - f. Signs showing the location of public facilities.
2. Official flags of national, state, or local governments, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction may be displayed as provided in compliance with the law that adopts or regulates its use. No more than three flags must be displayed per property except on federal holidays.
3. Temporary, non-commercial decorations or displays that are incidental to and commonly associated with national, local, or religious celebration, provided that such decorations and displays are only displayed during the appropriate time of year, are maintained in an attractive condition, and do not constitute a fire hazard.

4. Signs or displays that are not visible beyond the boundaries of the lot upon which they are located or from any right-of-way or access easement, and temporary signs located within County Facilities.
5. Business information signs. Non-illuminated signs which provide business information including, but not limiting to credit card acceptance, business hours, open/closed, or menus provided signs do not exceed an aggregate six square feet in sign area and do not violate the provisions of this Chapter.
6. Signs neatly and permanently affixed on a vehicle, provided such vehicles are not used as parked or stationary outdoor display signs, unless displayed in a prohibited location (see Section 22.28.030.A). Such signage must not be a banner, board, paper, or any temporary sign and must not substantially project or deviate from the vehicle profile.
7. Signs that constitute an integral part of a vending machine or similar facilities located outside of a business.
8. Historical plaques erected and maintained by nonprofit organizations, memorials, building cornerstones and erection date stones.
9. Business Name and Address on an Entry Door. Name of a business, address information, and/or contact information displayed on an entry door, not exceeding two square feet in area.
10. Nonstructural modifications and maintenance:
  - a. Changes to the face or copy of changeable copy signs;
  - b. Changes to the face or copy of an existing single-tenant or multi-tenant freestanding or building mounted sign from one business to another with no structural or lighting modifications to the sign; and
  - c. The normal repair and maintenance of conforming or legal nonconforming signs, except as identified in Section 22.28.060 (Nonconforming Signs).

### **22.60.030 – Master Sign Program Procedures**

- A. Application requirements.** An application for a Master Sign Program must be filed on the form(s) provided by the Agency, together with all required fees and all other information and materials. The Master Sign Program shall detail the standards for signs to be installed on the property in the future with ministerial Sign Permit approval.
- B. Findings and decision.** The Review Authority shall approve, conditionally approve, or deny the Master Sign Program application only after the following findings are made:
  1. If applicable, exceeding the General Standards for Permanent Signs By Use (22.28.040) and/or the Standards for Specific Sign Types (22.28.050) is necessary to overcome a visibility disadvantage caused by an unfavorable orientation of the front wall to the public right-of-way or by an unusually large setback.

2. The signs would be in proper scale with the uses and structures on the property and in the surrounding community.
3. The colors, contrast, typography, and materials used for the signs would be simple and attractive and compliment the architectural design found on the property and in the surrounding community.
4. The location and appearance of the signs would be compatible with other signs in the vicinity and the character of the surrounding community.
5. The Master Sign Program would result in signs that are visually related or complementary to each other, what they identify, and the uses and development on the site and in the surrounding community.

### **22.60.040 – Sign Review Procedures**

- A. Application requirements.** An application for a Sign Review must be filed on the form(s) provided by the Agency, together with all required fees and all other information and materials specified by the application requirements list provided by the Agency.
- B. Findings and decision.** The Review Authority shall approve, conditionally approve, or deny the application only after the following findings are made:
  1. Exceeding the General Standards for Permanent Signs By Use (22.28.040) and/or the Standards for Specific Sign Types (22.28.050) is necessary to overcome a visibility disadvantage caused by an unfavorable orientation of the front wall to the public right-of-way or by an unusually large setback.
  2. The sign would be in proper scale with the uses and structures on the property and in the surrounding community
  3. The colors, contrast, typography, and materials used for the sign would be simple and attractive and compliment the architectural design found on the property and in the surrounding community.
  4. The location and appearance of the sign would be compatible with other signs in the vicinity and the character of the surrounding community.

### **22.60.050 – Sign Permit Procedures**

- A. Application requirements.** An application for a ministerial Sign Permit must be filed on the form(s) provided by the Agency, together with all required fees and all other information and materials specified by the application requirements list provided by the Agency.
- B. Review and Approval.** After a Sign Permit application is deemed complete, the Director shall approve, conditionally approve, or deny the application. The Director may approve a Sign Permit application, with or without conditions, only after finding that the sign complies with the standards of Chapter 22.28 (Signs), any applicable Master Plan, and any applicable Sign Program.

**22.60.060 – Temporary Sign Permit Procedures**

- A. Temporary Sign Permit Requirement.** Temporary wall banner signs displayed for more than 30 days per year and other authorized temporary signs displayed for longer than 100 days per year require Temporary Sign Permit approval.
- B. Duration of Temporary Sign Permit.**
1. A Temporary Sign Permit for a wall banner is valid for an additional 30 consecutive days beginning with the date of issuance.
  2. A Temporary Sign Permit for all other authorized temporary signs described in Section 22.28.060 (Temporary Sign Standards) is valid for an additional 100 consecutive days beginning with the date of issuance.
- C. Review and Approval.**
1. **Application requirements.** An application for a Temporary Sign Permit must be filed on the form(s) provided by the Agency, together with all required fees and all other information and materials specified by the application requirements list provided by the Agency.
  2. **Findings and decision.** After a Temporary Sign Permit application is deemed complete, the Director shall approve, conditionally approve, or deny the application. The Director may approve a Sign Permit application, with or without conditions, only after finding that the temporary sign complies with the standards of Chapter 22.28 (Signs).

**22.60.070 – Appeal Procedures**

A decision of the Director on a Master Sign Program or Sign Review may be appealed in compliance with Chapter 22.114 (Appeals).

**22.60.080 – Expiration and Extension**

Authorization for all signs for which Master Sign Program, Sign Review, Sign Permit, or Temporary Sign Permit have been issued in compliance with this Chapter are subject to the expiration and extension provisions of Chapter 22.70 (Permit Implementation, Time Limits, Extensions).



## **CHAPTER 22.70 – PERMIT IMPLEMENTATION, TIME LIMITS, EXTENSIONS**

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### **Sections:**

- 22.70.010 – Purpose of Chapter
- 22.70.020 – Effective Date of Permits
- 22.70.030 – Deadline for Action
- 22.70.040 – Performance Guarantees
- 22.70.050 – Time Limits and Extensions
- 22.70.060 – Changes to an Approved Project

### **22.70.010 – Purpose of Chapter**

This Chapter provides procedures for the implementation or vesting of the permits and entitlements required by this Development Code, including time limits and procedures for extensions of time. Time limits and extension criteria for Tentative Maps are found in Article VI (Subdivisions), beginning with Section 22.84.120 (Tentative Map Time Limits).

### **22.70.020 – Effective Date of Permits**

- A. Final determinations adopted by resolution by the Director, Zoning Administrator, or Commission (e.g., Design Reviews, Floating Home Exceptions, Use Permits, Variances), shall become effective on the 9<sup>th</sup> business day following the date of application approval by the appropriate Review Authority, provided that no appeal of the Review Authority's action has been submitted, in compliance with Chapter 22.114 (Appeals).
- B. Final determinations adopted by resolution by the Board shall become effective immediately.
- C. Final determinations adopted by ordinance by the Board (e.g., Master Plans, Development Code, Zoning Map and Countywide Plan amendments), shall become effective on the 31st day following the date of approval by the Board.

### **22.70.030 – Deadline for Action**

The Director, Zoning Administrator or Commission shall make an initial decision on a quasi-judicial discretionary permit within 60 days after the application is determined to be complete, or the appropriate time period in compliance with the CEQA time limit requirements, or the appropriate time limit otherwise established by any State or Federal Law, or the application shall be deemed approved, subject to the noticing requirements of Government Code Section 65956. A one-time extension for a period not to exceed an additional 90 days may be provided upon mutual agreement by the Director and the applicant (Government Code 65957).

Any permit application deemed approved in compliance with State law (Government Code 65956) shall be subject to all applicable provisions of this Development Code, which shall be satisfied by the applicant prior to the issuance of any construction permit or the establishment of a land use not requiring a construction permit.

Deadlines for action and results of inaction are modified for telecommunications projects by Federal law and in accordance with section 22.32.165 (Telecommunications Facilities).

### **22.70.040 – Performance Guarantees**

A permit applicant may be required by conditions of approval, or by action of the review authority, to provide adequate security, in a form acceptable to the Director, to guarantee and/or monitor the faithful performance of and compliance with any/all conditions of approval imposed by the review authority on the permit.

### **22.70.050 – Time Limits and Extensions**

- A. Time limits, vesting.** Unless conditions of approval establish a different time limit, any permit or entitlement not vested within three years of the date of approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained a Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval, or has recorded a Parcel or Final Map.
- B. Extensions of time.** Upon request by the applicant, the Director may extend the time for an approved permit to be vested.
- 1. Filing.** The applicant shall file a written request for an extension of time with the Agency, at least 10 days prior to the expiration of the permit, together with the filing fee required by the County Fee Ordinance.
  - 2. Review of extension request.** The Director shall determine whether the permit holder has attempted to comply with the conditions of the permit. The burden of proof is on the permittee to establish, with substantial evidence, that the permit should not expire. The Director may instead refer the extension request to the Commission for review.
  - 3. Action on extension.** If the Director determines that the permittee has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner, the Director may extend the permit for a maximum period of three years following the original expiration date. If the approval was granted concurrently with a Tentative Map, the maximum amount of time extensions would be determined by Section 22.84.140 (Extensions of Time for Tentative Maps).

When granting an extension, the Director may make minor modifications to the approved project if it is found that there has been a change in the factual circumstances surrounding the original approval.

- 4. Hearing on extension.** If the Director finds that significant policy questions are at issue, the Director may refer the application to the Commission for a public hearing in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).
- 5. Coordination of expiration date among multiple permits.** If a Building Permit, or other permit, is issued during the effective life of the entitlement or development application approval, the expiration date of the entitlement or development application approval shall

be automatically extended to coincide with the expiration date of the Building Permit or permit.

### **22.70.060 – Changes to an Approved Project**

Development or a new land use authorized in compliance with this Development Code shall be established only as approved by the review authority and subject to any conditions of approval, except where changes to the project are approved in compliance with this Section.

An applicant shall propose changes in writing, and shall also furnish appropriate supporting materials and an explanation of the reasons for the request. Changes may be requested either prior to or after construction or establishment and operation of the approved use.

- A.** The Director may authorize changes to an approved site plan, architecture, or the nature of the approved use if the changes:
1. Are consistent with all applicable provisions of this Development Code;
  2. Do not involve a feature of the project that was specifically addressed or was a basis for findings in a negative declaration or environmental impact report for the project;
  3. Do not involve a feature of the project that was specifically addressed or was a basis for conditions of approval for the project or that was a specific consideration by the Review Authority in the approval of the permit; and
  4. Do not result in a significant expansion of the use.
- B.** Changes to the project involving features described in Section 22.70.060.A.2 and A.3 (Changes to an Approved Project), above, shall only be approved by the review authority through a new permit application processed in compliance with this Development Code.

# ARTICLE VI

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## **CHAPTER 22.80 – SUBDIVISION MAP APPROVAL REQUIREMENTS**

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### **Sections:**

- 22.80.010 – Title
- 22.80.020 – Purpose of Article
- 22.80.030 – Applicability
- 22.80.040 – Exemptions from Subdivision Approval Requirements
- 22.80.050 – Review Authority for Subdivision Applications
- 22.80.060 – Exceptions to Subdivision Standards
- 22.80.070 – Notice of Judicial Challenge

### **22.80.010 – Title**

This Article is and may be cited as the Marin County Subdivision Ordinance.

### **22.80.020 – Purpose of Article**

The regulations in this Article are intended to supplement, implement, and work with the Subdivision Map Act, Sections 66410 et seq. of the California Government Code (hereafter referred to as the Map Act). This Article is not intended to replace the Map Act, and must be used in conjunction with the Map Act in the preparation of applications, and the review, approval, and construction of proposed subdivisions.

### **22.80.030 – Applicability**

The Map Act and this Development Code require that the subdivision of an existing parcel into two or more proposed parcels be first approved by the County. In general, the procedure for subdivision first requires the approval of a Tentative Map, and then the approval of a Parcel Map or Final Map to complete the subdivision process. The Tentative Map review process is used to evaluate the compliance of the proposed subdivision with the standards of this Development Code, and the appropriateness of the proposed subdivision design. Parcel and Final Maps are precise engineering documents that detail the location and dimensions of all parcel boundaries in an approved subdivision and, after approval, are recorded in the office of the County Recorder.

**A. Tentative Map requirements.** Pursuant to Map Act Section 66426, a Tentative and Final Map are required for all subdivisions creating five or more parcels, five or more condominiums, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where any of the following occurs:

1. The original, unsubdivided parcel contains less than five acres, each proposed parcel abuts upon a maintained public street, and no dedications or improvements are required by adopted County Plans or Codes.
2. Each parcel created by the division has a gross area of 20 acres or more and has approved access to a maintained public street.



3. The parcel(s) have approved access to a public street which comprises part of a tract of land zoned for industrial or commercial development, and which has County approval for street alignments and widths.
4. Each parcel has a minimum gross area of 40 acres.
5. The land being subdivided is solely for the creation of an environmental subdivision pursuant to Map Act Section 66418.2

A Parcel Map shall be required instead of a Final Map when a Final Map is not required for the reasons listed in 1 through 5 above.

**B. Parcel and Final Map requirements.** A Parcel or Final Map shall be required as follows:

1. **Parcel Map.** The filing and approval of a Parcel Map (Chapter 22.86 (Parcel Maps and Final Maps)) shall be required for a subdivision creating four or fewer parcels, with or without a designated remainder in compliance with Chapter 1, Article 2 of the Map Act, except for the following subdivisions:
  - a. **Public agency or utility conveyances.** Any conveyance of land, including a fee interest, an easement, or a license, to a governmental agency, public entity, public utility or a subsidiary of a public utility for rights-of-way, unless the Director determines based on substantial evidence that public policy necessitates a Parcel Map in an individual case; or
  - b. **Rail right-of-way leases.** Subdivisions of a portion of the operating right-of-way of a railroad corporation as defined by Section 230 of the California Public Utilities Code, which are created by short-term leases (terminable by either party on not more than 30 days' notice in writing); or
  - c. **Waived Parcel Map.** A subdivision that has been granted a waiver of Parcel Map requirements in compliance with Section 22.86.030 (Waiver of Parcel Map).
2. **Final Map.** The filing and approval of a Final Map (Chapter 22.86) shall be required for a subdivision of five or more parcels; except where a Parcel Map without a Tentative Map is instead required by Subsection A. above (Tentative Map Requirements).

**C. Conflicts with Map Act.** In the event of any perceived conflicts between the provisions of this Article and the Map Act, the Map Act shall control.

### 22.80.040 – Exemptions from Subdivision Approval Requirements

As provided by Article 1, Chapter 1 of the Map Act, the following subdivisions do not require the filing or approval of Tentative, Parcel or Final Maps.

- A. **Agricultural leases.** Leases of agricultural land for the cultivation of food or fiber, or the grazing or pasturing of livestock.
- B. **Boundary line agreements.** Boundary line or exchange agreements to which the State Lands Review Authority or a local agency holding a trust grant of tide and submerged lands is a party.

- C. Wireless telecommunication antenna facilities.** The leasing or licensing of a portion of a parcel, or the granting of an easement, Use Permit, or similar right on a portion of a parcel, to a telephone corporation as defined in Public Utilities Code Section 234, exclusively for the placement and operation of wireless telecommunications transmission facilities, including antenna support structures, microwave dishes, structures to house wireless telecommunications transmission equipment, power sources, and other incidental equipment.
- D. Cemeteries.** Land dedicated for cemetery purposes under the Health and Safety Code.
- E. Commercial/industrial financing or leases.** The financing or leasing of:
1. Offices, stores or similar spaces within commercial or industrial buildings; existing separate commercial or industrial buildings on a single parcel; or
  2. Any parcel or portion of a parcel, in conjunction with the construction of commercial or industrial buildings on the same site, if Article II or Article V of this Development Code (Zoning Districts and Allowable Land Uses) requires a Use Permit for the project, or Chapter 22.42 requires Design Review.
- F. Condominium conversions.** The conversion of:
1. A community apartment project or a stock cooperative to condominiums, if the conversion satisfies the requirements of Map Act Sections 66412.g or 66412.h, respectively; or
  2. The conversion of certain mobile home parks to condominiums as provided by Map Act Section 66428.b.
- G. Lot Line Adjustments.** A Lot Line Adjustment processed in compliance with Chapter 22.90 (Lot Line Adjustments).
- H. Mineral leases.** Mineral, oil or gas leases.
- I. Public agency or utility conveyances.** Any conveyance of land, including a fee interest, an easement, or a license, to a governmental agency, public entity, public utility or a subsidiary of a public utility for rights-of-way.
- J. Rail right-of-way leases.** Short-term leases (terminable by either party on not more than 30 days' notice in writing) of a portion of the operating right-of-way of a railroad corporation as defined by Section 230 of the California Public Utilities Code, unless the Director determines in an individual case, based on substantial evidence, that public policy necessitates the application of the subdivision regulations of this Development Code to the short-term lease.
- K. Small, removable commercial buildings.** Subdivisions of four parcels or less for the construction of removable commercial buildings having a floor area of less than 100 square feet.
- L. Residential financing or leases.** The financing or leasing of: apartments, or similar spaces within apartment buildings, mobile home parks or trailer parks; or "granny" units or residential second units in compliance with Government Code Sections 65852.1 or 65852.2, respectively.
- M. Separate assessments.** Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

- N. **Wind energy conversion systems (WECS).** The leasing of, or granting of an easement to a parcel or portion of a parcel in conjunction with the financing, installation, and sale or lease of a WECS.

### **22.80.050 – Review Authority for Subdivision Applications**

The Review Authority is the individual or body identified by this Development Code as having the responsibility and authority to approve or deny land use permit and subdivision applications. The Review Authority for Tentative Maps, Parcel and Final Maps, Lot Line Adjustments, Certificates and Conditional Certificates of Compliance, parcel Mergers and Unmergers, and Reversions to Acreage in compliance with this Article, is determined by Section 22.40.020 (Review Authority for County Land Use and Zoning Decisions), and the provisions of this Article.

### **22.80.060 – Exceptions to Subdivision Standards**

An exception to any provision of this Article may be requested by a subdivider in compliance with this Section. An exception shall not be used to waive or modify provisions of the Map Act.

- A. **Application.** An application for an exception shall be submitted on forms provided by the Agency together with the required filing fee. The application shall include a description of each standard and requirement for which an exception is requested, together with the reasons why the subdivider believes the exception is justified.
- B. **Filing and processing.** A request for an exception may be filed with the Tentative Map application to which it applies, or after approval of the Tentative Map. An exception shall be processed and acted upon in the same manner as the Tentative Map, concurrently with the Tentative Map if the exception request was filed at the same time. An exception shall not be considered as Tentative Map approval and shall not extend the time limits for expiration of the map established by Section 22.84.130 (Expiration of Approved Tentative Map).
- C. **Approval of exception.** The Review Authority shall not grant an exception unless all the following findings are first made:
1. There are exceptional or extraordinary circumstances or conditions applicable to the proposed subdivision, including size, shape, topography, location, or surroundings.
  2. The exception does not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity.
  3. The exception is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity and in the same zoning district and denied to the proposed subdivision.
  4. Granting the exception will not be materially detrimental to the public welfare nor injurious to the property or improvements in the vicinity and zoning district in which the property is located.
  5. The exception is consistent with the Marin Countywide Plan, or any applicable Community Plan or Specific Plan.

In granting an exception, the Review Authority shall secure substantially the same objectives of the regulations for which the exception is requested and shall impose whatever conditions it deems necessary to protect the public health, safety, general welfare and convenience, and to mitigate any environmental impacts.

### **22.80.070 – Notice of Judicial Challenge**

At least 30 days before filing any judicial action or proceeding to attack, review, set aside, void or annul the decision of the Review Authority concerning a Tentative, Parcel or Final Map, or any of the proceedings, acts or determinations taken, done or made before this decision, or to determine the reasonableness, legality or validity of any condition of approval, written notice shall be served upon the Review Authority detailing the nature of the conduct or action intended to be challenged. This Section is not intended to extend the statute of limitations provided in Map Act Section 66499.37.



## **CHAPTER 22.82 – SUBDIVISION DESIGN STANDARDS**

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### **Sections:**

- 22.82.010 – Purpose of Chapter
- 22.82.020 – Clustering Required in Planned Districts
- 22.82.025 – Density Range
- 22.82.030 – Drainage Facilities
- 22.82.040 – Energy Conservation
- 22.82.050 – Hillside Subdivision Design
- 22.82.060 – Roadway Landscaping
- 22.82.070 – Lot Configuration and Minimum Area
- 22.82.080 – Roads, Sidewalks, Pathways, Driveways
- 22.82.090 – Utilities

### **22.82.010 – Purpose of Chapter**

This Chapter provides standards for subdivision design, consistent with the policies of the Marin Countywide Plan and the requirements of the Map Act.

### **22.82.020 – Clustering Required in Planned Districts**

Proposed subdivisions within the planned zoning districts should be designed to cluster proposed structures in compliance with Article V and Section 22.08.040 (Agricultural District Development Standards).

### **22.82.025 – Density Range**

As a general rule, the residential density established by the zoning for a property shall be used to calculate the maximum number of residential lots potentially resulting from a subdivision. However, the maximum number of residential lots allowed for proposed subdivisions shall be modified based on a calculation of the net lot area of the original lot, except for proposed lots dedicated to affordable housing. In some cases, this means that properties in zoning districts allowing multiple units per lot will have a higher number of potential residential units than the potential number of residential lots allowable based on the net lot area.

In addition, the maximum number of residential units for any properties or portions of properties with sensitive habitat or within the Ridge and Upland Greenbelt or the Baylands Corridor, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the density range established by the governing Countywide Plan Land Use Designation. This restriction does not apply to lots governed by the Countywide Plan's PD\_AERA (Planned Designation – Agricultural and Environmental Reserve Area) land use designation. Densities higher than the lowest end of the applicable density range may be considered on a case-by-case basis for new housing units affordable to very low and low income households that are capable of providing adequate water or sewer services, as long as the development complies with the California Environmental Quality Act, and all other applicable policies in the Countywide Plan including those governing environmental protection.

Residential densities shall be construed as maximums, but not entitlements.

### 22.82.030 – Drainage Facilities

Subdivision drainage facilities shall be designed and constructed in compliance with Title 24, Sections 24.04.520 (Drainage Facilities) et seq. of the County Code.

### 22.82.040 – Energy Conservation

The design of a subdivision for which a Tentative and Final Map are required by this Article shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivisions, in compliance with Map Act Section 66473.1.

### 22.82.050 – Hillside Subdivision Design

- A. Purpose.** The provisions of this Section are intended to ensure the creation of suitably designed and developed parcels in all hillside areas of the County.
- B. Applicability.** All parcels created within zoning districts which establish minimum lot area requirement, shall be related to the natural ground slope as provided by this Section. This section shall also apply in determining minimum lot size requirements for the purposes of compliance with Chapter 22.92 (Merger of Parcels).
- C. General requirements.** Proposed subdivisions shall be designed so that each parcel complies with the minimum lot area requirements of this Chapter, in addition to the minimum lot area requirements of Article II (Zoning Districts and Allowable Land Uses) and Article V established for each zoning district. All parcels created after the effective date of this Development Code shall be related to the natural ground slope as provided by this Section. In the event of conflict between these provisions and applicable minimum lot area standards of Articles II or V, the larger minimum lot area standards shall be required where a minimum lot area applies.
- 1. Measurement of slope.** The average slope of a lot expressed as a percent is calculated as follows:

$$S = (L \times I \times 100) / A$$

Where:

- S = The average slope of natural ground expressed as a percent  
 I = The topographic contour interval in feet (i.e., 2-foot contour intervals, 5-foot intervals, etc.)  
 L = The sum of the length of the contour lines in feet  
 A = The area of the lot in square feet

This definition assumes that slope calculations are based on accurate topographic survey maps drawn to a scale of not less than one inch equals 100 feet, with contour lines at maximum 10-foot intervals for ground slope over 15 percent, and at five-foot intervals for ground slope of 15 percent or less.

- 2. Minimum lot area based on slope.** The minimum lot area requirements established by Table 6-1 (Minimum Lot Area Based on Slope) shall apply to all parcels in the unincorporated area of the County, unless any of the lot-slope requirements of Subsection

D below (Special Area Lot Size/Slope Requirements) apply. The natural ground slope calculation of a site shall be rounded up to the nearest whole number shown on Table 6-1 (Minimum Area Based on Slope).

3. **Lot design.** Unconventional lot design to meet lot-slope requirements shall not be permitted. All lots shall be developable, buildable, and reasonably accessible. Lots shall not be created which are impractical for improvement due to steepness of terrain, location of water courses, inability to handle waste disposal, or other natural or manmade physical conditions.

**TABLE 6-1  
MINIMUM LOT AREA BASED ON SLOPE**

Natural Ground Slope (%)	Minimum Lot Area (sq. ft.)	Natural Ground Slope (%)	Minimum Lot Area (sq. ft.)
0 - 6	See Zoning Map	24	19,667
7	7,667	25	21,136
8	7,849	26	22,693
9	8,086	27	24,331
10	8,376	28	26,041
11	8,719	29	27,808
12	9,117	30	29,616
13	9,572	31	31,446
14	10,088	32	33,272
15	10,670	33	35,067
16	11,324	34	36,798
17	12,053	35	38,428
18	12,865	36	39,915
19	13,763	37	41,212
20	14,752	38	42,265
21	15,836	39	43,016
22	17,016	40 or greater	43,560
23	18,293		



- D. Special area lot size / slope requirements.** The following slope-based minimum lot area requirements for new subdivisions apply only in the Community Plan areas and other specific areas noted, instead of the requirements of Subsection C.2 above (Minimum Lot Area Based on Slope).

**TABLE 6-2  
SPECIAL AREA LOT SIZE/SLOPE REQUIREMENTS**

Location	Average Natural Lot Slope	Minimum Lot Area
<b>Sleepy Hollow</b>	15% or less	15,000 sq. ft.
	More than 15%	15,000 sq. ft., plus 1,000 sq. ft. for each additional one percent of slope over 15%, to a maximum of 45,000 sq. ft.
<b>Indian Valley</b>	Less than 10%	1.0 acres
	10% to 20%	1.5 acres
	More than 20%	2.0 acres

### **22.82.060 – Roadway Landscaping**

Subdivision landscaping to enhance the natural environment and appearance of the subdivision shall, at a minimum, be designed and constructed in compliance with Title 24, Sections 24.04.750 et seq. (Trees and Landscaping) of the County Code.

### **22.82.070 – Lot Configuration and Minimum Area**

Proposed subdivisions shall be designed so that all lots are in compliance with all applicable minimum lot area requirements of this Development Code, except when the project entails subdivision allowed by Government Code Section 51230.2. Lots should be designed with configurations that ensure each property owner can easily understand parcel boundaries, and to respect environmental and topographic conditions of the site. Irregular lot configurations that are designed solely to meet minimum lot area standards based on the lot-slope requirements contained in Section 22.82.050 (Hillside Subdivision Design) shall not be permitted. Lots shall not be approved unless they are developable, buildable, and reasonably accessible. Lots shall not be created which are impractical for improvement, due to steepness of terrain, location of water courses, inability to handle waste disposal, or other natural or manmade physical conditions. In addition to the provisions of this Chapter, lot design shall comply with those standards established by:

- A.** Article II (Zoning Districts and Allowable Land Uses);
- B.** Article V (Coastal Zones –Development and Resource Management Standards);
- C.** The Zoning Maps (Section 22.06.030 (Zoning Map Adopted)); and
- D.** Title 24, Chapter 24.07 (Lots) of the County Code.

**22.82.080 – Roads, Sidewalks, Pathways, Driveways**

Subdivision roadways, sidewalks, pedestrian and multipurpose pathways, and individual driveways shall be designed and constructed in compliance with all applicable provisions of the County Code, including:

- A. Title 24, Sections 24.04.020 et seq. (Roads);
- B. Title 24, Sections 24.04.235 et seq. (Driveways);
- C. Title 24, Sections 24.04.430 et seq. (Sidewalks and Pedestrian Paths); and;
- D. Title 24, Sections 24.04.510 (Multipurpose Pathways).

**22.82.090 – Utilities**

Subdivision utilities shall comply with Title 24, Sections 24.04.840 et seq. (Utilities) of the County Code. Utilities to serve proposed development shall be placed underground except where the Director determines that the cost of undergrounding would be so prohibitive as to deny utility service to the development, or the environmental benefit of allowing utilities to be placed above ground outweighs potential visual impacts.



## **CHAPTER 22.84 – TENTATIVE MAPS**

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### **Sections:**

- 22.84.010 – Purpose of Chapter
- 22.84.020 – Tentative Map Preparation, Application Contents
- 22.84.030 – Tentative Map Application Filing and Initial Processing
- 22.84.035 – Tentative Map Waiver
- 22.84.040 – Tentative Map Public Hearings
- 22.84.050 – Tentative Map Review
- 22.84.060 – Findings for Approval or Denial of Tentative Map
- 22.84.070 – Conditions of Approval
- 22.84.090 – Changes to Approved Tentative Map or Conditions
- 22.84.100 – Completion of Subdivision Process
- 22.84.110 – Vesting Tentative Maps
- 22.84.120 – Tentative Map Time Limits
- 22.84.130 – Expiration of Approved Tentative Map
- 22.84.140 – Extensions of Time for Tentative Maps
- 22.84.150 – Applications Deemed Approved

### **22.84.010 – Purpose of Chapter**

This Chapter provides requirements for the preparation, filing, review, and approval or denial of Tentative Maps and Vesting Tentative Maps, in compliance with the Map Act.

### **22.84.020 – Tentative Map Preparation, Application Contents**

Tentative Map submittals shall include all information required by the Map Act, the information and other materials required by the Tentative Map Preparation and Contents instruction list provided by the Agency, a preliminary soils report if required by Section 22.100.040 (Soils Reports), and all information required by Title 23, Section 23.09.036 (Floodplain Management – Standards for Subdivisions) of the County Code.

### **22.84.030 – Tentative Map Application Filing and Initial Processing**

Tentative Map applications shall be prepared, filed with the Agency, and processed in compliance with this Chapter, and Map Act Sections 66452 et seq.

- A. General filing and processing requirements.** Tentative Map applications shall be submitted to the Agency for processing, be reviewed for completeness and accuracy, referred to affected agencies, reviewed in compliance with the California Environmental Quality Act (CEQA), and evaluated in a staff report as provided by Chapter 22.40 (Application Filing and Processing, Fees).

- B. Transmittal to affected agencies.** In addition to the procedures outlined in Chapter 22.40 (Application Filing and Processing, Fees), a Tentative Map application shall be transmitted to the agencies outlined in this Subsection, as well as any other County department, State or Federal agency, or other individual or group that the Director believes may be affected by the subdivision, or may have useful information about issues raised by the proposed subdivision. The transmittal shall include a copy of the proposed Tentative Map.
- 1. Time limits.** As required by Map Act Sections 66453 through 66455.7, transmittal shall occur within five days of the Tentative Map application being determined to be complete in compliance with Section 22.40.050.B.2 (Initial Application Review – Completeness Review). An agency wishing to respond to a transmittal shall provide the Agency with its recommendations within 15 days after receiving the Tentative Map application.
  - 2. Required transmittals.** The Director shall transmit Tentative Map applications for review and comment to each of the following agencies which will be expected to provide service to the proposed subdivision.
    - a. Caltrans.** The California Department of Transportation shall be transmitted:
      - (1) Any Tentative Map located within an area shown on a territorial map filed with the County in compliance with Map Act Section 66455.
      - (2) Any Tentative Map that includes a proposed public school site located within two miles of an airport runway, as described in Section 39005 of the California Education Code. In these cases, the time for receipt of comments by the County shall be 35 days instead of the 15 days specified by this Subsection B.1 above (Time Limits).
    - b. Environmental Health Services.** Environmental Health Services shall be transmitted any Tentative Map application that proposes sewage disposal or water supply by other than public sewer or water systems.
    - c. Fire departments.** County fire protection agencies including the County Fire Department, the various county fire protection districts and the California Department of Forestry shall be transmitted any Tentative Map within their respective areas of responsibility.
    - d. Incorporated cities and other local agencies.** Incorporated cities and other local agencies, including community services districts, shall be transmitted any Tentative Map application that is located within the area shown on a territorial map filed with the County in compliance with Map Act Section 66453, and within any sphere of influence they have established outside of their official boundaries.
    - e. Public utilities, water and sewer agencies.** Public utility companies and other service agencies which will be expected to provide service to the proposed subdivision, including providers of water, sewer, gas, electrical, telephone, and cable television services, shall be transmitted any Tentative Map within their respective jurisdictions.
    - f. Public Works Department.** The Public Works Department shall be transmitted all Tentative Maps for review and comment regarding proposed easements, public improvements, streets, and other relevant issues.

- g. School districts.** Tentative Maps shall be transmitted to the governing board of any elementary, high school, or unified school district within which the property to be subdivided is located.
- h. State Department of Education.** The State Department of Education shall be transmitted any Tentative Map that includes a proposed public school site.

Along with the subdivision application transmittal, the Agency shall include notification that if no written response to the transmittal is received within 15 calendar days of receipt by the agency, the Agency shall presume that no recommendations or comments are forthcoming.

### **22.84.035 – Tentative Map Waiver**

- A.** For any subdivision where a parcel map is required, a written application may be made to the Director requesting a waiver of the Tentative Map for all or part of the proposed subdivision. The written application shall state in detail the basis for the waiver requested. Such a waiver may be granted by the Director upon finding that:
  1. The proposed subdivision meets all requirements of the State Subdivision Map Act and any applicable provisions of this title;
  2. The proposed subdivision does not increase the number of lots on the property except in conformance with section 22.84.035.B and meets all requirements of Title 22 of the Marin County Code;
  3. Adequate public notice of the proposed subdivision has been given; and
  4. A Parcel Map or Final Map will be required, except when a Certificate of Correction is filed to modify a map that was previously recorded.
- B.** Tentative Map waivers may also be granted for Environmental Subdivisions that meet all the criteria and requirements of Map Act Section 66418.2. Such a waiver for an Environmental Subdivision may be granted by the Director upon finding that:
  1. The proposed subdivision meets all requirements of the State Subdivision Map Act and any applicable provisions of this title;
  2. Adequate public notice of the proposed subdivision has been given; and
  3. A Parcel Map or Final Map will be required.

### **22.84.040 – Tentative Map Public Hearings**

Public hearings are required by this Development Code for a Tentative Map or an appeal of a Tentative Map decision. The hearing shall be scheduled and conducted in compliance with this Section, in addition to public notice being provided in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).

- A. Scheduling of hearing, decision.** A public hearing on a Tentative Map or appeal shall be scheduled, and a decision shall be reached, within the following time limits.

1. **Tentative Map.** A hearing on a Tentative Map shall be scheduled and action shall be taken on the map within 50 days after an environmental impact report is certified or a negative declaration is approved for the Tentative Map. In the case of a Tentative Map which does not require an environmental impact report or negative declaration, a hearing shall be scheduled and action taken on the map within 50 days after the subdivision application is determined to be complete, in compliance with Section 22.40.050 (Initial Application Review).
2. **Appeals.** A hearing on an appeal (Chapter 22.114 (Appeals)) shall be held within 30 days after the filing of the appeal, or if there is no regular meeting within the next 30 days, the hearing shall be held at the next regular meeting or within 60 days, whichever period is shorter.

**B. Distribution of staff report.** The staff report on the Tentative Map shall be mailed to the subdivider (and each tenant of the subject property, in the case of a condominium conversion (Section 22.88.030 (Condominium Conversions))) at least 10 days before any hearing or action on the Tentative Map by the Review Authority.

### 22.84.050 – Tentative Map Review

After completion of a staff report and recommendations on the Tentative Map application, the Director shall refer a Tentative Map to the Review Authority for action.

**A. Hearing and review.** The Review Authority shall:

1. Conduct a public hearing on a proposed Tentative Map that has been scheduled and provided public notice in compliance with Section 22.84.040 (Tentative Map Public Hearings); and
2. Review and evaluate each Tentative Map with respect to the following information and issues:
  - a. Its compliance and consistency with applicable provisions of this Development Code and other applicable County ordinances, the Marin Countywide Plan, any applicable Community Plan or Specific Plan, and the Map Act;
  - b. The staff report (Section 22.40.070), and recommendations from any agency providing comments on the Tentative Map in compliance with Section 22.84.030.B (Transmittal to Affected Agencies);
  - c. The information provided by an initial study or environmental impact report (Section 22.40.060 (Environmental Review)); and
  - d. Any public testimony received.

**B. Approval or denial of Tentative Maps.** In the case of a Tentative Map proposing four or fewer parcels, the Review Authority may approve or deny the Tentative Map as follows:

1. Within 50 days after an environmental impact report is certified or a negative declaration is approved for the Tentative Map, the Review Authority shall approve, conditionally approve or deny the Tentative Map.

2. Approval or conditional approval of a Tentative Map shall be granted only after the Review Authority has made all findings required by Section 22.84.060 (Findings for Approval or Denial of Tentative Map). The Review Authority may impose conditions of approval in compliance with Section 22.84.070 (Conditions of Approval).
3. The decision of the Review Authority on a Tentative Map may be appealed in compliance with Chapter 22.114 (Appeals).

### **22.84.060 – Findings for Approval of Tentative Map**

In order to approve a Tentative Map, or a Parcel Map when no Tentative Map is required, the Review Authority shall first make the findings listed below. In determining whether to approve a Tentative Map, the Review Authority shall apply only those ordinances, policies, and standards in effect at the date the Agency determined that the application was complete in compliance with Section 22.40.050 (Initial Application Review), except where the County has initiated Marin Countywide Plan, Community Plan, or Development Code changes, and provided public notice as required by Map Act Section 66474.2.

- A. Required findings for approval.** The Review Authority may approve a Tentative Map, or Parcel Map when no Tentative Map is required, only when it first finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with all of the findings below, as required by Map Act Section 66474. The findings shall apply to each proposed parcel as well as the entire subdivision, including any parcel identified as a designated remainder in compliance with Map Act Section 66424.6.
1. The proposed subdivision including design and improvements is consistent with the Marin Countywide Plan and any applicable Community Plan or Specific Plan.
  2. The site is physically suitable for the type and proposed density of development.
  3. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or injure fish or wildlife or their habitat.
  4. The design of the subdivision and type of improvements is not likely to cause serious public health or safety problems.
  5. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large for access through or use of property within the proposed subdivision. This finding may be made if the Review Authority finds that alternate easements for access or use will be provided, and that they will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record, or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the Review Authority to determine that the public at large has acquired easements of access through or use of property within the proposed subdivision.
  6. The proposed subdivision is consistent with the Subdivision Design Standards contained in Chapter 22.82 of this Development Code, all other applicable provisions of this Development Code, and any other applicable provisions of the County Code, and the Map Act.



**B. Supplemental findings.** In addition to the findings required for approval of a Tentative Map by Subsection A. above (Required Findings for Approval), the following findings are also required when they are applicable to the specific subdivision proposal.

1. It is in the interest of the public health and safety, and it is necessary as a prerequisite to the orderly development of the surrounding area, to require the construction of road improvements within a specified time after recordation of the Parcel Map, where road improvements are required (see Section 22.82.080 (Roads, Sidewalks, Pathways, Driveways)).
2. Any findings required by Sections 22.88.030 (Condominium Conversions) for condominium conversions.

**C. Findings for waiver of Parcel Map.** If waiver of a Parcel Map has been requested with the Tentative Map application, the Review Authority shall determine whether the findings required by Section 22.86.030 (Waiver of Parcel Map) can also be made.

### **22.84.070 – Conditions of Approval**

Along with the approval of a Tentative Map, the adoption of conditions of approval shall occur in compliance with this Section, provided that all conditions shall be consistent with the requirements of the Map Act.

**A. Mandatory conditions.** The Review Authority shall adopt conditions of approval that will:

1. Require that parcels, easements or rights-of-way be provided for streets, water supply and distribution systems, sewage disposal systems, storm drainage facilities, solid waste disposal, and public utilities providing electric, gas and communications services, as may be required to properly serve the subdivision. Easements for public utilities shall be limited to those needed to provide service to present and future development;
2. Mitigate or eliminate environmental problems identified through the environmental review process, or require redesign of the subdivision as a prerequisite to the approval of the Tentative Map;
3. Carry out the specific requirements of Chapters 22.82 (Subdivision Design Standards), 22.98 (Dedications, Reservations, Easements), and 22.100 (Subdivision Improvements and Agreements);
4. Secure compliance with the requirements of this Development Code, the Marin Countywide Plan, any applicable Community Plan and Specific Plan, and public service or utility District; and
5. Require that any designated remainder parcels not be subsequently sold unless (a) a Certificate or Conditional Certificate of Compliance (Chapter 22.96 (Certificates of Compliance)) is obtained before recordation of a Parcel or Final Map, or (b) a development approval as specified by Map Act section 66499.34 is granted for the parcel, or (c) the parcel is further subdivided in compliance with this Development Code.

**B. Additional conditions.** Additional conditions may be required as follows:

1. The dedication of land or payment of fees in lieu thereof, or a combination of both for park or recreation purposes as provided by Section 22.98.040 (Parkland Dedication and Fees) and the Map Act;
2. The waiver of direct access rights to any existing or proposed streets;
3. The dedication of additional land for bicycle paths, local transit facilities, (e.g., bus turnouts, benches, shelters, etc.), sunlight easements, and school sites, as provided by Map Act Chapter 4, Article 3;
4. The reservation of sites for public facilities (e.g., fire stations, libraries, and other public uses) as provided by Chapter 4, Article 4 of the Map Act;
5. Time limits or phasing schedules for the completion of conditions of approval, when deemed appropriate; or
6. Any other conditions deemed necessary by the Review Authority to achieve compatibility between the proposed subdivision, its immediate surroundings, and the community, or to achieve consistency with the Countywide Plan, an applicable Community Plan or Specific Plan, County ordinances or State law.

**22.84.090 – Changes to Approved Tentative Map or Conditions**

A subdivider may request changes to an approved Tentative Map or its conditions of approval before recordation of a Parcel or Final Map as provided by this Section. Minor amendments to approved Tentative Maps, including modifications to additional information required to be filed or recorded with the Parcel or Final Map (e.g. changes to building setback lines), may be processed as Tentative Map Waivers, pursuant to Section 22.84.035 of this Development Code. Changes to a Parcel or Final Map after recordation are subject to Section 22.86.080 (Corrections and Amendments to Recorded Maps).

- A. Limitation on allowed changes.** Changes to a Tentative Map that may be requested by a subdivider in compliance with this Section include major adjustments to the location of proposed lot lines and improvements, and reductions in the number of approved lots (but no increase in the number of approved lots), and any changes to the conditions of approval, consistent with the findings required by Subsection D below (Findings for Approval). Other changes shall require the filing and processing of a new Tentative Map.
- B. Application for changes.** The subdivider shall file an application for a Tentative Map Amendment or Waiver and filing fee with the Agency, using the forms furnished by the Agency, together with the following additional information:
  1. A statement identifying the Tentative Map number, the features of the map or particular conditions to be changed and the changes requested, the reasons why the changes are requested, and any facts that justify the changes; and
  2. Any additional information deemed appropriate by the Agency.
- C. Processing.** Proposed changes to a Tentative Map or conditions of approval shall be processed in the same manner as the original Tentative Map, except as otherwise provided by this Section.

- D. Findings for approval.** The Review Authority shall not modify the approved Tentative Map or conditions of approval unless it shall first find that the change is necessary because of one or more of the following circumstances, and that all of the applicable findings for approval required by Subsections 22.84.060.A (Required Findings for Approval) and 22.84.060.B (Supplemental Findings) can still be made:
1. There was a material mistake of fact in the deliberations leading to the original approval.
  2. There has been a change of circumstances related to the original approval.
  3. A serious and unforeseen hardship has occurred, not due to any action of the Applicant.
- E. Effect of changes on time limits.** Approved changes to a Tentative Map or conditions of approval shall not be considered as approval of a new Tentative Map, and shall not extend the time limits provided by Section 22.84.130 (Expiration of Approved Tentative Map).

### **22.84.100 – Completion of Subdivision Process**

- A. Compliance with conditions, improvement plans.** After approval of a Tentative Map in compliance with this Chapter, the subdivider shall proceed to fulfill the conditions of approval within any time limits specified by the conditions and the expiration of the map and, where applicable, shall prepare, file and receive approval of improvement plans in compliance with Chapter 22.100, before constructing any required improvements.
- B. Conforming Tentative Map and condition compliance review.** After approval of a Tentative Map but before filing check prints of a Parcel Map or Final Map with the County Surveyor, the subdivider shall submit a conforming Tentative Map showing any modifications made by the conditions of Tentative Map approval, together with any required supplemental information sheets, draft easements, maintenance agreements, agricultural or other contracts, or other information that is required by the conditions of the Tentative Map approval to the Director for a ministerial conformance review and determination.
- C. Parcel or Final Map preparation, filing and recordation.** Where a Parcel or Final Map is required by this Article or the Map Act, the map shall be filed and recorded as follows.
1. A Parcel Map for a subdivision of four or fewer parcels shall be prepared, filed, processed and recorded in compliance with Chapter 22.86 (Parcel Maps and Final Maps), to complete the subdivision, unless a Parcel Map has been waived in compliance with Section 22.86.030 (Waiver of Parcel Map).
  2. A Final Map for a subdivision of five or more parcels shall be prepared, filed, processed and recorded in compliance with Chapter 22.86 (Parcel Maps and Final Maps), to complete the subdivision.

## 22.84.110 – Vesting Tentative Maps

This Section establishes procedures to implement the Vesting Tentative Map requirements of State law, Sections 66498.1 et seq. of the Map Act.

- A. Applicability.** Whenever this Development Code requires that a Tentative Map be filed, a Vesting Tentative Map may instead be filed, provided that the Vesting Tentative Map is prepared, filed and processed in compliance with this Section.
1. A Vesting Tentative Map may be filed for residential and non-residential developments.
  2. If a subdivider does not seek the rights conferred by this Section, the filing of a Vesting Tentative Map is not a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction; however, nothing in this Section shall be construed to eliminate the need for a subdivider to obtain land use permit or subdivision approval in compliance with the other applicable provisions of this Development Code, or building, grading or other construction permit approval in compliance with Title 19 (Building Regulations) of the County Code.
- B. Procedures for processing a Vesting Tentative Map.** A Vesting Tentative Map shall be filed in the same form, have the same contents and accompanying data and reports and, shall be processed in the same manner as described by this Chapter for a Tentative Map, except as follows.
1. **Application content.** The Vesting Tentative Map shall be prepared with the words "Vesting Tentative Map" printed conspicuously on its face, and as required by Sections 22.84.020 et seq.
  2. **Findings for approval.** The approval of a Vesting Tentative Map shall not be granted unless the Review Authority first determines that the intended development of the subdivision is consistent with the zoning regulations applicable to the property at the time of filing, in addition to all other findings required for Tentative Map approval by Section 22.84.060 (Findings for Approval of Tentative Map).
  3. At the time a Vesting Tentative Map is filed for any project requiring Design Review pursuant to the provisions of Section 22.42.020 (Applicability), Design Review approval shall be obtained by the subdivider prior to or concurrent with the approval of the Vesting Tentative Map, and no Vesting Tentative Map shall be approved unless and until the Review Authority first finds that the proposed project meets the standards for Design Review approval contained in Section 22.42.060. This requirement may be waived upon application to the Director.
- C. Expiration of Vesting Tentative Map.** An approved Vesting Tentative Map shall be subject to the same time limits for expiration as are established for Tentative Maps by Sections 22.84.120 et seq. (Tentative Map Time Limits).
- D. Changes to approved map or conditions.** The subdivider may apply for an amendment to the Vesting Tentative Map or conditions of approval at any time before the expiration of the Vesting Tentative Map. The amendment request shall be considered and processed as a new application, in compliance with this Section.

**E. Development rights vested.**

1. The approval of a Vesting Tentative Map shall confer a vested right to proceed with development of the subdivided lots in substantial compliance with the ordinances, policies and standards (excluding fees) in effect at the time a complete Vesting Tentative Map application is filed, as described in Section 66474.2 of the Map Act.
2. If Map Act Section 66474.2 is repealed, approval of a Vesting Tentative Map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies and standards in effect at the time the Vesting Tentative Map is approved.
3. Subsequent land use permits, building permits, extensions of time or other entitlements filed on parcels created by the subdivision may be conditioned or denied if:
  - a. A failure to do so would place the residents of the subdivision or the immediate area in a condition dangerous to health or safety; or
  - b. The condition or denial is required in order to comply with State or Federal law.
4. The fees charged for building or land use permits, filed after the approval of a Vesting Tentative Map shall be those applicable at the time the permit applications are filed, including any related utility or development impact fees (e.g., sewer/water hookup fees, traffic mitigation fees, etc.). Application contents shall be as required by this Development Code at the time the application is filed.

**F. Duration of vested rights.** The development rights vested by this Section shall expire if a Parcel Map or Final Map is not approved before the expiration of the Vesting Tentative Map as provided by Sections 22.84.120 et seq. (Tentative Map Time Limits). If the Parcel or Final Map is approved and recorded, the development rights shall be vested for the following time periods, in compliance with Map Act Section 66498.

1. An initial time period of no more than two years from the date of recordation of the Parcel or Final Map. Where several Final Maps are recorded on various phases of a project covered by a single Vesting Tentative Map, this initial time period shall begin for each phase when the Final Map for that phase is recorded.
2. The initial two years shall be automatically extended by any time used by the County for processing a complete application for a Grading Permit or for design or architectural review, if said processing exceeds 30 days from the date the complete application is filed.
3. The subdivider may apply for a one-year extension at any time before the initial two years expire. Application for an extension shall be submitted to the Agency and shall be accompanied by the required fee. The Review Authority may approve or deny a request for extension. If the extension is denied, the subdivider may appeal to the Board in compliance with Chapter 22.114 (Appeals).
4. If the subdivider submits a complete application for a Building Permit during the periods of time specified in Subsections F.1 and F.2 above (Duration of Vested Rights), the vested rights shall continue until the expiration of the Building Permit, or any extension of that permit.

### **22.84.120 – Tentative Map Time Limits**

The processing of a Tentative Map shall be completed, and an approved Tentative Map shall be subject to the time limits for expiration and procedures for extension as provided by Sections 22.84.130 through 22.84.150.

### **22.84.130 – Expiration of Approved Tentative Map**

The expiration date of a Tentative Map is determined by Map Act Sections 66452.6, 66452.11, and 66463.5. An approved Tentative Map or Vesting Tentative Map is valid for three years after its effective date. At the end of that time, the approval shall expire and become void unless:

- A. A Parcel or Final Map, and related bonds and improvement agreements, have been filed with the County Surveyor in compliance with Chapter 22.86 (Parcel Maps and Final Maps); or
- B. An extension of time has been granted in compliance with Section 22.84.140 (Extensions of Time for Tentative Maps).

A Tentative Map approval shall be deemed to have expired if a Parcel or Final Map has not been filed within the time limits established by this Section or within an extension of time approved in compliance with Section 22.84.140 (Extensions of Time for Tentative Maps). Expiration of an approved Tentative Map or Vesting Tentative Map shall terminate all proceedings. The application shall not be reactivated unless a new subdivision application is filed.

### **22.84.140 – Extensions of Time for Tentative Maps**

When a Parcel or Final Map has not been filed within the time limits set by Section 22.84.130 (Expiration of Approved Tentative Map), time extensions may be granted in compliance with this Section. Extension requests shall be in writing and shall be filed with the Agency, at least 10 days prior to the expiration of the approval or previous extension, together with the required filing fee.

- A. **Tentative Maps.** The Director may grant a maximum of two, three-year extensions to the initial time limit only after making all of the following findings:
  1. There have been no changes to the provisions of the Marin Countywide Plan, any applicable Community Plan or Specific Plan, the Local Coastal Program, or this Development Code applicable to the project since the approval of the Tentative Map.
  2. There have been no changes in the character of the site or its surroundings that affect how the policies of the Marin Countywide Plan, Community Plan or Specific Plan, or other standards of this Development Code apply to the project.
  3. There have been no changes to the capacities of community resources, including water supply, sewage treatment or disposal facilities, roads or schools so that there is no longer sufficient remaining capacity to serve the project.

Denial of a requested extension by the Review Authority may be appealed in compliance with Chapter 22.114 (Appeals).

- B. Tentative Maps with multiple Final Maps.** Where a subdivider is required to expend more than \$125,000 on improvements as specified in Map Act Section 66452.6 and multiple Final Maps are filed covering portions of a single approved Tentative Map, each filing of a Final Map shall extend the expiration of the Tentative Map by an additional three years from the date of its expiration, or the date of the previously filed Final Map, whichever is later. Provided that the total of all extensions shall not extend the approval of the Tentative Map more than 10 years from its original approval.
- C. Vesting Tentative Maps.** The Review Authority may grant a maximum of six years to the initial time limit in compliance with Subsection A above (Tentative Maps). Any rights conferred by Section 22.84.110 (Vesting Tentative Maps) shall expire if a Final Map is not approved and filed.

### **22.84.150 – Applications Deemed Approved**

Any subdivision application deemed approved in compliance with Section 65956 of the Government Code or Map Act Sections 66452 et seq., shall be subject to all applicable provisions of this Development Code, which shall be satisfied by the subdivider before any Building Permits or other land use entitlements are issued. A Parcel or Final Map filed for record after the automatic approval of its Tentative Map shall remain subject to all the mandatory requirements of this Development Code and the Map Act, including Map Act Sections 66473, 66473.5 and 66474.

## **CHAPTER 22.86 – PARCEL MAPS AND FINAL MAPS**

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### **Sections:**

- 22.86.010 – Purpose of Chapter
- 22.86.020 – Parcel and Final Map Application Filing and Processing
- 22.86.030 – Waiver of Parcel Map
- 22.86.040 – Parcel Map Review and Approval
- 22.86.050 – Final Map Review and Approval
- 22.86.060 – Supplemental Information Sheets
- 22.86.070 – Recordation of Maps
- 22.86.080 – Corrections and Amendments to Recorded Maps

### **22.86.010 – Purpose of Chapter**

This Chapter establishes requirements for the preparation, filing, approval and recordation of Parcel and Final Maps, consistent with Map Act Chapter 3, Articles 4 and 5 (commencing with Sections 66456 and 66463, respectively). Parcel and Final Maps are precise engineering documents that detail the location and dimensions of all parcel boundaries in an approved subdivision and, after approval, are recorded in the office of the County Recorder.

### **22.86.020 – Parcel and Final Map Application Filing and Processing**

- A. **When required.** When required by Sections 22.80.030 (Applicability) and 22.84.100 (Completion of Subdivision Process), a Parcel or Final Map shall be prepared, filed, and processed in compliance with this Section.
- B. **Form and content, fees.** Parcel Maps and Final Maps shall be prepared by or under the direction of a qualified, registered civil engineer or licensed land surveyor, registered or licensed by the State. Parcel and Final Map submittals shall include all information required by the Map Act (Sections 66444 et seq. for Parcel Maps, and 66433 et seq. for Final Maps), the application forms, all information and other materials prepared as required by the Parcel and Final Map Preparation and Contents instruction list, provided by the Agency, and the required filing fee.
- C. **Prefiling of check prints.** Before filing a Parcel or Final Map as provided by this Section, the subdivider shall submit to the County Surveyor four check prints of the proposed map, with a preliminary title report no more than six months old, traverse sheets in a form and containing the information required by the County Surveyor, and the Parcel or Final Map filing fee. The check prints and accompanying information shall be processed as follows:
  1. **Referral.** The County Surveyor shall forward a copy of a Parcel or Final Map check print to the Director, who shall determine whether the Parcel or Final Map check print conforms substantially to the Tentative Map previously approved for the same project.
  2. **County Surveyor review.** The County Surveyor shall determine whether the Parcel or Final Map check print complies with all applicable provisions of this Development Code and the Map Act, and all applicable Tentative Map conditions of approval imposed by the Department of Public Works.



3. **Director review.** The Director shall examine the check print to determine that it is in substantial conformance with the approved Tentative Map and in compliance with all applicable Tentative Map conditions of approval, and within 10 days from receipt of the check print shall certify to the County Surveyor its conformance, or advise the subdivider and County Surveyor of any errors or omissions.
  4. **Notification of subdivider.** When the County Surveyor has received a confirmation from the Director stating that the Parcel Map is in substantial conformance with the approved Tentative Map and has determined that the map is in compliance with Subsection A.2 above (County Surveyor Review), the County Surveyor shall notify the subdivider.
- D. Filing with County Surveyor.** After notification from the County Surveyor in compliance with Subsection C.4 above (Notification of Subdivider), a Parcel or Final Map, together with all data, information and materials required by Subsection B above (Form and Content, Fees) shall be submitted to the County Surveyor before the expiration of the applicable Tentative Map. The Parcel or Final Map shall be considered submitted when it is complete and complies with all applicable provisions of this Development Code and the Map Act.
- E. Multiple Parcel or Final Maps.** The subdivider may file multiple Parcel or Final Maps on the approved Tentative Map if the subdivider either included a statement of intention with the Tentative Map or, if after the filing of the Tentative Map, the Director approved the request.

### 22.86.030 – Waiver of Parcel Map

A subdivider may request waiver of a Parcel Map, and the Review Authority may grant the waiver in compliance with this Section and Map Act Section 66428.b.

- A. When waiver is allowed.** Waiver of a Parcel Map may be requested by a subdivider and granted by the Review Authority for a subdivision that results in the creation of only two parcels, and the boundaries of the original parcel have been previously surveyed and a map recorded, and are certain as to location.
- B. Application processing and approval.** A request for waiver of a Parcel Map shall be submitted with the Tentative Map application, together with the required filing fee. The waiver request shall be processed and acted upon concurrently with the Tentative Map application. The Review Authority may grant a requested waiver if:
1. The proposed Tentative Map satisfies all findings required for approval by Section 22.84.060 (Findings for Approval of Tentative Map); and
  2. The proposed subdivision complies with all applicable requirements of this Development Code and the Map Act as to lot area, improvement and design, drainage, flood control, appropriate improved public roads, sanitary disposal facilities, water supply availability, and environmental protection.
- C. Expiration of waiver.** An approved waiver of a Parcel Map shall be subject to the same time limits and opportunities for extension of time as the accompanying Tentative Map, in compliance with Sections 22.84.130 (Expiration of Approved Tentative Map) and 22.84.140 (Extensions of Time for Tentative Maps), and Subsection D following (Completion of Subdivision).

**D. Completion of subdivision.** A subdivision for which a Parcel Map has been waived shall be completed by the subdivider satisfying all conditions of approval, and by then filing and obtaining approval of a certificate of completion in compliance with this Section.

**1. Preparation and filing of certificate.** The subdivider shall submit an application for a certificate of completion to the County Surveyor for review and approval, including the following information:

- a. A diagram or exhibit illustrating the configuration and dimensions of the parcels described in the legal descriptions submitted with the certificate of completion;
- b. A statement signed by the subdivider under penalty of perjury that no change in the ownership of the subject property has occurred since the submittal of the title report with the Tentative Map application. If a change in ownership has occurred, the subdivider shall submit a new title report issued within 60 days before the filing of the certificate of completion application;
- c. A statement by a registered civil engineer, licensed land surveyor, or title company verifying that any required access easements extend to a publicly maintained road;
- d. A certificate of completion in the form required by the County Surveyor, prepared for recording, including:
  - (1) A list of all requirements imposed as conditions of approval of the Tentative Map, including any requirements for the construction of off-site and on-site improvements;
  - (2) A statement signed by the owner under penalty of perjury attesting that all of the conditions of approval of the Tentative Map have been met or provided for under the terms of an acceptable subdivision agreement secured by appropriate surety as prescribed by the Map Act;
  - (3) A legal description of each parcel created in substantial conformance with the approved Tentative Map, prepared by a registered civil engineer or licensed land surveyor; and
- e. Any required recordation fees.

**2. Review and approval of certificate.** The County Surveyor shall review, approve or deny, and complete the processing of a certificate of completion by examining the materials submitted and performing other investigations as necessary to ensure that the following requirements are satisfied:

- a. All record title owners have consented to the subdivision.
- b. The certificate of completion accurately describes the conditions of approval, and that the conditions of approval have been satisfactorily completed.
- c. The legal descriptions on the certificate are accurate, and are in substantial conformance with the approved Tentative Map.

If the County Surveyor is satisfied that the certificate of completion and materials submitted with it comply with the above requirements, the County Surveyor shall place an endorsed approval upon the face of the certificate and shall forward it to the County Recorder. Upon recording, the subdivision shall be deemed completed, and the parcels created by the subdivision may be conveyed or otherwise transferred.

### **22.86.040 – Parcel Map Review and Approval**

A Parcel Map shall be reviewed and approved as follows, in compliance with Map Act Sections 66463 et seq. A Parcel Map for which no Tentative Map was required by Section 22.80.030 (Applicability) shall also comply with Section 22.84.060 (Findings for Approval or Denial of Tentative Maps).

- A. Transmittal to, and certification by Director.** Within three days of the filing of a Parcel Map in compliance with Section 22.86.020.D (Parcel and Final Map Application Filing and Processing - Filing with County Surveyor) the County Surveyor shall transmit the Parcel Map and accompanying materials to the Director. The Director shall sign the Parcel Map and return it to the County Surveyor, or notify the Surveyor that the map is incorrect.
- B. County Surveyor approval and certification.** Where the Director and County Surveyor have determined that the Parcel Map is correct, the County Surveyor shall sign and seal the Parcel Map and shall forward the map to the County Recorder; provided that the Board has executed any required improvement agreement in compliance with Section 22.100.060 (Improvement Agreements and Security). The recording fee shall be paid to the County Recorder by the subdivider.
- C. Denial of map:**
  - 1. Criteria for denial.** A Parcel Map shall be denied only for failure to meet or perform requirements or conditions that were applicable to the subdivision at the time of approval of the Tentative Map. This Section shall not be construed to require denial of a map when the failure of the map is the result of a technical or inadvertent error which in the opinion of the County Surveyor does not materially affect the validity of the map.
  - 2. Notification of subdivider.** If the map has not been certified as correct by the Director or County Surveyor, the Surveyor shall return the Parcel Map and accompanying materials to the subdivider within three days after a response from the Director. If the Parcel Map does not conform as required above, the subdivider shall be notified, and given the opportunity to make necessary changes and resubmit the Parcel Map, together with all required data.

### **22.86.050 – Final Map Review and Approval**

Final Maps shall be reviewed, and approved or denied in compliance with this Section, and Map Act Sections 66456 et seq.

- A. Certifications.** After determining that the Final Map is technically correct in compliance with Section 22.86.020 (Parcel and Final Map Application Filing and Processing), the Director shall sign the map, and the County Surveyor shall execute the County Surveyor's certificate on the map in compliance with Map Act Section 66442, and shall forward the Final Map to the Board for action.

- B. Review and approval by Board.** The Board shall approve or deny the Final Map at its next regular meeting after the County Clerk receives the map, but in no event longer than 50 days after the County Surveyor receives the Final Map from the subdivider, unless that time limit is extended with the mutual consent of the County Surveyor and the subdivider.
- 1. Criteria for approval.** The Board shall approve the Final Map by resolution if it conforms to all provisions of this Development Code, and all the requirements of the Map Act that were applicable at the time that the Tentative Map was approved, and is in substantial compliance with the approved Tentative Map.
  - 2. Waiver of errors.** The Board may approve a Final Map that fails to meet any of the requirements of this Development Code or the Map Act applicable at the time of approval of the Tentative Map, when the Board finds that the failure of the map is a technical or inadvertent error which, in the determination of the Board does not materially affect the validity of the map.
  - 3. Approval by inaction.** If the Board does not approve or deny the map within the prescribed time or any authorized extension, and the map conforms to all applicable requirements and rulings, it shall be deemed approved, and the County Clerk shall certify its approval on the map.
- C. Map with dedications.** If a dedication or offer of dedication is required on the Final Map, the Board shall accept, accept subject to improvement, or reject with or without prejudice any or all offers of dedication, at the same time as it takes action to approve the Final Map.
- D. Map with incomplete improvements.** If improvements required by this Development Code, conditions of approval or by law have not been completed at the time of approval of the Final Map, the Board shall require the subdivider to enter into an agreement with the County as specified in Map Act Section 66462, and Section 22.100.060 (Improvement Agreements and Security), as a condition precedent to the approval of the Final Map.
- E. Transmittal to Recorder.** After action by the Board, and after the required signatures and seals have been affixed, the County Clerk shall forward the Final Map to County Recorder for filing.

### **22.86.060 – Supplemental Information Sheets**

In addition to the information required to be included in Section 22.86.020 (Parcel and Final Map Application Filing and Processing) additional information may be required to be submitted and recorded simultaneously with a Parcel or Final Map as required by this Section.

- A. Preparation and form.** The additional information required by this Section shall be presented in the form of additional map sheets, unless the Director determines that the type of information required would be more clearly and understandably presented in the form of a report or other document. The additional map sheet or sheets shall be prepared in the same manner and in substantially the same form as required for Parcel Maps by Section 22.86.020 (Parcel Map Filing and Initial Processing).

- B. Content of information sheets.** Supplemental information sheets shall contain the following statements and information:
1. **Title.** A title, including the number assigned to the accompanying Parcel or Final Map by the County Surveyor, and the words "Supplemental Information Sheet;"
  2. **Explanatory statement.** A statement following the title that the supplemental information sheet is recorded along with the subject Parcel or Final Map, and that the additional information being recorded with the Parcel or Final Map is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title interest;
  3. **Location map.** A location map, at a scale not to exceed one inch equals 2,000 feet. The map shall indicate the location of the subdivision within the County;
  4. **Areas subject to flooding.** Identification of all lands within the subdivision subject to periodic inundation by water;
  5. **Soils or geologic hazards reports.** When a soils report or geological hazard report has been prepared, the existence of the report shall be noted on the information sheet, together with the date of the report and the name of the engineer making the report; and
  6. **Information required by conditions of approval.** Any information required by the Review Authority to be included on the supplemental information sheet(s) because of its importance to potential successors in interest to the property.

### 22.86.070 – Recordation of Maps

- A. **Consent of interested parties.** At the time of filing of a Parcel or Final Map with the County Recorder, the subdivider shall present to the County Recorder evidence that, at the time of filing the map, the parties consenting to the filing are all parties having vested fee interest in the property being subdivided and are parties required to sign the certificate described in Map Act Section 66445.e.
- B. **County Recorder action.** The County Recorder shall review and act upon Parcel and Final Maps filed with that office in compliance with Article 6, Chapter 3 of the Map Act and other applicable provisions of State law.
- C. **Effect of recorded map.** When a properly endorsed Parcel or Final Map has been filed for record, the subdivision or reversion to acreage shall be deemed complete, and the new parcels may be conveyed or otherwise transferred. The recordation of the map shall have the effect of eliminating any lot lines that existed within the boundaries of the subdivision before approval of the Tentative Map.

### 22.86.080 – Corrections and Amendments to Recorded Maps

A recorded Parcel or Final Map shall be modified to correct errors in the recorded map or to change characteristics of the approved subdivision only in compliance with this Section.

- A. **Corrections.** In the event that errors in a Parcel or Final Map are discovered after recordation, or that other corrections are necessary, the corrections may be accomplished by either the filing

of a certificate of correction or an amending map, as provided by Article 7, Chapter 3 of the Map Act. For the purposes of this Section, "errors" include errors in course or distance (but not changes in courses or distances from which an error is not evident from the Parcel or Final Map), omission of any course or distance, errors in legal descriptions, or any other map error or omission as approved by the County Surveyor that does not affect any property right, including lot numbers, acreage, street names, and identification of adjacent record maps. Other corrections may include indicating monuments set by engineers or surveyors other than the one that was responsible for setting monuments, or showing the proper character or location of any monument that was incorrectly shown, or that has been changed.

- B. Changes to approved subdivision.** In the event that a subdivider wishes to change the characteristics of an approved subdivision, including the number or configuration of parcels, location of streets or easements, or the nature of required improvements, the construction of which has been deferred through the approval of an agreement in compliance with Section 22.100.060 (Improvement Agreements and Security), a new Tentative and Parcel or Final Map shall be filed and approved as required by Section 22.80.030 (Applicability). Changes to additional information required to be filed or recorded with the Parcel or Final Map, such as building setback lines, may be processed through the Tentative Map Waiver procedure in Section 22.84.035 (Tentative Map Waiver).



## **CHAPTER 22.88 – CONDOMINIUMS AND CONDOMINIUM CONVERSIONS**

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### **Sections:**

- 22.88.010 – Purpose of Chapter
- 22.88.020 – Condominiums
- 22.88.030 – Condominium Conversions

### **22.88.010 – Purpose of Chapter**

This Chapter provides procedures for the creation of condominium subdivisions and the conversion of existing development to condominium, consistent with the policies of the Marin Countywide Plan and the requirements of the Map Act.

### **22.88.020 – Condominiums**

When a residential structure is proposed at the time of construction as a condominium or other common interest development (including a community apartment project, planned development or stock cooperative, as provided by California Civil Code Section 1351), a Tentative Map for the project shall be filed in the same form, have the same contents and accompanying data and reports and shall be processed, approved or denied in the same manner in compliance with Chapter 22.84 (Tentative Maps). Chapter 22.86 (Parcel Maps and Final Maps) determines whether a Parcel or Final Map shall also be filed.

### **22.88.030 – Condominium Conversions**

A condominium conversion is the conversion of real property to a common interest development as defined by Section 1351 of the California Civil Code. A conversion shall require the approval of a Tentative Map, and Parcel or Final Map, except where a Parcel Map, or Tentative and Final Map are waived in compliance with Map Act Sections 66428.b or 66428.1. If a Parcel Map is waived, a Tentative Map shall still be required.

A Tentative Map for a condominium conversion shall be filed in the same form, have the same contents and accompanying data and reports and shall be processed, approved or denied in the same manner in compliance with Chapter 22.84 (Tentative Maps), with the following exceptions.

- A. Application contents.** Condominium conversion applications shall include the same information and materials as Tentative Map applications, and the additional information and other materials prepared as required by the Condominium Conversion Application Contents instruction list, provided by the Agency.
- B. Staff report.** The staff report on the Tentative Map for the condominium conversion (Section 22.40.070 (Staff Report and Recommendations)) shall be provided to the subdivider and each tenant of the subject property at least three days before any hearing or action on the Tentative Map by the review authority.



**C. Public notice.** The following notice shall be provided in addition to that required by Chapter 22.118 (Notices, Public Hearings, and Administrative Actions):

1. **Tenant notice.** The subdivider shall give notice to all existing or prospective tenants in compliance with Map Act Sections 66452.8 and 66452.9, and shall provide the Agency satisfactory proof that notice was given; and
2. **Public hearing notice.** Notice of the public hearing(s) on the Tentative Map shall be provided to all tenants of the subject property, as required by Map Act Section 66451.3.

**D. Approval of conversion, required findings:**

1. **Time limit, stock cooperatives.** The approval or denial of the conversion of an existing building to a stock cooperative shall occur within 120 days of the application being found complete in compliance with Section 22.40.050 (Initial Application Review). The 120-day time limit may be extended by mutual consent of the subdivider and the County.
2. **Conversion findings, residential projects.** Approval of a Tentative or Final Map for a subdivision to be created from the conversion of residential real property into a condominium project, community apartment project or stock cooperative shall not be granted unless the findings set forth in Map Act Section 66427.1 are first made, and unless the review authority also finds that the proposed conversion will not:
  - a. Reduce the countywide rental vacancy rate below five percent based on the most recent American Communities Survey data for Marin County; and
  - b. Reduce the ratio of multi-family rental units to less than 25% of the total number of dwelling units in the County, with no replacement rental housing being provided.

In addition to the findings required for approval of a Tentative Map as set forth in this Title, the following findings shall be required for the approval of a Tentative Map for the conversion of residential property:

- c. The review authority shall determine whether the proposed conversion is consistent with the following adopted housing goals:
  - (1) To encourage continuation of social and economic diversity in Marin County communities through a variety of housing types;
  - (2) To expand the supply of decent housing for low and moderate income families;
  - (3) To achieve greater economic balance for Marin by increasing the number of jobs and the supply of housing for people who will hold them.
- d. The review authority may establish reasonable requirements to insure that a percentage of the converted units will be reserved for persons of moderate income. The percentage shall conform to that normally required in new developments.
- e. The review authority shall determine whether the staff report, if any, for a proposed Tentative Map for a condominium conversion has been served on each tenant of the

subject property at least three days prior to any hearing or action on such map by the Commission or Director.

- f. The review authority shall deny the Tentative Map upon finding that:
  - (1) The proposed conversion would reduce the countywide rental vacancy rate below five percent based on the most recent U.S. government postal vacancy survey or county local survey; or
  - (2) The proposed conversion would reduce the ratio of multiple-family units to less than 25 percent of the total number of dwelling units in the county, with no replacement rental housing being provided.

**E. Completion of conversion.** The filing, approval and recordation of a Parcel Map or Final Map in compliance with Chapter 22.86 (Parcel Maps and Final Maps) shall be required to complete the subdivision process, except where a Parcel Map, or Tentative and Final Map are waived for the conversion of a mobile home park in compliance with Map Act Section 66428.b.



## **CHAPTER 22.90 – LOT LINE ADJUSTMENTS**

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### **Sections:**

- 22.90.010 – Purpose of Chapter
- 22.90.020 – Applicability
- 22.90.030 – Adjustment Application and Processing
- 22.90.040 – Decision and Findings
- 22.90.050 – Completion of Adjustment

### **22.90.010 – Purpose of Chapter**

This Chapter provides procedures for the preparation, filing, processing, and approval or denial of Lot Line Adjustment applications, consistent with the policies of the Marin Countywide Plan and the requirements of Map Act Section 66412.d.

### **22.90.020 – Applicability**

As provided by Map Act Section 66412(d), the Lot Line Adjustment procedure is for the purpose of adjusting lot lines between two to four existing adjacent parcels, where land taken from one parcel is added to an adjacent parcel and where no more parcels are created than originally existed. For the purposes of this Chapter, an "adjacent parcel" is one that directly touches at least one of the other parcels involved in the adjustment. Lot line adjustments involving five or more adjacent parcels shall be subject to the requirements of Chapter 22.84 (Tentative Maps).

### **22.90.030 – Adjustment Application and Processing**

A Lot Line Adjustment application shall be prepared, filed and processed as provided by this Section.

- A. Application content.** A Lot Line Adjustment application shall include all information and other materials prepared as required by the Application Submittal Guide provided by the Agency. If a lot was created prior to current subdivision map requirements, a Certificate of Compliance (Chapter 22.96 (Certificates of Compliance)) may be required to document that the parcel is a legal lot of record.
- B. Processing.** Lot Line Adjustment applications shall be submitted to the Agency and shall be processed in compliance with the procedures specified by Chapter 22.40 (Application Filing and Processing). No environmental review (Section 22.40.060, Environmental Review) shall be required, in compliance with Section 15305 of the CEQA Guidelines.

### **22.90.040 – Decisions and Findings**

The Review Authority shall determine whether the parcels resulting from the adjustment will conform with the applicable provisions of this Development Code. The Review Authority may approve, conditionally approve, or deny the Lot Line Adjustment in compliance with this Section. Decisions may be appealed in compliance with Chapter 22.114 (Appeals).

**A. Required findings.** The Review Authority shall approve the Lot Line Adjustment only if all of the following findings are made:

1. The proposed lot line adjustment is limited to four or fewer existing adjoining lots.
2. Each of the affected lots is a separate legal lot of record because it was created in compliance with the applicable subdivision regulations in effect at the time of its creation.
3. The proposed lot line adjustment would not result in the creation of additional parcels or additional potential building sites.
4. The proposed lot line adjustment would comply with policies of the Countywide Plan, and any applicable community plan, and the Local Coastal Program (if applicable).
5. The proposed lot line adjustment would comply with zoning, development, and relevant subdivision provisions of Titles 18, 20, 22 and 24 of the Marin County Code, including those which address minimum lot size, lot design and configuration, street frontage and building setbacks from all property lines.

An adjustment for which any of the above findings cannot be made may instead be resubmitted as a subdivision in compliance with Section 22.80.030 (applicability).

**B. Conditions of approval.** In approving a Lot Line Adjustment, the Review Authority shall adopt conditions only as necessary to conform the adjustment and proposed parcels to the requirements of this Development Code and Title 19 (Building Regulations) of the County Code, or to facilitate the relocation of existing utilities, infrastructure, or easements.

### **22.90.050 – Completion of Adjustment**

Within three years after approval of a Lot Line Adjustment, the adjustment process shall be completed in compliance with this Section through the recordation of a deed or record of survey, after all conditions of approval have been satisfied.

**A. Completion by deed.** A Lot Line Adjustment shall not be considered legally completed until either a grant deed or a quit claim deed signed by the record owners has been recorded. The Applicant shall submit deeds to the County Surveyor for review and approval in compliance with Subsection C below (Review and Approval by County Surveyor), before recordation of the grant deed or quit claim deed. The legal descriptions provided in the deeds shall be prepared by a qualified registered civil engineer, or a licensed land surveyor licensed or registered in the State. The Director may record a Certificate of Compliance to confirm the legality of the lot concurrent with, or following the recordation of, the grant deed or quit claim deed.

**B. Completion by record of survey.** If required by Section 8762 et seq. of the Business and Professions Code, a Lot Line Adjustment shall not be considered legally completed until a record of survey has been checked by the County Surveyor and sent to the County Recorder for recordation. Where not required, a Lot Line Adjustment may also be completed by record of survey in compliance with this Subsection at the option of the Applicant.

- C. Review and approval by County Surveyor.** The County Surveyor shall:
1. Examine the deeds to ensure that all record title owners have consented to the adjustment;
  2. Verify that all conditions of approval have been satisfactorily completed and that the deeds are in substantial compliance with the Lot Line Adjustment as approved by the Review Authority;
  3. If satisfied that the deeds comply with the above requirements, place an endorsed approval upon the deeds; and
  4. After approval of the legal descriptions, assemble the deeds and return them to the Applicant for recordation.
- D. Expiration.** The approval of a Lot Line Adjustment shall expire and become void if the adjustment has not been completed as required by this Section within three years of approval. An extension of up to three additional years may be granted by the Review Authority in compliance with the requirements of Sections 22.84.140.A..

Lot Line Adjustments

MARIN COUNTY CODE – TITLE 22, DEVELOPMENT CODE

22.90.050

## **CHAPTER 22.92 – MERGER OF PARCELS**

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### **Sections:**

- 22.92.010 – Purpose of Chapter
- 22.92.020 – Requirements for Merger
- 22.92.030 – Effective Date of Merger
- 22.92.040 – Notice of Intent to Determine Status
- 22.92.050 – Criteria for Unmerger
- 22.92.060 – Determination of Unmerger

### **22.92.010 – Purpose of Chapter**

This Chapter provides procedures for the merger of parcels in compliance with Map Act Sections 66451.11 et seq. The County had a merger ordinance in existence before January 1, 1984.

Where applicable, merger is required to consolidate contiguous parcels in common ownership which were created prior to modern subdivision requirements, and are substandard with respect to current County subdivision standards, including lot area, size, configuration, slope, and/or infrastructure.

### **22.92.020 – Requirements for Merger**

On or after January 1, 1984, when any one of two or more contiguous parcels or units of land, which are held by the same owner or owners, does not conform to the minimum lot area requirements of the applicable zoning district or the minimum lot area requirements based on lot slope (Section 22.82.050 – Hillside Subdivision Design), the contiguous parcels shall merge if required by Subsection A of this Section (Merger Required), except where otherwise provided by Subsection B of this Section (Exemptions from Merger Requirements). Such mergers may be initiated either by the County or by the property owner.

- A. Merger required.** Contiguous, nonconforming parcels held by the same owner or owners shall merge if both of the following requirements are satisfied:
1. At least one of the affected parcels is undeveloped by any structure for which a Building Permit was issued or for which a Building Permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit of land; and
  2. With respect to any affected parcel, one or more of the following conditions exist:
    - a. Comprises less than 5,000 square feet in area at the time of the determination of merger;
    - b. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation;
    - c. Does not meet current standards for sewage disposal in Title 18 (Sewers) of the County Code;



- d. Does not meet current standards for domestic water supply in Title 7 (Health and Sanitation) of the County Code;
- e. Does not meet slope stability standards. A parcel will be deemed to not meet slope stability standards if more than 50 percent of its gross area is located within slope stability zone 3 or 4 as shown on the latest slope stability maps on file with the Agency;
- f. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability. The standards of access shall be those contained in Title 24 (Improvement and Construction Standards) of the County Code;
- g. Its development would create health or safety hazards; or
- h. Is inconsistent with the Marin Countywide Plan, the Local Coastal Plan or any applicable Community Plan or Specific Plan, other than minimum lot size or density standards.

For purposes of determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that the Notice of Intent to Determine Status is recorded in compliance with Section 22.92.040 (Notice of Intent to Determine Status).

**B. Exemptions from merger requirements.** Except as provided in Subsection A above, contiguous nonconforming parcels shall not be required to merge if on or before July 1, 1981, one or more of the contiguous parcels or units of land was:

- 1. Enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code;
- 2. Timberland as defined in Government Code Section 51100.f, or is land devoted to an agricultural use as defined in Government Code Section 51201.b;
- 3. Located within 2,000 feet of the site of an existing commercial mineral resource extraction use, whether or not the extraction was in compliance with a Use Permit issued by the County;
- 4. Located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a Use Permit or other permit authorizing commercial mineral resource extraction had been issued by the County.
- 5. Within the Coastal Zone, and had been identified or designated as being of insufficient size to support residential development and where the identification or designation had either:
  - (a) Been included in the Land Use Plan portion of the County's Local Coastal Program; or
  - (b) Before adoption of the Land Use Plan by formal action of the California Coastal Commission has been made in compliance with the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan in compliance with the provisions of the California Coastal Act is based.

- C. Owner-Requested Merger.** Upon written request from the property owner, the Director shall merge two or more contiguous parcels or units of land that do not meet the requirements contained in Section 22.92.020 (Requirements for Merger). The County does not have the authority to unilaterally merge parcels unless they meet the requirements contained in Section 22.92.020 (Requirements for Mergers). Notwithstanding the criteria for non-merger or unmerger, units of real property that are merged through application of this subsection shall not be subsequently unmerged.
- D. Merger due to cessation of agricultural housing.** The conditions of approval for a subdivision as allowed by Government Code Section 51230.2 shall require that all conditions of that Section be implemented.

### **22.92.030 – Effective Date of Merger**

A merger of units of real property becomes effective on the date the Director files a Notice of Merger for record with the County Recorder. A Notice of Merger shall specify the names of the record owners and describe the real property that has merged.

### **22.92.040 – Notice of Intent to Determine Status**

The filing of a Notice of Intent to Determine Status, and a hearing and decision on the status of contiguous parcels with respect to merger shall occur as follows.

- A. Timing and content of notice.** Before recording a Notice of Merger, the Director shall cause to be mailed by certified mail to then current record owners of the property a Notice of Intention to Determine Status, notifying the owners that the affected parcels may be merged in compliance with the requirements of this Chapter, and advising the owners of the opportunity to request a hearing on determination of status and to present evidence at the hearing that the property does not meet the criteria for merger. The notice shall also inform the owners that the Commission, Zoning Administrator, or Director is authorized to make a determination of merger or non-merger in compliance with Section 22.92.020 (Requirements for Merger) based on the information available from County records, in the event that a request for hearing is not filed within 30 days of the date of the notice. The Notice of Intention to Determine Status shall be filed for record with the County Recorder on the date that the notice is mailed to the property owner.
- B. Request for hearing.** At any time within 30 days after recording of the Notice of Intention to Determine Status, the owner of the affected property may file a request for a hearing on determination of status with the Director.
- C. Determination of review authority.** When a property owner files a request for a hearing on determination of status, the Zoning Administrator shall conduct the hearing, except that when the Director determines that significant policy questions are at issue, the Director may refer the determination of merger to the Commission for action.
- D. Procedure for hearing:**
1. Upon receiving a request for a hearing on determination of status, the Director shall set a time, date, and place for a hearing to be conducted by the applicable review authority and shall notify the property owner by certified mail.

2. The hearing shall be conducted no less than 60 days after the Director's receipt of the request for hearing, but may be postponed or continued with the mutual consent of the Director and the property owner. At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the standards for merger specified in this Chapter. At the conclusion of the hearing, the review authority shall make a determination that the affected parcels are to be merged or are not to be merged and shall so notify the owner of its determination. A determination of merger shall be recorded within 30 days after conclusion of the hearing, in compliance with Section 22.92.030 (Effective Date of Merger).

**E. Determination when no hearing is requested.** If the owner does not file a request for hearing on determination of status within 30 days of the recording of the Notice of Intent to Determine Status, the Director may make a determination that the affected parcels are to be merged or are not to be merged. A determination of merger shall be recorded in compliance with Section 22.92.030 no later than 90 days after the recording of the Notice of Intent to Determine Status.

**F. Non-merger.** A determination of non-merger shall occur as follows:

1. **Action and findings.** The review authority may make a determination of non-merger whether or not the affected property meets the standards of Sections 22.92.020 (Requirements for Merger) or 22.92.050 (Criteria for Unmerger), provided the following findings are made:
  - a. The parcels were created by a record of survey or Parcel or Final Map in accordance with the provisions of the County Code in effect at the time of their creation.
  - b. The unmerger and subsequent development of the individual parcels would not be contrary to the public health, safety or welfare. In making this finding, the review authority shall consider the factors in Section 22.122.050 (Legal Remedies - Development Permits and Approvals Withheld).
2. **Notice of non-merger.** If the review authority determines that the subject property shall not be merged in compliance with Subsections D, E, or F above (Procedure for Hearing, Determination When No Hearing is Requested, and Non-merger, respectively), it shall cause a Release of the Notice of Intention to Determine Status to be recorded in the manner specified in Section 22.92.040 (Notice of Intent to Determine Status), and shall mail a clearance letter to the current record owner.

### **22.92.050 – Criteria for Unmerger**

Any parcels or units of land for which a Notice of Merger had not been recorded on or before January 1, 1984, shall be deemed not to have merged if on January 1, 1984:

**A. The parcel met each of the following criteria:**

1. Comprised at least 5,000 square feet in area;
2. Was created in compliance with applicable laws and ordinances in effect at the time of its creation;
3. Met current standards for sewage disposal under Title 18 (Sewers) of the County Code;

4. Met current standards for domestic water supply under Title 7 (Health and Sanitation) of the County Code;
5. Met the lot slope density standards of Section 22.82.050 (Hillside Subdivision Design);
6. Had legal access adequate for vehicular and safety equipment access and maneuverability, in compliance with Title 24 of the County Code;
7. Development of parcel would create no health or safety hazards;
8. The parcel would be consistent with the Marin Countywide Plan, the Local Coastal Plan or any applicable Community Plan or Specific Plan, other than a minimum lot size or density standards; and

**B. None of the contiguous parcels or units of land on or before July 1, 1981 were:**

1. Enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code;
2. Timberland as defined in Section 51100.f of the Government Code, or was land devoted to an agricultural use as defined in Section 51201.b of the Government Code;
3. Located within 2,000 feet of the site of an existing commercial mineral resource extraction use, whether or not the extraction was occurring in compliance with a Use Permit issued by the County;
4. Located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a Use Permit or other permit authorizing commercial mineral resource extraction had been issued by the County; and
5. Within the Coastal Zone, and had been identified or designated as being of insufficient size to support residential development and where the identification or designation had either:
  - a. Been included in the Land Use Plan portion of the County's Local Coastal Program; or
  - b. Before the adoption of the Land Use Plan, been made by formal action of the California Coastal Commission in compliance with the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan in compliance with the provisions of the California Coastal Act is based.

**22.92.060 – Determination of Unmerger**

A property owner may request, and the review authority shall make a determination whether affected parcels have merged, as follows:

- A. Application.** An application for Determination of Unmerger shall include the forms, other application materials, and fees required by the Agency.
- B. Review authority.** When a property owner files an application for determination of an unmerger, the Zoning Administrator shall conduct the public hearing, except when the Director determines that significant policy questions are at issue, the Director may refer the determination of unmerger to the Commission for action. The Zoning Administrator shall provide 30 days written notice to the owner of the affected parcels of the date and place of the hearing or decision on the determination of merger.
- C. Decision.** The review authority shall make a determination that the affected parcels have merged or, if meeting the criteria of Section 22.92.050 (Criteria for Unmerger), are deemed not to have merged.
- D. Notification to owner.** The owner of the affected parcels shall be notified as follows:
  - 1. Upon a determination that the parcels meet the standards specified in Section 22.92.050 (Criteria for Unmerger), the Director shall issue to the owner and record with the County Recorder a Notice of the Status of the Parcels, which shall identify each parcel and declare that the parcels are unmerged in compliance with this Chapter.
  - 2. Upon a determination that the parcels have merged and do not meet the criteria specified in Section 22.92.050 (Criteria for Unmerger), the Director shall issue to the owner and record with the County Recorder, a Notice of Merger, in compliance with Section 22.92.030 (Effective Date of Merger) unless a prior notice of merger has been recorded.

## **CHAPTER 22.94 – REVERSIONS TO ACREAGE**

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### **Sections:**

- 22.94.010 – Purpose of Chapter
- 22.94.020 – Applicability
- 22.94.030 – Application Filing and Processing
- 22.94.040 – Findings for Approval of Reversions
- 22.94.050 – Conditions of Approval for Reversions
- 22.94.060 – Parcel or Final Map Contents

### **22.94.010 – Purpose of Chapter**

This Chapter provides procedures for the process of reversion to acreage, where subdivided real property may be reverted from multiple parcels to a single parcel, consistent with the policies of the Marin Countywide Plan and the requirements of the Map Act. Reversion to acreage may be used to combine subdivision lots which do not meet the requirements for merger.

### **22.94.020 – Applicability**

Subdivided real property may be reverted to acreage as provided by this Chapter and by Map Act Chapter 6, Article 1.

### **22.94.030 – Application Filing and Processing**

Applications for reversion to acreage shall be filed and processed as follows:

- A. Application information – Streets and easements.** The application for reversion shall include evidence of non-use of or lack of necessity for any streets or easements that are to be vacated or abandoned, in addition to the information required by Section 22.40.030 (Application Submittal and Filing).
- B. Filing and processing.** The application shall be prepared, filed, and initially processed as provided by Chapter 22.40 (Application Filing and Processing, Fees), except that no environmental review of a reversion to acreage shall be required, as provided by Section 15305 of the CEQA Guidelines.
- C. Transmittal.** In addition to the procedures outlined in Chapter 22.40 (Application Filing and Processing, Fees), a reversion to acreage shall be referred to the agencies outlined in Section 22.84.030.B (Transmittal to affected agencies).
- D. Completion of process.** A reversion to acreage shall require approval of a Parcel or Final Map, with the procedure the same as that required by Chapter 22.86 (Parcel Maps and Final Maps), except that a public hearing shall be held by the Board on the reversion to acreage before approval or denial of the Final Map.

**22.94.040 – Findings for Approval of Reversions**

Subdivided property may be reverted to acreage only if the following findings, in addition to determining compliance with Section 22.86.050.B.1 (Criteria for Approval) can be satisfied:

- A. Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes; and either,
- B. All owners of an interest in the real property within the subdivision have consented to reversion; or
- C. None of the improvements required to be made have been made within two years from the date the Parcel or Final Map was filed for record, or within the time allowed by an agreement for completion of the improvements, whichever is the later; or
- D. No lots shown on the Parcel or Final Map have been sold within five years from the date the map was filed for record.

**22.94.050 – Conditions of Approval for Reversions**

As conditions of reversion, the following shall be required:

- A. Dedications or offers of dedication necessary for the purposes specified by Chapters 22.82 (Subdivision Design Standards) and 22.100 (Subdivision Improvements and Agreements).
- B. Retention of all previously paid fees and/or any portion of required improvement security or deposits if necessary to accomplish the purposes of the Map Act or this Development Code.

**22.94.060 – Parcel or Final Map Contents**

In addition to the information specified by Section 22.86.020 (Parcel and Final Map Application Filing and Processing), the Final or Parcel Map for a reversion to acreage shall also delineate dedications that will not be vacated and dedications that are a condition of reversion.

## **CHAPTER 22.96 – CERTIFICATES OF COMPLIANCE**

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### **Sections:**

- 22.96.010 – Purpose of Chapter
- 22.96.020 – Applicability
- 22.96.030 – Application Filing and Processing
- 22.96.040 – Review and Approval

### **22.96.010 – Purpose of Chapter**

This Chapter provides procedures for the filing, processing, and approval or denial of Certificates of Compliance and Conditional Certificates of Compliance, consistent with the policies of the Marin Countywide Plan and the requirements of the Map Act.

### **22.96.020 – Applicability**

A Certificate of Compliance is a document recorded by the County Recorder, which acknowledges that the subject parcel, which was typically created prior to current subdivision map requirements, is considered by the County to be a legal lot of record. A Conditional Certificate of Compliance is used instead of a Certificate of Compliance to validate a parcel that was not legally subdivided.

Section 66499.35 of the Map Act requires the approval of these certificates. Any person owning real property, or a purchaser of the property in a contract of sale of the property, may request a Certificate of Compliance or Conditional Certificate of Compliance. Contiguous parcels that have been granted Certificates of Compliance or Conditional Certificates of Compliance may still be subject to merger (see Chapter 22.92 (Merger of Parcels)).

### **22.96.030 – Application Filing and Processing**

- A. Application information.** A Certificate of Compliance or Conditional Certificate of Compliance application shall include the form provided by the Agency, the required filing fee, and a chain of title, consisting of copies of all deeds beginning before the division and thereafter, unless the parcels were created through a recorded subdivision map.
- B. Processing.** Certificate of Compliance and Conditional Certificate of Compliance applications shall be submitted to the Agency and shall be processed in compliance with the procedures for ministerial planning permits specified by Chapter 22.40 (Application Filing and Processing, Fees). No environmental review (Section 22.40.060 (Environmental Review)) shall be required, in compliance with Section 15268.a of the CEQA Guidelines.

### **22.96.040 – Review and Approval**

The processing, review and approval of the application shall occur as follows.

- A. Decision.** The Agency shall prepare a written analysis that will serve as the basis for action by the Review Authority. A single Certificate of Compliance determination shall be issued for each unit of real property determined to be a single legal lot of record. The analysis will:



1. Describe the history of the land division;
2. Determine whether the property was legally created by the division of real property;
3. Reference provisions of State law and County (or earlier County) ordinances applicable to the subdivision at the time the division in question occurred; and
4. Identify conditions of approval where appropriate.

**B. Action by Review Authority.** The Review Authority shall review all available information and make a determination whether the real property was divided in compliance with the Map Act, this Development Code, and other applicable provisions of the County Code.

1. Upon making the determination that the real property was divided in compliance with the Map Act, this Development Code or applicable previous Ordinances enacted pursuant to the Map Act, and other applicable provisions of the County Code, and was not subsequently merged with contiguous parcels, then the Review Authority shall issue a Certificate of Compliance Determination and cause a Certificate of Compliance to be filed with the County Recorder.
2. Parcels created by antiquated subdivisions may not be determined to be legal lots of record. Further, a parcel may not be determined to be a legal lot of record if it was merged with a contiguous unit of real property and remained merged pursuant to Map Act Section 66451.301.
3. Upon making a determination that the real property does not comply with the provisions of this Development Code or the Map Act, the Review Authority shall grant a Conditional Certificate of Compliance, imposing conditions as provided by Subsection C below (Conditions of Approval).

**C. Conditions of approval.** If the owners of the property for which a Conditional Certificate of Compliance is being issued are the original subdividers, the Review Authority may impose any conditions that would be applicable to a current subdivision, as provided by the Map Act and this Development Code, regardless of when the property was divided. If the owners had no responsibility for the subdivision that created the parcel, the Review Authority may only impose conditions that would have been applicable at the time the property was acquired by the current owners.

**D. Appeal.** The conditions imposed by the Review Authority may be appealed in compliance with Chapter 22.114 (Appeals).

**E. Completion of process.** The Agency shall file either a Certificate of Compliance or a Conditional Certificate of Compliance with the County Recorder. The certificate shall identify the property, and serve as notice to the property owner or purchaser who applied for the certificate, a grantee of the owner, or any subsequent transferee or assignee of the property that either the division complies with the provisions of the Map Act and this Development Code or the fulfillment and implementation of the conditions shall be required before subsequent issuance of a permit or other approval for the development of the property.

- F. Effective date of certificate.** A Conditional Certificate of Compliance or Conditional Certificate of Compliance shall not become effective until the document has been recorded by the County Recorder.



## **CHAPTER 22.98 – DEDICATIONS, RESERVATIONS, EASEMENTS**

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### **Sections:**

- 22.98.010 – Purpose of Chapter
- 22.98.020 – Applicability – Required Dedications
- 22.98.030 – Easement Dedications
- 22.98.040 – Parkland Dedications and Fees
- 22.98.050 – Public Access Dedication and Improvement
- 22.98.060 – Reservations of Land
- 22.98.070 – Right-of-Way Dedications
- 22.98.080 – School Site Dedications

### **22.98.010 – Purpose of Chapter**

This Chapter establishes standards for subdivider dedications of land or payment of fees in lieu thereof, in conjunction with subdivision approval, in compliance with the Map Act. These requirements are intended to preserve and enhance habitat, the natural environment, and scenic values of the County and the excellence of residential, commercial, or industrial development. The requirements of this Chapter are consistent with the policies of the Marin Countywide Plan.

### **22.98.020 – Applicability – Required Dedications**

A proposed subdivision shall comply with the requirements of this Chapter for dedications, reservations, or the payment of in-lieu fees. The requirements of this Chapter shall not be construed to create an obligation for the County to maintain park or playground areas.

### **22.98.030 – Easement Dedications**

Wherever the provisions of this Article result in requirements for the dedication of easements to the County for the purposes of common driveways, drainage, pedestrian walkways, bicycle or equestrian paths, slopes, public utilities, emergency access, limiting access to specific streets, or other purposes, the dedications shall comply with all applicable provisions of Title 24, Chapters 24.05 (Easements) and 24.06 (Reserved Strips) of the County Code.

### **22.98.040 – Parkland Dedications and Fees**

- A. Purpose.** This Section provides for the dedication of land and/or the payment of in-lieu fees for park and recreational facilities, in compliance with Map Act Sections 66477, et seq., also known as the Quimby Act.

The primary intent of this Section is to provide land for functional recreation units of local or neighborhood service, including: tot lots, play lots, playgrounds, neighborhood parks, playfields, community or district parks, and other specialized recreational facilities that may serve families and senior citizen activities.

**B. Applicability.**

1. **Dedication and/or fee required.** The subdivider shall be required to dedicate land and/or pay fees in compliance with this Section, as a condition of Tentative Map approval.
2. **Exemptions.** The provisions of this Section do not apply to industrial or commercial subdivisions, condominium or stock cooperative projects that propose the subdivision of air space in an existing apartment building that is more than five years old when no new housing units are added, or to any other subdivisions exempted from these requirements by Map Act Section 66477.
3. **Determination of dedication and/or fee for non-County facilities.** Where park and recreational services are provided by a public agency other than the County, the amount and location of land to be dedicated or fees to be paid shall be jointly determined by the County and the public agency.

**C. Amount of parkland required.** In compliance with Map Act Section 66477.b, three acres of land for each 1,000 persons residing within the County shall be devoted to neighborhood and community park and recreational purposes.

**D. Dedication requirement.** Dedication shall be required where parks and recreation facilities are designated in the Marin Countywide Plan, Local Coastal Plan, or any Community Plan or Specific Plan, and are to be entirely or partly located within the proposed subdivision. In these cases, the subdivider shall dedicate land for a local park sufficient in size and topography that bears a reasonable relationship to serve the present and future needs of the future residents of the subdivision.

1. **Formula for dedication.** The amount of land to be provided shall be determined by the following formula:

$$\text{Required Acres of Parkland per Dwelling Unit} = 0.003 \text{ Acres per Person} \\ \times \text{Average Number of Persons per Household}$$

**Example:** A development project proposing 100 dwelling units in an area of the County where the type of dwelling units proposed typically contain an average of 2.4 persons per household, would be required to dedicate 0.0072 acres of land per dwelling (a total of 0.72 acres), or pay an in-lieu fee. (0.003 acres per person x 2.4 persons per dwelling = 0.0072 acres per dwelling) x (100 dwellings in project = 0.72 acres)

2. **Determining average number of persons per household.** The average number of persons per household shall be determined by the Director, using the most recent U.S. Census information regarding household size for Marin County.
3. **Determining number of dwellings.** For the purposes of this Section, the number of dwellings in the subdivision shall be determined as follows, and shall not include dwellings lawfully in place before the date the Tentative Map was approved:
  - a. In areas zoned for one dwelling per parcel, the number of dwellings shall equal the number of parcels shown on the Tentative Map.

- b. When a portion of the subdivision is zoned for multi-family housing, the number of proposed dwellings in the area so zoned shall equal the maximum number of dwellings allowed in that zoning district.
  - c. For residential condominiums, the number of dwellings shall be the number of condominium units shown on the Tentative Map.
- E. **Quality requirements for land dedications.** Lands to be dedicated or reserved for park and/or recreational purposes shall, in the opinion of the Director and the Director of Parks and Recreation, be suitable in location, topography, environmental characteristics and development potential for the intended use. Principal consideration shall be given to lands that offer:
  - 1. A variety of recreational opportunities for all age groups;
  - 2. Recreational opportunities located within walking distance from residents' homes;
  - 3. Possibility for expansion or connection with school grounds;
  - 4. Integration with hiking, riding, bicycle trails, waterways, and other open space;
  - 5. Coordination with other park systems; and
  - 6. Access to at least one existing or proposed public street.
- F. **Improvements required for dedicated lands.** The subdivider shall provide the following improvements on lands to be dedicated in compliance with this Section, which shall not be counted toward the requirement for dedication, unless the Director waives such improvements:
  - 1. Full street improvements and utility connections including curbs, gutters, street paving, traffic-control devices, street trees and sidewalks to the land that is dedicated. These improvements shall be provided in compliance with applicable Community Plans or Specific Plan unless the requirement for such improvements is waived by the Director.
  - 2. Fencing along the property lines of portions of the subdivision contiguous to the dedicated land;
  - 3. Improved drainage through the site; and
  - 4. Other improvements that the County determines to be essential to the acceptance of the land for recreational purposes.
- G. **Fees in lieu of dedication.** The subdivider shall pay fees in lieu of dedication where there is no park or recreation facility designated in the Marin Countywide Plan, Local Coastal Plan, or applicable Community or Specific Plan to be located within or partly within the proposed subdivision, or the subdivision proposes 50 or fewer parcels. The required fee shall be as determined by the formula in Subsection G.1 following (Formula for Fees).
  - 1. **Formula for fees.** The amount of a required in-lieu fee shall be based upon the fair market value of land that would otherwise be required for dedication by Subsection D above (Dedication Requirement), plus 20 percent of the fair market value to be used to partially cover the costs of the off-site improvements that would otherwise have been required with dedication in compliance with Subsection F above (Improvements Required

for Dedicated Lands). The in-lieu fee shall be determined by the following formula as determined by the Director:

$$\text{Fee} = (\text{No. of Dwellings} \times \text{Acres of Parkland per Dwelling} \times \text{FMV per Buildable Acre}) \times 1.20$$

Where:

Acres of Parkland per Dwelling is determined by Subsection D above (Dedication Requirement).

FMV = Fair market value, as determined by Subsection G.2 below (Determination of Fair Market Value).

Buildable Acre = A typical acre of the subdivision, not subject to flooding, easements, excessive slope, or other restrictions.

**Example:** The development project proposing 100 dwelling units described in the example in Subsection D.1 (Dedication requirement) above, in area where appraisal determined that the fair market value of a buildable acre would be \$150,000, would be required to pay a fee of \$129,600. (100 dwellings x 0.0072 acres of parkland per dwelling x FMV of \$150,000 per acre x 1.20 = \$129,600)

2. **Determination of fair market value.** The County shall determine the fair market value of a buildable acre in the proposed project through a written appraisal prepared and signed by an appraiser acceptable to the County. The cost of the appraisal shall be paid by the subdivider. The appraisal shall be completed immediately before the filing of the Final Map.

The subdivider shall notify the County of the expected filing date at least six weeks before filing of the Final Map. If more than one year elapses before filing the Final Map, the County will prepare a new appraisal and will bill the subdivider for the cost of the reappraisal.

For the purposes of this Chapter, the determination of the fair market value of a buildable acre shall consider, but not necessarily be limited to, the following:

- a. Any conditions of the Tentative Map;
- b. The designations of the site by the Marin Countywide Plan, Local Coastal Plan or applicable Community or Specific Plan;
- c. The zoning district applicable to the site;
- d. Site location and characteristics; and
- e. Off-site improvements facilitating use of the property.

If the subdivider objects to the fair market value determined by the County, the subdivider may appeal the determination to the Board, who shall hear the appeal under the same current rules for local hearings by the California State Board of Equalization hearings, except that the burden of proof shall lie with the subdivider.

3. **Dedication in subdivisions of 50 or fewer parcels.** Nothing in this Section shall prohibit the dedication and acceptance of parkland in subdivisions of 50 or fewer parcels, where the subdivider proposes the dedication voluntarily and the land is acceptable to the County.
4. **Use of fees.** The in-lieu fees collected in compliance with this Section shall be used only for the purpose of acquiring necessary land and developing new parks, or rehabilitating existing park or recreational facilities.

**H. Requirement for dedication and fees.** In subdivisions of over 50 parcels, the subdivider shall both dedicate land and pay a fee, as follows.

1. When a portion of the land to be subdivided is proposed in the Marin Countywide Plan, Local Coastal Plan or Community Plan or Specific Plan as the site for a park or recreation facility, that portion shall be dedicated for local park purposes. The land to be dedicated shall be subject to the improvement requirements of Subsection F above (Improvements Required for Dedicated Lands). If additional land would have been required for dedication by Subsection D above (Dedication Requirement), a fee, computed in compliance with Subsection G above (Fees In-lieu of Dedication), shall also be paid for the value of any additional land, plus 20 percent toward the costs of off-site improvements.
2. When a major part of the local park or recreation site has already been acquired by the County or other local agency, and only a portion of the land is needed from the subdivision to complete the park site, the remaining portion shall be dedicated for local park purposes.

The subdivider shall also pay a fee in compliance with Subsection G above (Fees In-lieu of Dedication), in an amount equal to the value of the land, plus an additional 20 percent of the value of the land toward the costs of the off-site improvements that would otherwise have been required by Subsection F above (Improvements Required for Dedicated Lands) if the land had been dedicated. The County shall use the fees to improve the existing park and recreation facility, or to improve other local parks and recreation facilities in the area serving the subdivision.

**I. Determination of land or fee.** In determining whether to accept a land dedication or to require payment of an in-lieu fee, or a combination of both, the Board shall consult with the Commission and the Parks and Recreation Commission, and shall consider the following factors:

1. The natural features, access, and location of land in the subdivision available for dedication;
2. Size and shape of the subdivision and land available for dedication;
3. Feasibility of dedication;
4. Compatibility of dedication with the Marin Countywide Plan, Local Coastal Plan or any applicable Community Plan or Specific Plan.
5. The location of existing and proposed park sites and trailways.

The determination of the Board as to whether land shall be dedicated, or whether a fee shall be paid in lieu thereof, or a combination of both, shall be final.



- J. Credit for private open space.** Where a proposed subdivision will include private open space, the Board may reduce the area of land or the amount of fees required by this Section, provided that the Board finds that it is in the public interest to do so and that all of the following standards are met. The Board shall consult with the Commission and the Parks and Recreation Commission before determining the extent of any reduction in land to be dedicated or fees to be paid.
1. Any yards, court areas, setbacks, and other open areas required by this Development Code and Title 19 (Building Standards) of the County Code shall not be included in the computation of the private open space.
  2. The private park and recreation facilities shall be owned by a homeowners' association that is composed of all property owners in the subdivision. The homeowners' association shall be an incorporated nonprofit organization capable of dissolution only by a 100 percent affirmative vote of the membership, operated under recorded land agreements through which each lot owner is automatically a member, and each lot is subject to a charge or a proportionate share of expenses for maintaining the facilities.
  3. The use of the private open space is restricted for park and recreation purposes by recorded covenants which run with the land in favor of the future owners of the property and which cannot be defeated or eliminated without the consent of the County or its successor.
  4. The proposed private open space is reasonably adaptable for use for park and recreation purposes, taking into consideration factors including size, shape, topography, geology, access, and location.
  5. Facilities proposed for the open space are in substantial compliance with the provisions of the Marin Countywide Plan, the Local Coastal Plan, or any applicable Community or Specific Plan.
  6. Generally, the open space for which credit is given is a minimum of three acres and provides all of the following basic local park elements, or a combination of these and other recreation improvements, that will meet the specific recreation park needs of the future residents of the area:
    - a. Recreational open spaces, generally defined as park areas for active recreational activities (e.g., soccer, golf, baseball, softball, and football) and which have at least one acre of maintained turf with less than five percent slope);
    - b. Court areas, generally defined as tennis courts, badminton courts, shuffleboard courts, or similar hard-surfaced areas especially designed and exclusively used for court games;
    - c. Recreational swimming areas, generally defined as fenced areas devoted primarily to swimming, diving, or both, and which include decks, lawn area, bathhouses, or other facilities, developed and used exclusively for swimming and/or diving. Swimming facilities shall consist of no less than 15 square feet of water surface area for each three percent of the population of the subdivision; and
    - d. Recreation buildings and facilities designed and primarily used for the recreational needs of the residents of the subdivision.

7. The credit for private open space shall not exceed 50 percent of the required land dedication or payment of fees.

The determination of the Board as to whether credit shall be granted and the amount of that credit shall be final.

**K. Procedure.** At the time of approval of the Tentative Map, the Director and/or Commission shall determine the land required for dedication in compliance with Subsection D above (Dedication Requirement). At the time of the filing of the Parcel or Final Map in compliance with this Article, the subdivider shall:

1. Dedicate the land as required by the Director and/or Commission; and/or
2. Pay the required fees before recordation of the Parcel Map or Final Map.

**L. Disposition of land or fees.** Land or fees required in compliance with this Section shall be conveyed or paid directly to the local public agency which provides park and recreational services on a community wide level and to the area within which the proposed development will be located, if the agency elects to accept the land or fee. The County or other applicable public agency shall:

1. Deposit the fees into a subdivision park trust fund, or other similar fund. Monies in the fund, including accrued interest, shall be expended solely for the acquisition or development of park land or related improvements. The County Treasurer shall report the income, expenditures and status of the County subdivision park trust fund to the Board on an annual basis;
2. Develop a schedule in compliance with Map Act Section 66477 specifying how, when, and where it will use the land or fees, or both, to develop park or recreation facilities to serve the residents of the subdivision; and
3. Appropriate the collected fees within an annual budget, for a specific project to serve the residents of the subdivision, within five years after receipt of payment, or within five years after Building Permits are issued for one-half of the lots created by the subdivision, whichever occurs later.

If the fees are not so committed, these fees, less an administrative charge, shall be distributed to the then-record owners of the subdivision lots in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

**M. Sale of dedicated land.** Land dedicated for a local park and/or recreational use may be sold by the Board and the proceeds used to purchase a more suitable site. The land may be sold if circumstances arise in the time between dedication of land for park purposes and the issuance of Building Permits, which indicate that another site would be more suitable for local park or recreational purposes serving the subdivision and the neighborhood (i.e., receipt of a gift of additional parkland or change in school location, etc.), the land may be sold upon the approval of the Board.

## 22.98.050 – Public Access Dedication and Improvement

The subdivider may be required to dedicate easements to provide public access to or along the shorelines of public resources, including a public waterway, river or stream, coastline or shoreline lake or reservoir, or other public lands, in compliance with Map Act Sections 66478.1 et seq., or the County's Local Coastal Plan.

## 22.98.060 – Reservations of Land

As a condition of approval of a Tentative Map, the County may require the subdivider to reserve sites appropriate in area and location for parks, recreational facilities, fire stations, libraries or other public uses, in compliance with the standards and formulas in this Chapter.

### A. Standards for reservation of land.

1. **Location of land.** Where a park, recreational facilities, fire station, library, or other public use is shown in the Marin Countywide Plan, Local Coastal Plan, or applicable Community Plan or Specific Plan, the subdivider may be required by the County to reserve sites as determined by the County in compliance with the standards in the applicable plan.
2. **Configuration.** The reserved area shall be of a size and shape that will permit the balance of the property to develop in an orderly and efficient manner. The amount of land to be reserved shall not make development of the remaining land held by the subdivider economically unfeasible. The land to be reserved shall be in multiples of streets and parcels that will permit an efficient division of the reserved area if it is not acquired within the period determined by Subsection B following (Procedure for Reservation of Land).

**B. Procedure for reservation of land.** The public agency for whose benefit an area has been reserved shall at the time of approval of the Parcel or Final Map enter into a binding agreement with the subdivider to acquire the reserved area within two years after the completion and acceptance of all improvements, unless a longer time is authorized by mutual agreement.

**C. Purchase price of reserved land.** The purchase price shall be the market value of the land at the time the Tentative Map is filed, plus the property taxes against the reserved area from the date of the reservation, and any other costs incurred by the subdivider in maintaining the reserved area, including interest costs incurred on any loan covering the reserved area.

**D. Termination of reservation.** If the public agency for whose benefit an area has been reserved does not enter into a binding agreement as described in Subsection B above (Procedure for Reservation of Land), the reservation shall automatically terminate.

## 22.98.070 – Right-of-Way Dedications

As a condition of approval of a Parcel or Final Map, the subdivider shall dedicate or make an irrevocable offer of dedication of all parcels of land or easements within the subdivision that are needed for streets or alleys, including access rights and abutters' rights, drainage, public utility easements, and other public easements. These dedications shall comply with all applicable requirements of Title 24, Chapter 24.05 of the County Code (Easements).

**22.98.080 – School Site Dedications**

- A. Dedication requirement.** In compliance with Map Act Section 66478, a subdivider may be required to dedicate land as the Review Authority determines to be necessary for adequate elementary school facilities for the residents of the subdivision. Dedication may be required only if the subdivider and/or successors in interest to the property:
1. Have owned the land being subdivided for less than 10 years before filing the Tentative Map; and
  2. Develop, or complete the development, of a subdivision of more than 400 dwelling units within a single school district, within a period of three years or less.
- B. Tentative Map approval.** If the affected school district responds to the referral of the Tentative Map application (Section 22.84.020 (Tentative Map Preparation, Application Contents)) with a report to the County describing the land the district deems necessary and suitable to provide adequate elementary school service to residents of the proposed subdivision, the Review Authority shall require the dedication of land as a condition of approval of the Tentative Map. As required by Map Act Section 66478, the dedication requirement shall not make development of the remaining land held by the subdivider economically unfeasible, or exceed the amount of land ordinarily allowed under the procedures of the State Allocation Board.
- C. Timing of dedication.** The required dedication may occur before, concurrently with, or up to 60 days after the filing of a Final Map on any portion of the subdivision. If the school district accepts the dedication, the district shall pay the subdivider the amounts required by Map Act Section 66478, and shall record the certificate required by Map Act Section 66478.
- D. Termination of dedication requirement.** The requirement of dedication shall automatically terminate unless, within 30 days after the requirement is imposed by the Review Authority, the school district makes a binding commitment to the subdivider agreeing to accept the dedication at any time before the construction of the first 400 dwelling units. Upon acceptance of the dedication, the school district shall repay to the subdivider and/or successors the costs specified in Business and Professions Code Section 11525.2.
- E. Judicial review.** Any person who is aggrieved by or fails to agree to the reasonableness of any requirement imposed in compliance with this Section may bring a special proceeding in the Superior Court in compliance with Map Act Section 66499.37.
- F. Reversion of land – Repurchase.** Should the school district find itself unable to accept the dedication for reasons other than specified in the commitment with the subdivider, the dedicated land shall revert to the subdivider. If the dedication is accepted and the school district within 10 years from the date of acceptance offers the property or any substantial part thereof for public sale, the subdivider shall have the first option to repurchase the property for the price paid by the district, plus a sum equal to the amount of property taxes which would have been paid during the period of public ownership.



## CHAPTER 22.100 – SUBDIVISION IMPROVEMENTS AND AGREEMENTS

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### Sections:

- 22.100.010 – Purpose of Chapter
- 22.100.020 – Improvements Required
- 22.100.030 – Subdivision Grading, Erosion and Sediment Control
- 22.100.040 – Soils Reports
- 22.100.050 – Improvement Plans and Inspections
- 22.100.060 – Improvement Agreements and Security
- 22.100.070 – Monuments and Staking

### 22.100.010 – Purpose of Chapter

This Chapter establishes standards for subdivision improvements, and agreements with the County to guarantee the installation of the improvements.

### 22.100.020 – Improvements Required

- A. Basic improvement requirements.** The subdivider shall construct all improvements required by this Chapter and Title 24 (Improvement and Construction Standards) of the County Code, any improvements shown on the approved Tentative Map, and any improvements required as a condition of Tentative Map approval.
- 1. Design and construction standards.** The design and construction of subdivision improvements shall comply with all applicable provisions of Chapter 22.82 (Subdivision Design Standards), and Title 24 (Improvements) of the County Code.
  - 2. Conditions of approval.** The improvement requirements of this Chapter and any other improvements determined by the Review Authority to be necessary in compliance with Sections 22.84.050 (Tentative Map Review) and 22.84.060 (Findings for Approval of Tentative Map), shall each be described in conditions of approval adopted for each approved Tentative Map (Section 22.84.070 (Conditions of Approval)).
  - 3. Oversizing of improvements.** The County may require the subdivider to install and dedicate to the public subdivision improvements with additional size, capacity, or number for the benefit of property not within the subdivision, as a Tentative Map condition of approval prerequisite to the approval of a Parcel or Final Map. Where oversizing is required, reimbursement shall be provided as follows:
    - a. Reimbursement agreement.** The County shall enter into an agreement with the subdivider providing for reimbursement of the portion of the cost of the improvements that is equal to the difference between the amount it would have cost the subdivider to install the improvements to serve the subdivision only, and the actual costs of the improvements, in compliance with Map Act Section 66485 et seq.



3. **Wells or other sources.** Where water is to be supplied by wells, springs or other sources, the purchasers of the properties shall be informed of the water supply in writing. The subdivider shall submit sufficient evidence substantiated by adequate tests and/or engineering data to ensure that adequate water can be obtained for each lot and for fire protection as approved by the Health Officer, and the Fire Chief having jurisdiction. The information provided shall be certified by a professional engineer or geologist.

### 22.100.030 – Subdivision Grading, Erosion and Sediment Control

All subdivision grading and construction operations shall be conducted to provide proper erosion and sediment control, and shall otherwise comply with all applicable provisions of Title 23, Chapter 23.08 (Excavation, Grading, and Filling), and Title 24, Sections 24.04.620 et seq. (Grading) of the County Code.

### 22.100.040 – Soils Reports

Geotechnical reports shall be provided by the subdivider as required by this Section.

- A. **Preliminary soils report.** A preliminary geotechnical report based upon adequate test borings and prepared by a registered civil engineer shall be required for every subdivision. The preliminary geotechnical report shall be submitted with the Tentative Map application.

1. **Form of report.** A preliminary geotechnical report may be divided into two parts:

- a. **Soils reconnaissance.** The soil reconnaissance shall include a complete description of the site based on a field investigation of soils matters. The soils matters reviewed shall include stability, erosion, settlement, feasibility of construction of the proposed improvements, description of soils related hazards and problems and proposed methods of eliminating or reducing these hazards and problems.
- b. **Final soils investigation and report.** This investigation and report shall include field investigation and laboratory tests with detailed information and recommendations relative to all aspects of grading, filling and other earthwork, foundation design, pavement design and subsurface drainage.

The report shall also recommend any required corrective action for the purpose of preventing structural damages to the subdivision improvements and the structures to be constructed on the lots. The report shall also recommend any special precautions required for erosion control, and the prevention of sedimentation or damage to off-site property.

If the preliminary geotechnical report indicates the presence of critically expansive soils or other soils problems which, if not corrected, would lead to structural defects, or environmental impacts, a subsequent soils investigation of each lot in the subdivision may be required and submitted to the Department of Public Works before approval of a Parcel or Final Map.

2. **Preliminary soils report waiver.** The preliminary geotechnical report may be waived if the Director of Public Works determines that, due to information the Agency has as to the qualities of the soils of the subdivision, no preliminary analysis is necessary.



- B. Final soils report.** A final geotechnical report prepared by a registered civil engineer shall be required where a preliminary geotechnical report was required, unless the final report is waived by the Director of Public Works.
1. Two copies of the final geotechnical investigation and report shall be filed with the improvement plans.
  2. The report shall contain sufficient information to ensure compliance with all recommendations of the preliminary geotechnical report and the specifications for the project.
  3. The report shall also contain information relative to soils conditions encountered which differed from that described in the preliminary geotechnical reports, along with any corrections, additions or modifications not shown on the approved plans.

### **22.100.050 – Improvement Plans and Inspections**

The subdivider shall file with the Department of Public works three complete copies of the subdivision improvement plans, after approval of a Tentative Map, before commencement of any construction work, and before filing a Parcel or Final Map, in compliance with Title 24, Chapter 24.10 (Improvement Plans) of the County Code.

**A. Action on improvement plans:**

1. **Director of Public Works.** The Director of Public Works shall inspect the improvement plans for compliance with the provisions of this chapter of the Development Code, Title 24 (Improvement and Construction Standards) of the County Code, standard engineering practices, and any other requirements of the County, and shall forward one copy of the improvement plans to the Director.
  - a. Before approval of the improvement plans, the Director of Public Works shall secure from the proper authority written approval of plans and specifications for sewer lines and sewage disposal systems. The Director of Public Works shall further determine that no deviation from the conditions of approval of the Tentative Map has been made, and that the final landscaping plan has been approved.
  - b. The Director of Public Works shall approve or deny the improvement plans in conformance with Section 66456.2 of the Subdivision Map Act.
2. **Community Development Director.** The Director shall approve, with or without conditions, or deny the final landscape plans. The action shall be taken within 10 days after receipt of the improvement plans by the Director of Public Works, and shall be confirmed in writing.

**B. Inspections required.** The Director of Public Works shall make any inspections deemed necessary to ensure that all construction complies with the approved improvement plans.

**C. Notification.** The subdivider shall notify the Director of Public Works upon the completion of each stage of construction as outlined in this Chapter, and shall not proceed with further construction until receipt of authorization from the Director of Public Works.

- D. Inspection fees.** Before recordation of the Final Map, the subdivider shall deposit with the Director of Public Works the inspection fee determined by the Director of Public Works to cover the cost of inspection of required improvements other than utility facilities.
- E. Review and inspection of Sewage facilities.** Where adequate review and inspection is not provided by other agencies, sewage facilities and structures shall be reviewed and inspected by the Health Officer. Costs of review and inspection of sewage facilities incurred by the Health Officer or engineering consultant shall be paid by the subdivider.

### **22.100.060 – Improvement Agreements and Security**

If the County determines that the improvement work required in compliance with this Chapter is not completed satisfactorily prior to the filing of the Parcel or Final Map, the subdivider shall enter into an agreement with the Board, and provide security to guarantee the performance of the terms of the agreement, as follows. The Agreement shall be entered into concurrently with the approval of the map.

- A. Content of Agreement.** The Agreement shall provide for each of the following, where applicable:
1. For the work to be completed within a time specified in the agreement, and shall provide that work not satisfactorily completed within the time limit may be completed by the County or its agent, with all costs paid by the subdivider.
  2. That prior to occupancy of any structure within the subdivision, the required improvements shall be sufficiently completed to render all of the applicable phase of the subdivision safe to occupy, and to complete all applicable mitigations required by a Negative Declaration or Environmental Impact Report, as determined by the Director of Public Works.
  3. At the discretion of the County, for the improvements to be installed in units, for extensions of time under specific conditions, or for the termination of the agreement upon a reversion to acreage of all or part of the subdivision.
  4. That the Agreement shall be secured by a good and sufficient improvement security in an amount determined by the Director of Public Works to be adequate to cover the estimated cost of improvement.
- B. Improvement securities.** Improvement securities shall be provided by the subdivider, as required by this Subsection.
1. **Form of security.** Improvement security shall be provided in one of the following forms:
    - a. Bond or bonds by one or more corporate sureties approved by the Board;
    - b. A deposit, placed with either the County or a responsible escrow agent or trust company, at the option of the County, of money or negotiable bonds of the kind approved for securing deposits of public moneys;
    - c. An instrument of credit from one or more financial institutions, subject to regulation by the State or Federal government, pledging that the funds necessary to carry out the act or Agreement are on deposit and guaranteed for payment, or a letter of credit issued by the financial institution; or

- d. A lien upon the property to be divided, created by contract between the owner and the County, if the County finds that it would not be in the public interest to require the installation of the required improvement sooner than two years after the recordation of the map.

Any written contract or security interest in real property entered into as security for performance in compliance with this Section shall be recorded with the County Recorder. From the time of recordation of the written contract or other document creating a security interest, a lien shall attach to the applicable real property and shall have the priority of a judgment lien in an amount necessary to complete the required improvements. The recorded contract or security document shall be indexed in the Grantor Index to the names of all record owners of the real property as specified on the map and in the Grantee Index to the County.

- 2. **Types of improvement security required.** The following improvement securities may be required as specified in this Chapter.

- a. **Faithful Performance.** A security in the amount of 100 percent of the total estimated cost of the improvement, or of the act to be performed, conditioned upon the faithful performance of the act or Agreement;
- b. **Labor and Materials.** A security in the amount of 100 percent of the total estimated cost of the improvements or of the act securing payment, to the contractor, subcontractors, and persons furnishing labor, materials or equipment;
- c. **Maintenance.** A security in the amount of 10 percent of the total estimated cost of the improvements, or of the act to be performed, or \$1,000, whichever is greater, to serve as a guarantee and warranty of the work for a period of one year following completion thereof against any defective work, labor done, or defective materials furnished;
- d. **Monuments.** A security in the amount of 100 percent of the total estimated cost of setting monuments guaranteeing the cost of setting the monuments.

- 3. **Improvement security waiver.** For subdivisions of four lots or less, the requirement of a labor and materials bond and a maintenance bond, specified in Subsections B.2.a and B.2.b above, respectively (Faithful Performance, and Labor and Materials), shall not be required where the required improvements will not be accepted for maintenance by the County.

- 4. **Security release.**

- a. The securities described in Subsections B.2.a and B.2.b (Faithful Performance, and Labor and Materials, respectively) shall be released by the Director of Public Works after acknowledging completion of the improvements and commencement of the one-year maintenance period, provided that security specified in Subsection B.2.c (Maintenance) has been furnished.
- b. The security described in Subsection B.2.c shall be released by the Director of Public Works following satisfactory completion of the maintenance period and correction of all deficiencies.

- c. The security specified in Subsection B.2.d (Monuments) shall be released by the Director of Public Works following receipt of a letter from the subdivision engineer or surveyor that all monuments have been set and paid for. If the security is a cash deposit, payment to the engineer or surveyor may be made from the deposit, if so requested by the depositor.

No partial release of any security shall be permitted.

### **22.100.070 – Monuments and Staking**

At the time the survey for the Parcel or Final Map is completed, the engineer or surveyor shall set sufficient durable monuments to conform with the standards described in Section 8771 of the Business and Professions Code, so that another engineer or surveyor may readily retrace the survey. This requirement may be waived by the County Surveyor as provided in this Chapter.

**A. Permanent monuments.** Permanent monuments shall be constructed in compliance with the Standard Specifications, Cities, and County of Marin.

1. At least two permanent monuments shall be set in each block. They shall be within sight of each other and readily accessible in the street area. These monuments may be either on the street centerline or on a line parallel to and offset from the center property shown and dimensioned on the Parcel or Final Map.
2. The requirement for permanent monuments may be waived for subdivisions of four lots or less when, due to the size or configuration of the lots, this requirement would be impractical.

**B. Subdivision staking.** In making the survey, the engineer or surveyor shall stake all of the following points where a survey stake does not presently exist: all corners and angle points in the exterior boundary of the subdivision, all angle points and curve points in the right-of-way lines of all streets, easements, and/or lands to be dedicated for public use, and all lot corners.

1. **Waivers of staking requirements.** The County may waive the above staking requirements in the following circumstances.
  - a. The County Surveyor may waive the requirement of staking all corner and angle points in the exterior boundary of a Parcel or Final Map if conditions warrant waiver; provided that at least one exterior boundary line of the land being subdivided is adequately monumented or referenced and sufficient monumentation exists to determine the location of the lots.
  - b. The requirement to stake the remainder of the parcel, defined as the largest parcel having a gross area of five acres or more for which a Parcel or Final Map is required, may be waived.
2. **Stake materials.** Stakes at all corners and angle points in the exterior boundary of the subdivision shall be not less substantial than three-fourths-inch iron pipe or one-half-inch rebar 18 inches long, driven flush with the ground. Stakes at all other points shall be not less substantial than two-inch by two-inch redwood hubs eight inches long, driven flush with the ground.

- 3. Stake marking.** All stakes shall be marked with a tag showing the actual point and the registration number of the engineer or surveyor.
- C. Inspection and installation.** All monuments shall be subject to the inspection and approval of the County Surveyor. For a subdivision requiring a Final Map, monuments shall either be installed before Final Map recordation, or shall be included as part of the work to be completed under the Agreement and improvement security required by this Chapter, when so noted on the Final Map. All monuments necessary to establish the exterior boundary of a subdivision shall be set or referenced prior to recordation of the Final Map.

## **CHAPTER 22.114 – APPEALS**

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### **Sections:**

- 22.114.010 – Purpose of Chapter
- 22.114.020 – Appeal Subjects and Jurisdiction
- 22.114.030 – Filing of Appeals
- 22.114.040 – Processing of Appeals

### **22.114.010 – Purpose of Chapter**

This Chapter provides procedures by which an applicant or other concerned party may appeal a determination or action by the Agency staff, Director, Zoning Administrator, or Planning Commission.

### **22.114.020 – Appeal Subjects and Jurisdiction**

Determinations and actions that may be appealed, and the authority to act upon an appeal shall be as follows:

- A. General procedure.** A discretionary decision made by the Agency staff, Director, or Zoning Administrator may be appealed to the Planning Commission. A discretionary decision made by the Planning Commission may be appealed to the Board of Supervisors. However, the Director may refer an appeal directly to the Board of Supervisors if necessary to comply with State or Federal law or if the application:
  1. Is consistent with the Countywide Plan, applicable Community Plan and Local Coastal Program, and the Single-family or Multi-family Residential Design Guidelines, as applicable;
  2. Meets all legally-required findings in the Development Code;
  3. Would not raise substantial policy issues or result in community-wide impacts, including community character and traffic congestion; and
  4. Would not result in potentially-significant environmental impacts that would require preparation of an Environmental Impact Report pursuant to the California Environmental Quality Act.
- B. Determinations and decisions that may be appealed.** The following types of actions may be appealed:
  1. Official interpretations of the Development Code issued by the Director pursuant to section 22.02.030;
  2. Any determination that a permit application or information submitted with the application is incomplete, in compliance with State law (Government Code Section 65943). Please refer to Section 22.40.050.B. (Initial Application Review-Processing of an Application) for further information; and

3. Action to approve, approve with conditions, or deny any discretionary zoning or land use permit and/or determinations regarding compliance with the environmental review requirements, pursuant to the California Environmental Quality Act and the County Environmental Impact Review Guidelines, for such permits.

### **22.114.030 – Filing of Appeals**

- A. Eligibility.** An appeal may be filed by any person affected by a discretionary determination or action, as described in Section 22.114.020.B (Determinations and actions that may be appealed) except that only an applicant may file an appeal on a determination that an application is incomplete. Code enforcement determinations are only appealable to the Code Enforcement Hearing Officer.
- B. Timing and form of appeal, fees.** All appeals shall be filed with the Agency, in writing on a County appeal application form, prior to the close of the Planning Division’s public service counter on the 8th business day after the decision that is the subject of the appeal, and shall specifically state the pertinent facts of the case and the basis for the appeal. Appeals shall be accompanied by the filing fee set by the fee schedule.

### **22.114.040 – Processing of Appeals**

- A. Report and scheduling of hearing.** When an appeal has been filed, the Director shall prepare a staff report on the matter, and schedule the matter for a public hearing by the appropriate appeal authority identified in Section 22.40.020 (Review Authority for County Land Use and Zoning Decisions) and as modified by Section 22.114.020.A.
- B. Action and findings:**
  - 1. General procedure.** The appeal authority shall conduct a public hearing in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). At the hearing, the appeal authority may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal.
    - a. The appeal authority may affirm, affirm in part, or reverse the action, decision, or determination that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with the provisions of this Development Code.
    - b. When reviewing a decision on a land use permit the appeal authority may adopt additional conditions of approval that may address other issues or concerns than the bases of the appeal.
    - c. A decision by an appeal authority may also be appealed in compliance with Section 22.114.040.B.3 (Appeals to Board), below, provided that the decision of the Board on an appeal shall be final.

2. **Appeals to Planning Commission.** The Planning Commission shall determine an appeal of the Director's or Zoning Administrator's action no later than its fourth regular meeting following the date on which the appeal was filed with the Agency. The action from which an appeal is taken may be reversed or modified only by the affirmative vote of a majority of the full membership of the Commission (i.e., four affirmative votes).
  3. **Appeals to Board.** The Board of Supervisors shall determine an appeal of a decision by the Planning Commission, Zoning Administrator, or Director no later than its eighth regular meeting following the date on which the appeal was filed with the Agency. The action or appellate determination from which an appeal is taken may be reversed or modified only by the affirmative vote of a majority of the membership of the Board.
  4. **Failure to Act.** Failure of the appellate body to act within the time specified shall sustain the action being appealed, except that if the project is a wireless facility, failure to act within the time specified shall result in a denial of the application.
  5. **Tentative Map Appeals.** The timing for consideration of an appeal of a Tentative Map action shall be governed by the requirements of Section 22.84.040 – Tentative Map Public Hearings.
- C. **Appeal of completeness.** Any person affected by a determination by the Agency staff that a discretionary permit application together with the submitted materials is not complete, may appeal the determination in compliance with State law (Government Code Section 65943.c (30-day review period)). Such appeals shall bypass the Commission and shall be heard before the Board. The Board shall issue a decision on the appeal within 60 days of the appeal being submitted.
- D. **Extensions.** Nothing in this section precludes an applicant and the County from mutually agreeing to an extension of time limits.
- E. **Withdrawal of appeal.** After an appeal of a decision has been filed, the appeal shall not be withdrawn except with the consent of the Director.
- F. **Judicial challenge.** If the decision is challenged in court, the appellant may be limited to raising only those issues which were raised at the public hearing, or in written correspondence delivered to the Agency, at or prior to the public hearing, in compliance with State law (Government Code Section 65009.b.2).





## **CHAPTER 22.118 – NOTICES, PUBLIC HEARINGS, AND ADMINISTRATIVE ACTIONS**

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### **Sections:**

- 22.118.010 – Purpose of Chapter
- 22.118.020 – Notice of Hearing or Administrative Action
- 22.118.030 – Hearing Procedure, Continuances
- 22.118.035 – Notice of Decision-Director
- 22.118.040 – Notice of Decision-Zoning Administrator
- 22.118.050 – Notice of Decision-Commission
- 22.118.060 – Recommendation by Commission
- 22.118.070 – Notice of Decision-Board
- 22.118.080 – Indemnification

### **22.118.010 – Purpose of Chapter**

This Chapter provides procedures for the scheduling and noticing of public hearings before the Zoning Administrator, Commission, and Board. When a public hearing or administrative action is required by this Development Code, public notice shall be given and the hearing shall be conducted in compliance with this Chapter.

### **22.118.020 – Notice of Hearing or Administrative Action**

The public shall be provided notice of public hearings and administrative actions in compliance with State law (the Planning and Zoning Law, Government Code Sections 65000 et seq., Subdivision Map Act, Government Code Sections 66410 et seq., and the California Environmental Quality Act, Public Resources Code 21000 et seq.).

**A. Content of notice.** Notice of a public hearing or administrative action shall include the following:

1. The date, time, and place of the hearing or action (or date before which a hearing or action will not be taken);
2. The name of review authority and contact information;
3. A general explanation of the matter to be considered; and
4. A general description, in text or by diagram, of the location of the real property that is the subject of the hearing or action.

If a proposed negative declaration or final environmental impact report (EIR) has been prepared for the project, in compliance with the County's CEQA Guidelines, the hearing notice shall include a statement that the review authority will also consider approval of the proposed negative declaration or certification of the final environmental impact report (EIR).

**B. Method of notice distribution for public hearing actions.** Notice of a hearing action required by this Title for a permit, permit amendment, appeal, or amendment shall be given as follows, as required by State law including Government Code Sections 65090, 65091, and 65092:

1. Notice shall be published at least once in a local newspaper of general circulation in the County at least 10 days prior to the decision; and
2. Written notice shall be mailed or delivered at least 10 days prior to the decision to the following parties:
  - a. The owner(s) or owner's agent of the property being considered, and the applicant;
  - b. Each local agency expected to provide essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected by the proposed project, unless the local agency has accepted an alternative means of receiving notification through an online method of delivery;
  - c. All owners of real property within 300 feet of the property which is the subject of the public hearing action, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of less than 20,000 square feet or a maximum density higher than two units per acre;

If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide the alternate notice allowed by State law (Government Code Section 65091.a.3);

**or**

- d. All owners of real property within 600 feet of the property which is the subject of the public hearing action, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of 20,000 square feet or greater, or a maximum density of two units per acre or lower.

If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide the alternate notice allowed by State law 22.(Government Code Section 65091.a.3);

**and**

- e. Any person who has filed a written request for notice with the Director and has paid the annual fee set by the most current County Fee Ordinance for the notice.
3. Notices of merger or unmerger hearings shall follow the procedures set forth in Chapter 22.92 (Merger of Parcels), and the Subdivision Map Act (Govt. Code Sections 66451.10-66451.24).

**C. Method of notice distribution for administrative actions.** Notice of an administrative action required by this Title for a permit or permit amendment is not required by law but may be given as follows:

1. Written notice maybe mailed or delivered at least 10 days prior to the decision to the following parties:
  - a. The owner(s) or owner's agent of the property being considered, and the applicant;
  - b. Each local agency expected to provide essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected by the proposed project;
  - c. All owners of real property within 300 feet of the property which is the subject of the administrative action, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of less than 20,000 square feet or a maximum density higher than two units per acre;

If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide the alternate notice allowed by State law (Government Code Section 65091.a.3);

*or*

- d. All owners of real property within 600 feet of the property which is the subject of the administrative action, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of 20,000 square feet or greater or allows a maximum density of two units per acre or lower.

If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide the alternate notice allowed by State law (Government Code Section 65091.a.3);

*and*

- e. Any person who has filed a written request for notice with the Director and has paid the annual fee set by the most current County Fee Ordinance for the notice.

**D. Site notice.** Written notice that an application has been submitted shall be posted in at least one location on or adjacent to the property which is the subject of the permit at least 10 days prior to the public hearing or administrative decision date. The notice shall include contact information for the staff who is assigned to process the application, applicable information that is available online, and a general description, in text or by diagram, of the proposed project and the location of the real property that is the subject of the application,

**E. Additional Notice.** The Director may provide any additional notice as the Director determines is necessary or desirable, such as posting notices in public locations within a community.

- F. Summary Publication.** The Director may publish the summary of any ordinance, Development Code, Zoning Map or Countywide Plan Amendment in compliance with State law (Government Code Section 25124).

### **22.118.030 – Hearing Procedure, Continuances**

Hearings shall be held at the date, time, and place, for which notice has been given as required in this Chapter.

The Zoning Administrator, Commission, and Board as applicable, may continue any public hearing to a future specific date at the hearing body's discretion, except that continuances beyond the prescribed final date for action may only be granted with the agreement of the applicant (and non-applicant appellant if the application seeks to resolve a code enforcement case) and that the continuance is clearly announced to all persons attending the hearing prior to the adjournment or recess of the hearing. The public announcement of the continuance shall specify the date, approximate time, and place, to which the hearing will be continued unless public notice of the continued hearing is provided for in accordance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).

### **22.118.035 – Decision by Director**

The Director may issue a written decision or refer the matter to the Commission for determination. If the decision is to be announced at a later date, the Director shall, at the hearing, specify the date on which the decision will be issued. The decision shall contain applicable findings and any conditions of approval, and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. Following the issuance of the written decision, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application.

### **22.118.040 – Decision by Zoning Administrator**

The Zoning Administrator may announce and issue the decision at the conclusion of a scheduled public hearing, refer the matter to the Commission for determination, or defer action and take specified items under advisement and announce and issue the decision at a later date. The decision shall contain applicable findings and any conditions of approval, and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. Following the hearing, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application.

### **22.118.050 – Decision by Commission**

The Commission may announce and issue the decision at the conclusion of a scheduled public hearing, or defer action and take specified items under advisement and announce and issue the decision at a later date. The decision shall contain applicable findings and any conditions of approval and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. Following the hearing, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application.

**22.118.060 – Recommendation by Commission**

After a public hearing on a proposed Master Plan, amendment to this Development Code, the Zoning Map or the Countywide Plan, the Commission shall forward a recommendation, including all required findings, to the Board for final action. Following the hearing, a notice of the Commission's recommendation shall be mailed to the applicant at the address shown on the application.

**22.118.070 – Decision by Board**

For applications requiring Board approval, the Board shall announce and record its decision after the public hearing. The decision shall contain the findings of the Board and any conditions of approval and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. The decision of the Board shall be final.

**22.118.080 – Indemnification**

For applications that are approved by the review authority, the applicant and successors in interest to the project and site shall, and the review authority may require by condition of approval that the applicant and successors in interest to the project and site indemnify, protect, and hold harmless the County, its Board members, employees, and agents, from and against any and all liability, losses, claims, damages, expenses, and costs (including attorney, expert witness and consultant fees, and litigation expenses) that may at any time arise or be set up because of damages to property or personal injury arising out of or in connection with negligent acts by the applicant, successors in interest, and/or the agents or employees of same, except loss or damage that was caused by the negligence or willful misconduct of the County.