

# CHAPTER 3: HOUSING CONSTRAINTS

## Nongovernmental Constraints

Many factors contribute to the cost of housing, including land and construction costs, financing, community resistance to new development, and available infrastructure capacity. These factors impact the availability of housing, especially affordable housing, in Marin County.

### Land and Construction Costs

Nearly 84% of Marin County consists of lands used for open space, watersheds, tidelands, parks, and agriculture. Only 11% of the land area has been developed, and most of the remaining available land is in incorporated cities and towns.<sup>1</sup> The limited amount of land available for development, combined with the County's location in the Bay Area, makes land costs high. Land appraisals indicate how land costs impact overall development costs in Marin County. Land value varies significantly depending on location and development potential. Two key examples are as follows.

1. In November 2020, a 1.23-acre site in San Geronimo was determined to have a market value of \$1,920,000. The land area value was \$352 per square foot, and the unit valuation was \$210,000 per unit.
2. In September 2021, a site in Tomales was valued at \$800,000. The land area valuation was \$32 per square foot and the unit valuation was \$55,000 per unit (13 total units assumed on the property).

Construction costs include materials and labor. In general, land costs per unit can be lowered by increasing the number of units built. According to the Association of Bay Area Governments (ABAG), wood frame construction at 20 to 30 units per acre is generally the most cost-efficient method of residential development. However, local circumstances affecting land costs and market demand will impact the economic feasibility of construction types. The North Bay Fires and the COVID-19 pandemic also disrupted the supply chain and impacted the costs of construction materials.

One indicator of construction costs is Building Valuation Data, compiled by the International Code Council (ICC). The unit costs compiled by the ICC include structural, electrical, plumbing, and mechanical work, in addition to interior finish and normal site preparation. The data are national and do not account for regional differences nor

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<sup>1</sup> Marin Countywide Plan. Prepared by the Marin County Community Development Agency. Adopted November 6, 2007.

include the price of the land upon which the building is built. The most recent Building Valuation Data, dated February 2021, reports the national average for development costs per square foot for apartments and single-family homes as follows:<sup>2</sup>

- Type I or II, R-2 Residential Multi-family: \$157.74 to \$179.04 per square foot
- Type V Wood Frame, R-2 Residential Multi-family: \$120.47 to \$125.18 per square foot
- Type V Wood Frame, R-3 Residential One- and Two-Family Dwelling: \$130.58 to \$138.79 per square foot
- R-4 Residential Care/Assisted Living Facilities generally range between \$152.25 to \$211.58 per square foot

Additionally, labor costs are influenced by the availability of workers and prevailing wages. State law requires payment of prevailing wages for many private projects constructed under an agreement with a public agency that provides assistance. As a result, the prevailing wage requirement substantially increases the cost of affordable housing construction. In addition, a statewide shortage of construction workers can impact the availability and cost of labor to complete housing projects. This shortage may be further exacerbated by limitations and restrictions due to the COVID-19 pandemic. In Marin County, many contractors who cannot afford to live here are not based in the county and travel from outside the area, potentially adding to labor shortages. Although construction costs are a significant factor in the overall cost of development, County of Marin staff has no direct influence over materials and labor costs.

A report in 2020 by the Turner Center for Housing Innovation at UC Berkeley found that materials and labor (also referred to as hard construction costs) accounted for approximately 63% of total development costs for multi-family projects in California between 2010 and 2019.<sup>3</sup> The report also found that controlling for project characteristics, compared to the rest of the state, average materials and labor costs were \$81 more expensive per square foot in the Bay Area. The Bay Area has comparatively higher construction wages than elsewhere in California.<sup>4</sup>

In April 2022, the County's Affordable Housing Financial Assessment Study was published. This study looked at the costs of affordable housing production in Marin County, including funding gaps. As part of the analysis, several projects in Marin, Sonoma and Napa Counties were examined for development costs<sup>5</sup>. The following is a summary of the seven projects:

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<sup>2</sup> <https://cdn-web.iccsafe.org/wp-content/uploads/BVD-BSJ-FEB21.pdf>

<sup>3</sup> The Hard Costs of Construction: Recent Trends in Labor and Materials Costs for Apartment Buildings in California, Turner Center for Housing Innovation. March 2020.

<sup>4</sup> Same as footnote 3.

<sup>5</sup> Economic & Planning Systems, Inc. Affordable Housing Financial Assessment Study: Marin County Housing Element Technical Support Document. April 5, 2022.

- Average number of units in the project: 85
- Average dwelling units per acre: 63.27
- Average land costs: \$3,174,814; \$37/square foot
- Average construction costs: \$28,383,713; \$345/square foot
- Average project costs: \$47,179,443; \$564/square foot

### Identified Densities and Delays in Requesting Building Permits

Requests to develop housing at densities below those anticipated in the Housing Element may be a non-governmental constraint to housing development, when the private sector prefers to develop at lower densities than shown in the housing element. None of the current sites in the 2015-2022 Housing Element have developed. As noted in the June 2021 Memo from Strategic Economics and Vernazza Wolfe Associates to update the County's Inclusionary policies, residential developers participating in this study cited many factors contributing to the complexity of housing development in Marin, including long and unpredictable approval processes, opposition from some community members, lack of available sites, especially those that are zoned for multi-family housing, high land and construction costs, and inadequate or expensive infrastructure. These barriers are addressed in the current Housing Element in a variety of ways, such as Program 1: Adequate Sites for RHNA and Monitoring of No Net Loss and Program 6: Efficient Use of Multi-Unit Land.

As noted above, CWP policies identified as barriers are being deleted and or amended. Specifically, the County, concurrently with adoption of the Housing Element, will:

- Revise the Housing Overlay District as a form-based code to streamline multi-family housing development.
- Provide for ministerial review of projects that meet the requirements of the form-based code and include 20% lower income units.
- Provide for by-right zoning on sites identified in past Housing Elements that are designated for lower income housing.
- Amend the Countywide Plan and Zoning Code to increase densities on opportunity sites identified in the Housing Element and for low income sites have a minimum of 20 units per acre.

In addition, sites are being rezoned to increase densities to 20 to 30 units per acre, and objective design standards will be adopted to facilitate review. The EIR prepared for the housing element evaluated a possible increase in the designated site capacity by 35% to accommodate future density bonuses and ease project environmental review. Together, these changes will address the barriers identified above.

## Financing Availability

The availability of financing affects a person’s ability to purchase or improve a home. Under the federal Home Mortgage Disclosure Act (HMDA), lending institutions are required to disclose information on the disposition of loan applications. Through analysis of HMDA data, an assessment can be made of the availability of residential financing within Marin County.

Table H-3.1 illustrates the home purchase and improvement loan activity in Marin County in 2020. Data for just the unincorporated areas are not readily available. Of the 23,703 total applications processed in 2020, a majority (80%) were for refinance loans. Overall, the approval rating for all types of loans was 69%, while the denial rate was 10%; 21% were either withdrawn by the applicant or closed for incompleteness. The highest approval ratings were for home purchase loans at 78% for conventional loans and 76% for government-backed loans. Refinance loan approvals were next with a 68% approval rating, while home improvement loans had the lowest approval rating at 56%.

**Table H-3.1: Disposition of Home Purchase and Improvement Loan Applications in Marin County (2020)**

| Loan Type                  | Total Applications | Approved | Denied | Other |
|----------------------------|--------------------|----------|--------|-------|
| Government-Backed Purchase | 93                 | 76.3%    | 3.2%   | 20.4% |
| Conventional Purchase      | 3,465              | 78.4%    | 5.6%   | 16.0% |
| Refinance                  | 19,072             | 68.1%    | 9.4%   | 22.5% |
| Home Improvement           | 1,073              | 56.4%    | 29.6%  | 14.0% |
| Total                      | 23,703             | 69.1%    | 9.8%   | 21.1% |

Source: 2020 Home Mortgage Disclosure Data. <https://ffiec.cfpb.gov/data-publication/aggregate-reports>

Note: “Approved” loans include loans originated and applications approved but not accepted. “Other” includes loans withdrawn by the applicant or closed for incompleteness.

## Community Resistance to New Development

A significant constraint to housing production in Marin County is community resistance to new housing developments at all income levels. Marin County’s infrastructure has been strained, and this creates a number of concerns voiced by County residents, such as: 1) new developments may cause increased traffic; 2) long-term sustainability of the local water supply limits new housing production; 3) potential impacts on schools and other local infrastructure; and 4) open space could be lost. Additionally, issues related to

how affordable housing may impact property values, or how affordable housing should be distributed more evenly throughout the County are raised. Additionally, “community character” is often raised, such as how density may adversely affect the visual cohesiveness of the neighborhood or whether multifamily would fit in with existing uses. This is an unquantifiable term that is often found in County findings to approve or deny a Design Review, Master Plan or other development applications. Subjective terms like “neighborhood character” or “community character” can deny critical housing projects with no measurable reasoning. At times, there is tension between fair housing laws and a desire to provide preferential access to affordable housing for local community members and workers. In many cases, it is not possible to target housing to select groups. These concerns are often expressed during project review processes and can present significant political barriers to development.

The County of Marin seeks to address community opposition in a number of ways, including:

- Housing staff will continue to provide presentations and fact sheets about affordable housing. Concerns to be addressed include studies on property values and affordable housing, information on who lives in affordable housing, and traffic data on affordable developments, such as fewer vehicles owned, and fewer vehicle miles traveled by lower income households.
- This Housing Element includes programs for housing staff to continue to coordinate with local nonprofit developers on how to effectively work with community groups, County staff, and elected officials.
- This Housing Element includes programs intended to encourage and facilitate preliminary community planning of major developments to identify and address opposition at an early stage.

## Infrastructure

Public infrastructure is generally sufficient to meet projected growth demands. Electric, gas, and telephone services have capacity to meet additional projected need.

Transportation, water, and sewer infrastructure are discussed in greater detail below.

## Transportation

The County has two main thoroughfares. Highway 101 transverses the County south to north, extending from the Golden Gate Bridge through the City-Centered Corridor to the Sonoma County border at the north end of Novato. Sir Francis Drake Boulevard is the primary east-to-west thoroughfare, extending from Interstate 580 in the east, crossing under Highway 101 and connecting to Highway 1 in the community of Olema. Highway

1 also connects south Marin to the coastal communities. As is the case throughout the Bay Area, the County is impacted by severe traffic conditions.

Marin County is served by a network of bus service, including Golden Gate Transit, which provides inter-county regional bus service, and Marin Transit Authority (MTA), which operates local service and shuttles. Marin County is also linked to San Francisco via ferry service from Larkspur, Sausalito, and Tiburon. As described in Appendix D of this element, there is a need to connect West Marin to the transportation hubs in North, Central, and South Marin. For this reason, MTA operates the West Marin Stagecoach which consists of two regularly operating bus routes between central and West Marin. Route 61 goes to Marin City, Mill Valley, and Stinson Beach. Route 68 goes to San Rafael, San Anselmo, Point Reyes and Inverness. The Stagecoach also connects with Marin Transit and Golden Gate Transit bus routes. However, the Northern Coastal West Marin area does not have any public transit connection to the south. Bus transit only connects as far north as Inverness. This lack of transit connection affects the minority populations and the persons with disabilities concentrated in the west part of the County. Residents in some communities, such as Santa Venetia and Kentfield, have noted that bus service is not adequate.

In addition to its fixed routes, MTA offers several other transportation options, some of which are available for specific populations:

- Novato Dial-A-Ride - designed to fill gaps in Novato's local transit service and connects service with Marin Transit and Golden Gate Transit bus routes
- West Marin Stage – provides public bus service from West Marin to Highway 101 corridor, which connects with Marin Transit and Golden Gate Transit bus routes
- ADA Paratransit Service – provides transportation for people unable to ride regular bus and trains due to a disability. It serves and operates in the same areas, same days, and same hours as public transit.
- Discount Taxi Program – called Marin-Catch-A-Ride, it offers discount rides by taxi and other licensed vehicles for people at least 80 years old, are 60 and unable to drive, or are eligible for ADA paratransit service.<sup>6</sup>

The Sonoma Marin Area Rail Transit (SMART) system started passenger service in August 2017. The current 45-mile corridor runs parallel to Highway 101. In Marin County, stations are located in Novato, San Rafael, and Larkspur. While no stations are located in unincorporated County areas, the commuter train system is expected to affect the County's interwoven urban corridor areas. Other transit connections, including bus service, are located adjacent to SMART stations.

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<sup>6</sup> County of Marin Analysis of Impediments to Fair Housing Choice. Prepared by the Marin County Community Development Agency. January 2020.

The Marin County Community Development Agency (CDA) works closely with the Transportation Authority of Marin (TAM) and the ABAG to produce informative local data. Representatives from those agencies attend regular area planning directors' meetings.

The Countywide Plan and Inventory of Sites aims to address these conditions by facilitating development of higher density housing in areas which promote the minimization of vehicle miles traveled. These areas are typically in more urbanized locations with wider streets, close to city arterials and greater access to public transit systems. In addition to minimizing vehicle miles traveled, accommodating higher density housing in the more urban areas helps keep development in areas where emergency access and evacuation routes have greater capacity and Wildland Urban Interface (WUI) requirements for egress are more easily achieved. Lower density housing is promoted in the hillside and remote communities where emergency access is more limited and constrained.

## Water

Marin County's water supplies include surface water, groundwater, recycled water, and imported water. Surface water is the main source of urban areas in the eastern portion of the County while groundwater and surface water are the primary sources for rural areas. There are approximately six water districts supplying water to Marin residents. The Marin Municipal Water District (MMWD) and the North Marin Water District (NMWD) are the principal entities managing and delivering water to residential and commercial consumers. The Marin Municipal Water District serves the largest customer base in Marin, providing water to the eastern corridor of Marin County from the Golden Gate Bridge northward up to, but not including, Novato, and encompasses an area covering 147 square miles. The NMWD serves the City of Novato and the Point Reyes and Olema areas of West Marin. Imported water is from the Sonoma County Water Agency (SCWA) which serves over 600,000 residents in Sonoma and Marin counties.

Water delivery in West Marin encompasses a range of scales, from the large water districts to small community water districts and smaller, individual systems. The small community water districts include Bolinas Community Public Utility District (BCPUD), Stinson Beach County Water District (SBCWD), Inverness Public Utility District (IPUD), and Muir Beach Community Services District (MBCSD). The community of Dillon Beach is served by two small independent water companies: the California Water Service Company (CWSC, Cal Water) and the Estero Mutual Water System (EMWS). SBCWD, MBCSD, and the Dillon Beach area primarily use groundwater for their water supplies, while IPUD and BCPUD rely mainly on surface water.

Marin County, along with the rest of the state has continued to face drought conditions over recent years; the water year that ended September 30, 2021 was the second driest

on record, due to extreme heat and lack of rain and snow. As of the end of 2021, all 58 counties in California were under a drought emergency proclamation. Marin water agencies monitor local water storage levels, encourage conservation practices and apply various drought restrictions, water use limits and associated penalties as needed.

*Analysis:*

The Marin Countywide Plan, adopted in 2007 and most recently updated in 2022, supports a land use pattern intended to keep the majority of future dwelling units from environmentally sensitive lands, which are often on septic and/or use well water, to locations within the City-Centered Corridor and rural communities where public water and sewer systems are provided.

Accordingly, the Sites Inventory consists of properties mostly located in the City-Centered Corridor, where services are available, and it is most feasible to meet the County's current default density of 20 units per acre for sites suitable for lower income housing. This is likely to result in less water use per unit but some increase in overall water usage in the MMWD service area (see below). Housing may be developed in West Marin at lower densities as appropriate and may need to utilize wells and septic systems.



**Table H-3.2: Water Capacity for New Development**

| Water Service Area | Communities Served   | Existing Units | Sites Inventory Units | Development Potential | Countywide Plan Buildout | Supply Deficits for Inventory | Notes / Description of Limitation  | Inventory Sites  |
|--------------------|--|----------------|-----------------------|-----------------------|--------------------------|-------------------------------|--|--|
| MMWD               | All cities and towns along the City-Centered Corridor from the Golden Gate Bridge to the southern border of Novato | <u>20,422</u>  | <u>2,712</u>          | <u>2,859</u>          | <u>23,281</u> 28,564     | No                            | <p><u>MMWD is allowing new connections for development. However, MMWD water supplies have been affected by recent drought. A moratorium on new landscaping installations for new service lines had been in effect due to a Water Shortage Emergency declared in 2021, but was rescinded in May 2022.</u></p> | <p><u>1 St. Vincent's Dr.</u><br/> <u>251 N San Pedro Rd</u><br/> <u>935 Sir Francis Drake</u><br/> <u>018-152-12 (E Sir Francis Drake)</u><br/> <u>155 Marinwood Ave</u><br/> <u>190 A Donahue St</u><br/> <u>2 Jeannette Prandi Way</u><br/> <u>7 Mt Lassen Dr</u><br/> <u>139 Kent Ave</u><br/> <u>200 N San Pedro Rd</u><br/> <u>1565 Vendola Dr</u><br/> <u>1500 Butterfield Rd</u></p> |

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|--------------------|--------------------|-----------------------|-----------------------|-----------------------|--------------------------|-------------------------------|--|---|
|                    |                    |                       |                       |                       |                          |                               |  | <a href="#">329 Auburn St</a><br><a href="#">200 Phillips Dr</a><br><a href="#">300 Storer Dr</a><br><a href="#">825 Drake Ave</a><br><a href="#">Forest Knolls Site</a><br><a href="#">Saint Cecelia Church</a><br><a href="#">Woodacre Fire Station</a><br><a href="#">MLK Academy School</a><br><a href="#">And others</a> |
| NMWD<br>Novato     | Novato             | <a href="#">2,854</a> | <a href="#">507</a>   | <a href="#">262</a>   | <a href="#">3,116</a>    | No, with condition.           | <a href="#">In non-drought years with Sonoma County Water Agency (SCWA) able to provide NMWD's annual entitlement of water, NMWD would have sufficient supply.</a> | 800 Atherton<br>8901 Redwood Blvd<br>275 Olive Ave<br>300 Olive Ave   |

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|--------------------|---|----------------|-----------------------|-----------------------|--------------------------|-------------------------------|---|---|
|                    |   |                |                       |                       |                          |                               | <p><u>However, due to the current drought, SCWA has limited availability of water. Additionally, NMWD has a suspension of new connections in the Novato Service area. (Emergency Ordinance 41).</u></p> |   |
| NMWD West Marin    | Point Reyes Station, Olema, Bear Valley, Inverness Park, Paradise Ranch Estates | <u>790</u>     | <u>220</u>            | <u>472</u>            | <u>1,262</u>             | No, with condition            | <p><u>Due to the current drought, NMWD has a suspension of new connections in the West Marin Service area. (Emergency Ordinance 39)</u></p>   | <p>54 B St<br/>11445 State Route 1<br/>100 Commodore Webster<br/>9 Giacomini<br/>60 Fifth St<br/>510 Mesa</p> |

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|--------------------|--------------------|----------------|-----------------------|-----------------------|--------------------------|-------------------------------|--|--|
| BCPUD              | Bolinas            | 722            | <u>13</u>             | 75                    | 797                      | Yes                           | Currently at capacity. Due to current moratorium, future water demand anticipated to remain at or near current levels.   | <a href="#">31 Wharf Rd</a><br><a href="#">430 Aspen Rd</a><br><a href="#">534 Overlook Dr</a> |
| SBCWD              | Stinson Beach      | <u>825</u>     | <u>13</u>             | <u>60</u>             | <u>885</u>               | No, with condition.           | <a href="#">No restrictions on new connections are identified, however, SBCWD approved a water rationing ordinance in August 2021 in response to drought conditions.</a> | 10 Willow Ave<br>122 Calle del Mar<br>195-193-35   |

**Table H-3.2: Water Capacity for New Development**

| Water Service Area | Communities Served  | Existing Units | Sites Inventory Units | Development Potential | Countywide Plan Buildout | Supply Deficits for Inventory | Notes / Description of Limitation   | Inventory Sites  |
|--------------------|---|----------------|-----------------------|-----------------------|--------------------------|-------------------------------|---|--|
| MBCSD              | Muir Beach  | <u>143</u>     | 0                     | <u>10</u>             | <u>153</u>               | N/A                           | <u>Sufficient water capacity assumed for existing units. In recent drought conservation mandates have been enacted.</u>                                 | None   |
| CSWS (Cal Water)   | Dillon Beach  | <u>273</u>     | 0                     | <u>3</u>              | <u>276</u>               | N/A                           | <u>Unknown</u>  | None   |
| EMWS               | Dillon Beach  | <u>133</u>     | 0                     | <u>40</u>             | 173                      | N/A                           | <u>Unknown.</u>   | None   |
| Unserved Areas     | Fallon, Inverness Park, Marshall, Nicasio, Tomales, Valley Ford | <u>356</u>     | <u>138</u>            | <u>853</u>            | 1,209                    | N/A                           | Water capacity dependent on availability of alternative sources, such as on individual groundwater wells, surface water, or small spring-based systems. | <u>4449 &amp; 5600 Nicasio Valley Rd</u><br><u>26825 State Route 1</u><br><u>102-080-19 &amp; 20</u><br><u>200 Valley Ave</u><br><u>29 John St</u><br><u>27235 &amp; 27275</u><br><u>State Route 1</u> |

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|--------------------|----------------------|-------------------------|-------------------------|-------------------------|--------------------------|-------------------------------|-----------------------------------|--|
|                    |                      |                         |                         |                         |                          |                               |                                   | <a href="#">102-062-01</a><br><a href="#">102-075-02, 06 &amp; 07</a><br><a href="#">290 Dillon Beach Rd</a> |
| Total              | Unincorporated Marin | <a href="#">27,141*</a> | <a href="#">3,630**</a> | <a href="#">4,658++</a> | <a href="#">31,799+</a>  | N/A                           | N/A                               | N/A  |

\*Existing Units from Figure III-1 in Section III: Constraints and Opportunities for Housing Development of Marin County Housing Element 2015-2023. According to Chapter 2: Housing Needs Analysis of this 2023-2031 Housing Element, "Population Trends" section, the total population of unincorporated Marin County decreased by 539 between 2010 and 2021". Therefore, it is assumed the number of existing units in Unincorporated Marin indicated for each water district remains unchanged from the previous Housing Element update.

\*\*Chapter 4: Resources of this 2023-2031 Housing Element, Table H-4.6 "Sites Inventory by Community"

+ Countywide Plan Buildout Units from Figure III-1 in Section III: Constraints and Opportunities for Housing Development of Marin County Housing Element 2015-2023. It is assumed the number of Countywide Plan Buildout units indicated for each water district remains unchanged from the previous Housing Element update.

++ Difference between Countywide Plan Buildout column and Existing Units column.

Despite a limited water supply, water districts have historically indicated sufficient projected supply to meet demand, with the exception of Bolinas Community Public Utility District (BCPUD), where there is a moratorium on new water meters that has been in effect since 1971 and Inverness Public Utility District (IPUD), where the system is dependent upon day-to-day flows, has no storage system and is over design capacity. Availability of IPUD water declined below customer demand during the drought year of 2021 and a Water Shortage Emergency was declared. Sites designated for housing development in BCPUD and IPUD are limited to redevelopment projects which can match or decrease demands to below existing usage within parcels that already have a metered water supply.

Other parts of the unincorporated County are served by North Marin Water District (NMWD), the majority of whose supplies are dependent upon water purchased from Sonoma County Water Agency and piped into the County. In NMWD's West Marin service area, the majority of water supplies are dependent upon water drawn from wells. In addition, parts of the unincorporated County are served by Marin Municipal Water District (MMWD), the majority of whose supplies are dependent upon water stored in Marin County reservoirs. When NMWD, in their Novato service area, and MMWD, have access to full annual water entitlements and full reservoir capacity, they are able to accommodate population growth as indicated in their "2020 Urban Water Management Plan for North Marin Water District" and "MMWD Water Resources Plan 2040."

However, due to drought impacts in Sonoma County, NMWD is not able to receive its full annual entitlement from Sonoma County Water Agency and has adopted an ordinance imposing moratoriums on new connections in order to work within its restricted supply. In the West Marin service area, NMWD has enacted emergency water conservation ordinances which include no new water service connections. Additionally, until recently MMWD had imposed restrictions on connections for irrigation for new development due to water shortages in its reservoirs as a result of multiple years of less than average rainfall. MMWD's restriction on irrigation connections was lifted in 2022 because large storm events in the winter of 2021-2022 filled the reservoirs.

Because there is uncertainty in the future about the amount of water that would be available for the Districts to supply to customers during the current, ongoing drought, and the Districts are in the early stages of seeking alternate water sources, possible multiple new connections for sites designated for housing development could result in demands in excess of available supply during dry and multiple dry years.

The Housing Element's Program 11 describes several strategies to mitigate water supply constraints, including implementing a new State requirement for county jurisdictions to take over very small water connections and wells (less than 20

connections); promoting sustainability strategies; and conducting a strategic water supply assessment to increase supply.

The environmental review conducted for the Marin Countywide Plan in 2007, and in 2022 for the Marin County Housing Element Update, determined that development to the point of buildout would have significant and unavoidable impacts with respect to water supply. While the County's RHNA allocation of 3,569 units for this planning cycle and projected development into the future do not approach the 4,476 additional housing units calculated as future buildout for unincorporated Marin, NMWD recently revised their 2020 Urban Water Management Plan to include updates to anticipated future demands, and determined that the provision of water will be dependent upon return to pre-drought supply levels or finding alternate water sources. Additionally, the environmental review in 2022 determined that while four of Marin's water districts, including those that serve the largest customer bases, face capacity concerns given current supplies, alternative measures are being investigated as part of the districts' long-term plans. Alternative measures being investigated include, but are not limited to, expanding recycled water use, winter water from Sonoma County Water Agency, the construction of infrastructure to import water purchased from third parties and water from potential future permanent local or regional desalination facilities. At present, however, the housing sites included in the Bolinas and Inverness Districts have water meters and are able to obtain water for housing development when the water demand for the development is equal to or less than existing demand. The other districts have adequate capacity to serve the County's assigned regional housing needs.

In addition, the Housing Element EIR determined that development to the point of buildout would have less than significant environmental impacts as a result of the construction of water supply infrastructure. It was noted the cost related to the expansion of infrastructure could be prohibitive for the size of developments proposed.

## **Wells**

Locales beyond the current municipal and community water service areas rely on individual groundwater wells, surface water, or small spring-based systems. These areas are subject to larger minimum lot requirements, partially in need to accommodate various setback requirements which exist to protect and operate water wells and septic systems. While the lots are larger, finding adequate locations to site wells and septic systems in addition to the associated setback requirements limits the potential for construction of multi-family units. Sources for water must be perennial. Finding little to no groundwater or poor quality water in a parcel can further result in limited residential capacity. Accordingly, the Sites Inventory consists of properties mostly located in the City-Centered Corridor, where services are available.



Small water systems can be constructed where groups of parcels maintain common infrastructure for supply and draw water from one substantial source or contribute water from multiple sources to common storage. While a small water system will be reviewed in part by the local jurisdiction, approval of the small system ultimately rests with the State Water Resources Control Board. Technical reports must be provided including, but not limited to, analyzing the ability to connect to other public systems within 3 miles, in addition to quality of and the ability of the proposed water system to meet 20-year water demands under a variety of hydrologic conditions (Association of California Water Agencies (ACWA) New Water System Approval Fact Sheet). ACWA cautions that while lower up-front costs for small water systems seem attractive, the long-term maintenance and operating costs can affect housing affordability through potential future assessments. Addressing the stability of the water system in advance is critical.

The permitting process and associated costs for well construction, shown in Table H-3.3, do not constitute a constraint to development, as the costs are relatively minimal in relation to overall development costs.

**Table H-3.3: Permit Application Costs for Wells**

| Permit Application / Task                         | Cost       |
|---|------------|
| Water Well Drilling - initial                     | \$1,279.00 |
| Water Well Drilling – each additional             | \$362.00   |
| Water Well Repairs and Upgrades                   | \$1,205.00 |
| Domestic Water Supply Permit (up to 5.75 hr)      | \$1,256.00 |
| State Small Water Permit (up to 6.5 hr)           | \$1,651.00 |
| State Small Water Permit – Annual Fee             | \$894.00   |
| Common Water System Permit (up to 6.25 hr)        | \$1,309.00 |
| Amended Domestic Water Supply Permit (up to 4 hr) | \$852.00   |

*Source: Wells & Water Systems Permits & Fees effective 7/1/2019, Marin County Environmental Health Services*

**Sewer**

There are thirteen sanitary sewer districts and service areas, and six sewage treatment plants in the City-Centered Corridor. Two sewage treatment plants intercept wastewater from more than one sanitary district or service area. There are two districts in West Marin, each with sewer lines and a treatment facility. One of these districts, the Bolinas Community Public Utility District, has a moratorium on new sewer connections that has been in effect since 1985 (see Table H-3.4, below).

**Table H-3.4: Sanitary Districts / Service Areas and Corresponding Sewage Treatment Plants**

| Sanitary District / Sanitary Service Area   | Sewage Treatment Plant                      |
|---|---|
| <b>City Centered Corridor</b>               |   |
| Novato Sanitary District                    | Novato Sanitary District                    |
| Las Gallinas Valley Sanitary District       | Las Gallinas Valley Sanitary District       |
| San Rafael Sanitation District              | Central Marin Sanitation Agency             |
| Ross Valley Sanitary District               | Central Marin Sanitation Agency             |
| Sanitary District No. 2                     | Central Marin Sanitation Agency             |
| City of Larkspur                            | Central Marin Sanitation Agency             |
| Alto Sanitary District                      | Sewerage Agency of Southern Marin           |
| Almonte Sanitary District                   | Sewerage Agency of Southern Marin           |
| City of Mill Valley                         | Sewerage Agency of Southern Marin           |
| Homestead Valley Sanitary District          | Sewerage Agency of Southern Marin           |
| Tamalpais Community Services District       | Sewerage Agency of Southern Marin           |
| Richardson Bay Sanitary District            | Sewerage Agency of Southern Marin           |
| Tiburon Sanitary District No. 5             | Tiburon Sanitary District No. 5             |
| Sausalito-Marín City Sanitary District      | Sausalito-Marín City Sanitary District      |
| <b>West Marin</b>                           |   |
| Bollnas Community Public Utility District   | Bollnas Community Public Utility District   |
| Tomales Village Community Services District | Tomales Village Community Services District |

Generally, the sewage treatment plants have adequate capacity to treat wastewater from their service areas. However, during, and for a period of time after rain events, the underground pipe systems collect surface water and groundwater, particularly where the infrastructure is older. In the wastewater industry this is known as inflow and infiltration (I & I). There is typically I & I throughout the year, but when I & I increases during a storm event and is combined with normal wastewater flows, the total amount of effluent in the pipe systems has the potential to overwhelm the capacity of the treatment plants. Various sewage treatment plants in Marin have already or are in the process of completing improvement projects to address potential growth, wet weather capacity issues and more stringent state and federal regulations. For example, the Sausalito-Marín City Sanitary District completed upgrades to their treatment plant in Fall of 2021 and Novato Sanitary District finished construction and put a new treatment plant into service in 2011.

The sewage pipe systems throughout Marin County vary in whether they are under, or are of sufficient capacity. Where pipe systems are under capacity, reasons may include material age, material condition, I & I, and being undersized for the amount of development which ultimately occurred in a general area. Sanitary districts typically develop and periodically update plans for the maintenance and upgrade of their system infrastructure. Part of these plans address mitigating I & I which helps to address capacity issues in the pipeline systems and at the sewage treatment plants in addition to preparing to protect sewer infrastructure from potential below- and above-ground impacts from sea level rise. As properties are developed or redeveloped, analyses may be required to determine whether increases in housing unit density, above the density used for master planning of the districts' systems in that location, would necessitate infrastructure upgrade downstream of the site.

Large areas of the County are served by on-site wastewater (septic) systems. As described in greater detail below, the County Environmental Health Services office regulates septic systems.

*Analysis:*

As shown in below, Marin wastewater facilities are able to accommodate additional housing development above and beyond the RHNA allocation for this planning cycle. This excludes the Bolinas Community Public Utility District, which, as previously discussed has had a long-term moratorium on new sewer connections. Bolinas has a sewer system (BPUD) which will provide connection to the Mesa and 31 Wharf projects; the others have on-site septic systems. All areas within the Housing Overlay Designation and New Religious and Institutional Facility Housing Overlay and Affordable Housing Combining District (AH) are within a sanitary district or a service district that is responsible for ensuring wastewater effluent is treated.

**Table H-3.5: Existing Wastewater Treatment Capacity and Projected Wastewater Flows at Buildout**

| Wastewater Treatment Agency            | Communities Served   | Treatment Capacity (MGD, dry-weather flow) | 2022 Remaining Capacity (MGD, dry-weather flow) | Additional Flow at Buildout (MGD) | Remaining Capacity after Buildout (MGD) | Inventory Sites  |
|--|--|--|---|-----------------------------------|---|--|
| Sausalito-Marin City Sanitary District | Sausalito, Marin City, Tamalpais Valley, Marin Headlands, Muir Woods and surrounding areas           | 6 <sup>a</sup>                             | 4.2 <sup>a</sup>                                | 0.13                              | 4.1                                     | 160 Shoreline<br>190 A Donahue<br>626 & 639 Drake<br>260 Redwood Hwy Frontage<br>Alta Ave<br>205 Tennessee Valley Rd<br>101 Donahue<br>200 Phillips                            |
| Sewerage Agency of Southern Marin      | Mill Valley, Richardson Bay, Tamalpais Valley, Almonte, Alto, Homestead Valley and surrounding areas | 3.6  | 1.38 <sup>b</sup>                               | 0.04                              | 1.34                                    | 690, 800 Redwood Hwy Frontage<br>217, 375 Shoreline Hwy<br>70 N Knoll Rd<br>Eagle Rock Rd<br>23 Reed Blvd<br>204 Flamingo<br>052-041-27 Shoreline Hwy<br>049-231-09 (Marin Dr) |

**Table H-3.5: Existing Wastewater Treatment Capacity and Projected Wastewater Flows at Buildout**

| Wastewater Treatment Agency           | Communities Served   | Treatment Capacity (MGD, dry-weather flow) | 2022 Remaining Capacity (MGD, dry-weather flow) | Additional Flow at Buildout (MGD) | Remaining Capacity after Buildout (MGD) | Inventory Sites  |
|---------------------------------------|--|--|---|-----------------------------------|---|--|
| Sanitary District No. 5               | Tiburon, Belvedere and surrounding areas   | unknown                                    | unknown   | 0.03                              | unknown                                 | N/A  |
| Central Marin Sanitation Agency       | San Rafael, Ross Valley, Larkspur, Corte Madera, Kentfield, Greenbrae, Ross, San Anselmo, Fairfax, Sleepy Hollow, Murray Park, San Quentin and surrounding areas | 10.0c                                      | unknown   | 0.18                              | unknown                                 | 329 Auburn St<br>25 Bayview<br>700, 935, 2400, 2410 Sir Francis Drake<br>071-132-11 (Sir Francis Drake)<br>139 Kent Ave<br>177-011-13 (Fawn Dr)<br>215 Bon Air<br>1111, 1125, 1129 Sir Francis Drake<br>022-071-05 (Tamalpais Rd)<br>4, 60 & 100 Sacramento Ave<br>177-220-41 (San Francisco Blvd)<br>404 San Francisco Blvd |
| Las Gallinas Valley Sanitary District | San Rafael, Marinwood, Terra Linda, Santa Venetia, Smith Ranch Road, Lucas Valley and surrounding areas  | 2.9d                                       | unknown   | 0.18                              | unknown                                 | Los Ranchitos<br>2 Jeannette Prandi<br>155 Marinwood<br>1565 Vendola<br>North San Pedro Road parcels<br>1 St. Vincents Dr  |

**Table H-3.5: Existing Wastewater Treatment Capacity and Projected Wastewater Flows at Buildout**

| Wastewater Treatment Agency                | Communities Served           | Treatment Capacity (MGD, dry-weather flow) | 2022 Remaining Capacity (MGD, dry-weather flow) | Additional Flow at Buildout (MGD) | Remaining Capacity after Buildout (MGD) | Inventory Sites   |
|--|------------------------------|--|---|-----------------------------------|---|---|
|  |                              |  |   |                                   |   | 530 Blackstone Dr<br>1501 Lucas Valley Rd<br>7 Mt Lassen Dr<br>180-261-10 Oxford Dr<br>San Pablo Ave parcels<br>Edgehill Way          |
| Novato Sanitary District                   | Novato and surrounding areas | 7.05f                                      | 3.77g   | 0.46                              | 3.31                                    | 350, 618, 654 & 800 Atherton<br>2754 Novato Blvd<br>8901 Redwood Blvd<br>275 & 300 Olive Ave<br>5, 11, 50 & 55 Harbor Dr<br>50 H Lane |
| Bolinas Community Public Utility District  | 0.065h                       | 0.01h                                      | 0.02  | -0.01                             | 0.065h                                  | 1 Olema Bolinas Rd<br>32 Wharf Rd<br>193-020-38   |
| Tomaes Village Community Services District | 0.038i                       | 0.016i                                     | 0.040   | -0.024                            | 0.038i                                  | 102-080-10, 13, 19, 20 & 21 (State Route 1)<br>26825, 27235, 27275 State Route 1<br>200 Valley Ave<br>29 John St                      |

**Table H-3.5: Existing Wastewater Treatment Capacity and Projected Wastewater Flows at Buildout**

| Wastewater Treatment Agency       | Communities Served   | Treatment Capacity (MGD, dry-weather flow) | 2022 Remaining Capacity (MGD, dry-weather flow) | Additional Flow at Buildout (MGD) | Remaining Capacity after Buildout (MGD) | Inventory Sites   |
|-----------------------------------|--|--|---|-----------------------------------|---|---|
|                                   |  |  |   |                                   |   | 102-062-01 (Dillon Beach Rd)<br>102-075-02, 06 & 07 (Shoreline Hwy)<br>290 Dillon Beach Rd  |
| N/A: On-site wastewater treatment | Point Reyes Station, Nicasio, San Geronimo Valley, Stinson Beach | N/A  | N/A   | 0.3                               | N/A                                     | 9840, 10189, 10905, 10979, 11445, 11598 State Route 1<br>172-350-22<br>5800, 6001, 6760, 6900, 7120, 7282, 12781, 12784, 12785, 12786, 12852 13270, 13271 Sir Francis Drake<br>2 Toby St<br>54 B St<br>Balmoral Way parcels<br>4299, 4449 & 5600 Nicasio Valley Rd<br>100 Commodore Webster<br>9 Giacomini<br>60 Fifth St<br>510 Mesa Rd & Mesa Rd parcels<br>10 Willow Ave<br>28 & 108 Arenal Ave<br>122 Calle del Mar |

**Table H-3.5: Existing Wastewater Treatment Capacity and Projected Wastewater Flows at Buildout**

| Wastewater Treatment Agency | Communities Served | Treatment Capacity (MGD, dry-weather flow) | 2022 Remaining Capacity (MGD, dry-weather flow) | Additional Flow at Buildout (MGD) | Remaining Capacity after Buildout (MGD) | Inventory Sites  |
|-----------------------------|--------------------|--|---|-----------------------------------|---|--|
|                             |                    |  |   |                                   |   | 23 Reed Blvd<br>B St<br>Shoreline Hwy parcels<br>428 W Cintura<br>33 Castle Rock |

- a. Sausalito-Marín City Sanitary District Sewer System Management Plan. SMCS D services population of 18,000.  $(18,000 \times 100 \text{ (gal/capita)/day} = 1.8 \text{ MGD})$  Remaining Capacity =  $6 \text{ mgd} - 1.8 \text{ mgd} = 4.2 \text{ mgd}$
- b. Sewerage Agency of Southern Marin Wastewater Treatment Plant Master Plan: WWTP capacity 3.6mgd average dry weather flow (ADWF). Observed ADWF in 2014 was 2.22 mgd. Remaining Capacity =  $3.6 \text{ mgd} - 2.22 \text{ mgd} = 1.38 \text{ mgd}$ . Anticipated that ADWF will increase to 2.34mgd by 2035 due to population projections used for their Master Plan.
- c. CMSA 2017 Facilities Master Plan Final Report – October 2018
- d. Las Gallinas Valley Sanitary District website “Our Service Area”: <http://www.lgvsd.org/about-us/our-service-area/>
- e. Las Gallinas Valley Sanitary District Sewer System Management Plan Capacity Assessment Sept 2008: Wastewater flow projections for 2020
- f. Novato Sanitary District Sewer System Management Plan rev. July 2020
- g. Novato Sanitary District Wastewater Collection System Master Plan October 2019. NSD projection for 20 years is that base flow will increase to 4.14 mgd
- h. BCPUD Sewer System Management Plan. Difference between Maximum Treatment Capacity and average peak dry weather flow on peak generation day.
- i. The Tomales Village Community Services District Sewer System Management Plan Final 2012
- j. Design flows vary by district. For this analysis  $[ 315\text{gpd/unit} = (3.5 \text{ persons/residence})(90\text{gpd/person}) = 315\text{gpd} ]$  from Novato Sanitary District Standard Specifications was applied to estimate flows generated in each district.



Housing development in areas not served by sanitary sewers generally require more land per dwelling unit to accommodate construction of septic systems within the parcel. Finding adequate locations to install septic systems, combined with septic system setback requirements can limit the potential for construction of multi-family units in the Inland Rural and Coastal Corridors. Properties near streams, baylands, and in the lowlands of the Inland Rural Corridor are heavily constrained by high groundwater, which can result in limited residential capacity. To increase residential density within a property, site specific septic investigation in coordination with planning for improvements, sometimes including wells, would be needed to determine how many units the land could feasibly accommodate. Alternatively, if the property is in proximity to a sewer district service area, and connection to the district's pipeline system is feasible, annexation into the sewer district's service area could be explored.

### Septic

Septic systems are utilized on properties throughout the County (see Countywide Plan Map 2-8 for parcels with buildings and septic systems). Septic use is typical in the rural areas of West Marin and low-density residential areas such as the northern side of the Tiburon Peninsula and parts of unincorporated Novato. The County utilizes a permitting procedure for the design of new septic systems that requires review of engineering plans. There are two types of septic systems – standard and alternative – available to address a range of site-specific factors. Both types of septic systems are subject to the County's permitting process for wastewater treatment and disposal. Standard septic system design is based on accepted design principles that are assumed to ensure proper functioning of the system for extended periods. Because standard systems are expected to operate properly with property owner maintenance, there is no County inspection process after the initial inspection. Older septic systems within the County are standard septic systems. Alternative septic systems may be necessary when site conditions do not lend themselves to installation of a standard type of system. However, because these are based on newer technologies, ongoing inspections are required to ensure proper operation. County Environmental Health Services strives to respond to requests for septic system permits within 30 days of submission of the septic system design. The permitting process and associated costs, shown in Table H-3.6, do not constitute a constraint to development, as the costs are relatively minimal in relation to overall development costs and are necessary to protect the health and safety of the community and environment. However, a discretionary permit (Coastal Development Permit, CDP) through the Coastal Commission, is required to install septic systems in Coastal zones. CDP permits can take up to 120 days. The numbers in Table H-3.6 only reflect fees associated with septic system installation and do not account for design and construction costs.

**Table H-3.6: Permit Application Costs for Septic Systems**

| Permit Application Task  | Standard Septic System Cost | Alternative Septic System Cost |
|--|-----------------------------|--------------------------------|
| Site Evaluation (soil profiles) (up to 5.5 hr)   | \$1,138.00                  | \$1,138.00                     |
| Percolation Test (pre-soak and test) (up to 7 hr)  | \$1,460.00                  | \$1,460.00                     |
| Pre-Application Fee (Septic Permit)  | \$1,009.00                  | \$1,009.00                     |
| New System. Upgrade  | \$3,326.00                  | \$4,826.00                     |
| Repair (Standard up to 10 hr) (Alternative up to 20 hr)                                    | \$2,084.00                  | \$4,361.00                     |
| Operating Permit (Residential w/Consultant Inspection)<br>(Annual Biennial Monitoring Fee) | \$505.00                    | \$505.00                       |
| Field Review   | \$490.00                    | \$490.00                       |

*Source: Septic Systems Permits & Fees effective 7/1/2019, Marin County Environmental Health Services*

Development setbacks and the preservation of riparian vegetation can minimize the adverse effects of wastewater discharge. The County maintains information on its website for community members about septic systems and maintains a database to help improve the management of septic systems throughout the County.

Many of the sites in the Housing Element inventory are located in areas with existing services. However, the Housing Plan in this Element includes a program to help explore options for multi-family development that is constrained by septic systems. Actions include developing standards for multi-family development in septic areas and updating the County's methodology for calculating septic capacity. These actions will help resolve potential constraints that may occur with sites being proposed in areas with septic systems.

## Environmental Constraints

Remaining vacant lands in the unincorporated County zoned for residential uses tend to have significant environmental constraints which either substantially increase construction costs or preclude development altogether, including sites with steep slopes or wetland habitats. Some of these constraints are described below.

## Flood Control and Management

### Stream Conservation Areas

The Marin Countywide Plan has established a Stream Conservation Area (SCA) ordinance to protect streams and their adjacent habitats from the impacts of development. The SCA policies are applied to projects that require discretionary entitlements (Planning Permits). The SCA ordinance helps to preserve habitat areas for plants and animals as well as provide areas to absorb and slow waters discharged from development. The SCA ordinance also provides and helps to preserve floodplain and overflow areas to “distribute flood waters and help prevent damage to structures, property, and natural habitat during substantial flood events” (Land Owner Resource Guide for Properties near Streams, County of Marin, May 2016).

In City-Centered corridors, the SCA setback distance varies by the size of the lot (see Table III-7).

**Table H-3.7: SCA Distances in City-Centered Corridors**

| Lot Size             | SCA Distance |
|----------------------|--------------|
| Greater than 2 acres | 100 feet     |
| ½ acre to 2 acres    | 50 feet      |
| Less than ½ acre     | 20 feet      |

*Source: Land Owner Resource Guide for Properties near Streams 5/2016, County of Marin*

In the Baylands, Inland-Rural Corridors and Coastal Zone, the SCA is delineated as described in Table H-3.8. With the exception of certain limited instances, development is prohibited in the SCA. Development within the SCA may be allowed subject to discretionary review and approval. When merging multiple properties in the City-Centered Corridors which are subject to the lesser SCA distances in their original size, constraints to providing housing could be encountered when the size of the lot increases so that the development within would be subject to larger SCA distances. In the Baylands, Inland-Rural Corridors and Coastal Zones, and generally within any developable parcel near a stream, the footprint of available land outside of the SCA

setback may limit the number of housing units to less than the number allowed by the density assigned to the parcel.

The draft SCA Ordinance for San Geronimo Valley has more restrictive requirements for activities in the SCA than for other areas of Marin. However, the draft Ordinance also includes exceptions to facilitate development on lots which are completely within the SCA and when development on the portion of a parcel outside of the SCA is infeasible. Additionally, the proposed ordinance allows development of Category 1 Accessory Dwelling Units within the SCA with ministerial approval and subject to specific size and siting requirements.

**Table H-3.8: SCA Distances in Baylands, Inland-Rural Corridors, Coastal Zone and San Geronimo Valley**

| Lot Size | SCA Delineation<br>Baylands, Inland-Rural Corridors<br>(excluding San Geronimo Valley)<br>and Coastal Zone | SCA Delineation<br>Draft Stream Conservation Area (SCA)<br>Ordinance for San Geronimo Valley   |
|----------|--|--|
| Any      | The greater of 100 feet from the stream bank or 50 feet from the outer edge of riparian vegetation.        | 100 feet or more<br><br>Site Assessment required for all projects.<br><br>Specific Activities and Development Types allowed in SCA Buffer<br><br>Permit Review Procedures and Requirements |

Sources: *Land Owner Resource Guide for Properties near Streams 5/2016, County of Marin and Marin County Community Development Agency Stream Conservation Ordinance webpage: <https://www.marincounty.org/depts/cd/divisions/planning/stream-conservation-area-ordinance>*

The Countywide Plan also has goals, policies and implementation programs for the protection of wetland buffers and ridge upland greenbelts. While these buffers help to protect environmental features, they do result in constraining development. The Governmental Constraints section below looks at how y CWP policies restrict development.

## Flooding During Extreme Precipitation Events

Government Code 65302 requires all cities and counties to assess their flood hazard and to prepare for potential flooding. In particular, it requires all cities and counties:

- to review and update the flood, fire hazard and climate adaptation sections of the Safety Element of the General Plan upon each revision of the housing element or local hazard mitigation plan, and
- to annually review the land use element for those areas subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the State Department of Water Resources (DWR), effective January 1, 2008.

Marin County Code 23.09.010 addresses statutory authorization for the enforcement of Government Code Section 65302 (Ord. 3293§1, 1999). Marin County is in compliance with §65302.d.3, §65302.g.2, §65302.g.3, and §65302.g.4 of the California Government Code, and no revisions were found to be necessary for the safety element of the Countywide Plan with respect to flood hazards, as outlined in Appendix J of the Safety Element.

Housing projects, and generally all development projects, are studied during the municipal review process for the potential to be damaged by flooding and the potential for the development to worsen flooding in an area. Development proposed in flood zones identified in the Federal Emergency Management Agency's Flood Insurance Rate Maps (FIRM's) are subject to specific requirements for floor elevations and for the various types of spaces within and under the buildings. These existing procedures will help to limit potential conflicts with any sites in the housing element inventory which are located in flood zones.

One constraint that may be encountered to providing housing in flood zones is the cost of hydraulic analyses, municipal, state and potential federal review and permitting, and construction of the project to meet the required design standards. Affordable housing projects may encounter rigorous processing requirements and restrictions, or prohibitions related to various aspects of construction, especially if receiving federal funds and subject to NEPA. Whether a project develops in a flood zone may affect the project being able to receive federal funds for development assistance.

An additional constraint which may be encountered is that the inundation depicted in the FEMA Flood Insurance Rate Maps may change due to sea level rise or related adaptation improvements. The inundation shown in current FIRMs does not account for sea level rise.

## Sea Level Rise

Flooding due to sea level rise is anticipated to be a potential constraint to providing housing in the lower-elevation areas of the County adjacent to the ocean and bays. See Table H-3.9, below for the number housing units within the candidate housing sites which are potentially affected by sea level rise.

**Table H-3.9: Number of Housing Units Potentially Affected by Sea Level Rise**

| Sea Level Rise Height <sup>a</sup> | Number of Potential Housing Units which begin to be affected <sup>b, c</sup> |
|------------------------------------|--|
| 1 foot                             | 799  |
| 2 feet                             | 2518 <sup>d</sup>  |
| 3 feet                             | 49   |
| 4 feet                             | 681  |
| 5 feet                             | 142  |

*a. As the parcel is viewed with Sea Level Rise layers in [www.marinmap.org](http://www.marinmap.org).*

*b. Includes Bonus Density*

*c. All housing units proposed for a site are included in tally once the Sea Level Rise footprint encroaches within the parcel. Ultimate plans for development may further delay sea level rise encroachment to some or all of housing units affected, depending on the sea level rise encroachment and how housing is sited within the parcel(s).*

*d. Includes St. Vincent's Candidate Housing Site (2430 units).*

The County and some of the rural towns and communities are already planning and implementing projects in response to sea level rise.

Project consideration should include the timeframe for flooding to occur (i.e., near-term, long-term) and whether regional projects have the potential to be completed in the future to protect and preserve existing development in an area. There are many areas in the County along the bays and the coast which are projected to be permanently under water as sea levels rise. It is anticipated that projections will be adjusted as predictive models are updated based upon observed rates of rise. The potential exists for inundation mapping around a parcel to change in response to adjustments in these projections. Additionally, inundation mapping may change as protective and adaptive strategies and improvements are implemented regionally to respond to sea level rise.

Proposed housing in low areas which could be affected by sea level rise are in neighborhoods where housing already exists, and other homes will also be affected. If access is predicted to be cut off in the medium to long-term time frame, and there is time to potentially plan and construct improvements to protect the entire area before

sea levels rise, then housing does have the potential to be viable and could be constructed.

### **Emergency Access and Evacuation Routes**

As described in the Natural Systems and Agricultural Element of the CWP, with most easily buildable land already developed, construction increasingly is being proposed on the remaining marginal lots with difficult access and steep hillsides, which are subject to slope instability and are vulnerable to rapid changes in fire behavior. Bluff erosion is threatening coastal homes built when bluff edges seemed safely distant. Vegetation that can fuel fires has increased because natural fires have been suppressed, and residential development continues to encroach on wildlands. Proliferation of impermeable surfaces, alteration of natural drainage patterns, and the effects of climate change have increased the frequency and severity of flood events (as described above).

Ensuring adequate access for emergency vehicles and evacuation in areas with hazard potential can reduce risks to people and property. Appropriate placement and engineering of foundations can render buildings less prone to ground shaking and liquefaction. Adequate site clearing and construction techniques such as fire sprinklers can help reduce the threat of fire. County zoning and development standards help mitigate flood damage by limiting what can be built in flood-prone areas. Special attention must be paid to land use activities at the urban-wildland interface zone, where people and property may be particularly susceptible to environmental hazards. For the Housing Element sites inventory, evacuation routes were considered as part of the site selection process any many of the larger sites have more than one access point. In addition the County's existing procedures described above and additional actions included in this element will help to minimize constraints between environmental hazards and the sites included in the housing element inventory.

## Governmental Constraints

While the unincorporated County covers a large land area, most of the land is not zoned for residential development, as it is publicly owned as parkland, watershed, or open space. Agricultural conservation easements and related zoning also limit the ability to develop vacant lands. The most suitable land for residential development has already been developed.

Regulatory standards provide consistency and foster a high-quality and cohesive built environment. Standards may also present conflicts in land use objectives and pose constraints to the production of multifamily and affordable housing. The following discussion analyzes land use regulations, procedures, and fees to identify possible solutions to policy conflicts. Government Code Section 65583(a)(5) requires that local agencies analyze governmental constraints that hinder the agency from meeting its Regional Housing Needs Allocation.

## Transparency in Development Regulations

To increase transparency and certainty in the development application process as required by law (Government Code section 65940.1), the County provides a range of information online for ease of access. Examples of some information that is provided includes:

- Countywide Plan  
[https://www.marincounty.org/media/files/departments/cd/planning/currentplanning/publications/county-wide-plan/cwp\\_2015\\_update.pdf](https://www.marincounty.org/media/files/departments/cd/planning/currentplanning/publications/county-wide-plan/cwp_2015_update.pdf)
- Local Coastal Plan  
<https://www.marincounty.org/depts/cd/divisions/planning/plans-policies-and-regulations/local-coastal-program>
- Development Code, including the County's affordable housing requirements  
[https://library.municode.com/ca/marin\\_county/codes/municipal\\_code?nodeId=TIT22DECO](https://library.municode.com/ca/marin_county/codes/municipal_code?nodeId=TIT22DECO)
- Community Area Plans  
<https://www.marincounty.org/depts/cd/divisions/planning/plans-policies-and-regulations/community-and-area-plans>
- Single Family and Multi Family Residential Design Guidelines  
<https://www.marincounty.org/depts/cd/divisions/planning/plans-policies-and-regulations>
- Planning Application Guidelines, Fee Schedule and Forms  
<https://www.marincounty.org/depts/cd/divisions/planning/planning-applications-and-permits>



- Building Permit Forms and E-Permit Filing  
<https://www.marincounty.org/depts/cd/divisions/building-and-safety/forms>
- The County also posts impact fees and other exactions, the current year and five previous fee and financial reports required by 66000(b) and 66013(d) and Impact and cost of service studies since 1-1-18.

## Land Use Controls

### Countywide Plan

Adopted in 2007, the Marin Countywide Plan is the guiding land use document for the unincorporated County. The Countywide Plan divides the County into four corridors:

- The Coastal Corridor – Adjacent to the Pacific Ocean, this corridor is designated for federal parklands, recreational uses, agriculture, and the preservation of existing small coastal communities.
- The Inland Rural Corridor – Located in the central and northwestern part of the county, this corridor is designated for agriculture and compatible uses and for the preservation of existing small communities.
- The City-Centered Corridor – This corridor runs along U.S. Highway 101 in the eastern part of the county near San Francisco and San Pablo bays and is designated for urban development and protection of environmental resources. This corridor is divided into six planning areas that correspond with distinct watersheds.
- The Baylands Corridor - Encompassing tidal and largely undeveloped historic baylands along the shoreline of San Francisco and San Pablo bays, the corridor provides heightened recognition of the unique environmental characteristics of this area and the need to protect its important resources.

As a strategy for dealing with the environmental constraints described above, the County has adopted policies in the Countywide Plan that promote opportunities for reuse of underutilized commercial centers, support mixed-use development, and encourage more dense development along transit routes. Marin County also encourages residential development in more urbanized areas or within villages in the Inland Rural and Coastal Corridors.

#### *Countywide Plan Goals and Policies Regarding Development Densities*

Many goals, policies and implementation programs in the CWP that aim to limit development to the lowest end of the permitted range. These include policies to protect streams, Ridge and Upland Greenbelt Areas, wetlands, riparian areas and the Baylands. Limiting development to the lowest end of the permitted range is also encouraged in the CWP for locales beyond the current municipal and community water service areas and rely on individual groundwater wells, surface water, or small spring-based systems.

Only allowing development at the lowest end of the permitted range constrains new housing, including the potential for affordable housing projects to be permitted at a higher density. However, the CWP exempts affordable housing projects from the lowest end of the density range requirements.

In addition, On October 9, 2019, Gov. Gavin Newsom signed the Housing Crisis Act of 2019 (HCA) into law, commonly known as Senate Bill (SB) 330. HCA restricts the adoption of land use or zoning amendments that would result in the reduction of allowed residential density or intensity of land uses than what is allowed under the regulations in effect on January 1, 2018. The law defines “less intensive use” to include, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing. SB 330 affects portions of Marin.<sup>7</sup>

*Countywide Plan Land Use Categories*

The Countywide Plan establishes the land use designations for the unincorporated County (see [Table H-3.10](#) below). As described in the County’s 2020 Multi-Family Land Use Policy and Zoning Study, while there are a variety of land use designations, 75% of parcels in the unincorporated area have Single-Family Countywide Plan land use designations. In contrast, significantly fewer parcels are designated with other land uses, including eleven percent of parcels designated with multi-family land uses, seven percent of parcels designated with agriculture/conservation land uses, and three percent or less designated with business/institutional, open space/park, Housing Overlay Designation and New Religious and Institutional Facility Housing Overlay, and floating home land uses. The predominance of single-unit land use designations is a constraint for promoting other types of residential uses, including those can serve residents of all income categories.

**Table H-3.10: Marin Countywide Plan Land Use Categories**

| Type of Land Use              | Countywide Plan Land Use Designation    | Minimum Lot Size/Density Ranges | Notes |
|-------------------------------|---|---------------------------------|-------|
| Agricultural and Conservation | Agricultural and Conservation 1 (AGC 1) | 1 du/31 to 60 acres             |       |
|                               | Agricultural and Conservation 2 (AGC 2) | 1 du/10 to 30 acres             |       |

<sup>7</sup> SB 330 sunsets on January 1, 2030.

| Type of Land Use                  | Countywide Plan Land Use Designation    | Minimum Lot Size/Density Ranges               | Notes  |
|-----------------------------------|---|---|--|
|                                   | Agricultural and Conservation 3 (AGC 3) | 1 du/2 to 9 acres                             |  |
| Agriculture                       | Agriculture 1 (AG 1)                    | 1 du/31 to 60 acres                           |  |
|                                   | Agriculture 2 (AG 2)                    | 1 du/10 to 30 acres                           |  |
|                                   | Agriculture 3 (AG 3)                    | 1 du/1 to 9 acres                             |  |
| Very Low Density Residential      | Single-Family 1 (SF1)                   | 20 to 60 acres                                | Established for development on large properties in rural areas where public services are very limited or nonexistent and where significant physical hazards and/or natural resources significantly restrict development. |
|                                   | Single-Family 2 (SF2)                   | 5 to 19 acres                                 |  |
| Rural/Residential                 | Single-Family 3 (SF3)                   | 1 to 5 acres                                  | Established in areas where public services are limited and on properties where physical hazards and/or natural resources restrict development.   |
|                                   | Single-Family 4 (SF4)                   | 1 to 2 du/acre                                |  |
|                                   | Planned Residential (PR)                | 1 unit per 1 to 10 acres                      |  |
| Low Density Residential           | Single-Family 5 (SF5)                   | 10,000 to 20,000 sq. ft. lots<br>2 to 4 du/ac | Established for single-family and multi-family development in areas where public services and some urban services are available. Properties are not typically limited by physical hazards or natural resources.          |
|                                   | Single-Family 6 (SF6)                   | Less than 10,000 sq. ft. lots<br>4 to 7 du/ac |  |
|                                   | Multi-Family 2 (MF-2)                   | 1 to 4 du/ac                                  |  |
| Low to Medium Density Residential | Multi-Family 3 (MF3)                    | 5-to 10 du/ac                                 | Established where moderate density single-family and multi-family residential development  |
|                                   | Multi-Family 3.5 (MF3.5)                | 5 to 16 du/ac                                 |  |

| Type of Land Use                   | Countywide Plan Land Use Designation   | Minimum Lot Size/Density Ranges | Notes  |
|------------------------------------|--|---------------------------------|--|
|                                    |  |                                 | can be accommodated in areas accessible to a range of services including major streets, transit services and neighborhood shopping.  |
| Medium to High Density Residential | Multi-Family 4 (MF4)   | 11 to 30 du/ac                  | Established within the City-Centered Corridor and in communities or villages where multi-family development can be accommodated with easy accessibility to a full range of urban services.   |
|                                    | Multi-Family 4.5 (MF4.5)   | 11 to 45 du/ac                  |  |
| Commercial/Mixed-Use               | General Commercial/Mixed Use (GC)  |                                 | The Countywide Plan includes criterial for residential uses in mixed-use development. In general, the residential uses are permitted under the floor area ratios of the land use designation. However, projects consisting of low and very low income affordable units may exceed the FAR to accommodate additional units for those affordable categories. |
|                                    | Neighborhood Commercial/Mixed Use (NC)   |                                 |  |
|                                    | Office Commercial/Mixed-Use (OC)   |                                 |  |
|                                    | Recreational Commercial (RC)   |                                 |  |
|                                    | Industrial (IND)   |                                 |  |
| Planned Designation                | Planned Designation-Agricultural and Environmental Resource area (PD-Agricultural and Environmental Resource Area) |                                 |  |
|                                    | Planned – Designation-Reclamation Area (PD-Reclamation Area)   |                                 |  |
| Public Facility and Open Space     | Public (PF)  |                                 |  |
|                                    | Open Space (OS)  |                                 |  |
|                                    | Quasi-Public Facility  |                                 |  |

Source: Marin Countywide Plan, Adopted November 6, 2007.

### *Housing Overlay Designation (and New Religious and Institutional Facility Housing Overlay)*

The 2007 Countywide Plan update established a Housing Overlay Designation (HOD) as a mechanism to accommodate a range of housing types, sizes, and prices for special needs populations and workers employed in Marin County. The purpose of the HOD is to encourage affordable housing on sites close to transit and services. Underlying land uses may include Multi-family (MF), General Commercial (GC), Neighborhood Commercial (NC), Office Commercial (OC), Recreational Commercial (RC), and Public Facilities (PF). The HOD policy identifies 11 specific sites that must be developed per HOD specifications should any development occur on the site. Additional projected HOD development may be distributed to other qualifying sites throughout urban areas within the City Centered Corridor, to a maximum of 658 residential units.

In 2018, the Board of Supervisors adopted revisions to parking standards for the Overlay Designation. Refer to the Parking Standards section of this chapter below for further details. No development proposals were received on HOD sites during the 2015-2023 planning period. Due to the lack of results from this overlay designation, this Housing Element includes a program to create a new Religious and Institutional Facility Housing Overlay. The program includes conducting outreach to religious and institutional facilities regarding the Overlay opportunity.

### *Growth Control Measures*

The County has no growth control measures that limit the number of permits issued for housing, act as a cap on the number of housing units that can be approved, or limit the population of the County.

## **Community Plans**

To help implement the Countywide Plan while also recognizing the unique character of the local communities, the County has adopted 22 Community Plans and Area Plans. While many of these plans were adopted in the 1980s and 1990s, three new plans have been adopted since 2015: Black Point Community Plan (2016), Green Point Community Plan (2016), and the Santa Venetia Community Plan (2017). While the community plans help to address the specific characteristics of the respective area, many community plans have policies that are a barrier to multifamily housing. Due to the need of this type of housing in the unincorporated County, the community plan policies should not override or supersede development policies set forth in the CWP. This Housing Element includes a program to amend the CWP to clarify that all development, including that located in community plan areas must comply with density policies in the CWP. This

amendment is anticipated to be completed concurrent with the Housing Element adoption.

### **Local Coastal Plan**

The updated Marin County Local Coastal Program (LCP) Land Use Plan was adopted by the Board of Supervisors in 2018 and certified by the California Coastal Commission in 2019. The LCP is the primary document that governs land development in the Marin County Coastal Zone and may modify the Countywide Plan and Community Plans. This Coastal Zone is a strip of land and water defined by the California Coastal Act of 1976 that extends along the Pacific Ocean coastline and extends seaward from the shore a distance of three miles and a variable distance landward depending on the topography<sup>8</sup>. While there is no growth boundary in effect at a countywide level, there are village limit boundaries (VLBs) in effect in the nine Coastal Zone communities of Muir Beach, Stinson Beach, Bolinas, Olema, Point Reyes Station, Inverness Ridge, Marshall, Tomales, and Dillon Beach. The VLBs were established to preserve agricultural lands for agricultural use while at the same time allowing for reasonable growth within village areas in accordance with the Coastal Act.

The primary tool for implementing the LCP is the coastal development permit. The County Community Development Agency is responsible for implementing the LCP and reviewing coastal permit applications. Some types of projects, such as those that involve work on tidelands around the margin on Tomales Bay, require a permit from the California Coastal Commission.

#### *Housing in the Coastal Zone*

California Government Code Section 65588(c) requires each revision of the Housing Element to include the following information relating to housing in the Coastal Zone:

- 1) The number of new housing units approved for construction within the coastal zone since January 1, 1982
- 2) the number of housing units for persons and families of low or moderate income required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone as a replacement for the conversion or demolition of existing coastal units occupied by low or moderate income persons
- 3) The number of existing residential units occupied by persons and families of low or moderate income that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone
- 4) The number of residential units for persons and families of low or moderate income that have been required for replacement units

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<sup>8</sup> Marin County Local Coastal Program. Prepared by the Marin County Community Development Agency. Certified by the California Coastal Commission on February 6, 2019.

Between 1980 and 2020, a total of 4,559 housing units have been added to unincorporated Marin's housing stock (Table H-3.11). Since the last Housing Element revision (2015), there have been 421 total units (11 very low income units, 17 low income units, 7 moderate income units and 386 above moderate income units) constructed and 113 units demolished for a net increase of 308 units.

Pursuant to Government Code (GC) Section 65590, "the conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income...shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income." However, the GC further stipulates several exemptions to the replacement requirement. Specifically, GC 65590(b)(3) provides the following exemption:

- 1) The conversion or demolition of a residential structure which contains less than three dwelling units, or, in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 or fewer dwelling units.
- 2) The conversion or demolition of a residential structure for purposes of a nonresidential use which is either "coastal dependent," as defined in Section 30101 of the Public Resources Code, or "coastal related," as defined in Section 30101.3 of the Public Resources Code.
- 3) The conversion or demolition of a residential structure located within the jurisdiction of a local government which is within the area encompassing the coastal zone, and three miles inland therefrom, less than 50 acres, in aggregate, of land which is vacant, privately owned and available for residential use.
- 4) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has established a procedure under which an applicant for conversion or demolition will pay an in-lieu fee into a program, the various provisions of which, in aggregate, will result in the replacement of the number of dwelling units which would otherwise have been required by this subdivision.

The new construction included mostly for-sale housing developments not subject to the replacement requirements. A minimum of 20% of the units developed in the Coastal Zone must also be affordable, in accordance with the Mello Act.

**Table H-3.11: Coastal Zone Development (1982-2022)**

| Year         | Units Constructed | Units Demolished | Net Gain  |
|--------------|-------------------|------------------|-----------|
| 1988-2002    | 56                | 0                | 56        |
| 2003-2010    | 10                | 3                | 7         |
| 2010-2022    | 9                 | 1                | 8         |
| <b>Total</b> | <b>75</b>         | <b>4</b>         | <b>71</b> |

Source: Marin County, June 2022

### Residential Development Standards

Three primary types of uses are allowed on private properties in unincorporated Marin County: 1) agricultural, 2) commercial, and 3) residential. Zoning regulations for each of these groups are outlined in Title 22 of the Marin County Code (the Development Code), which describes uses, design standards, and requirements.

The Marin County Development Code implements the Countywide Plan and Community Plans for the unincorporated areas outside of the Coastal Zone. Under the State housing density bonus laws, housing development projects with five or more units that provide affordable units can exceed the density of the zoning district as long as the project density falls within the density range established by with the Countywide Plan Community Development Element.

### Zoning Districts

Two fundamental types of zoning districts apply in unincorporated Marin: conventional and planned.

#### *Conventional Zoning*

Conventional zoning districts have specific numerical subdivision and development standards, including minimum lot area, minimum setbacks, height limits, and floor area ratio limits. Provided a development project conforms to those standards, no discretionary development applications are required. For conventional zoning, a “B” district can be combined with the base zoning. This “B” district is intended to establish lot area, setback, height, and floor area ratio (FAR) requirements for new development that are different from those normally applied by the primary zoning district applicable to a site and to configure new development on existing lots, where desirable because of specific characteristics of the area.



Currently, no conventional zones permit multi-family (MF) housing. This restriction continues the current development pattern single-family housing as the predominant choice in the unincorporated County. According to the County's 2020 Multi-Family Land Use Policy and Zoning Study, only 10% of parcels in the unincorporated County are zoned for multi-family, compared to 72% zoned for single-family uses. This Housing Element addresses this constraint by proposing that the Zoning Code be amended to allow for a multi-family zone under the conventional zoning options. Also, a program has been added for the efficient use of multi-family land, which will establish minimum densities for multi-family and mixed use zones.

### *Planned Zoning*

Planned districts allow more flexible site designs than do conventional districts, but all sites in these districts go through discretionary approval. Flexibility is permitted to enable house design and siting that respect natural site features. Planned districts do not have specific setback requirements or minimum lot areas to encourage clustering. Ultimate development potential is based on the maximum density allowable by the zoning district and Countywide Plan. Contrary to the land use control approach used in conventional zoning districts, planned districts have few specific numerical standards. Instead, they encourage development to be clustered in the areas most suitable for development on a given site to conserve a larger portion of that site in its natural state. No minimum lot areas are established for subdivisions in planned districts, but the number of lots allowed on a property is governed by a density standard specific to that district. As a result, subdivision applications in planned districts are likely to have smaller lot sizes, with a larger percentage of the original lot left as open space, compared to subdivisions in conventional districts where lot sizes are governed by the minimum lot areas applicable to that particular district. The distinction between conventional and planned zoning districts is most important in governing the subdivision and development of properties.

Table H-3.12 below shows a list of zoning designations for the conventional and planned zoning districts by land use type.

**Table H-3.12: Marin County Conventional and Planned Zoning Districts**

| Land Use Category                 | Conventional Zoning Districts   | Planned Zoning Districts   |
|-----------------------------------|---|--|
| Primary Agriculture               | A (Agriculture and Conservation)  | C-ARZ (Coastal, Agricultural Production Zone)  |
| Mixed Agriculture/Single Family   | A2 (Agricultural, Limited)  | ARP (Agricultural, Residential Planned)<br>C-ARP (Coastal, Agricultural, Residential Planned)  |
| Single-Family                     | R1 (Residential, Single-family)<br>C-R1 (Coastal, Residential, Single-family)<br>RA (Residential, Agriculture)<br>C-RA (Coastal, Residential, Agriculture)<br>RR (Residential, Restricted)<br>RE (Residential, Estate)  | RSP (Residential, Single-Family, Planned)<br>C-RSP (Coastal, Residential, Single-Family, Planned)<br>RF (Floating Home Marina)   |
| Two-Family                        | R2 and C-R2 (Residential, Two-family)<br>C-R2 (Coastal, Residential, Two-family)  |  |
| Multi-Family                      |   | RMP (Residential, Multi-Family, Planned)<br>C-RMP (Coastal, Residential, Multi-Family, Planned)<br>RX (Residential, Mobile Home Park)  |
| Business/Commercial and Mixed-Use | VCR (Village Commercial, Residential)<br>C-VCR (Coastal, Village Commercial, Residential)<br>C1 (Retail Business)<br>AP (Administrative and Professional)<br>H1(Limited Roadside Business)<br>C-H1 (Coastal, Limited Roadside Business)<br>RCR (Resort and Commercial Recreation) | CP (Commercial, Planned)<br>C-CP (Coastal, Commercial, Planned)<br>RMPC (Residential /Commercial Multiple, Planned)<br>C-RMPC (Coastal, Residential /Commercial Multiple, Planned)<br>OP (Office, Planned)<br>IP (Industrial, Planned) |

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| Land Use Category | Conventional Zoning Districts                     | Planned Zoning Districts |
|-------------------|---|--------------------------|
|                   | C-RCR (Coastal, Resort and Commercial Recreation) |                          |

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*Source: Marin County Municipal Code Chapter 22.10*

*Notes: \*In RA, RR, RE, R1 and R2 districts, the minimum lot area and setback standards may change when such district is combined with a B district in compliance with the provisions of Section 22.14.050.*

### *Special Purpose and Combining Zoning*

The County has several special purpose and combining districts. The special purpose districts are for land uses that are unique in character or applicability. The combining districts are applied to property together with one of the other zoning districts to highlight important characteristics that require attention in project planning.

#### OA (Open Area) Zoning/Combining District

The OA zoning district is intended for areas of the County committed to open space uses, as well as environmental preservation. The OA zoning district is consistent with the Open Space, and Agriculture and Conservation land use categories of the Marin Countywide Plan.

#### PF (Public Facilities) Zoning/Combining District

The PF zoning/combining district is applied to land suitable for public facilities and public institutional uses, where a governmental, educational, or other institutional facility is the primary use of the site. The PF zoning district implements with the Public and Quasi-Public land use categories of the Marin Countywide Plan.

The PF district may be applied to property as a primary zoning district where the Board determines that the facility is sufficiently different from surrounding land uses to warrant a separate zoning district, and as a combining district where a publicly owned site accommodates land uses that are similar in scale, character, and activities to surrounding land uses.

#### B and BFC Combining Districts

The Minimum Lot Size "-B" combining district is intended to establish lot area, setback, height, and FAR requirements for new development that are different from those normally applied by the primary zoning district applicable to a site, and to configure new development on existing lots where desirable because of specific characteristics of the area. The Development Standards subsection below outlines those that specifically apply to properties with the "B" combining district.

As described in the County's Development Code, the Bayfront Conservation (BFC) Combining District is intended to: 1) prevent destruction or deterioration of habitat and environmental quality, 2) prevent further loss of public access to and enjoyment of the bayfront, 3) preserve or establish view corridors to the bayfront, 4) ensure that potential hazards associated with development do not endanger public health and safety, and 5) maintain options for further restoration of former tidal marshlands. The Development Code outlines the requirements for development applications in this district and includes environmental assessments and design guidelines.

Affordable Housing Combining District

The AH combining district allows affordable housing development at a density of 20 units per acre and offers development incentives on sites that are otherwise governed by a lower density zone. This approach allows compact development to occur on portions of parcels and encourages affordable housing over market rate housing on key sites. Table H-3.13 shows the current sites under this designation.

**Table H-3.13: Affordable Housing Combining District Sites**

| Site Name                        | Acres by Parcel | Acres Total    | Countywide Plan 2007            | Zoning 2014  | AH-Combining District*                     |
|----------------------------------|-----------------|----------------|---------------------------------|--------------|--|
| St. Vincent's / Silveira         | 244.768         | 55 developable | PD-Agriculture and Env Resource | A2:AH        | AH zone - limited to 3.5 acres at 30 du/ac |
|                                  | 221.71          |                |                                 |              |  |
|                                  | 72.66           |                |                                 |              |  |
|                                  | 20.22           |                |                                 |              |  |
|                                  | 2.82            |                |                                 |              |  |
| Marin City Community Development | 4.06            | 4.06           | MF-2                            | RMP- 4.2:AH  | AH zone - limited to 0.5 acres at 30 du/ac |
| Golden Gate Seminary             | 50.00           | 73.61          | MF-2                            | RMP- 2.47:AH | AH zone - limited to 2 acres at 30 du/ac   |
|                                  | 23.61           |                |                                 |              |  |

Source: Marin County Community Development Agency, 2021

**Development Standards**

The County Development Code includes standards for residential, mixed use, and agriculture residential development. These standards are in the tables below (see Table H-3.14, Table H-3.15, and Table H-3.16). Housing is encouraged in commercial districts in the unincorporated County. The Development Code contains standards for certain commercial districts and mixed-use standards for the Commercial Planned (CP), Retail Business (C1), Administrative Professional (AP), and Limited Roadside Business (H1) commercial districts. For lots larger than two acres, at least 50% of the new floor area must be developed with new housing. For lots smaller than two acres in size, at least 25% of the new floor area must be developed with housing. Residential density in those districts is a maximum of 30 units per acre. Unit sizes are restricted to a minimum of 220 square feet and a maximum of 1,000 square feet per unit to encourage more affordable housing types. However, this unit size limit may be restrictive for families with children. Housing should be accessory to the primary commercial use, except affordable housing. A program is being included in the Housing Element that will, at a minimum allow 100% residential use in mixed use zones and examine the allowable average unit size.

**Table H-3.14: Residential Development Standards in Planned Zoning Districts (Non-Coastal)**

| Zoning District  | Density Requirements<br>(dwelling units per acre)  | Maximum Height |          | Development Standards   | Applicable Code Sections                               |
|--|--|----------------|----------|---|--|
|  |  | Main           | Detached |   |  |
| RSP<br>(Residential, Single-Family Planned District)       | 0.05 = 1 unit/20 acres<br>0.10 = 1 unit/10 acres   | 30 feet        | 16 feet  | Determined by site constraints and implemented through discretionary review (Master Plan/Design Review) | Chapters 22.10, 22.16 and 22.44                        |
| RMP<br>(Residential, Multiple -family Planned District)    | 0.20 = 1 unit/5 acres<br>0.25 = 1 unit/4 acres   |                |          |   | Chapters 22.12, 22.16 and 22.44                        |
| RMPC<br>(Residential/Commercial Multiple Planned District) | 0.5 = 1 unit/2 acres<br>1.0 = 1 unit/acre<br>2.0 = 2 units/acre                              |                |          |   | Chapters 22.08, 22.16 and 22.44                        |
| ARP<br>(Agricultural, Residential Planned District)        | 2.0 = 1 unit/2 acres<br>10 = 1 unit/10 acres<br>30 = 1 unit/30 acres<br>60 = 1 unit/60 acres |                |          |   | Chapters 22.12, 22.16 and 22.44, and Section 22.32.150 |
| CP<br>(Planned Commercial District)                        | 1 unit per 1,450 square feet of lot area   |                |          |   |  |

| Zoning District                                    | Density Requirements<br>(dwelling units per acre)  | Maximum Height |          | Development Standards       | Applicable Code Sections           |
|--|--|----------------|----------|-----------------------------|------------------------------------|
|  |  | Main           | Detached |                             |                                    |
| OP<br>(Planned Office District)                    | Determined by site constraints and implemented through discretionary review<br>(Master Plan/Design Review) |                |          |                             | Chapters 22.12,<br>22.16 and 22.44 |
| IP<br>(Industrial Planned District)                |  |                |          |                             |                                    |
| RCR<br>(Resort and Commercial Recreation District) |  |                |          |                             |                                    |
| RF<br>(Floating Home Marina District)              | 10 floating homes per acre maximum density   | 16 feet        |          | Refer to Section 2.32.075.B | Chapters 22.10,<br>22.32 and 22.46 |
| RX<br>(Residential, Mobile Home Park District)     | Refer to Section 22.32.110 and Chapters 22.10, 22.16 and 22.44   |                |          |                             |                                    |

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**Table H-3.15: Residential Development Standards in Conventional Zoning Districts**

| Zoning District                  | Minimum Lot Area      | Minimum Setbacks (feet)                                 |                                |                |                                 | Maximum Height (feet) |                              | Maximum Floor Area Ratio (FAR)    |
|----------------------------------|-----------------------|---|--------------------------------|----------------|---------------------------------|-----------------------|------------------------------|-----------------------------------|
|                                  |                       | Front   | Side                           | Corner Side    | Rear                            | Main Building         | Detached Accessory Structure |                                   |
| R-1 (Residential, Single-Family) | 7,500 sq ft           | 25  | 6                              | 10             | 20% of lot depth/25 ft maximum  | 30                    | 16                           | 30%                               |
| R-2 (Residential, Two-Family)    |                       |   |                                |                |                                 |                       |                              |                                   |
| R-A (Residential, Agricultural)  |                       |   |                                |                |                                 |                       |                              |                                   |
| R-R (Residential, Restricted)    |                       |   |                                |                |                                 |                       |                              |                                   |
| R-E (Residential, Estate)        |                       |   |                                |                |                                 |                       |                              |                                   |
| A-2 (Agriculture, Limited)       | 2 acres               |   |                                |                |                                 |                       |                              |                                   |
| A (Agriculture and Conservation) | 3 acres to 60 acres   | See Table 2-2 in Section 22.08.040 for minimum setbacks |                                |                |                                 |                       |                              | 5%                                |
| C-1 (Retail Business)            | 7,500 sq ft (refer to | 0   | 6 feet adjacent to residential | Not applicable | 12 feet adjacent to residential |                       |                              | Refer to CWP Land Use Designation |
| H-1 (Limited Roadside Business)  |                       | 30  |                                |                |                                 |                       |                              |                                   |



| Zoning District                       | Minimum Lot Area   | Minimum Setbacks (feet) |                          |   |                          | Maximum Height (feet) |                              | Maximum Floor Area Ratio (FAR) |
|---------------------------------------|--------------------|-------------------------|--------------------------|---|--------------------------|-----------------------|------------------------------|--------------------------------|
|                                       |                    | Front                   | Side                     | Corner Side                                   | Rear                     | Main Building         | Detached Accessory Structure |                                |
|                                       | Section 22.32.150) |                         | district, none otherwise |   | district, none otherwise |                       |                              | and Section 22.32.150          |
| A-P (Administrative and Professional) |                    | 25                      | 6 feet for 1-story bldg. | 10 ft for multi-story bldg. or on street side | 20                       |                       |                              |                                |

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**Table H-3.16: Residential Development Standards for Properties in a “B” Combining District**

| Zoning District | Minimum Lot Area (square feet) | Minimum Setbacks (feet) |      |             |                             | Maximum Height (feet) |                              | Maximum Floor Area Ratio (FAR)                                    |
|-----------------|--------------------------------|-------------------------|------|-------------|-----------------------------|-----------------------|------------------------------|---|
|                 |                                | Front                   | Side | Corner Side | Rear                        | Main Building         | Detached Accessory Structure |   |
| B-1             | 6,000                          | 25                      | 5    | 10          | 20% of Lot Depth/25 maximum | 30                    | 16                           | 30% (unless specified otherwise by the CWP and/or Community Plan) |
| B-2             | 10,000                         | 25                      | 10   | 10          |                             |                       |                              |   |
| B-3             | 20,000                         | 30                      | 15   | 10          |                             |                       |                              |   |
| B-4             | 1 acre                         |                         | 20   | 20          |                             |                       |                              |   |
| B-5             | 2 acres                        |                         |      |             |                             |                       |                              |   |
| B-6             | 3 acres                        |                         |      |             |                             |                       |                              |   |

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The current development standards may result in constraints in development, particularly related to density, building height, and the discretionary planning review process. Specifically, a 30-foot height limit may constrain the development of multi-family and mixed-use development at 30 units per acre.

The Objective Development and Design Standards (underway), design guidelines and accessory dwelling units will add additional development opportunities and flexibility in single-unit zones and additional opportunities for multifamily development.

#### *Open Space and Lot Coverage Requirements*

No minimum open space or maximum lot coverage standards apply to development projects in Marin County. However, in conformance with the Quimby Act, a parkland dedication of three acres for every 1,000 people in a project area is required for subdivisions or equivalent in-lieu fee is required. See further discussion in the Fees and Exactions section below.

#### *Parking Standards*

Marin County's parking standards are based on the type of residence and number of bedrooms. Table H-3.17 below outlines current parking requirements.

In December 2018, the Board of Supervisors adopted amendments to County parking standards to be in alignment with the Housing Element and Countywide Plan. Parking space requirements were reduced for residential uses across the board and reflected state regulations for affordable housing and other developments located near public transit, tandem parking for residential uses, increased requirements for bicycle parking and access, and the allowance for electric vehicle parking to count toward traditional parking space needs<sup>9</sup>.

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<sup>9</sup> Ordinance of the Marin County Board of Supervisors No. 3703, Revising Chapter 24.04, Division III, Parking and Loading to Align with Housing Element and Countywide Plan, December 18, 2018.

**Table H-3.17: Parking Standards**

| Type of Residential Unit          | Minimum Parking Spaces Required per Section 24.04.340             |
|-----------------------------------|---|
| Detached Single Family and Duplex | 2 spaces per unit   |
| Studio units                      | 1 space per unit<br>plus one guest space per 5 dwelling units     |
| One bedroom units                 | 1.25 spaces per unit<br>plus one guest space per 5 dwelling units |
| Two bedroom units                 | 1.5 spaces per unit<br>plus one guest space per 5 dwelling units  |
| Three or more bedroom units       | 2 spaces per unit<br>plus one guest space per 5 dwelling units    |

Source: Marin County Municipal Code, Section 24.04.340

### Reductions in Residential Parking Standards

The standards in the table above may be reduced under the following circumstances:

*Senior housing* - The amount of parking required for senior housing (senior housing refers to age-restricted housing designated for and occupied by seniors and consistent with definitions in California Civil Code Section 51.2, 51.3, and 51.4) may be reduced by up to 50% of that required as the base standard, where deemed appropriate by the agency and where the applicant can demonstrate that a reduction is warranted based on the type of senior citizen housing proposed.

*Housing overlay designation* - The amount of parking required for projects in the housing overlay designation, as defined in the 2007 Marin Countywide Plan, may be reduced by up to 50% of that required as the base standard, where deemed appropriate by the agency and where the applicant can demonstrate that a reduction is warranted based on the type of housing proposed.

Since underground parking or mechanical parking can be cost prohibitive, the Development Code Amendment program in this Housing Element will reduce the County's parking requirements to match those allowed by state density bonus law.

## Design Guidelines

The County has adopted design guidelines to establish clear and comprehensive guidelines for different types of development.

### Single-Family Residential Design Guidelines

Adopted by the Board of Supervisors in July 2005, the Single-Family Design Guidelines apply to individual single-family residences, as well as multiple single-family residences that may be proposed as part of a larger project (e.g., Master Plan or Subdivision). The guidelines cover the following topics: the site design process, building envelopes and relationships between properties and streets, neighborhood compatibility, reduction of visual bulk, and green and universal building designs.

As stated in the document, "the Design Guidelines are particularly relevant to development proposals that are subject to the County's Design Review process by clarifying and reinforcing the public policy objectives articulated in the Design Review findings of the Marin County Development Code. The guidelines provide visual instructions and examples of the development requirements, including grading, site lines, building envelopes, etc. At the same time, the guidelines "should not hinder creative efforts and should be applied in a reasonably flexible manner as circumstances warrant". While the guidelines apply to all single-family homes, they encourage flexible outcomes on case-by-case basis.

Marin County's Single-Family Residential Design Guidelines have had a demonstrable impact in the design review process. They assist applicants in planning site and architectural design, increase design certainty, and help minimize design revisions. These guidelines are flexible and are available on the Community Development Agency's website.

### Multi-Family Residential Design Guidelines

Adopted by the Board of Supervisors in December 2013, the Multi-Family Residential Development Guidelines are intended to assist project applicants during the project design phase and County staff and decision makers in the review and approval process. While the guidelines are not objective and cannot be enforced, they do provide design criteria to assist in decision-making.

The document has several "place-based guidelines" to address the various development environments in the County, including rural towns, residential neighborhoods and mixed-use corridor/town centers. These different place-based guidelines provide for flexibility. Design principles in the document include sustainability, livability and providing a mix of housing for the County's workforce, seniors, low-wage earners and disabled residents. The guidelines also aim to "reduce

the potential cost of the County’s development review process for projects that provide homes for people from a broad range of socioeconomic backgrounds”.

### **Objective Design and Development Standards**

The Objective Design and Development Standards, or Form-Based Code (FBC), which will be adopted by the end of 2022, will implement the Marin County Countywide Plan for ministerial projects and projects permitted by right or that fall under the SB 35 streamlined ministerial approval process. The FBC applies a context-sensitive approach to Marin County utilizing the following context types: Natural, Walkable, and Auto-Oriented Suburban. These contexts are further broken down into three types of areas: areas at or near the core, suburban areas, and areas at the edge of the community. The FBC zones will provide flexibility in design standards in these areas.

For applicable projects, the FBC will be combined with the Municipal Code for a hybrid approach to development. The FBC places an emphasis on form and architectural style and allows a range of uses carefully chosen to maximize compatibility between uses. The FBC provides information on allowable building types in each form-based zone and includes provisions for privacy standards, parking, building materials, a fenestration.

The FBC is intended to remove constraints by providing objective design standards for the streamlined review of housing developments and to provide the objective standards required by the Housing Accountability Act, SB 35, and other state housing laws.

### **Local Ordinances**

The following section examines local ordinances related to housing that have been adopted by the County. The Board of Supervisors adopted Ordinance 3745 in January 2021 that included updates and revisions to the County’s Density Bonus provisions. These included changes to achieve consistency with the State’s Density Bonus Law, including incentives and concessions, waivers and reductions of development standards, and reduced parking requirements.

### **Density Bonus**

The County Board of Supervisors adopted an ordinance in 2021 that was consistent with state density bonus law at that time. However, since then, there have been some additional statutory changes. This Housing Element includes a program for the County’s Density Bonus ordinance to be amended to be consistent with state law.

The current density bonus provisions outlined in Section 22.24.030 of the County Development Code are calculated as follows:

1. A housing development project is eligible for a 20% density bonus if the applicant seeks and agrees to construct any one of the following:
  - a. 10% of the units at affordable rent or affordable ownership cost for low income households;
  - b. 5% 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.
2. The density bonus for which the housing development project is eligible shall increase if the percentage of units affordable to very low, low, and moderate income households exceeds the base percentages established in California Government Code Section 65915(f).
3. For an affordable housing development project in which at least 80% of the units are for lower income households with any remainder for moderate income households, the following shall apply:
  - a. The maximum density bonus for which the affordable housing project is eligible shall increase up to 80%, subject to the findings included in Section 22.24.030.E (Review of application).
  - b. If the project is located within one-half mile walking distance of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code: (1) The project shall receive a height increase of up to three additional stories, or 33 feet; and (2) The project shall be exempt from any maximum controls on density.  
  
If the project is located within a one-half mile walking distance or farther of a major transit stop and receives a waiver from any maximum controls on density, the project shall not be eligible for, and shall not receive, a waiver or reduction of development standards other than density, parking, and height requirements.
4. A housing development in which units are for sale where at least 10% of the total dwelling units are reserved for persons and families of moderate income, provided that all units in the development are offered to the public for purchase, shall be eligible for a density bonus based on the percentage of moderate income units shown in the sliding scale provided in Government Code Section 65915(f)(4).
5. Density bonuses may also be granted for childcare facilities and land donation in excess of that required by Chapter 22.22 (Affordable Housing Regulations), pursuant to Government Code Sections 65915(g), 65915(h) and 65915(i).

### Parking Standards

Pursuant to Government Code Section 65915(p), an applicant for a housing development project that is eligible for a density bonus pursuant to Section 22.24.020 may request that on-site vehicular parking ratios, inclusive of accessible and guest parking not exceed the following standards:

1. For zero to one bedroom dwelling units: One on-site parking space
2. For two to three bedrooms dwelling units: Two on-site parking spaces
3. For four or more bedrooms dwelling units: 2.5 on-site parking spaces
4. On-site parking may include tandem and uncovered parking

Additional parking provisions for projects located near transit or consisting solely of rental units are outlined in the density bonus provisions of the Development Code.

### **Inclusionary Housing**

Marin County has had an inclusionary housing requirement since 1980. Section 22.22.090 of the Development Code requires that residential subdivisions provide 20% of the total units or lots for lower income housing. A fee may be required in addition to inclusionary units or lots in cases where the inclusionary requirement includes a decimal fraction or a unit or lot or when a combination of both inclusionary units and in-lieu fees is required. Mixed-use developments proposing residential units are required to pay a Jobs/Housing linkage fee for the non-residential component. All inclusionary units must be income restricted in perpetuity. Units should be provided within the development, although the ordinance allows for flexibility; the review authority may grant a waiver if the alternative proposal demonstrates a better means of serving the County in achieving its affordable housing goals than the requirements. Waiver options may be units constructed off-site, real property may be dedicated, or 125% of the in-lieu fee may be paid. Further information about the in-lieu fee is provided in the Fees and Exactions section of this chapter

In response to the Governor's approval of AB 1505 (2017), which renewed the County's authority to extend its inclusionary zoning policy to rental housing units, the Board adopted an amendment to its Development Code to renew that application of its inclusionary zoning policy to the rental housing development projects.

To address potential constraints of an Inclusion Housing Policy on the development of new housing, the County and six partnering jurisdictions facilitated three developer forums. Two at the beginning of the study process to identify potential challenges to consider in the study process and one following the completion of the study to evaluate potential policy design. Input from the first two forums found that the inclusionary programs have not resulted in significant production of new affordable units in part



because of the complexity of residential development in the county. The policy constraints identified by developers include:

1. **Policy variation:** Each jurisdiction has a different policy, many without.
2. **Affordability price targets vs. ranges:** Current policy relies on ranges with discretionary review.
3. **Breaks by project size:** many existing policies apply the same affordability levels and percentages on all projects. Housing development would benefit by tiering affordability by project size.
4. **For-sale policy:** Current policies set affordability levels too low and it is very difficult to find buyers who qualify for affordable units.
5. **Alignment with State Density Bonus:** many existing policies do not align with state density bonus, which adds additional challenges to navigate.

To address these constraints, the participating jurisdictions met and developed common policy elements. These elements include:

Homeowner housing -

- Consistent set-aside and in-lieu fee across jurisdictions
- Specific price targets based on AMI category
- Alignment and flexibility to comply with State Density Bonus law
- Varied inclusionary requirements based on project size

Rental housing -

- Consistent set-aside and in-lieu fee across jurisdictions
- Alignment and flexibility to comply with State Density Bonus law
- Developer selected menu of options for affordable rental housing

### **Commercial Linkage Fees**

The Commercial Linkage Fee study includes a section compliant with AB 602 that addresses concerns and constraints around the existing level of service for facilities, proposed new levels of service, and explains why the new level of service is appropriate. The section includes support for an increase to the existing fee and assesses the assumptions of the former study.

### **Short-Term Rentals**

The Marin County Board of Supervisors first adopted short term rental (STR) regulations in 2018, requiring operators to obtain both a Business License and Transient

Occupancy Tax Certificate, and establishing “Good Neighbor” Policies to alleviate the impacts of Short-Term Rentals on surrounding communities. Currently, there are approximately 873 registered residential STRs, with over 70% of those located in West Marin. There are only 5,263 residentially developed properties in this area. Over 11% of the residentially developed properties are used as STRs in West Marin, while less than 1% of residentially developed properties are used as STRs in the eastern portion of the County. In addition, only 2,239 of the approximately 5,263 developed lots in the West Marin area receive the Primary Home Tax Exemption, indicating that over half of the developed properties in West Marin may not be in use as full-time homes. While all are not currently operating as STRs, the flexibility and the income generated by STRs, where nightly rates can range up to over \$1,000/night, in comparison to that earned with a long-term rental is likely an incentive for property owners to seek STR use serving visitors rather than traditional rental housing for a community of residents. This condition has led to growing concerns in West Marin communities about impacts of STRs on the availability of housing for workforce, families, and community members.

With housing supply, community workforce, and public safety as motivators, the Board adopted a two-year moratorium, ending May 23, 2024, on new STRs in the West Marin Area (also known as the Measure W Tax Area). Over the next two years, County staff will work to update the County’s Short Term Rental Ordinance to improve the availability of middle- and lower-income housing in the West Marin Area, while maintaining existing coastal access. These programs will not impact the development of residential development, instead they are preventing the conversion of residential uses to commercial uses.

### **Urban Growth Limits**

The County does not have any Urban Growth Limits or growth control policies that place a numerical limit on housing development. Policies in the 2007 Countywide Plan which have been identified as possible barriers to residential development, especially multi-unit, are being deleted and or amended. Specifically, the County will:

- Revise the Housing Overlay District as a form-based code to streamline multifamily housing development.
- Provide for ministerial review of projects that meet the requirements of the form-based code and include 20% lower income.
- Provide for by-right zoning on sites identified in past housing elements that are designated for lower income housing.
- Amend the Countywide Plan and Zoning Code to increase densities on opportunity sites identified in the Housing Element and for low income sites have a minimum of 20 units per acre.

### **Provision for a Variety of Housing Types**

Development opportunities for a variety of housing types promote diversity in housing price, designs, and sizes, and contribute to neighborhood stability. Marin County's Development Code accommodates a variety of housing types, including single-unit, two-units and multi-units, accessory dwelling units, single room occupancy, manufactured housing, supportive housing, housing for agricultural workers, transitional housing, and emergency shelters. [Table H-3.18](#) through [Table H-3.20](#) show which housing types are permitted in the different residential, commercial, and agricultural zones. These uses are all discussed below.

**Table H-3.18: Use Regulations in Residential Districts**

| Uses   | RA  | C-RA     | RR  | RE  | R1  | C-R1     | RSP | C-RSP    | R2  | C-R2     | RMP | C-RMP    | RX  | RF  |
|--|-----|----------|-----|-----|-----|----------|-----|----------|-----|----------|-----|----------|-----|-----|
| Single-family Dwellings                                  | P   | P        | P   | P   | P   | P        | P   | P        | P   | P        | P   | P        | --- | P   |
| Two Family Dwellings                                     | --- | ---      | --- | --- | --- | ---      | --- | ---      | P   | P        | P   | P        | --- | --- |
| Multi-family Dwellings                                   | --- | ---      | --- | --- | --- | ---      | --- | ---      | --- | ---      | P   | P        | --- | --- |
| Accessory Dwelling Units/Junior Accessory Dwelling Units | P   | P        | P   | P   | P   | P        | P   | P        | P   | P        | P   | P        | P   | P   |
| Agricultural Worker Housing                              | --- | ---      | --- | --- | --- | ---      | --- | ---      | --- | ---      | --- | ---      | --- | --- |
| Mobile Home Park   | --- | ---      | --- | --- | --- | ---      | --- | ---      | U   | ---      | U   | ---      | P   | --- |
| Group Homes (6 or fewer)                                 | P   | <u>P</u> | P   | P   | P   | <u>P</u> | P   | <u>P</u> | P   | <u>P</u> | P   | <u>P</u> | P   | P   |
| Group Homes (7 or more)                                  | U   | <u>U</u> | U   | U   | U   | <u>U</u> | U   | <u>U</u> | U   | <u>U</u> | U   | <u>U</u> | U   | U   |
| Medical Services – Extended Care                         | U   |          | U   | U   | U   |          | U   |          | U   |          | U   |          | --- | --- |
| Residential Care Facilities                              | P   |          | P   | P   | P   |          | P   |          | P   |          | P   |          | P   | P   |
| Single Room Occupancy (SRO)                              | --- |          | --- | --- | --- |          | --- |          | --- |          | P   |          | --- | --- |
| Transitional and Supportive Housing                      | P   |          | P   | P   | P   |          | P   |          | P   |          | P   |          | P   | P   |
| Emergency Shelters                                       | --- |          | --- | --- | --- |          | --- |          | --- |          | --- |          | --- | --- |

Source: Marin County Municipal Code, 2021.

Notes: "P" means principally permitted, "U" means conditionally permitted subject to Use Permit approval, "---" means prohibited.

**Table H-3.19: Use Regulations in Commercial/Mixed Use Districts**

| Uses   | VCR | C-VCR | RMPC | C-RMPC | C1     | CP   | C-CP | AP    | OP  | H1   | C-H1 | RCR | C-RCR | IP  |
|--|-----|-------|------|--------|--------|------|------|-------|-----|------|------|-----|-------|-----|
| Single-family Dwellings                                  | P   | P     | P    | P (MP) | P(1,2) | P(2) | MP   | P(2)  | P   | P(2) | U    | U   | MP    | --- |
| Two Family Dwellings                                     | U   | U     | P    | P (MP) | P(1,2) | ---  | MP   | P(2)  | P   | P(2) | U    | U   | MP    | --- |
| Multi-family Dwellings                                   | U   | U     | P    | P (MP) | P(2)   | P(2) | MP   | P(2)  | P   | P(2) | U    | U   | MP    | --- |
| Accessory Dwelling Units/Junior Accessory Dwelling Units | P   | P     | P    | P      | P      | P    | P    | P     | P   | P    | U    | P   | P     | --- |
| Agricultural Worker Housing                              | --- | ---   | ---  | ---    | ---    | ---  | ---  | ---   | --- | ---  | ---  | --- | ---   | --- |
| Mobile Home Park   | --- | ---   | ---  | ---    | ---    | ---  | MP   | ----- | --- | ---  | ---  | --- | MP    | --- |
| Group Homes (6 or fewer)                                 | P   |       | P    |        | ---    | ---  |      | ---   | P   | U    |      | --- |       | --- |
| Group Homes (7 or more)                                  | U   |       | U    |        | ---    | ---  |      | ---   | U   | U    |      | --- |       | --- |
| Medical Services – Extended Care                         | U   |       | U    |        | U      | P    |      | ---   | P   | U    |      | --- |       | --- |
| Residential Care Facilities                              | P   |       | P    |        | ---    | P    |      | ---   | P   | U    |      | --- |       | --- |
| Single Room Occupancy (SRO)                              | --- |       | P    |        | ---    | ---  | MP   | P     | P   | P    |      | --- | MP    | --- |
| Transitional and Supportive Housing                      | P   |       | P    |        | P      | P    |      | P     | P   | P    |      | P   |       | U   |
| Emergency Shelters                                       | --- | ---   | ---  | ---    | P      | P    | ---  | ---   | --- | ---  | ---  | --- | ---   | --- |

Source: Marin County Municipal Code, 2021.

*Notes: "P" means principally permitted, "U" means conditionally permitted subject to Use Permit approval, MU and MP means Master Plan approval "---" means prohibited*

*<sup>1</sup> Dwellings allowed above the first floor only. First floor shall be reserved for non-residential use.*

*<sup>2</sup> Dwellings, except for affordable housing, shall be accessory to the primary commercial use.*

**Table H-3.20: Use Regulations in Agricultural and Special Purpose Districts**

| Uses   | A2  | A3 to A60 | ARP | C-APR | OA               | C-OA | PF               |
|--|-----|-----------|-----|-------|------------------|------|------------------|
| Single-family Dwellings                                  | P   | P         | P   | P     | U <sup>(1)</sup> | ---  | P <sup>(2)</sup> |
| Two Family Dwellings                                     | --- | ---       | --- | ---   | U <sup>(1)</sup> | ---  | P <sup>(2)</sup> |
| Multi-family Dwellings                                   | --- | ---       | --- | ---   | U <sup>(1)</sup> | ---  | P <sup>(2)</sup> |
| Accessory Dwelling Units/Junior Accessory Dwelling Units | P   | P         | P   | P     | P                | ---  | P                |
| Agricultural Worker Housing (up to 12 employees)         | P   | P         | P   | P     | P                | P    | ---              |
| Mobile Homes   | --- | ---       | --- | ---   | ---              | ---  | ---              |
| Group Homes (6 or fewer)                                 | P   | P         | P   |       | ---              |      | ---              |
| Group Homes (7 or more)                                  | U   | U         | U   |       | ---              |      | ---              |
| Medical Services – Extended Care                         | U   | U         | U   |       | ---              |      | ---              |
| Residential Care Facilities                              | P   | P         | P   |       | ---              |      | ---              |
| Single Room Occupancy (SRO)                              | --- | ---       | --- |       | ---              |      | ---              |
| Transitional and Supportive Housing                      | P   | U         | P   |       | ---              |      | U                |
| Emergency Shelters                                       | --- | ---       | --- | ---   | ---              | ---  | ---              |

Source: Marin County Municipal Code, 2021.

*Notes: "P" means principally permitted, "U" means conditionally permitted subject to Use Permit approval, MU and MP means Master Plan approval "----" means prohibited*

*(1) Only dwellings for teachers or custodial staff, or dwellings clearly accessory to the primary use of the site for agricultural purposes are allowed.*

*(2) Housing is permitted in combined districts that allow housing, such as PF-RSP, PF-RMP, and PF-ARP. Single-family, two-family, and multi-family dwellings are principally permitted only on the Countywide Plan's Housing Overlay Designation sites.*



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## Single-family Dwelling Units

Single-family residential uses are permitted in all residential zones, with the exception of the mobile home park zone (RX). Single-family uses are permitted or conditionally permitted in most of the mixed-use/commercial and agricultural zones. According to the Marin County Community Development Agency's 2020 *Multi-Family Land Use Policy and Zoning Study*, approximately 72% of parcels in the unincorporated County are zoned with a primary single-family zoning type. To promote the development of needed multi-family development in the County, this Element proposes the following program:

*Efficient Use of Multi-Family Land: Establish density minimums.* This will ensure efficient use of the County's multi-family land and prohibit the construction of new single-family homes on multi-family land. Existing single-family homes on multi-family land can remain (as legal nonconforming use). However, rebuilding or expansion of the existing single-family home would only be permitted if the expansion does not exceed more than 25% of the value of the home or rebuilding due to damage sustained during disasters or fires.

## Multi-Family Dwellings

Multi-family dwellings as the primary use are permitted in the RMP and C-RMP zones. Two-family dwellings are also permitted in the R2 and C-R2 zoning categories. As described in the County's Multi-Family Land Use Policy and Zoning Study, "the number of properties zoned to allow duplex (two-family), multi-family, or mixed business/institutional land uses are significantly less than the number of properties that allow for single-family use." The study found that only 10% of parcels in the unincorporated area are zoned for primarily multi-family uses and less than one percent are zoned for two-family dwellings. As part of this Housing Element update, the County has identified areas to rezone for multi-family residential uses. Please refer to the Conventional Zoning section earlier in this chapter regarding programs proposed in this Element regarding multi-family housing.

While increasing residential densities in some locations may be feasible, several environmental and infrastructure constraints may make this a challenge in other areas. The infrastructure section of this chapter looks at potential constraints and potential ways to help continue to permit affordable housing in the unincorporated County.

## Commercial/Mixed-Use Development

As shown in Table H-3.19, a variety of mixed-use zoning designations allows for different housing options, including multi-family housing, in the business areas. The residential uses are allowed with a conditional use permit or part of a planned development. Projects allowed by-right included as part of this Housing Element will be subject to the new ODDS.

## Accessory Dwelling Units/Junior Accessory Dwelling Units

Accessory Dwelling Units (ADUs) are independent housing units that are either detached or attached to an existing single-family residence. Due to their relatively small size and location on currently developed property, they may be affordable by design. ADUs can provide housing options for family members, seniors, students, and other small household types.

The State legislature has passed a series of bills aimed at encouraging the development of ADUs. These bills have required jurisdictions to adopt regulations to facilitate their production and streamline their approval. Marin County has adopted Development Code amendments to comply with State law, with the most recent ordinance (No. 3745) being adopted by the Board of Supervisors in January 2021. This ordinance established four categories of ADUs, each with different standards. The following provisions apply to all four categories:

- Only one ADU is allowed on a lot restricted to single-family residential development.
- An ADU may be rented but shall not be sold or otherwise conveyed separately from the primary dwelling unit.
- ADUs can only be rented for terms longer than 30 consecutive days.
- Parking standards: 1 space for a studio or one-bedroom unit and 2 spaces for a two- or more bedroom unit.

The Development Code includes provisions for Junior ADUs (JADUs), which are defined as units no larger than 500 square feet. JADUs may have a kitchenette but not a full kitchen, and there must be a separate entrance from the main entrance to the building. No minimum parking spaces are required for JADUs.

ADUs are allowable in any zoning district where primary residences are allowable. No discretionary review of ADUs or JADUs are required outside of the coastal zone. There are four categories of ADUs in unincorporated Marin County, each with different standards that apply. Category 4 ADUs are ADUs that require coastal permits and compliance with all applicable zoning requirements including Master Plan criteria and discretionary review. Categories 2 and 3 do not require discretionary review but do require an ADU permit. When creating an ADU in the coastal zone requires a Coastal Permit, it can usually be issued administratively with no public hearing. However, if the project involves unrelated development that independently requires a Coastal Permit or a change from an agricultural or commercial use to a residential ADU, then a public hearing will be required.

Marin County has seen an increase in ADU development in recent years. Since 2018, the County has issued 119 building permits for ADUs:

- 2018 – 15 building permits issued
- 2019 – 37 building permits issued
- 2020 – 32 building permits issued
- 2021 – 35 building permits issued

On May 25, 2021, the Board of Supervisors approved an extension to the Accessory Dwelling Unit Fee Waiver Program, which offers property owners fee waivers for the development of ADUs in unincorporated Marin County. This program offers a tiered fee waiver structure to support the development of additional affordable rental housing stock by further incentivizing the development of second units that are rented to low and moderate income households. The waiver program is in place through December 31, 2023. The fees waived may include Community Development Agency fees such as planning, building and safety, and environmental health services, and Department of Public Works fees such as traffic mitigation. Additional information about the waiver program is available on the County’s website.

As part of the SB2 grant program, a partnership was established between ten cities and towns and the County called “ADU Marin”. This partnership aims to promote the development of ADUs and includes a variety of information sources on the County website (<https://adumarin.org>), including interactive workbooks and webinars to assist interested property owners through all aspects of the ADU process.

This Housing Element includes a program to facilitate the development of ADUs and monitor the trend of development.

### **Agricultural Worker and Employee Housing**

As discussed in the Needs Assessment chapter of this element, Marin County’s agricultural history remains a strong value and source of pride, particularly in the Coastal and Inland Rural Corridors. According to the United States Department of Agriculture (USDA), Marin County farms and ranches encompass approximately 140,075 acres, or about 41% of the County’s total land area; land in farms decreased by 18% from 2012 to 2017.<sup>10</sup> Rural west Marin has an economic base of cattle ranches, dairies, organic vegetable farms, poultry, mariculture, and tourism. Of the 343 agricultural operations in Marin County, the majority are third- to fifth-generation family-

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<sup>10</sup> 2017 Census of Agriculture Marin County Profile,

owned farms and are not large by California standards, with an average size of 408 acres.

Agricultural workers are significantly impacted by the high cost of living in Marin County, especially housing costs that are influenced by vacation rentals and high-end tourism. To promote a vibrant and economically sound agriculture base as part of Marin County's future, quality affordable housing for agricultural workers and their families is needed.

Almost all agriculturally zoned land in Marin County is located within unincorporated County areas, so presumably the data available on the agricultural worker population in the County are representative of the unincorporated County. The 2017 USDA Census reported that in Marin County, 1,274 persons were hired farmworkers, which accounts for less than one percent of the Marin County workforce.<sup>11</sup>

Distinct from other agricultural regions of the State, much of the County's agricultural production primarily requires a year-round, permanent workforce. As a result, the County does not experience a significant influx of seasonal workers during peak harvest times.

As stated in the Development Code, agricultural worker housing providing accommodations for 12 or fewer employees is considered a principally permitted agricultural land use in the following zoning districts: A2, A3 to A60, ARP, C-ARP, O-A, and C-OA, and are allowed by Articles II (Zoning Districts and Allowable Land Uses) and V (Coastal Zone Development and Resource Management Standards). Any temporary mobile home not on a permanent foundation and used as living quarters for seven to 12 agricultural workers is permitted subject to the requirements of the State Department of Housing and Community Development. Any temporary mobile home providing living quarters for six or fewer agricultural workers requires Use Permit approval and is counted as one dwelling unit for purposes of compliance with the zoning district's density limitations. These provisions are not consistent with the State Employee Housing Act (Section 17021.6 of the Health and Safety Code), which specifies the following:

“Any employee housing consisting of no more than 36 beds in a group quarter or 12 units or spaces designed for use by a single family or household shall be deemed an agricultural land use for the purposes of this section. For the purpose of all local ordinances, employee housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee

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<sup>11</sup> Civilian employed population 16 years and over. American Community Survey Five-Year Estimates, 2015-2019. Table S2403.

housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located.”

The Employee Housing Act also requires that employee housing serving six or fewer workers must be treated like a dwelling serving one family or household and permitted in all zones that permit residences. Zones permitting residences must also permit employee housing serving up to six employees.

This Housing Element Plan chapter includes a program for the County to develop strategies for addressing farmworker housing. The County will amend the Development Code to comply with the State Employee Housing Act for agricultural workers and employees.

The County acquired the U.S. Coast Guard Facility in the fall of 2019. Located in Point Reyes Station, the 32-acre site contains 36 multi-bedroom housing units and other community facilities. The renovation of the site will be accomplished by two nonprofit housing agencies, the Community Land Trust Association of West Marin and Eden Housing. The project will convert the existing housing to affordable housing, including housing for agricultural workers and their families.

In 2020, CDA staff began exploring the possible development of Agricultural Worker Housing on a County-owned site in Nicasio. As of early 2022, a Phase I study and biological assessment had been conducted to help determine suitability for a 16-unit lower income residential development.

CDA staff convenes the Agricultural Worker Housing Collaborative, including the Marin Community Foundation, the Community Land Trust of West Marin, Marin Agricultural Land Trust, UC Cooperative Extension, West Marin Community Services, local ranchers, and ranch workers to address the needs of agricultural worker housing. The Agricultural Worker Housing Collaborative is expanding to include agricultural workers and their families, as well as representatives of the Park Service, the collaborative will continue its work to expand housing choices and quality of, housing for agricultural workers and their families.

See “Housing in the Coastal Zone” for additional information on agricultural worker housing.

### **Mobile Home Parks and Manufactured Homes**

Mobile homes make up approximately 2% of the housing stock in County areas. The Residential, Mobile Home Park (RX) zoning designation permits mobile homes and mobile home parks. Both mobile homes and mobile home parks can be part of a master plan in the C-CP and C-RCR zones. Mobile home parks are conditionally permitted in the R2, RMP, and C-ARP zones. Three mobile home parks exist in unincorporated Marin

County as of 2022: Dillon Beach Resort Trailer Court (25 units)<sup>12</sup>, Novato RV Park (82 units) and Forest Knolls Trailer Courts (20 units).

Manufactured homes installed on permanent foundation and meeting State standards are considered single-family homes and permitted as single-family uses.

### **Group Homes (Six or Fewer and Seven or more residents), Medical Services – Extended Care and Residential Care Facilities**

The following definitions are from the Marin County Development Code:

#### *Group Homes:*

This land use consists of a dwelling unit licensed or supervised by any Federal, State, or local health/welfare agency which provides 24-hour nonmedical care of unrelated persons who are in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment. Includes: children's homes; rehabilitation centers; self-help group homes. Medical care may be provided in conjunction with group homes that provide alcoholism or drug abuse recovery or treatment services. Convalescent homes, nursing homes and similar facilities providing medical care are included under the definition of "Medical Services - Extended Care."

#### *Medical services – Extended Care:*

This land use consists of the provision of nursing and health-related care as a principal use, with in-patient beds. This land use includes: convalescent and rest homes; extended care facilities; and skilled nursing facilities that are licensed or supervised by any Federal, State, or local health/welfare agency. Long-term personal care facilities that do not emphasize medical treatment are included under "Residential Care Facilities," and "Group Homes."

#### *Residential care facility:*

This land use consists of a dwelling unit licensed or supervised by any Federal, State, or local health/welfare agency which provides 24-hour nonmedical care of unrelated persons who are disabled and in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment. This land use includes licensed senior care facilities. For purposes of calculating residential densities, a unit that contains a food preparation area is not counted as a separate residential unit if meal service is provided at least twice a day as part of the residential care component.

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<sup>12</sup> These units are not permanent housing units. They are used as nightly hotel rooms.

Small group homes (six or fewer residents) and residential care facilities are permitted in all residential zones. Large group homes (seven or more residents) may apply for a conditional use permit in all residential zoning districts including in the coastal area of these zones. The 2023-2031 Housing Element includes a program to evaluate the CUP findings required for large group residential care facilities, and to amend the provisions if found to be a constraint.

According to the California Department of Social Services (CDSS) website, one adult residential facility is licensed in the unincorporated County. Cedars of Marin in Ross provides residential and day programs for people with developmental disabilities. The facility is licensed for 55 beds. In terms of assisted living facilities, the unincorporated County has one small and two large facilities, including Windchime of Marin in Kentfield. This 55-bed facility serves those with dementia or related illnesses. Lastly, the Tamalpais Retirement Community located in Greenbrae is a 341-person continuing care retirement community. It should be noted that the CDSS website has many more licensed residential care and assisted living facilities located in incorporated cities within Marin County.

### Single Room Occupancy (SRO)

Single room occupancy units are typically small one-room units that may have shared kitchen or bathroom facilities. In Marin County, SROs are permitted in the RMP residential zone district as well as the following commercial/mixed-use districts: RMPC, AP, OP, and H1. In the C-CP and C-RCR zones, SROs are permitted when part of a master plan. Design review is required for an SRO permit and SROs are also subject to the Multi Family Design Guidelines. Per the Development Code, the density for SROs may be no more than 30 dwelling units per acre, and all rents must be affordable to households with income qualifying as low, very low, or extremely low income (Marin County Development Code Chapter 22.22 and 22.24).

### Transitional and Supportive Housing

Transitional housing is a type of supportive housing used to facilitate the movement of individuals and families experiencing homelessness to permanent housing. Typically, supportive housing is permanent housing linked with social services. Marin County treats transitional and supportive housing in the same manner as any other residential use and does not require supportive and transitional housing to obtain any additional types of permits and approvals other than those required of any other residential development. Residential uses, including transitional and supportive housing, are permitted in the following zones: Agricultural and Resource-Related Districts, Single-Family Districts, Multi-Family Districts, Commercial Districts and Planned Office Districts. However, transitional and supportive housing is not specifically identified in the coastal

area of these zones (C-RA, C-R1, C-R2, C-RSP, C-RMP, C-VCR, C-RMPC, C-CP, C-RCR, and C-APR). This Housing Element includes an action to allow transitional and supportive housing in the Coastal Zone.

In accordance with State law (Chapter 633 of Statutes 2007, SB 2), transitional and supportive housing are considered residential uses of property and are subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. In 2018, the State legislature adopted new requirements (AB 2162) which mandate jurisdictions to permit supportive housing developments of 50 units or fewer, meeting certain requirements, by right in zones where mixed-use and multi-family development is permitted. Additionally, parking requirements are prohibited for supportive housing developments within one half mile of a transit stop. The County will comply with state law in reviewing any proposed facility and will amend the Development Code in compliance with these provisions.

### **Emergency Shelters and Low Barrier Navigation Centers**

An emergency shelter is a facility that provides shelter to homeless families and/or individuals on a limited short-term basis. In accordance with SB2 (2007), Marin County amended the Development Code in 2012 to 1) accommodate the permitting of emergency homeless shelters within Planned Commercial (CP) and Retail Business (C1) districts and 2) establish standards in Section 22.32.095 to allow the approval of homeless shelters as a use through a ministerial action by the Agency Director. C1 and CP zones also permit affordable housing, as well as transitional and supportive housing.

Shelters are subject to the same development and management standards as other residential or commercial uses within the zone.

The following are current standards in Section 22.32.095 of the Development Code:

1. A homeless shelter shall not provide more than a maximum of 40 beds or serve more than 40 persons total.
2. The number of parking spaces required on-site for residents shall be based on 25% of the total beds and staff parking shall be the total number of beds divided by ten.
3. Shelters shall provide five square feet of interior waiting and client intake space per bed. Waiting and intake areas may be used for other purposes as needed during operations of the shelter.
4. Management. On-site management must be provided during hours of operation.
5. Proximity to other emergency shelters. Emergency shelters shall be at least 300 feet apart, but will not be required to be more than 300 feet apart.



6. Maximum length of stay. Maximum of six months.

AB 139, adopted by the State legislature in 2019, limits the standards that local jurisdictions may apply to emergency shelters. Per AB 139, cities and counties may set forth standards regulating: the maximum number of beds; the size and location of onsite waiting and intake areas; the provision of onsite management; proximity to other emergency shelters, provided that shelters are not required to be more than 300 feet apart; length of stay; lighting; and security during hours of operation. Additionally, a city or county may only require off-street parking to accommodate shelter staff, provided that these standards do not require more parking than what is required for other residential or commercial uses in the same zone. The Housing Element Development Code amendment program will review the emergency shelter provisions to ensure they are consistent with these provisions. Parking standards are part of the Municipal Code Title 24 and will need to be amended separately.

The 2019 Point-in-Time Count of the homeless population estimated that 172 unsheltered homeless are residing in the unincorporated areas. Based on the County's maximum shelter size (40 beds), a minimum of five shelters will be required to accommodate the unsheltered homeless population. Overall, 122 parcels in the unincorporated areas comprise about 98 acres of land designated for Planned Commercial (CP) and Retail Business (C1) uses. Within the CP zoning district, the average lot size is 0.80 acre. A land use analysis found that CP is the most feasible district given the adjacent uses, proximity to transit, general location, and status of available land. Specifically, the majority of the CP zoned properties are located along transportation corridors (such as Highway 101 and Tiburon Boulevard) in urbanized areas of the unincorporated county. There is realistic potential for redevelopment or reuse within the C1 and CP zones as there are both vacant and underutilized parcels. There are 20 vacant parcels (three parcels in C1 and 17 parcels in CP zone). The vacant C1 properties total 0.9 acre, ranging in size from 0.18 acre to 0.44 acre. To accommodate 172 unhoused persons, at approximately 200 square feet per person, as established in AB 2339, requires a total of 0.8 acre. The vacant land available totals approximately 4 acres, and, except for the 0.1 acre that may be too small to accommodate a shelter, all vacant properties are of reasonable size for shelter development. They are also located in areas that are suitable for residential use. Specifically, 13 of the vacant parcels are on lots adjoining existing residential areas and six are in commercial areas. In addition, six parcels in the CP zone are developed as single-family residential use that may be considered underutilized. Also adopted in 2019, AB 101 (Government Code Sections 65660 et seq.) requires counties to permit Low Barrier Navigation Centers by right in areas zoned for mixed-use and nonresidential zones that permit multi-family uses if the center meets certain requirements. AB 101 defines a Low Barrier Navigation Center as "a Housing First, low-barrier, service-

enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.” AB 101 is effective through the end of 2026, at which point its provisions may be repealed. This Housing Element includes a program to update the County’s Development Code to comply with AB 101. The County has taken several steps to implement a “housing first” approach to homelessness. Marin County has partnered with Homeward Bound of Marin and the Marin Community Foundation to transform the Mill Street Emergency Shelter in San Rafael into a Housing-Focused Shelter. This includes hiring a new housing-focused case manager to help all clients with individual housing plans. The Housing and Federal Grants Division participates as a voting member in bimonthly Homeless Policy Steering Committee (HPSC) meetings. Staff also participate in Opening Doors, an organization with a focus on solving chronic homelessness. In 2020, local match funds of \$2,395,000 were used to leverage \$9,214,948 in State Homekey 1.0 funding to acquire a former motel and commercial building to create 63 units of interim housing which will be converted to permanent supportive housing with wraparound services earmarked for individual who have recently experienced homelessness. The County is partnering with Episcopal Community Services (ECS) for Project Homekey 2.0. The potential site, located at 1251 S. Eliseo in the City of Larkspur, is a former skilled nursing facility that could create 43 to 50 new permanent homes with wraparound supportive services. The Project Homekey 2.0 funds were awarded by the State on February 10, 2022. The Marin Homeless Outreach Team (HOT) is an effort of local public and non-profit entities to assist those in greatest need to access permanent housing. HOT has two parts: case management and case conferencing. Case conferencing is a biweekly meeting of HOT partners to address system barriers preventing clients from accessing permanent housing. The Marin County website has information, resources and contact related to homeless services.

### **Housing in the Coastal Zone**

In August 2021, the County’s LCP was updated to include many new and improved policies and code provisions. The following policies were adopted as part of the LCP update to address affordable housing within the coastal zone:

Policy C-HS-1 Protection of Existing Affordable Housing.

Continue to protect and provide affordable housing opportunities for very low, low, and moderate income households. Prohibit demolition of existing deed restricted very low, low, and moderate income housing except when:

1. Demolition is necessary for health and safety reasons; or

2. Costs of rehabilitation would be prohibitively expensive and impact affordability of homes for very low, low, and moderate income households; and
3. Units to be demolished are replaced on a one-for-one basis with units of comparable rental value on site or within the immediate Coastal Zone area.

Policy C-HS-2 Density for Affordable Housing.

Allow the maximum range of density for deed-restricted housing developments that are affordable to extremely low, very low, or low income households and that have access to adequate water and sewer services.

Policy C-HS-3 Affordable Housing Requirement.

Require residential developments in the Coastal Zone consisting of two or more units to provide 20% of the total number of units to be affordable by households of very low or low income or a proportional “in-lieu” fee to increase affordable housing construction.

Policy C-HS-4 Retention of Small Lot Zoning.

Preserve small lot zoning (6,000 – 10,000 square feet) in Tomales, Point Reyes Station, and Olema for the purposes of providing housing opportunities at less expense than available in large-lot zones.

Policy C-HS-5 Second Units.

Consistent with the requirements of California Government Code Section 65852.2 and this LCP, continue to enable construction of well-designed second units in both new and existing residential neighborhoods as an important way to provide workforce and special needs housing. Ensure that adequate services and resources, such as water supply and sewage disposal, are available consistent with Policy C-PFS-1 Adequate Services.

Policy C-HS-6 Regulate Short-Term Rental of Primary or Second Units.

Regulate the use of residential housing for short term vacation rentals.

Program C-HS-6.a Vacation Rental Ordinance

1. Work with community groups to develop an ordinance regulating short-term vacation rentals.
2. Research and report to the Board of Supervisors on the feasibility of such an ordinance, options for enforcement, estimated program cost to the County, and the legal framework associated with rental properties.

Policy C-HS-7 Williamson Act Modifications to the Development Code.

Allow farm owners in a designated agricultural preserve to subdivide up to 5 acres of the preserved land for sale or lease to a nonprofit organization, a city, a county, a housing authority, or a state agency in order to facilitate the development and provision

of agricultural worker housing. Section 51230.2 of the Williamson Act requires that the parcel to be sold or leased must be contiguous to one or more parcels that allow residential uses and developed with existing residential, commercial, or industrial uses. The parcel to be sold or leased shall be subject to a deed restriction that limits the use of the parcel to agricultural laborer housing facilities for not less than 30 years. That deed restriction shall also require that parcel to be merged with the parcel from which it was subdivided when the parcel ceases to be used for agricultural laborer housing.

Policy C-HS-8 Development of Agricultural Worker Housing Units in Agricultural Zones.

Support policy changes that promote development of agricultural worker units in agricultural zones.

Program C-HS-8.a Administrative Review for Agricultural Worker Housing Units.

Establish an administrative Coastal Permit review process for applications for agricultural worker units in order to expedite the permitting process and facilitate development of legal agricultural worker units.

Policy C-HS-9 Density Bonuses.

Provide density bonuses for affordable housing in the Coastal Zone consistent with Government Code Section 65915 and Coastal Act Section 30604(f), to the extent that such increases in density are consistent with the provisions of the LCP.

## Processing and Development Permit Procedures

### Types of Planning Applications

Marin County's planning permit review process includes three categories of applications: ministerial projects, projects subject to administrative or quasi-judicial approvals, and projects that require legislative action.

#### *Ministerial Actions*

Ministerial actions are taken by planning and building and safety division staff for projects that involve the imposition of predetermined and objective criteria. Ministerial actions taken by planning staff include approvals of accessory dwelling units, daycare facilities, and homeless shelters. Ministerial actions also apply to projects that are eligible for review under SB 35 (Gov't Code Section 65913.4) and SB 9 (Gov't Code §§ 65852.21 and 66411.7) provisions.<sup>13</sup> Building and safety division staff issue building

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<sup>13</sup> SB 35 - Marin County is subject to e subject to the streamlined ministerial approval process (Chapter 366, Statutes of 2017) streamlining) for proposed developments with at least 50% affordability. The proposed development must be on an infill site and comply with existing residential and mixed use zoning. Source: [www.hccd.ca.gov](http://www.hccd.ca.gov)  
Senate Bill (SB) 9 (Chapter 162, Statutes of 2021) requires ministerial approval of a housing development with no more than two primary units in a single-family zone, the subdivision of a parcel in a single-family zone into two

permits. Ministerial actions are by far the most common type of decision made by the County and are a routine part of development throughout the State. Ministerial actions are the most cost-effective means for regulating land use and development at the County's disposal and provide developers with high levels of certainty because the standards applied are clear and objective. Ministerial permits are not subject to CEQA or to appeal.

#### *Administrative (Quasi-Judicial) Actions*

Administrative, or quasi-judicial, actions are decisions on planning permits that involve the application of preexisting laws and standards to a specific project and may be taken by planning staff, the Planning Commission, or the Board of Supervisors. Discretionary planning permits are far more common than legislative actions and are required for projects that vary considerably in their size and complexity. Permit processing requires an evaluation of an application based on substantial evidence in the record and approvals can only be issued for projects that meet predetermined findings related to the County's policies, regulations, and guidelines. Under the Housing Accountability Act, if a housing development project complies with all objective standards, it may only be denied or the density reduced if the project would cause a "specific, adverse impact," based on adopted health and safety standards, that cannot be mitigated. For certain types of applications, including use permits and tentative maps, public hearings are required by State law. Provided an application is categorically exempt from CEQA, a decision will be issued within three months of the date that a complete application is submitted. If environmental review is required for the project, a negative declaration will normally take an additional six months and an environmental impact report (EIR) will normally take an additional year. Quasi-judicial planning permits may be appealed to the Planning Commission and subsequently to the Board of Supervisors.

#### *Legislative Actions*

Legislative actions are actions that involve adoption of generally applicable laws or basic policies. These actions are made by the Board of Supervisors. Legislative actions are usually initiated to achieve long-term planning goals, and the process for their approval is commensurately complex and time consuming. Legislative actions are subject to CEQA. In Marin County, legislative actions include general plan, community plan, and code amendments and adoption of master plans. As part of the implementation of the Housing Element, the County will adopt the zoning required to permit development on designated housing sites, so that no legislative approvals should be required for housing consistent with the Housing Element.

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parcels, or both. SB 9 facilitates the creation of up to four housing units in the lot area typically used for one single-family home. SB 9 contains eligibility criteria addressing environmental site constraints (e.g., wetlands, wildfire risk, etc.) Source: [www.hcd.ca.gov](http://www.hcd.ca.gov)

### Coastal Permits

For properties within the Coastal Zone, a Coastal Development Permit is required. This discretionary permit is subject to standards certified by the California Coastal Commission in Marin County's LCP. Coastal permits are unusual in that they regulate both development and use, even when a particular use is principally permitted within a given zoning district. For this reason, very few projects are exempt from discretionary review in the Coastal Zone. Risks, costs, and delays associated with the coastal permit process are further increased because most coastal permit approvals are appealable to the California Coastal Commission, except for principally permitted uses outside of a geographic appeal jurisdiction. Affordable housing projects are not exempt from coastal permit requirements. However, LCP amendments fully certified in February 2019 establish affordable housing as a principally permitted use in coastal residential and commercial/mixed-use districts. This means a coastal permit approval for an affordable housing project in one of these districts would only be subject to appeal to the Coastal Commission if proposed within the Commission's geographic appeal area.

### **Planning Application Assistance**

The County's Planning Division provides a variety of options to help applicants through the process. These steps are highly encouraged and are outlined in the County's Planning Application Guide, which was developed in 2017 and is available on the County's website.

#### *Property Information Packet*

A Property Information Packet (PIP) is a summary of a property's permit history. The PIP provides an applicant with copies of all final decisions and exhibits for planning applications that have been submitted for the property in the past. Also included is some basic planning information and an aerial photo of the site.

#### *Planning Consultation*

A Planning Consultation application covers two hours of time spent by a planner to answer questions. They are useful for a number of different purposes, including general questions about the planning process or particular policies. The most common reason people apply for consultations is to get an early idea of what planning considerations may affect their project. In these types of consultations, a planner will identify the policy and regulatory documents that will apply to the project, check County maps for background information, and meet with an applicant to go over the project. The planner will let the applicant know what planning documents to review, indicate whether environmental review is likely, and suggest what the path of least resistance may be for the applicant to consider.

Another common reason people request a consultation is because they have obtained a planning permit for development but want to make changes to the design during building permit review. A consultation is an opportunity for applicants to ask a planner whether the changes they want to make would substantially conform to the approved planning permit.

### *Preapplication*

Pre-applications are much more in depth than consultations and are typically reserved for larger-scale projects. While the services provided are to some degree up to the applicant, a Preapplication review would usually include transmitting a proposal to other departments and organizations and collecting their comments, as well as a report on what staff has found in their research. Typically, the report will focus on policies and regulations that may affect the project, application and submittal requirements, and environmental review. This service is useful because it provides direct written feedback to a specific project, and general information about the regulatory process and development standards applicable to the property.

### *Presubmittal Plan Review*

A Presubmittal Plan Review entails a cursory review of the plans for a project before an official planning application is submitted. A planner reviews the application materials to determine if they meet the basic submittal requirements.

## **Design Review**

Design Review applies to all 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. Design Review is a discretionary administrative process, and the Agency Director, or designee, makes a discretionary decision, which is appealable to the Planning Commission, whose discussion in turn is appealable to the Board of Supervisors. The Marin County Code, however, also allows the Agency Director to refer an appeal directly to the Board of Supervisors if necessary to comply with State or Federal law or otherwise consistent with applicable development standards. The findings to approve a project are subjective and require interpretation.

### *Review Process*

**Completeness Review:** The first step in the formal application process is reviewing the application materials submitted to determine if the submission is adequate to fully review the project. This process is governed by the Permit Streamlining Act (PSA). If the application is not complete, the applicant is informed within 30 days of submittal those items of information that are still necessary. The applicant is given 30 days to resubmit, but may be granted extension upon request to gather all the necessary information.

The completeness review sometimes involves the planner transmitting the project materials to a number of agencies and organizations that have purview over or an interest in development. These usually include: (1) the Department of Public Works; (2) the local fire department; (3) the local water district (or the Environmental Health Services Division, if the property is on well water); (4) the local sanitary district (or the Environmental Health Services Division, if the property is on septic); and, (5) design review boards, if located in an area where a Design Review Board reviews development projects (see more on this below). In some rare instances, a planner may also transmit a project to State agencies, such as the California Coastal Commission, the Department of Fish and Wildlife, or federal agencies such as the Army Corps of Engineers.

**Design Review Boards:** Design Review Boards are citizen advisory committees and act as liaisons to the Board of Supervisors, the Planning Commission, the Planning Division, and the local community. They are made up of volunteers from the local community who are appointed by the Board of Supervisors. They hold public meetings where applicants for development projects are invited to present their proposals. While Design Review Boards do not issue decisions on projects, they do make recommendations to the County on each proposal they review. There are three design review boards:

- Kentfield Planning Advisory Board: The Kentfield Planning Advisory Board reviews projects within the area of Kentfield and Greenbrae covered by the Kentfield/Greenbrae Community Plan, with the exception of the Kent Woodlands neighborhood.
- Strawberry Design Review Board: The Strawberry Design Review Board reviews projects in the area covered by the Strawberry Community Plan, in the Strawberry area of Mill Valley.
- Tamalpais Design Review Board: The Tamalpais Design Review Board reviews projects in the area covered by the Tamalpais Valley Community Plan, in the Tamalpais area of Mill Valley.

Projects outside of these geographical areas are not subject to a publicly held design review hearing, unless an action of the Agency is appealed to the Planning Commission.

**Coastal Zones:** All development projects are subject to a Coastal Development Permit and a Design Review is often required. There are two types of Coastal Permit. Administrative Coastal Permits typically involve additions, minor developments etc. A decision to approve or deny is made by Agency Director or designee. A Coastal Development Permit is subject to a public hearing and decision is entered by a Deputy Zoning Administrator. A Coastal Development Permit is a discretionary application and is processed in accordance with the description above.



Decisions made by the Director or Zoning Administrator may be appealed to the Planning Commission, and decisions 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. In all instances where a public review process is required, the County insures no more than five public hearings are held, including appeals.

**Environmental Review:** Once a project is deemed complete, a determination can be made regarding whether the project is categorically exempt from the California Environmental Quality Act (CEQA). Within three business days of determining that an application is complete, the planner will prepare a categorical exemption form and provide it to the environmental planning manager for signature. On the day the appeal period ends, the signed categorical exemption form to the administrative support staff for recording.

In more than 99 percent of cases, a project is categorically exempt, but there are rare instances when an environmental review needs to be conducted. There are essentially two kinds of environmental review: (1) an initial study leading to a Negative Declaration of Environmental Impact; or (2) an Environmental Impact Report (EIR). According to the CEQA Guidelines, an initial study/negative declaration should take no longer than six months to prepare and an EIR should take no longer than a year to prepare.

**Merits Review and Decision:** After a project is deemed complete and any necessary environmental review has been completed, the review of the merits of an application begins. Public notice, describing the project, is sent out to the surrounding area inviting comments before a decision is made. Most planning permits for development, such as Design Review, are decisions issued “administratively,” which means that planning staff issue the decision without a public hearing. Other types of permits, including most Coastal Permits, require a public hearing before a Deputy Zoning Administrator. According to the Permit Streamlining Act, a decision on an application that is categorically exempt from CEQA must be rendered within 60 days of the date on which it is deemed complete. When a project is approved, the approval will contain certain “conditions of approval,” or stipulations for measures that must be implemented for the development to proceed. Many conditions of approval are standardized across all discretionary projects. All decisions on discretionary projects can be appealed to the Planning Commission and subsequently the Board of Supervisors for a hearing to reconsider the action taken by the lower decision-making body. Appeals tend to add a considerable amount of time and expense to the review of an application.

**Findings for approval:** All projects subject to Design Review application must comply with two sets of findings: First, the uniform development standards such as site planning minimum setback requirements, floor area ratio, maximum site coverage, height limits, building location on the site and other development standards. Second, projects subject

to Design Review must also comply with findings related to community character, such as architectural design, massing, materials, and scale that are compatible with the site surroundings and the community, must protect access to sunlight, views, vista points etc. These findings are subjective and require interpretation of by staff based on subjective findings and undefined design guidelines.

**Overall Review Timeline and impacts on housing development projects.** The minimum public hearings and review timelines are affected by location (coastal and non-coastal), as well as whether a project is subject to a design review board, and whether a project is subject to a community/specific plan.

Currently, Marin relies on subjective design standards codified within the County's Development Code and Design Guidelines, various Community Plans, and its discretionary review processes when considering residential or mixed-use development projects. Administered through staff, Planning Commission, or appointed advisory design review boards, the various community plan and design guidelines interpretation and create uncertainty as project modifications are often required throughout the review process. Additionally, design guidelines are difficult to apply consistently. They offer too much room for subjective interpretation and difficult to enforce. Design Guidelines require oversight by discretionary review bodies, leading to a protracted and politicized planning process that can cost time and money.

As stated above, the Marin County Development Code will be amended on or before the adoption of the Housing Element to establish a new Form Based Code (FBC) residential zoning district. The FBC zoning district would establish objective and precise design standards that offer predictability. Typically, developers borrow money to pursue pre-construction work. For developers, time is money. The biggest incentive that the County can offer is not money, but clear and predictable development standards. Most developers are willing to build to higher standards if the rules are clear and the process is predictable. By offering predictable environment the FBC can reduce risks to developers and offer streamlined process to staff.

### **Master Plan**

The Master Plan review process 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. The master plan process is intended to:

- Align with California State Law governing common interest developments;
- Allow for phased developments;
- Establish site specific development criteria;

- Promote clustering of structures to preserve open land areas and avoid environmentally sensitive areas; and
- Protect natural resources, scenic quality, and environmentally sensitive areas.

Affordable housing projects are exempt from the Master Plan requirements.

All Master Plan Reviews require an application and public hearing before the Planning Commission, the Board of Supervisors and, if applicable, by a design review board following the process outlined below:

- Design Review Board: The Design Review Boards hold public hearing for projects located in one of the three geographical areas of the unincorporated Marin County. While Design Review Boards do not issue decisions on master plan projects, they make recommendations to the County staff and planning commission.
- Planning Commission: For Master Plan applications, the Planning Commission holds hearings and makes recommendations to the Board of Supervisors.
- Board of Supervisors: The Board of Supervisors is legislative body that exercises final authority on all master plan applications.

### **Timing for Permit Processing**

Time requirements for review of the merits of a project are contingent on project complexity and environmental impacts. If a house design meets County standards and Uniform Building Code requirements in a conventionally zoned agricultural or urban zoning district, a building permit can be granted without further review. Figure H-3.1 below shows the typical timeline for a discretionary review application that is not subject to CEQA analysis. These include some design reviews, site plan reviews, variance, etc. Once a complete application is submitted, the County will issue a decision within three months. Projects that include more complex applications, such as a rezoning, or require CEQA analysis will have a longer review period.

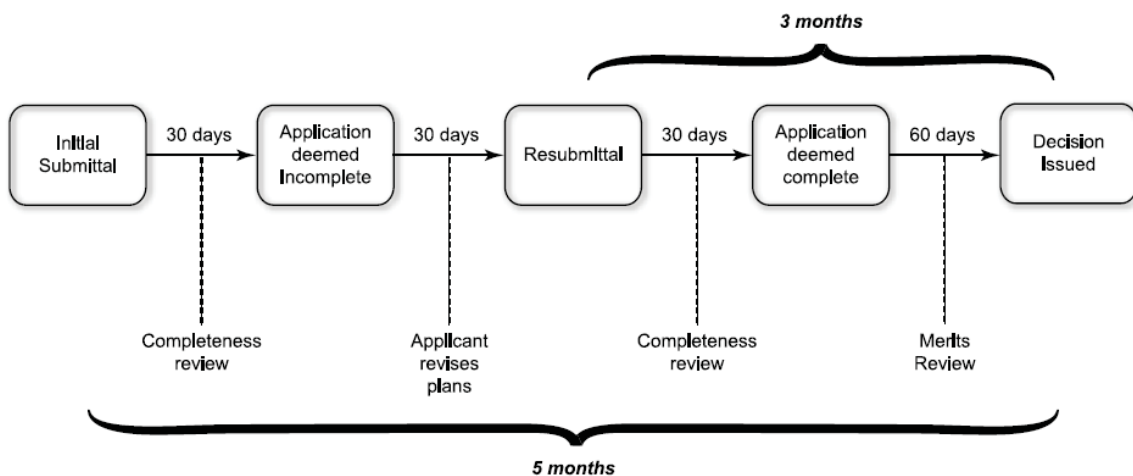
The County recognizes that a streamlined development review process could moderate the cost of development. Several housing programs in this Housing Element demonstrate the County's commitment to streamlining development review. These include:

- Program 2: By Right Approval
- Program 5: SB 9 Mapping Tool
- Program 8: Development Code Amendments
- Program 10: Objective Standards for Off-Site Improvements

- Program 13: Reasonable Accommodation

These programs help streamline the review process for various types of projects. Furthermore, the County offers planning consultation and pre-application conference prior to submitting the Master Plan Review application. County staff will discuss the review procedures, application requirements, application deadlines, and the County’s goals, policies, and development standards as they relate to the proposed project.

**Figure H-3.1: Typical Discretionary Review Timeline in Marin County (No CEQA Review)**



Source: County of Marin Planning Application Guide, Prepared September 2017.

*Permit Processing for Affordable Housing*

In conjunction with its analysis and preparation of streamlined review procedures pursuant to SB 35, staff initiated an exploration of potential procedures to expedite review for affordable housing projects. The new Objective Design and Development Standards (described earlier in this Constraints section), was developed in collaboration with cities and towns to streamline the development of housing, including affordable housing.

AB 1397 requires that housing to be developed on reuse or rezone sites be provided ministerial review if the project includes 20% lower income units. This is part of the Housing Element’s adequate sites program (please see Chapter 5).

### *Streamlining Building Permit Review*

to make the zoning compliance process as efficient as possible, the County's 2021 Development Code amendments included changes to the building permit review. These changes included:

1. Community Plan policies and discretionary standards would no longer modify the Design Review exemptions.
2. Recent work under separate building permits would no longer prevent Design Review exemptions from applying to new work.
3. Second story porches would be exempt from Design Review as long as they meet certain setbacks.
4. The installation of power generators would be exempt from Design Review as long as they meet 10-foot side and rear yard setbacks (or the setbacks required in the governing conventional zoning districts).

## **Fees and Exactions**

### **Planning Fees**

The County collects various fees from development to cover the costs of processing permits, including planning review, environmental review, engineering, and plan review and building permits, among others. Table III-21 shows the 2021 Planning Fee Schedule, available on the County's website. Most jurisdictions, the County of Marin among them, establish fees designed to cover the costs of staff time charged on an hourly basis and materials, consistent with California law. The fees noted in the fee schedule are minimum fees to be paid at the time of application filing to cover the average County cost of review. Should actual costs exceed the amount of any fee, the applicant is billed for additional costs and if the initial fees submitted exceed the cost of reviewing the application, then the fees remaining are refunded to the applicant.

**Table H-3.21: Planning Fees**

| Permit Type                            | Fee Amount (Deposit) |
|--|----------------------|
| Accessory Dwelling Unit                | \$500                |
| Coastal                                |                      |
| Regular                                | \$5,804              |
| Minor/Amendment                        | \$3,482              |
| Exclusion                              | \$164                |
| Design Review                          |                      |
| Residential – Regular                  | \$4,643              |
| Residential – Minor                    | \$1,741              |
| Environmental Review                   |                      |
| Initial Study                          | \$17,411             |
| Environmental Review Contract Overhead | 30%                  |
| Master Plans                           |                      |
| Regular                                | \$23,214             |
| Minor/Amendment                        | \$11,607             |
| Plan Amendment                         | \$35,861             |
| Property Modification                  |                      |
| Lot Line Adjustment                    | \$2,321              |
| Merger                                 | \$361                |
| Tentative Map – Major                  | \$23,214             |
| Tentative Map – Minor                  | \$11,607             |
| Rezoning                               | \$23,214             |
| Site Plan Review                       | \$2,086              |
| Use                                    |                      |
| Master Use Permit                      | \$8,125              |
| Major                                  | \$8,125              |
| Regular/CUP Amendments                 | \$4,643              |
| Variance                               |                      |
| Regular                                | \$4,643              |
| Minor Amendment                        | \$2,086              |

Source: Marin County Community Development Agency, 2019 Fee Schedule

*Affordable Housing Impact Fees*

Several fees are included as are part of the County’s Affordable Housing Program. The County adjusts its Affordable Housing Impact, In-Lieu Housing, and Rental Housing Impact fees annually based on the higher of either the Consumer Price Index (CPI) or Shelter for the Construction Cost Index (CCI) published by the Engineering-News Record. The County’s Jobs/Housing Linkage Fees for Residential Care Facilities and Skilled Nursing Facilities are likewise updated. During calendar year 2020, the Marin Housing Trust fund collected \$507,041 in impact, inclusionary, and jobs/housing linkage fees.

Affordable Housing Impact Fee

Because the majority of homes constructed in Marin County consist of custom-built, high-end units, most residential development is not subject to the Inclusionary Housing requirement. The County found it appropriate to establish a fee on single-family home development to address the shortage of low income homes in the community. A nexus study was conducted in 2008 to determine the appropriate amount for an affordable housing impact fee to be charged on new single-family home development that would mitigate the impact of an increase in demand for affordable housing due to employment growth associated with the new single-family development.

The Affordable Housing Impact Fee, adopted in October 2008, applies to all new single-family homes greater than 2,000 square feet. Teardowns and major remodels that would result in over 500 square feet of new space and a floor area of greater than 2,000 square feet are also subject to the Affordable Housing Impact Fee. The fee is either waived or reduced when a second unit is included as part of the proposed project. Fees are assessed as shown in [Table H-3.22](#) below.

**Table H-3.22: Affordable Housing Impact Fee**

| Example Home Size | Fee Per Square Foot | Housing Impact Fee (\$5 and \$10 per sq ft) | If proposed project includes second unit or agricultural worker unit |
|-------------------|---------------------|---|--|
| < 2,000           | \$0                 | \$0   | \$0  |
| 2,500             | \$6.95              | \$2,500                                     | \$0  |
| > 3,000           | \$10                | \$10,000                                    | \$5,000  |
| 3,500             | \$14.74             | \$15,000                                    | \$7,500  |
| 4,000             | \$10                | \$20,000                                    | \$10,000   |

Source: Marin County Ordinance No. 3500, adopted 10/14/2008

### In-Lieu Housing Fee

An in-lieu housing fee is required for the portion of subdivisions or multi-family development that results in a fractional share of less than 0.5 of a unit. This fee is paid at the time the subdivision map is recorded or at the time a building permit is issued (if the project consists of the construction of multiple-family units). The County adjusts its in-lieu housing fee annually based on the higher of either CPI for CCI published by the Engineering-News Record.

### Jobs/Housing Linkage Fee

Per Section 22.22.100 of the County Development Code, development with no residential component must pay a jobs/housing linkage fee. This fee is based on the development type and floor areas of the development and is collected at the time a Building Permit is issued. Alternatively, an applicant for a non-residential development may propose to provide the number of new affordable units required by the Development Code.

### **Permit Fees – Outside Agencies**

Unincorporated Marin County 's water and sanitary disposal needs are serviced by 20 separate water, sanitation, community service, and public utility districts. Upon adoption of the 6th Cycle Housing Element, the Community Development Agency will inform all districts of the Housing Element update through written correspondence. Per Government Code Section 65589.7, the letter will detail:

- The need to accommodate new residential units per the Regional Housing Needs Allocation at the prescribed income levels.
- The requirement that water and sewer providers must grant priority for service allocations to proposed developments that include housing units affordable to lower- income households.

Upon adoption, the Community Development Agency will provide a copy of the Housing Element to water and sewer providers.

Fees from outside agencies constitute a significant share of the total fees charged to a project. While the County does not control outside agency fee schedules, a program is included to work with these agencies to encourage fee waivers for affordable and special needs housing.



*Water Connection and Impact Fees*

Water fees are determined by each water district. Unincorporated Marin County is served primarily by two districts: North Marin Water District and Marin Municipal Water District. This fee analysis continues using the two previously described housing scenarios of a 2,400-square-foot house and a 10-unit condo development.

below summarizes typical water fees for new residential developments. It includes installation fee, connection fee, meter charge, and any other initial fees required prior to the commencement of service. Monthly service fees and any other ongoing charges are not included.

Recognizing that water connection fees may serve as a constraint to affordable housing development, the Marin Municipal Water District (MMWD) offers a 50% fee reduction for qualified affordable housing projects (affordable to low and moderate income households for at least 30 years, with at least 50% of the project affordable to low income households), as well as to second units deed-restricted to rents affordable to lower income households for a minimum of 10 years.

**Table H-3.23: Average Water Fees**

| Service Area   | Water District                 | Single-family Home | 10-Unit Condo Development          |
|----------------|--------------------------------|--------------------|------------------------------------|
| Belvedere      | Marin Municipal Water District | \$23,040           | \$16,000 plus<br>\$7,720 per meter |
| Corte Madera   |                                |                    |                                    |
| Fairfax        |                                |                    |                                    |
| Larkspur       |                                |                    |                                    |
| Mill Valley    |                                |                    |                                    |
| Ross/Kentfield |                                |                    |                                    |
| Tiburon        |                                |                    |                                    |
| San Anselmo    |                                |                    |                                    |
| San Rafael     |                                |                    |                                    |
| Novato         | North Marin Water District*    | \$28,600           | \$172,000<br>(\$17,200 per unit)   |

Source: Marin Municipal Water District and North Marin Water District, 2022

\*Facilities reserve charges

### Sewer Connection and Impact Fees

Unincorporated Marin is served by approximately 16 sanitary districts. Each sanitary district categorizes and calculates sewer fees using a different method. A new residential development may be subject to fees for permits, inspections, connection, and impact. Terminology between districts is not standardized. The average fees provided in summarize typical sewer fees for new residential developments. The tables include installation fees, connection fees, inspection fees, and any other initial fees charged prior to the commencement of service. Monthly service fees and any other ongoing charges are not included. Despite the number of sanitary districts and charging methods, sewer fee levels are remarkably consistent across the surveyed jurisdictions.

**Table H-3.24: Average Sanitary Fees**

| Sanitary District                          | Single-Family | Small Multi-Unit<br>(2-4 units), per<br>project | Large Multi-Unit<br>(5+ units), per project |
|--|---------------|---|---|
| Almonte                                    | \$4,000       | \$4,000   | \$4,000                                     |
| Alto                                       | \$7,414       | \$9,268+  | \$16,684+                                   |
| District #1 (Ross Valley)                  | \$15,773.16+  | \$30,738.32+                                    | \$75,753.80+                                |
| District #2 (Corte Madera)                 | \$9,281       | \$11,884.42+                                    | \$21,493.42+                                |
| District #5 (Tiburon/Belvedere)            | ~\$6,500      | ~\$13,000+                                      | ~\$32,500+                                  |
| Homestead Valley                           | \$4,000       | \$4,000+  | \$4,000+                                    |
| Las Gallinas Valley                        | \$7,166       | \$13,832+                                       | \$33,830+                                   |
| Novato                                     | \$12,990      | \$12,990  | \$12,990                                    |
| San Rafael                                 | \$10,482.42   | \$20,964.84+                                    | \$52,412.10+                                |
| Tamalpais CSD                              | \$17,231      | \$22,796+                                       | \$48,213+                                   |
| Tomales Village CSD                        | \$10,000      | \$10,000  | \$10,000                                    |
| Richardson Bay                             | \$12,990.00   | \$12,990.00                                     | \$12,990.00                                 |
| Sausalito/Marin City                       | \$6,130       | \$6,130   | \$6,130                                     |
| Bolinas Community Public Utility District* | N/A           | N/A   | N/A   |

Source: Survey of Marin County sanitary districts, 2022

\*Since 1985, BCPUD has a moratorium on new connections to their sewer system.

**Estimated Total Fees**

Table H-3.25 illustrates the cost of two development scenarios incurred from fees assessed by Marin County and other impact fees. The first scenario is a 2,400-square-foot, three-bedroom, single-family home on a 10,000-square-foot lot with a 400-square-foot garage at a density of four units per acre. The second scenario is a multi-family condominium development with 10 1,200-square-foot, two-bedroom units on 0.5-acre site. Line item fees related to processing, inspections, and installation services are limited by California law to the cost to the agencies of performing these services.

It should be noted that there are different types of design review applications. Assuming regular residential design review, the current fee is \$4,643. For Scenario B, County fees account for \$18,304.30 per unit, or about 1.8% of the sales price. Fees charged by outside agencies vary by location. In general, fees from other agencies (water, sewer, etc.) can add another \$21,862 to the cost of development for Scenario B. Total fees account for about 4% of the sales price.

Overall, on a per-unit basis, the planning and development fees do not unduly constrain multi-family housing development, when compared to single-family development.

**Table H-3.25: Estimated Permit and Impact Fees Assessed**

| Permit Type / Impact Fee      | Scenario A:<br>Single-family house, 2400 sq ft, 3 bedrooms.<br>10,000 sq ft lot, 4 units/acre.<br>Construction \$8500,000/unit. Sale \$1,500,000/unit. | Scenario B:<br>10-unit condo development, 1,200 sq ft, 2 bedrooms.<br>0.5 acre lot, 20 units/acre.<br>Construction \$700,000/unit. Sale \$1,000,000/unit. |
|-------------------------------|--|---|
| <u>County Fees</u>            |  |   |
| Design Review                 |  |   |
| Building Permit               | \$6,100  | \$7,052.75  |
| Plan Review                   | \$16,204.53  | \$18,734.24   |
| Title 24 Energy Fee           | Included   | Included  |
| BSC "Green" Tax               | \$60   | \$600.00  |
| Seismic Tax                   | \$195  | \$1,950   |
| Affordable Housing Impact Fee | \$16,680   | \$0   |
| Technology Fee                | \$1,262.69   | \$1,459.81  |
| Engineering Plan Check        | Included   | Included  |

| Permit Type / Impact Fee                                   | Scenario A:<br>Single-family house, 2400 sq ft, 3 bedrooms.<br>10,000 sq ft lot, 4 units/acre.<br>Construction \$8500,000/unit. Sale \$1,500,000/unit. | Scenario B:<br>10-unit condo development, 1,200 sq ft, 2 bedrooms.<br>0.5 acre lot, 20 units/acre.<br>Construction \$700,000/unit. Sale \$1,000,000/unit. |
|--|--|---|
| Planning Zoning Review                                     | \$2,020.00   | \$2,020.00  |
| Plumbing/Gas Permit  | Included   | Included  |
| Electrical Permit  | Included   | Included  |
| Mechanical Permit  | Included   | Included  |
| General Plan Surcharge                                     | \$2,104.48   | \$2,433.02  |
| Other  | \$4,840.31   | \$5,595.94  |
| Roads  | \$15,000   | \$150,000   |
| In-Lieu Park Dedication Fee <sup>1</sup>                   | See note   | See note  |
| <b><u>Total County Fees</u></b>                            | <b><u>\$41,887.01</u></b>  | <b><u>\$183,043.01</u></b><br><b><u>(\$18,304.30 per unit)</u></b>  |
| <b><u>Impact Fee by Outside Agencies</u></b>               |  |   |
| <b><u>School Impact Fee<sup>2</sup></u></b>                | <b><u>\$8,352</u></b>  | <b><u>\$4,176</u></b>   |
| <b><u>Marin Municipal Water District<sup>3</sup></u></b>   | <b><u>\$7,380</u></b>  | <b><u>\$7,380</u></b>   |
| <b><u>San Rafael Sanitation District</u></b>               | <b><u>\$10,306</u></b>   | <b><u>\$10,306</u></b>  |
| <b><u>Estimated Total Fees (with Outside Agencies)</u></b> | <b><u>\$67,925.01</u></b>  | <b><u>\$40,166.30</u></b>   |

*Source: Marin County Community Development Agency, 2022*

- 1. The in-lieu park dedication fee applies to subdivisions and is calculated by multiplying the number of dwelling units by the number of acres of parkland required per dwelling unit multiplied by the fair market value per buildable acre by 1.20. This fee is paid at the time a Parcel or Final Map is recorded. Please refer to Section 22.98.040 of the Marin County Development Code\* for more information.*
- 2. Per square foot school impact fees range from \$2.29 for Lagunitas School District to \$4.79 for Mill Valley School District. However, most school districts set the fee at \$3.48. This analysis uses this typical fee for calculation.*
- 3. Ranges from \$7,040 to \$7,720 depending on meter size. An average fee of \$7,380 is used.*

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## Building Code and Enforcement

Marin County adopts the California Building Standards Code (Title 24, CCR) that establishes minimum standards for building construction. The County has amended two specific provisions contained in the State codes which can impose additional costs on residential development: 1) fire sprinklers are required in any residential addition or substantial remodel that exceeds 50% of the area of the original structure, and 2) Class A roofing is required because of potential fire hazard. The standards may add material and labor costs but are felt to be necessary minimum standards for the health and safety of firefighters, those occupying the structures, and the general public.

In February 2020, the Board of Supervisors adopted an ordinance updating building permit fees. These fees had only increased once since 2009. The fee increases were needed to provide the necessary revenue to support ongoing Building Division services including permit issuance and inspections.

The County also enforces local provisions related to energy conservation and green building. While these requirements have been strengthened over time resulting in increased construction costs, greater energy efficiency results in lower operating costs for the resident and lower greenhouse gas production resulting from the construction process. For additional information on the County's energy efficiency efforts, refer to Section IV: Sites Inventory and Analysis.

The County's code enforcement program is complaint driven. The County has four staff dedicated to building and zoning code enforcement while additional staff is dedicated to septic system monitoring and enforcement. Most complaints are resolved voluntarily through corrective action by the property owner, although some require additional actions through hearings and assessment of fines. In instances where work is done without building permits, additional fees and penalties are assessed and the work must meet minimum code standards.

Code enforcement staff have been trained on available resources and make referrals when appropriate. For example, they make referrals to Marin Housing Authority for the rehabilitation loan program, to the Marin Center for Independent Living for accessibility rehabilitation needs, and to the Department of Health and Human Services for support services. The County has adopted policy consistent with Health and Safety Code Section 17980(b)(2), and code enforcement staff use these guidelines in their enforcement activities.

## On/Off-Site Improvement Standards and Exactions

Administered by the Department of Public Works and the Community Development Agency, standards for on- and off-site improvements are detailed in the County Code.

Requirements are generally set for street improvements, driveways, landscaping, easements, drainage, parkland dedication and fees, sewage disposal, and water supply.

Overall, the purpose of on- and off-site requirements is to ensure the health and safety of residents. While required on- and off-site improvements may add to the cost of housing on affected properties, it is not evidenced that these requirements and associated costs represent a higher standard than other jurisdictions in the County and beyond. For example, the required width of public utility easements is no less than 10 feet for the unincorporated County, San Rafael, and Novato. Parkland dedications and fees are calculated in an identical fashion to San Rafael and Novato. Additionally, street and driveway widths and grades in the County's Development Code are on par with the requirements set forth in Novato's and San Rafael's codes. On- and off-site improvement requirements do not constitute extraneous requirements, with the exception perhaps of landscaping and parkland dedication requirements.

Technically, all developments are subject to off-site improvements that could include curbs, gutters, sidewalks, street pavement, driveways, parking areas, retaining walls, storm drainage facilities, and related improvements, and dedication of such additional rights-of-way as are necessary. However, developments are not automatically required to provide off-site improvements but are evaluated on a case-by-case basis depending on project location and size, and existing facilities available. The off-site improvement standards required by unincorporated Marin County are typical for most suburban communities and do not pose unusual constraints for housing development.

Several of the parcels zoned for multi-family housing in the sites inventory are considered infill sites, and as such, are not required to complete major infrastructure improvements. Based upon recent proposals submitted by the development community for a variety of housing sites throughout unincorporated Marin County, it is apparent that the off-site improvements required for housing development is not a constraint on housing development.

On-site improvement standards, in most cases, do not pose unusual constraints for housing development. However, some housing sites require infrastructure connections or improvements including for example, onsite wastewater systems, that can increase the cost of development beyond typical suburban development. County staff have recognized this constraint and there are several programs in progress or in place to help facilitate the development of wastewater improvements.

## Incentives for Affordable Housing – Providing Incentives and Removing Barriers

Amendments to the Marin County Development Code in 2008 and 2012 clarified incentives for affordable housing development. Chapter 22.24 clearly outlines a range of incentives, such as density bonuses, technical assistance, site development alternative standards, and fee waivers to encourage and facilitate the development of affordable homes. Many of these incentives and programs were described earlier in this Constraints section.

Incentives for inclusionary and 100% affordable housing include:

- 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.
- County density bonus. An increase in density of up to 10% of the number of dwelling units normally allowed by the applicable zoning district in a proposed residential development or subdivision.
- Interior design. The applicant may have the option of reducing the interior amenity level and the square footage of inclusionary units 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.
- Unit types. In a residential project that contains single-family detached homes, inclusionary units may be attached living units rather than detached homes or may be constructed on smaller lots.
- On-site inclusionary housing for commercial and industrial development. As an inducement to include on-site inclusionary housing in a commercial or industrial development, the County may grant a reduction in the Development Code's site development standards or in architectural design requirements that 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, setbacks, coverage, and parking requirements.
- 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 income-restricted units that are affordable to very low, low, or moderate income persons, subject to any limitations in the Countywide Plan.

- Impacted roadways. In areas restricted to the low end of the density range due to vehicle Level of Service standards, affordable housing developments may be considered for densities higher than the low-end standard in the Countywide Plan.
- Fee waivers. The County may waive any County fees applicable to the affordable or income-restricted 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 developments that are affordable to very low or low income persons, the Director may waive fees or transfer In-Lieu Housing Trust funds to pay for up to 100% of Community Development Agency fees.
- 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.
- Technical assistance. To emphasize the importance of securing affordable housing as a part of the County's affordable housing program, the County may provide assistance to applicants in qualifying for financial subsidy programs.
- Priority processing. The County shall priority process projects developed pursuant to Housing Overlay Designation policies and affordable housing developments that are affordable to very low or low income persons.

The Community Development Agency has also increasingly taken the opportunity to connect applicants for affordable housing projects and community groups in the pre-application process by noticing, facilitating, or funding community engagement and visioning exercises.

### **Housing for People with Disabilities**

As noted in the Special Needs section of the Housing Needs Assessment, persons with disabilities have specific housing needs related to affordability, accessibility, access to transportation and services, and alternative living arrangements (such as Single Room Occupancy units and housing that includes supportive services). The County ensures that new housing developments comply with California building standards (Title 24 of the California Code of Regulations) and Federal requirements for accessibility.



## Reasonable Accommodation

A series of Federal and State laws have been enacted to prohibit policies that act as a barrier to individuals with disabilities who are seeking housing. Among such laws are the Federal Fair Housing Amendments Act of 1988, California's Fair Employment and Housing Act, the Lanterman Developmental Disabilities Services Act (§5115 and §5116) of the California Welfare and Institutions Code, California's AB 686 to Affirmatively Further Fair Housing, and additional components of Housing Element law. Additionally, the U.S. Department of Housing and Urban Development (HUD) requires that localities utilizing Community Planning and Development funds such as CDBG and HOME funds administer programs in a manner that affirmatively further fair housing. Taken together, these pieces of legislation require jurisdictions to take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities.

### *Procedures for Ensuring Reasonable Accommodations*

Ordinance 3668 establishes a procedure for making requests for reasonable accommodation in land use, zoning and building regulations, and practices and procedures of the County of Marin to comply fully with the intent and purpose of fair housing laws. Requests for reasonable accommodation shall be reviewed by the Director of the Community Development Agency and a written decision shall be issued within 30 business days of the date of the application being deemed complete and may grant, grant with modifications, or deny a request using the following criteria:

1. Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws;
2. Whether the requested accommodation is necessary to make use or enjoyment of housing available to an individual with disabilities protected under fair housing laws;
3. Whether the requested accommodation would impose an undue financial or administrative burden on the County;
4. Whether the requested accommodation would require a fundamental alteration in the nature of the County's land use and zoning or building program; and
5. Whether there is an alternative accommodation which may provide an equivalent level of benefit to the Applicant.

### *Efforts to Remove Regulatory Constraints for Persons with Disabilities*

The State has removed any local discretion for review of small group homes for persons with disabilities (six or fewer clients plus the owner's household) which must be treated like one family or household occupying a dwelling unit. The County does not impose additional zoning, building code, or permitting procedures other than those allowed by

State law. There are no County initiated constraints on housing for persons with disabilities caused or controlled by the County. The County also allows residential retrofitting to increase the suitability of homes for persons with disabilities in compliance with accessibility requirements through reasonable accommodation requests. Further, the County works with applicants who need special accommodations in their homes to ensure that application of building code requirements does not create a constraint. Please see Ordinance 3668 provisions above.

County Housing and Federal Grants Division staff actively refer tenants in need of assistance making reasonable accommodation requests in the private housing market to the Marin Center for Independent Living (MCIL) and Fair Housing Advocates of Northern California (FHANC). Both organizations were supported in their work by CDBG funding. MCIL received funding to its home modification program for homes occupied by low income individuals with disabilities. FHANC received funding to support its fair housing monitoring and assistance.

#### *Zoning and Other Land Use Regulations*

The County has not identified any zoning or other land-use regulatory practices that could discriminate against persons with disabilities and impede the availability of housing for these individuals. Examples of the ways in which the County facilitates housing for persons with disabilities through its regulatory and permitting processes include:

- The County permits group homes of all sizes in all residential districts. All of the County's commercial zones also allow group homes. The County has no authority to approve or deny group homes of six or fewer people, except for compliance with building code requirements, which are also governed by the State.
- The County does not restrict occupancy of unrelated individuals in group homes and does not define family or enforce a definition in its zoning ordinances.
- The County permits housing for special needs groups, including for individuals with disabilities, without regard to distances between such uses or the number of uses in any part of the County. The Land Use Element of the General Plan does not restrict the siting of special needs housing.

#### Permitting Procedures

The County does not impose special permit procedures or requirements that could impede the retrofitting of homes for accessibility. Requirements for building permits and inspections are the same as for other residential projects. Staff is not aware of any instances in which an applicant experienced delays or rejection of a retrofitting proposal for accessibility to persons with disabilities. As discussed above, County Code allows group homes of six or fewer persons by right, as required by State law. No use permit or

other special permitting requirements apply to such homes. The County does require a use permit for group homes of more than six persons in all residential and commercial zones that allow for residential uses. The County does not impose special occupancy permit requirements or business licenses for the establishment or retrofitting of structures for residential use by persons with disabilities. If structural improvements are necessary for an existing group home, a building permit would be required. If a new structure were proposed for a group home use, design review would be required as for other new residential structures. The permit process has not been used to deny or substantially modify a housing project for persons with disabilities to the point where the project became no longer feasible.

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