

- C. **ARP (Agricultural, Residential Planned) District.** The ARP zoning district identifies agricultural areas suitable for residential development, with varied housing types designed without the confines of specific yard, height, or lot area requirements, where the amenities resulting from this flexibility in design will benefit the public or other properties in the community. The ARP zoning district is consistent with the Agriculture land use categories and the Agriculture and Conservation 3 land use category of the Marin Countywide Plan.

The designation of an ARP zoning district shall include a numerical suffix on the zoning map, which shall indicate the maximum residential density in acres. Please refer to Section 22.08.040 (Agricultural District Development Standards) to understand the maximum density for each zoning district.

22.08.030 – Agricultural District Land Uses and Permit Requirements

- A. The uses of land allowed by this Chapter in each agricultural zoning district are identified in Table 2-1 (Allowed Uses and Permit Requirements for Agricultural and Resource-Related Districts) as being:
1. Allowed as a principally permitted use with no Use Permit required. Principally permitted uses are shown as "P" uses in the tables;
 2. Allowable as a conditional use, subject to approval of a Conditional Use Permit (Chapter 22.48) or; Master Use Permit (Chapter 22.49), ~~or Temporary Use Permit Chapter (22.50);~~ as applicable. Conditionally permitted uses are shown as "U" uses in the tables, and "U/P" means that the use may be either principally permitted or conditionally permitted depending on the specific criteria set forth in Chapter 22.32;
 3. Land uses that are not listed in the table, are not shown in a particular zoning district, or are shown as a “—” in the land use tables are not allowed, except where otherwise provided by Section 22.06.040.B (Determination of Allowable Land Uses), or Section 22.06.050 (Exemptions from Land Use Permit Requirements). In some instances, there are specific land use restrictions contained in Chapter 22.32 that prohibit certain uses under specific circumstances.

Where the last column in the tables ("See Requirements and Standards in Section") includes a section number, the regulations in the referenced section apply to the use; however, provisions in other sections of this Development Code may apply as well.

Reference notes apply to the table 2-1, as enumerated below:

1. Equestrian employee housing is permitted with Use Permit approval (See Chapter 22.48 Use Permits)

TABLE 2-1 – ALLOWED USES AND PERMIT REQUIREMENTS FOR AGRICULTURAL AND RESOURCE-RELATED DISTRICTS (Continued)

LAND USE (See Article VIII for Definitions)	PERMIT REQUIREMENT BY DISTRICT			See Requirements and Standards in Section:
	A2 Agriculture Limited	A3 to A60 Agriculture and Conservation	ARP Agriculture Residential Planned	

RECREATION, EDUCATION AND PUBLIC ASSEMBLY USES

Camping and Campgrounds	—	U	U	22.32.045
Child day-care centers	U	U	U	22.32.050
Child day-care, large family day-care homes	P	P	P	22.32.050
Child day-care, small family day-care homes	P	P	P	22.32.050
Educational Tours	—	P	P	22.32.065+15
Equestrian facilities	P	P(1)	P(1)	22.32.030
Golf courses/country clubs	U	U	U	
Health/fitness facilities	U	U	U	
Horses, donkeys, mules, ponies	P	P	P	22.32.030
Hunting and fishing clubs (Private)	—	P	P	
Hunting and fishing clubs (Public)	—	U	U	
Libraries and museums	U	U	U	
Off-road vehicle courses	—	U	U	
Public parks and playgrounds	P	U	U	
Religious places of worship	U	U	U	
Rural recreation	—	U	U	
Schools	U	U	U	

Notes:

(1) Equestrian employee housing is permitted with Use Permit approval (See Chapter 22.48 Use Permits)

“P” means principally permitted

“U” means conditionally permitted subject to Use Permit approval

“—” means prohibited

See Section 22.08.040 (Agricultural District Development Standards) for applicable standards.

- G. Commercial Uses.** Limited commercial uses may be allowed only when: (1) included in a plan for new or continued agricultural activities on the site and surrounding properties, (2) determined by the Review Authority to be in all respects compatible with agricultural operations on surrounding properties, and (3) subject to specific approval in the adoption of a Use Permit.

**TABLE 2-2
AGRICULTURAL DISTRICT DEVELOPMENT STANDARDS**

Zoning District	Minimum Lot Area (1)	Maximum Residential Density (2, 3, 6)	Minimum Setback Requirements (4)			Height Limit (5)		Maximum FAR (7)			
			Front	Sides	Rear	Primary	Accessory				
A2	2 acres	Not applicable	25 ft.	6 ft., 10 ft. on street side	20% of lot depth to 25 ft. max.	30 ft.	15 ft.	0.30			
A3	3 acres		30 ft.	30 ft.	30 ft.						
A5	5 acres										
A10	10 acres										
A15	15 acres							40 ft.	40 ft.	40 ft.	0.05
A20	20 acres										
A30	30 acres										
A40	40 acres										
A60	60 acres		50 ft.	50 ft.	50 ft.						
ARP	See note 2	See Zoning Map				Not applicable			30 ft.	15 ft.	

Notes:

- (1) Minimum lot area and setback standards may change, as follows:
 - a. In A2 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 (Minimum Lot Size [B] Combining District).
 - b. In A2 districts, including those combined with B districts, the minimum lot area may change in areas of sloping terrain in compliance with the provisions of Section 22.82.050 (Hillside Subdivision Design).
 - c. In A districts (A3 to A60), the minimum lot area and setback standards may be waived to allow for clustering of single-family dwellings in compliance with the provisions of Chapter 22.44 (Master Plans and Precise Development Plans); however, the total number of lots shall not exceed the maximum number permitted based on the total acreage of the parcel to be subdivided and the minimum lot area requirements of the respective A district.
- (2) In ARP districts, minimum lot area is determined through the [Master Plan \(Master Plans and Precise Development plans\) or 22.42.Design Review-subdivision and/or Master Plan process.](#)

2. Allowable as a conditional use, subject to approval of a Conditional Use Permit (Chapter 22.48) ~~or~~ Master Use Permit (Chapter 22.49), ~~or Temporary Use Permit Chapter (22.50)~~, as applicable. Conditionally permitted uses are shown as "U" uses in the tables, and "U/P" means that the use may be either principally permitted or conditionally permitted depending on the specific criteria set forth in Chapter 22.32;
3. Land uses that are not listed in the table, are not shown in a particular zoning district, or are shown as a “—” in the land use tables are not allowed, except where otherwise provided by Section 22.06.040.B (Determination of Allowable Land Uses), or Section 22.06.050 (Exemptions from Land Use Permit Requirements). In some instances, there are specific land use restrictions contained in Chapter 22.32 that prohibit certain uses under specific circumstances.

Where the last column in the tables ("See Requirements and Standards in Section") includes a section number, the regulations in the referenced section apply to the use; however, provisions in other sections of this Development Code may apply as well.

Reference notes apply to Tables 2-3 and 2-4, as enumerated below:

1. Allowed only where the site has a lot area of 3 acres or more.
2. Allowed only on a site of 5 acres or larger.
3. Allowed only as a facility incidental to and serving only floating home marina residents.
4. Equestrian employee housing is permitted with Use Permit approval (See Chapter 22.48 Use Permits)

22.10.040 – Residential District Development Standards

- A. General zoning district standards – Use of table.** Proposed development and new land uses within the residential zoning districts established by Section 22.06.020 (Zoning Districts Established) shall be designed and constructed in conformity with the residential district development standards in Table 2-5 (Residential District Development Standards), except as provided by following Subsection B.
- B. Development standards for planned districts.** Special development standards for the RSP, RMP, RX, and RF zoning districts established by Section 22.06.020 (Zoning Districts Established) are provided by Chapter 22.16 (Discretionary Development Standards). In the event of any conflict between the provisions of Chapter 22.16 (Discretionary Development Standards) and those of Table 2-5 (Residential District Development Standards), the standards of Chapter 22.16 shall control.

**TABLE 2-5
RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS**

Zoning District	Minimum Lot Area (1)	Maximum Residential Density (2, 5)	Minimum Setback Requirements (3)			Height Limit (4)		Maximum FAR (5, 6)
			Front	Sides	Rear	Primary	Accessory	
RA	7,500 sq.ft.	Not applicable	25 ft.	6 ft., 10 ft. on street side	20% of lot depth to 25 ft. max.	30 ft.	15 ft.	0.30
RR								
RE								
R1								
R2								
RSP	Not applicable	See Zoning Map	Not applicable			30 ft.	15 ft.	Not applicable
RMP								
RF	See Sections 22.32.070.C and 22.32.075.B							
RX	See Section 22.32.110.C							

Notes:

- (1) Minimum lot area and setback standards may change, as follows:
- 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 (Minimum Lot Size “-B” Combining District).
 - In RA, RR, RE, R1, and R2 districts, including those combined with “-B” districts, the minimum lot area may change in areas of sloping terrain in compliance with the provisions of Section 22.82.050 (Hillside Subdivision Design).
 - In RSP and RMP districts, minimum lot area is determined through the Master Plan, [Precise Development Plan](#), or Design Review process in compliance with Chapters 22.44 (Master Plans and Precise Development Plans) or 22.42 (Design

commercial areas for retail shopping, office facilities, and residential uses, in pleasing and harmonious surroundings, through the control of building coverage, height, parking and landscaping. The CP zoning district is consistent with the General Commercial/Mixed Use, PD-Agricultural and Environmental Resource Area, and PD-Reclamation Area land use categories of the Marin Countywide Plan.

- E. **AP (Administrative and Professional) District.** The AP zoning district provides for lower-intensity commercial areas emphasizing offices, and similar and related compatible uses, including residential uses. The AP zoning district is consistent with the Office Commercial/Mixed Use and PD-Reclamation Area land use categories of the Marin Countywide Plan.
- F. **OP (Planned Office) District.** The OP zoning district provides for lower-intensity commercial areas for administrative, professional office and residential uses, in pleasing and harmonious surroundings, through the control of building coverage, height, parking and landscaping. The OP zoning district is consistent with the Office Commercial/Mixed Use and PD-Reclamation Area land use categories of the Marin Countywide Plan.
- G. **H1 (Limited Roadside Business) District.** The H1 zoning district is applied to properties in rural areas where commercial uses may be appropriate, in addition to limited residential development. The H1 zoning district is consistent with the General Commercial/Mixed Use land use category of the Marin Countywide Plan.
- H. **RCR (Resort and Commercial Recreation) District.** The RCR zoning district is intended to create and protect resort facilities in pleasing and harmonious surroundings with emphasis on public access to recreational areas within and adjacent to developed areas. The RCR zoning district is consistent with the Recreational Commercial land use category of the Marin Countywide Plan.
- I. **IP (Industrial, Planned) District.** The IP zoning district is intended for areas of the County appropriate for business park, light industrial and manufacturing uses in campus-like settings. The IP zoning district is consistent with the Industrial and PD Reclamation Area land used categories of the Marin Countywide Plan.

22.12.030 – Commercial/Mixed-Use and Industrial District Land Uses and Permit Requirements

The uses of land allowed by this Chapter in each commercial zoning district are identified in Tables 2-6 (the VCR, RMPC, C1, and CP zoning districts) and 2-7 (the AP, OP, H1, RCR, and IP zoning districts) as being:

1. Allowed as a principally permitted use with no Use Permit required. Principally permitted uses are shown as "P" uses in the tables;
2. Allowable as a conditional use, subject to approval of a Conditional Use Permit (Chapter 22.48) or Master Use Permit (Chapter 22.49), ~~or Temporary Use Permit Chapter (22.50)~~, as applicable. Conditionally permitted uses are shown as "U" uses in the tables, and "U/P" means that the use may be either principally permitted or conditionally permitted depending on the specific criteria set forth in Chapter 22.32;

**TABLE 2-8
COMMERCIAL/MIXED USE AND INDUSTRIAL DISTRICT
DEVELOPMENT STANDARDS**

Zoning District	Minimum Lot Area (1)	Maximum Residential Density (2,6)	Minimum Setback Requirements (3)			Height Limit (4)		Maximum FAR (5, 7)
			Front	Sides	Rear	Primary	Accessory	
VCR	7,500 sq.ft.	1 unit per 2,000 sq.ft. of lot area	0 ft.	0 ft. for commercial use, 5 ft. for residential use	0 ft. for commercial use, 15 ft. for residential use	35 ft.	15 ft.	Not applicable
AP		1 unit per 1,450 sq. ft. of lot area	25 ft.	6 ft. for 1-story building, 10 ft. for multi-story building, or on street side	20 ft.			
H1		1 unit per 1,450 sq. ft. of lot area	30 ft.	6 ft. adjacent to residential district, none otherwise	12 ft. adjacent to residential district, none otherwise			
C1			0 ft.					
CP	Not applicable	1 unit per 1,450 sq. ft. of lot area	Not applicable			30 ft.	15 ft.	Not applicable
IP		Not permitted	Not applicable			30 ft.	15 ft.	Not applicable
RCR		Not permitted in OP	Not applicable					
OP								
RMPC			See Zoning Map for RMPC					

Notes:

- (1) Minimum lot area and setback standards may change, as follows:
 - a. In VCR, AP, H1, and C1 districts, the minimum lot area and setback standards may change when the district is combined with a "-B" district in compliance with provisions of Section 22.14.050 (Minimum Lot Size "-B" Combining District).
 - b. In VCR, AP, H1, and C1 districts, including those combined with "-B" districts, the minimum lot area may change in areas of sloping terrain in compliance with provisions of Section 22.82.050 (Hillside Subdivision Design).
 - c. In CP, IP, RCR, OP, and RMPC districts, minimum lot area is determined through the Master Plan, [Precise Development Plan](#), or Design Review process in compliance with Chapters 22.44 (Master Plans and Precise Development Plans) or 22.42 (Design Review). Through such process, the Review Authority will determine whether the lot area is adequate for the proposed land use.
- (2) Except for affordable housing, dwellings are not permitted in RCR districts. Where dwellings are permitted, the following standards apply:
 - a. In RMPC districts, when determining the maximum residential density allowed, any fraction of a dwelling unit of 0.90 or greater will be counted as a whole unit.
 - b. In C1 districts, dwellings are allowed above the first floor only. The first floor shall be

zoning district is consistent with the Open Space, and Agriculture and Conservation land use categories of the Marin Countywide Plan.

C. PF (Public Facilities) Zoning/Combining District.

1. 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 is consistent with the Public and Quasi-Public land use categories of the Marin Countywide Plan.
2. 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.

D. B, and BFC Combining Districts. See Sections 22.14.050 (Minimum Lot Size “-B” Combining District) and 22.14.060 (Bayfront Conservation (BFC) Combining District) for the applicability of these districts.

E. Affordable Housing (AH) Combining District. The AH combining district allows affordable housing development at a density of 20 dwelling units per acre. See Section 22.14.090 (Affordable Housing Combining District).

22.14.030 – Special Purpose District Land Uses and Permit Requirements

The uses of land allowed by this Chapter in the OA and PF zoning districts are identified in Table 2-9 (Allowed Uses and Requirements for Special Purpose Districts) as being:

1. Allowed as a principally permitted use with no Use Permit required. Principally permitted uses are shown as "P" uses in the tables;
2. Allowable as a conditional use, subject to approval of a Conditional Use Permit (Chapter 22.48) ~~or~~; Master Use Permit (Chapter 22.49), ~~or Temporary Use Permit Chapter (22.50)~~, as applicable. Conditionally permitted uses are shown as "U" uses in the tables, and “U/P” means that the use may be either principally permitted or conditionally permitted depending on the specific criteria set forth in Chapter 22.32;
3. Land uses that are not listed in the table, are not shown in a particular zoning district, or are shown as a “—” in the land use tables are not allowed, except where otherwise provided by Section 22.06.040.B (Determination of Allowable Land Uses), or Section 22.06.050 (Exemptions from Land Use Permit Requirements). In some instances, there are specific land use restrictions contained in Chapter 22.32 that prohibit certain uses under specific circumstances.

Where the last column in the tables ("See Requirements and Standards in Section") includes a section number, the regulations in the referenced section apply to the use; however, provisions in other sections of this Development Code may apply as well.

Reference notes apply to Table 2-9, as enumerated below:

**TABLE 2-11
B COMBINING DISTRICT DEVELOPMENT STANDARDS**

Zoning District	Minimum Lot Area (1)	Minimum Setback Requirements (2)			Height Limit (3)		Maximum FAR (4, 5)
		Front	Sides	Rear	Primary	Accessory	
B1	6,000 sq.ft.	25 ft.	5 ft., 10 ft. on street side	20% of lot depth to 25 ft. max.	30 ft.	15 ft.	0.30
B2	10,000 sq.ft.		10 ft.				
B3	20,000 sq.ft.	30 ft.	15 ft.				
B4	1 acre		20 ft.				
B5	2 acres		20 ft., 30 ft. on street side	30 ft.			
B6	3 acres						
BD	See Section 22.30.050 (Sleepy Hollow Community Standards)						
BLV	See Section 22.30.040 (Lucas Valley Community Standards)						

Notes:

- (1) Minimum lot area shown applies except where Section 22.82.050 (Hillside Subdivision Design) establishes a different standard.
- (2) See Section 22.20.090 (Setback Requirements and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions to required setbacks.
- (3) See Section 22.20.060 (Height Measurement and Height Limit Exceptions) for height measurement and exceptions. Single-family dwellings over 30 feet in height require Design Review approval in compliance with Chapter 22.42 (Design Review), and single-family dwellings over 35 feet in height require Design Review and Variance approval in compliance with Chapters 22.42 (Design Review) and 22.54 (Variances).
- (4) Single-family dwellings that contain over ~~4,000~~ 3,500 square feet of floor area require Design Review approval in compliance with Chapter 22.42 (Design Review).
- (5) The maximum non-residential and non-agricultural floor area for that portion or portions of properties with sensitive habitat or within the Ridge and Upland Greenbelt or the Baylands Corridor, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the floor area ratio range as established by the governing Countywide Plan Land Use Designation. The floor area ratio restrictions do not apply to additions to non-residential and non-agricultural structures not exceeding 500 square feet. This restriction does not apply to lots governed by the Countywide Plan’s PD-AERA (Planned Designation – Agricultural and Environmental Reserve Area) land use designation and to lots in the Baylands Corridor that are two acres or less in size that were legally created prior to January 1, 2007. Densities higher than the lowest end of the applicable density range may be considered on a case-by-case basis for new housing units affordable to very low and low income households that are capable of providing adequate water and sanitary services.

See Article VIII (Development Code Definitions) for development standard definitions.

1. **Open space dedication.** Land to be preserved as open space may be dedicated in fee title to the County or other agency designated by the County before issuance of any construction permit, or may remain in private ownership with appropriate scenic and/or open space easements/agreements granted to the County in perpetuity. The County may require reasonable public access across those lands remaining in private ownership, consistent with Federal and State law.
2. **Maintenance.** The County or other designated public agency will maintain all open space lands accepted in fee title, as well as public access and trail easements across private property. Open space lands that remain in private ownership with scenic easements shall be maintained in compliance with the adopted policies of the Marin County Open Space District and may require the creation of a homeowners' association or other organization to maintain the private open space.
3. **Open space uses.** Uses in open space areas shall be in compliance with policies of the Marin County Open Space District. Generally, uses shall have no or minimal impact on the natural environment. Pedestrian and equestrian access shall be provided where possible and reasonable.

I. Project design:

1. Height limits for structures:

- a. Thirty ~~30~~ feet for primary structures and 15 feet for detached accessory structures, except that multi-family residential buildings may be increased in height to 40 feet when side yard setbacks of 15 feet or greater are provided.
 - b. The floor level of the lowest floor shall not exceed 10 feet above natural grade at the lowest corner.
 - c. Structures located within the ridgeline areas pursuant to Subsection F.2 above shall be limited to a maximum height of 18 feet.
 - d. Where allowed, agricultural structures sited in compliance with the requirements of Section 22.16.030.D.2 (Development near ridgelines) may exceed the above height limits with Design Review approval. See Chapter 22.42 (Design Review).
 - e. These requirements may be waived by the Director in unusual circumstances resulting from an irregular site characteristic (e.g., location, lot shape/size, topography) where the waiver will not result in a structure that will impinge significantly on sun and light exposure, views, vistas, and privacy of adjacent properties and rights-of-way.
2. **Materials and colors.** Building materials and colors shall be chosen to blend into the natural environment unobtrusively, to the greatest extent possible.

J. Site preparation.

1. **Grading.** Grading shall occur in compliance with Title 23, Chapter 23.08 (Excavating, Grading and Filling) of the County Code, but shall be held to a minimum. Every

1. Setback verification is required for setback distances when the structure is located up to or within one foot of the minimum required setback on conventionally zoned properties and when the structure is located within five feet of a property line, right of way, or access easement on planned district zoned properties. In these cases, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification verify that the project complies with the approved setback distances as shown on the approved building permit plans and submit a written (stamped) Building Setback Certification to the Planning Division. The building setback verification can also be satisfied by having a licensed land surveyor or civil engineer with proper certification conduct a survey and install survey hubs with connecting colored line in locations that can be readily used by the Building and Safety Inspection staff to verify building setbacks in the field prior to approval of the inspection. If new survey hubs are installed, the project land surveyor or civil engineer must submit a written (stamped) Setback Certification to the Planning Division confirming that the survey staking has been properly completed.
2. Building height verification is required if the building height is within two feet of the maximum height allowed for projects located on conventionally zoned properties. In these cases, the applicant shall have a licensed land surveyor or civil engineer with proper surveying certification submit a written (stamped) building Roof Elevation Certification confirming that the building conforms to the roof ridge elevations that are shown on the approved Building Permit plans, based on a benchmark that is noted on the plans.
3. Floor area ratio verification is required if the floor area ratio resulting from a project would be within two percent of the maximum floor area ratio allowed for projects located on conventionally zoned properties. In these cases, the applicant shall submit a written (stamped) building Floor Area Certification from the project surveyor or engineer confirming that the floor area of the building conforms to the floor area that is shown on the approved Building Permit plans.

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

E. Roosting Bat Protection Measures. For the purposes of protecting roosting bats, outdoor construction activity that involves tree removal in an area where a biological assessment has identified a high probability of roosting bats on site are subject to the requirements enumerated below before and during site preparation and construction activities, unless separate project mitigation measures have been adopted that override these requirements.

1. Trees identified as containing suitable roost habitat shall be removed using a two-step process. Trees shall be felled the first day and left overnight before the felled trees are removed the following day or later. The removal of suitable habitat trees between March 1 and April 15 or between September 1 and October 15 is allowed.
2. A qualified biologist shall be responsible for overseeing the removal of trees that provide suitable bat habitat and will submit written confirmation to the County verifying that these measures have been undertaken.

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

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

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

1. Construction activities that may disturb birds shall be conducted outside the nesting season, which occurs between February 1 and July 9.
2. If conducting construction activities between July 10 and January 31 is infeasible and construction or tree removal needs to occur within the nesting season, a pre-construction survey shall first be conducted by a qualified biologist. The biologist perform this survey within one week of construction or tree removal. If no Northern Spotted Owls are observed by the biologist, no further action is required, and construction activities shall occur within one week of the survey.
3. If active bird nests are observed during the pre-construction survey, a disturbance-free buffer zone of 500 yards shall be established around the nest tree(s) until the young have fledged, as determined by a qualified biologist.

4. To delineate the buffer zone around a nesting tree, orange construction fencing shall be placed at the specified radius from the base of the tree within which no machinery or workers shall intrude.
5. Pre-construction surveys will be documented and provided to the County by the qualified biologist. If construction fencing is required, photographs of the fencing, directly after installation, will be submitted to the County.

22.20.045 – Energy Efficiency

The following standards shall be applied to development projects requiring discretionary permits for the purpose of incorporating efficient and sustainable energy use in the design and/or location of new buildings and structures.

- A. **Project design.** The project design includes cost-effective features that foster energy and natural resource conservation while maintaining compatibility with the prevailing architectural character of the area.
- B. **Solar access.** Solar access shall be considered through appropriate studies or other information verifying that proposed structures are located and/or designed for solar gain.

The type and extent of energy efficient features shall be consistent with the size and scale of the proposed development and the physical characteristics of the development site.

22.20.050 – Fencing and Screening Standards

The following standards shall apply to the installation of all fences and screening walls.

- A. **Height limitations.** Fences, walls, and trellises are subject to the following height limitations.
 1. **General height limit.** The general height limit for fences and screening walls is the same for other detached accessory structures, provided they meet the required setback. The required setback shall be either that setback established by the governing conventional district, an established building envelope, or the setbacks set forth in the R1:B3 zoning district if no other setbacks apply. All other solid fences and screening walls shall not exceed a height of six feet above grade, except as provided for below:
 - a. A fence or screening wall having a maximum height of four feet or less above grade may be located within a required setback for a front yard or side yard that abuts a street.
 - b. A fence or screening wall having a maximum height exceeding four feet but no more than six feet above grade may be located within a required setback for a front yard or side yard that abuts a street if the entire section or portion of the fence or wall above four feet in height above grade has a surface area that is at least 50% open and unobstructed by structural elements. (See Figure 3-1.)
 - c. A trellis above a gate or opening along the line of a fence, not exceeding a maximum height of eight feet above grade and a width of six feet, is permitted within a required setback for a front, side, or rear yard that abuts a street.

structure is located three feet from a front or side property line, in compliance with Section 22.32.130.B.2 (Residential Accessory Uses and Structures - Front setback exception), its height shall be measured from the floor level of the parking area.

D. Fences. Height limits for fences are established by Section 22.20.050.A (Fencing and Screening Standards—Height Limitations), above.

E. Exceptions to height limits:

1. Institutional buildings. Where the maximum height established by the applicable zoning district is less than 75 feet, public and semi-public buildings, churches, hospitals, schools, and other institutional structures allowed in the zoning district may be erected to a height not exceeding 75 feet; provided that:

- a. The front, side, and rear yard setbacks shall be increased one foot for each one foot by which the structure exceeds the height limit established by the zoning district; and
- b. The Director determines that the amount of structure height allowed above the height limit of the underlying zoning district will not result in significant glare, light, privacy, shadow, or visual impacts to surrounding properties or scenic locations.

3. ~~2.~~ Dwellings. Dwellings in an A, A2, RA, RR, RE, R1, and R2 zoning district may be increased in height without Variance approval by a maximum of 10 feet when side setbacks of 15 feet or greater are provided, subject to the regulations of Chapter 22.42 (Design Review).

4. Floor area under parking. Where floor area is developed beneath a parking structure in conformance with Section 22.20.090.E.2, the maximum height of the building shall be 30 feet above grade.

3. Solar panels. In A, A2, RA, RR, RE, R1, R2, H1, and VCR zoning districts, roof-mounted solar electric and solar thermal panels may exceed 30 feet above grade, provided no part of the equipment exceeds a height of 32 feet above grade unless approved through Design Review. Solar panels on the roofs of commercial, industrial, or institutional buildings may not exceed a height of six feet above the roof, to a maximum of 36 feet above grade unless approved through Design Review. The requirements of Sections 22.16.030.D.1, 22.16.030.D.2., 22.16.030.H relative to protection of rural visual character, 22.16.030.I.1.c., and 22.16.030.I.2, 22.42.060.B (Decisions and Findings) shall not apply to Design Review for solar panels.

Roof-mounted solar panels on floating homes and arks in RF and RCR zoning districts may exceed the maximum height allowed by this Development Code or the maximum height allowed by previously approved permits by a maximum of two feet without being subject to discretionary approval by Floating Home Exception.

4. Spires, towers, water tanks, etc. Chimneys, cupolas, flag poles, gables, monuments, spires, towers (e.g., transmission, utility, etc.), water tanks, similar structures and necessary mechanical appurtenances may be allowed to exceed the height limit established for the applicable zoning district, subject to the following standards.

1. **Accessory structures.** Detached accessory structures shall comply with the same setback requirements established by the applicable conventional zoning district for primary structures, except as follows.
 - a. The rear yard setback for a detached accessory structure shall equal the required side setback to a maximum rear setback of 10 feet; except that the rear setback on a through lot shall be 20 percent of the lot depth to a maximum of 25 feet.
 - b. Detached accessory structures may be located within a required setback with Design Review approval. See Chapter 22.42 (Design Review).
 2. **Detached site elements.** Detached decks, swimming pools and spas, steps, terraces, and other site design elements that are placed at or below grade, and which exceed a height of 18 inches above grade at any point, shall conform with the setback requirements of this Chapter for detached accessory structures. Hand railings and other safety features required by the California Building Code and attached directly to a detached site element shall not be included in the measurement of the maximum height of the detached site element.
 3. **Exempt site elements.** Site design elements less than 18 inches above grade are exempt from setback requirements in compliance with Subsection D (Exemptions from setback requirements), below. Examples of site design elements less than 18 inches above grade include ponds, shuffleboard courts, and water elements (e.g., fountains, sprays, etc.).
- D. Exemptions from setback requirements.** The minimum setback requirements of this Development Code apply to all development except the following:
1. Development that is equal to or less than 18 inches above grade.
 2. Fences or screening walls that comply with the height limits specified in Section 22.20.050 (Fencing and Screening Standards) and as restricted by Chapter 13.18 (Visibility Obstructions) of the County Code;
 3. Retaining walls that comply with the height limits specified in Section 22.20.052 (Retaining Walls);
 4. Detached energy efficiency devices located within required rear yard and side yards that do not exceed a height of four feet in height above grade;
 5. Decks, free-standing solar devices, swimming pools and spas, steps, terraces, and other site design elements which are placed at or below grade and do not exceed a height of 18 inches above grade at any point. Hand railings and other safety features required by the Uniform Building Code and attached directly to a detached site element which meets the criteria herein are exempt from the minimum setback requirements;
 6. Flag poles that do not exceed a height of 30 feet above grade; ~~and~~
 - ~~7.~~ 7.—An application for single-family residential development that requires Design Review pursuant to Section 22.42.020 (Design Review for Substandard Building Sites)-
 - ~~8.~~ 8. Floor area directly beneath a parking structure that is built in reliance on Section

22.20.090.E.2 may be built to within three feet of the front property line that abuts the adjoining street from which vehicular access is taken, provided the floor area does not extend beyond the footprint of the parking structure.

E. Allowed projections into setbacks. Attached architectural features and certain detached structures may project into or be placed within a required setback in compliance with the following requirements.

- 1. Architectural features.** Architectural features attached to the primary structure may extend beyond the wall of the structure and into the front, side and rear yard setbacks, in compliance with Table 3-1 (Allowed Projections into Setbacks). See also Figure 3-10 (Examples of Allowed Projections into Required Setbacks).

**TABLE 3-1
ALLOWED PROJECTIONS INTO SETBACKS**

Feature	Allowed Projection into Specified Setback		
	Front Setback	Side Setback	Rear Setback
Chimney (1)	30 in.	30 in.	30 in.
Cantilevered architectural features (2)	30 in.	30 in.	30 in.
Deck (3)	6 ft.	3 ft. (1)	6 ft.
Porch or trellis (4)	6 ft.	3 ft. (1)	6 ft.
Solar devices and tankless water heaters	30 in.	30 in.	30 in.
Stairway (5)	6 ft.	3 ft. (1)	6 ft.

Notes:

- (1) Feature may project no closer than three feet to the property line.
- (2) Cantilevered architectural features including balconies, bay windows, cornices, eaves and roof overhangs may project into setbacks as shown.
- (3) Decks less than 18 inches above grade are exempt, in compliance with 22.20.090.D.3 (Exemptions from Setback Requirements), above.
- (4) A porch may project into a setback, provided it is enclosed only by a railing in compliance with Title 19 (Buildings) of the County Code, and is located at the same level as the entrance floor of the structure. An additional projection into the front yard setback may be allowed with Design Review approval.
- (5) A stairway may project into a setback, provided it is not roofed or enclosed above the steps.

- 2. Parking structures on steep lots.** In any zoning district allowing residential uses, where the slope of the one-half of the parcel beginning at the street-access side is 20 percent or more, or where the elevation of the lot at the property line from which vehicular access is taken is five feet or more above or below the elevation of the adjoining street, a parking

E. Location requirements. Solid waste and recyclable materials storage areas may be located indoors or outdoors as long as they are accessible to all residents and employees, as follows:

- 1. Location and design of storage areas.** Solid waste and recyclable material storage areas shall be adjacent to, or combined with one another. They may only be located inside a specially-designated structure; or outdoors, within an approved fence or wall enclosure, a designated interior court or yard area with appropriate access, or in a rear yard or interior side yard.
- 2. Accessibility.** The storage area(s) shall be accessible to residents and employees. Storage areas within multi-family residential developments shall be located within 250 feet of the dwellings which they are intended to serve.
- 3. Unobstructed vehicle access.** Driveways or aisles shall provide unobstructed access for collection vehicles and personnel, and shall provide at least the minimum clearance required by the collection methods and vehicles of the designated collector. Where a site is served by an alley, all exterior storage area(s) shall be directly accessible from the alley.

F. Design and construction requirements for multi-family and non-residential development. The design and construction of storage areas in multi-family residential and non-residential developments shall comply with the following standards.

- 1. Architectural compatibility, screening.** The storage enclosure shall be architecturally compatible with the surrounding structures and subject to the approval of the Director. Storage areas shall be appropriately located and screened from view on at least three sides and shall not conflict or interfere with surrounding land uses.
- 2. Security.** The storage enclosure shall be properly secured to prevent access by unauthorized persons while allowing authorized persons access for disposal of materials in compliance with Chapter 7.02 (Theft of Recyclable Materials) of the County Code.
- 3. Concrete pad and apron.** The storage area shall include a concrete pad within a fenced or walled area, and a concrete apron, to facilitate the handling of the individual bins or containers.
- 4. Weather protection.** The storage area and individual bins or containers shall be enclosed to protect the recyclable materials from adverse weather conditions which may render the materials unmarketable.
- 5. Runoff protection.** The storage area and individual bins or containers shall, to the extent feasible, incorporate a curb or berm to protect the pad from run-on surface drainage, and a drainage system that connects to the sanitary sewer system.

[Certain types of projects and properties are subject to the specific requirements of the County's Municipal Pollutant Discharge Elimination System \(NPDES\) permit, including removal of trash with a size of five millimeters or greater out of runoff before it reaches a public storm drain system. These projects and properties include commercial, industrial, high-density residential, mixed urban, and public transportation stations. Those projects that are subject to the NPDES permit requirements shall include the installation of Certified Trash Full Capture Systems that meet State and County Standards. In addition, an operation and maintenance plan, subject to the review and approval of the Department of](#)

Public Works, shall be recorded and implemented to ensure long term maintenance of these systems in conformance with the standards of the State and County.

22.20.110 – Undergrounding of Utilities

Utilities to serve proposed development shall be placed underground except where the Director determines that the cost of undergrounding would be so prohibitive as to deny utility service to the development.

22.20.120 – Accessory Structures

Accessory structures are allowed only where a primary or conditionally permitted use has been established on the lot, with the exception of certain fences; open wooden post and wire mesh fences that do not exceed a height of six feet above grade may be installed on a lot where no primary use has been established.

22.22.020 – Applicability

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

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

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

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

- E. Lot creation without proposed dwellings.** Any subdivision creating one or more new lots shall provide inclusionary lots for the immediate or future development of affordable housing consistent with Section 22.22.090 (Inclusionary Housing Standards – Lot Creation).
- F. Non-residential developments.** Non-residential development shall pay a Jobs/Housing linkage fee consistent with Section 22.22.100 (Non-Residential and Mixed Use Affordable Housing Standards).
- G. Mixed use developments.** Mixed use developments are subject to both the non-residential and residential affordable housing requirements.
- H. Applicability to density bonus projects.** Any affordable housing units that qualify a project for a density bonus pursuant to Government Code Section 65915 must be provided in addition to the required affordable housing units and may not also be counted as affordable housing units pursuant to this Chapter.
- I. Affordable housing regulations.** The requirements of this Chapter shall be imposed only once on a given development approval. Affordable housing requirements imposed on a development shall be consistent with the affordable housing requirements in effect at the time of each successive Precise Development Plan or Design Review approved in conformance with a governing Master Plan. Subdivisions subject to an inclusionary requirement are not also subject to the Affordable Housing Impact Fee.

22.22.030 – Application Filing

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

22.22.040 – Prohibitions

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

22.22.050 – Exemptions

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

22.22.060 – Waivers

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

- A. Residential projects.** The review authority may approve one or more of the following alternative means of compliance with the requirements of Section 22.22.090 (Inclusionary Housing Standards – Lot Creation) or the mixed use residential inclusionary requirements of Section 22.22.100.B (Mixed use development). Any proposed alternative means of compliance must include an analysis of fair housing implications to insure that any proposed off-site location will promote diversity. Required units or lots must be located in an unincorporated area of the County. Required units or lots may also be within the boundaries of a City or Town provided there is an inter-agency agreement with the County which defines the sharing of affordable housing resources and compliance with fair share housing allocations. The options below are listed in order of priority, with the provision of in-lieu fees being the lowest priority. The applicant must demonstrate that each option is infeasible before the County may consider the next option.
- 1. Affordable units off-site.** Inclusionary units may be constructed on one or more sites not contiguous with the proposed development. The off-site property shall be located in an area with appropriate zoning, character and density, location, size, accessibility to public transportation, and other services, consistent with sound community planning principles and shall be devoid of contaminants and other hazardous wastes. The offsite location must include either a greater number of inclusionary units than required on-site or the same number of inclusionary units that are affordable at a lower income level.
 - 2. Lots.** The applicant may dedicate suitable real property to the County or its designee to develop the required inclusionary units. The property shall be located in an area with appropriate zoning, character and density, location, size, accessibility to public transportation, and other services, consistent with sound community planning principles and shall be devoid of contaminants and other hazardous wastes. The offsite location must include either a greater number of inclusionary units than required on-site or the same number of inclusionary units that are affordable to a lower income level. Required units may also be constructed within the boundaries of a City or Town provided there is an inter-agency agreement with the County which defines the sharing of affordable housing resources and compliance with fair share housing allocations.
 - 3. In-lieu fee.** The applicant may pay an in-lieu participation fee based on 125% of the requirement of Section 22.22.090 (Inclusionary Housing Standards – Lot Creation). The review authority shall apply the lowest preference to the payment of an in-lieu fee for compliance with the requirements of this chapter.
- B. Non-Residential Development and Residential Care Facilities.** If the review authority finds that an alternative provides a better means of serving the County in achieving its affordable housing goals, one or more of the following alternative means may be approved for compliance with the requirements of this chapter. Any proposed alternative means of compliance must include an analysis of fair housing implications to insure that any proposed off-site location will promote housing diversity. Required units or lots must be located in an unincorporated area of the County. Required units or lots may also be within the boundaries of a City or Town provided there is an inter-agency agreement with the County which defines the sharing of affordable housing resources and compliance with fair share housing allocations. A combination of both income-restricted units and affordable housing fees may be allowed. The options below

shall be multiplied by the fraction of the inclusionary requirement to determine the applicable fee to be paid.

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

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

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

TABLE 3-4b
AFFORDABLE HOUSING FEES FOR NON-RESIDENTIAL DEVELOPMENT AND
RESIDENTIAL CARE FACILITIES
(Per square foot of floor area¹ unless noted otherwise)

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

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

² Office uses include those associated with professional, business, and medical services.

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

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

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

2. Specify the number of units at appropriate price levels, as determined by the review authority;
3. Specify provisions for any incentives granted pursuant to Chapter 22.24 (Affordable Housing Incentives) where applicable;
4. Determine when in-lieu fees shall be paid, including whether payment shall be made ~~in a single payment~~ prior to recordation of the map or issuance of any building permit. ~~in an installment plan. If the installment method of payment is approved, the in-lieu fee shall in no case be due later than 24 months from the recordation of the map. If an installment plan is approved, the in-lieu fees shall constitute a lien on the property, which shall be recorded as a separate document at the recordation of the map. The lien shall include a provision for foreclosure under power of sale if the in-lieu payment is not made within 24 months from the recordation of the lien, regardless of whether or not the individual parcels have been sold. If payment of the in-lieu fee is not made in full at the end of the 24-month period, any unpaid balance shall accrue interest at the rate of 1% per month, or the highest amount allowed by law, whichever is less; and~~
5. Require a written agreement between the County and the applicant prior to recordation of any final or parcel map or issuance of any building permit which indicates the number, type, location, size, and construction scheduling of all affordable housing units, and the reasonable information that shall be required by the County for the purpose of determining compliance with this Chapter. This agreement shall also specify provisions for income certification and screening of potential purchasers and/or renters of units, and specify resale control mechanisms, including the financing of ongoing administrative and monitoring costs. The applicant shall be responsible for any direct costs associated with the negotiation of this agreement.

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

22.22.120 – Affordable Housing Post Approval

- A. Administration.** The County or its designee shall monitor required affordable housing units.
- B. Required inclusionary units:** In addition to the standards in Section 22.22.090 (Inclusionary Housing Standards – Lot Creation) the review authority shall insure that the following standards are applied to required affordable housing units.
 - 1. Limitation on Resale Price.** In order to maintain the affordability of the housing units constructed in compliance with this Chapter, the County shall impose the following resale condition. The price received by the seller of a resale unit shall be the lowest of the following:
 - a. Median income.** The original price paid by the seller increased by an amount equal to purchase price multiplied by the percentage increase in the median household income for the San Francisco Primary Metropolitan Statistical Area since the date of purchase;

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

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

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

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

access, within one-half mile, to fixed bus route service that operates at least eight times per day.

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

d. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

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

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

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

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

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

1. A description of any requested density bonus, incentive, concession, waiver of development standards, or modified parking standard.

resort complexes; restaurants within office and industrial complexes; and/or other uses determined to be similar by the Director.

- B. External appearance.** There shall be no external evidence (e.g., signs, windows with merchandise visible from streets or sidewalks external to the site, etc.) of any commercial activity other than the primary use of the site (except in the case of a restaurant/bar within a hotel).

22.32.023 – Agricultural Worker Housing

The standards of this Section shall apply to agricultural worker housing. The intent of these provisions is to allow sufficient numbers of agricultural worker housing units that are necessary to support agricultural operations and that are consistent with the applicable provisions of State law.

- A. Permitted use, zoning districts.** Agricultural worker housing providing accommodations for 12 or fewer employees shall be considered a principally-permitted agricultural land use in the following zoning districts: A2, A3 to A60, ARP, C-APZ, 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).

B. Limitations on use:

- 1. Density.** The maximum density shall not exceed that allowed in the underlying zoning district which governs the site. Agricultural worker housing that exceeds the maximum density may be allowed only in A2, A3 to A60, ARP, and C-ARP zoning districts subject to Use Permit approval in compliance with Chapter 22.48 (Use Permits).

For purposes of determining compliance with the density requirements for agricultural worker housing, each agricultural worker housing that provides accommodations for six or fewer employees shall be considered equivalent to one dwelling unit, with the exception that agricultural worker housing providing accommodations for 7 to 12 employees shall not be counted for purposes of computing residential density. For purposes of this section, family members are not included in the determination of the number of employees.

- 2. Referrals.** Prior to making a determination that agricultural worker housing which exceeds the maximum density for a specific site is necessary to support agriculture, the review authority may consult with such individuals or groups with agricultural expertise as appropriate for a recommendation.
- 3. Temporary mobile home.** Any temporary mobile home not on a permanent foundation and used as living quarters for 7 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 6 or fewer agricultural workers ~~requires Use Permit approval~~, is counted as one dwelling unit for purposes of compliance with the zoning district's density limitations, and shall be subject to the requirements of the State Department of Housing and Community Development.

22.32.025 – Airparks

Airparks may be located where allowed by Article II (Zoning Districts and Allowable Land Uses) of this Development Code, for business or emergency purposes, subject to the following standards:

- D. Employees.** A cottage industry established in a dwelling or a detached accessory structure may have employees as authorized by the review authority, provided the number of employees does not exceed limitations established in an adopted community or specific plan.
- E. Other codes.** Cottage industries shall comply with all applicable health, sanitary, and fire codes, and shall obtain a County Business License.

22.32.065 – Educational Tours

Educational tour groups shall not exceed 100 adults, tours shall not occur on more than 12 days per calendar year on the same site, and tours shall not provide food, except for small samples of food produced on the same property as the tour and a beverage.

Educational tours that exceed the limitations indicated above may only be allowed with Temporary Use Permit approval.

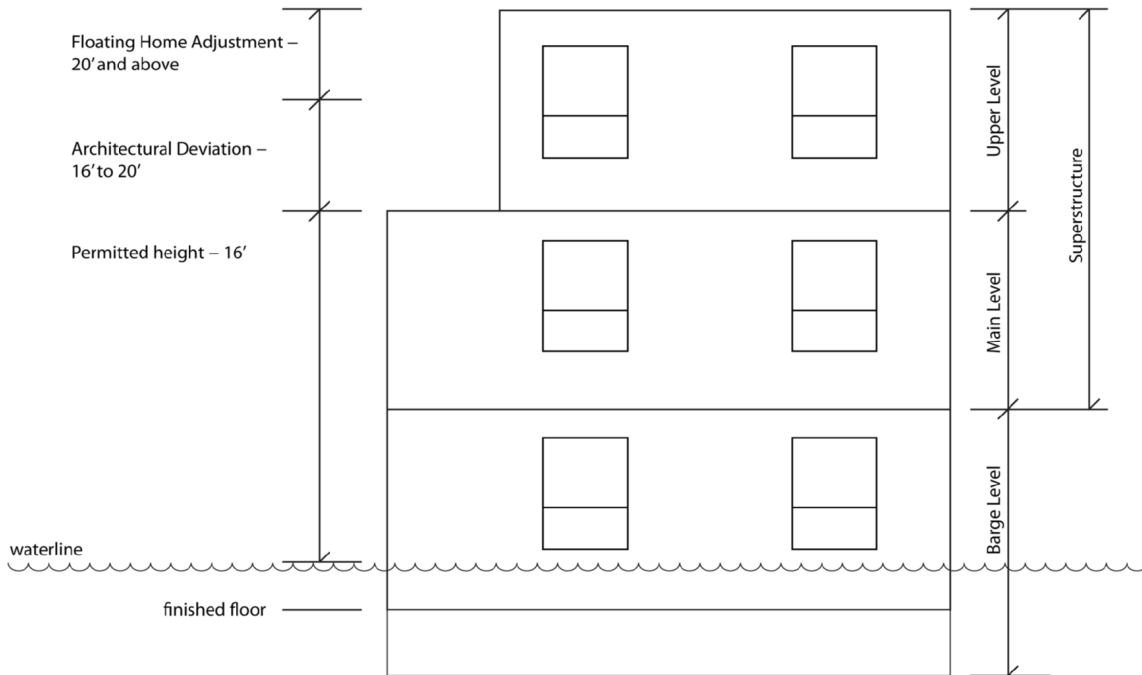
22.32.070 – Floating Home Marinas

This Section provides for the creation and protection of floating home marinas in pleasing and harmonious surroundings, through the control of water coverage, vessel spacing, and height of structures, with emphasis on usable public access to the shoreline.

- A. Allowed uses.** In addition to floating homes, the following accessory uses may be allowed subject to appropriate conditions in floating home marinas.
1. Car washing facilities, for residents only;
 2. Chapel;
 3. Coin-operated laundry and dry cleaning facilities, for residents only;
 4. Management office and maintenance equipment storage;
 5. Non-commercial recreation, meeting halls, club houses, etc.;
 6. Overnight accommodations, for guests of residents;
 7. Storage facilities, for residents only;
 8. Vending machines, for residents only; and
 9. Any other use which is clearly incidental and subordinate to the primary use.
- B. Allowed accessory uses – Large marinas.** In floating home marinas of over 200 homes, the following accessory uses may be allowed in addition to the uses listed in Subsection A, above:
1. Convenience goods shopping and personal service establishments, primarily for residents only; and
 2. One doctor's and one dentist's office.

- b. **Height:** 16 feet, measured from the water line at high tide or while the floating home is floating. (See Figure 3-28.)
- c. **Length:** 46 feet.
- d. **Width:** 20 feet.

**FIGURE 3-28
FLOATING HOME HEIGHT LIMITATIONS**



2. **Mooring.** All vessels shall be securely and safely moored to ensure that the required space between floating homes is maintained at all times, in compliance with Section 22.32.070.C (Floating Home Marinas – Standards and Criteria). Vessels shall be moored to provide a clear waterway projection between adjoining boats or floating homes of at least six feet on all sides. A clearance of 10 feet shall be maintained when either floating home is in excess of one ~~habitable~~ story in height, ~~as defined by the California Building Code~~. These requirements shall not apply between the vessel and the walkway or slip. See Figure 3-29.

Vessels shall be moored so as to allow landward vessels unlimited access. When used, mooring lines shall be of sufficient strength and be installed in a manner that will prevent the floating home from moving more than 12 inches in any lateral direction.

environment; and

5. Comply with provisions of State law, including those contained in Section 65852.2 of the California Government Code.

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

C. Exemptions.

1. Within a single family residential zone, an application for a building permit to create one accessory dwelling unit per single-family residential lot is exempt from the standards of this section if the following applies: (1) the unit is entirely contained within a legal single-family residence that was in existence as of January 1, 2017 or a legal residential accessory structure that was in existence as of January 1, 2017; (2) the unit has independent exterior access from the existing residence, and; (3) the side and rear setbacks are sufficient for fire safety. [This exemption does not apply if a property owner is developing a new residence on a property and seeking to convert the existing residence on that property to an Accessory Dwelling Unit.](#)

2. A junior accessory dwelling unit is exempt. A property owner may voluntarily have a living space recognized as a junior accessory dwelling unit if it meets all of the following eligibility criteria:

A. The unit shall be no more than 500 square feet in size and contained entirely within a single-family structure.

B. The unit shall have a wetbar but shall not have a kitchen.

C. The unit shall have a separate entrance from the main entrance to the building, with an interior entry to the main living area. The unit may include a second interior doorway for sound attenuation.

D. The unit shall be the only junior accessory dwelling unit on the property.

E. The property shall be owner occupied, except that owner occupancy is not required if the owner is a government agency, land trust, or housing organization.

F. The property owner has recorded a deed restriction, which shall run with the land, that stipulates the following:

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

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

D. Design Characteristics. A residential accessory dwelling unit shall be designed and

constructed in conformance with the criteria listed below:

1. An accessory dwelling unit shall be built as a permanent residence with a kitchen as well as both a separate bathroom and separate entrance intended for the use of the occupants.
2. The maximum floor area of an accessory dwelling unit shall not exceed 1,200 square feet.
3. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
4. Requirements for utility hookups and fire sprinklers shall comply with California Government Code Section 65852.2.

E. Parking criteria. ~~The lot on which the accessory dwelling unit is located shall have a minimum of one off-street parking space assigned to a studio or one-bedroom second unit or two off-street parking spaces assigned to a two- or more-bedroom accessory dwelling unit. Off-street parking spaces assigned to the accessory dwelling unit shall be in addition to those required for the primary residence.~~

~~The parking requirements indicated above shall not be imposed in any of the following instances:~~

- ~~1. The accessory dwelling unit is located within one-half mile of a public transit stop.~~
- ~~2. The accessory dwelling unit is located within an architecturally and historically significant historic district.~~
- ~~3. On-street parking permits are required but not offered to the occupant of the accessory dwelling unit.~~
- ~~4. There is a car-share vehicle pick-up and drop-off site located within one block of the accessory dwelling unit.~~
- ~~5. The accessory dwelling unit is no more than 500 square feet in floor area and contained entirely within the same building as the primary residence.~~
- ~~6. A parking exception has been approved by the Department of Public Works. Accessory Dwelling Units are subject to the parking requirements of the Department of Public Works.~~

F. Setbacks. No setbacks shall be required to convert a legal garage into an accessory dwelling unit. In addition, setbacks of no more than five feet in the rear and side yards shall be required for an accessory dwelling unit that is constructed above a garage.

G. Building and Septic Code. The accessory dwelling unit shall meet all applicable building and septic codes adopted by the County.

H. Density. The accessory dwelling unit shall be the only additional accessory dwelling unit on the lot. However, a property owner may have both one accessory dwelling unit and one junior accessory dwelling unit on a single lot. Accessory dwelling units and junior accessory dwelling units are accessory uses and do not count towards the allowable density for the lot upon which the accessory dwelling unit is located.

- I. **Limitation on sale.** An accessory dwelling unit may be rented but shall not be sold separately from the single-family unit.
- J. **Accessory Dwelling Unit Permitting Procedure.** Applications for Accessory Dwelling Unit Permits shall be approved ministerially without discretionary review or public hearing, pursuant to the Accessory Dwelling Unit Permit requirements established in Chapter 22.56 (Accessory Dwelling Unit Permits).
- K. **Recordation of Residential Accessory Dwelling Unit Permits.** Any Residential Accessory Dwelling Unit Permit granted in compliance with this Section may be recorded in the County Recorder's Office as an informational document in reference to the title of the subject property.
- L. **Periodic report.** The Agency shall periodically prepare a report to the Commission and Board on the status of this Section. The report shall include information about the number, size, type, and rent, as available, of each accessory dwelling unit by neighborhood. The report shall provide a basis for an evaluation of the effectiveness of this Section.

22.32.130 – Residential Accessory Uses and Structures

When allowed in the zoning district applicable to a site, see Section 22.10.030 (Residential District Land Uses and Permit Requirements), specific residential accessory uses and structures are subject to the provisions of this Section. Residential accessory uses include any use customarily related to a residence, including swimming pools, workshops, studios, storage sheds, greenhouses, and garages.

- A. **General requirements.** All residential accessory uses and structures are subject to the following standards, except where more restrictive requirements are established by other provisions of this Section for specific uses.
 - 1. **Relationship of accessory use to primary use.** Residential accessory uses and structures shall be incidental to the primary or conditionally permitted use. Accessory uses and structures shall not be allowed until a primary or conditionally permitted use or structure has been established on the site, except as provided for in section 22.20.120.
 - 2. **Attached structures.** A residential accessory structure that is attached to a primary structure shall comply with all requirements of this Development Code applicable to the primary structure, including setbacks, height, and floor area ratio.

~~3. Detached structures:~~

~~a. **Height.** Residential accessory structures shall be in compliance with Section 22.20.060 (Height Measurement and Height Limit Exceptions). A residential accessory structure shall not exceed a height of 15 feet; except that an accessory structure may be constructed to the maximum height allowed by the applicable zoning district for a primary structure, where the structure is located at least 40 feet from any property line. Further, where floor area is developed beneath a detached parking structure in conformance with Section 22.32.130.A.3.b below, the maximum height of the detached structure shall be 30 feet above grade.~~

~~b. **Setback requirements.** Residential accessory structure(s) shall be in compliance with Section 22.20.090 (Setback Requirements and Exceptions). Floor~~

~~area directly beneath a parking structure that is built in reliance on Section 22.32.130.B.2 may be built to within three feet of the front property line that abuts the adjoining street from which vehicular access is taken, provided the floor area does not extend beyond the footprint of the parking structure.~~

~~c. **Floor Area Ratio (FAR).** A detached residential accessory structure shall be subject to the FAR requirements of the applicable zoning district, as FAR is defined in Article VIII (Development Code Definitions).~~

~~**B. Parking structures.** The following requirements shall apply to garages and other residential accessory structures for parking.~~

~~1. **Floor area ratio.** A parking structure shall be subject to the FAR requirements of the applicable zoning district, as FAR is defined in Article VIII (Development Code Definitions).~~

~~2. **Front setback exception.** Where the slope of the one-half of the parcel beginning at the street access side is 20 percent or more, or where the elevation of the parcel at the property line from which vehicular access is taken is five feet or more above or below the elevation of the adjoining street, a garage, carport, or cardeck may be built to within three feet of the front and side property lines that abut the adjoining street from which vehicular access is taken. All portions of the dwelling other than the parking structure shall maintain the setbacks applicable to the primary dwelling in the applicable zoning district. No portion of a residential parking structure, including eaves or roof overhangs, shall extend beyond a property line or into an access easement or street right-of-way.~~

~~**C. Home occupations.** Home occupations are subject to Section 22.32.100 (Home Occupations).~~

BD. Tennis and other recreational uses. Private non-commercial outdoor tennis courts and courts for other sports (e.g., racquetball, etc.) accessory to a residential use may be established with Design Review approval, in compliance with Chapter 22.42, and are subject to the following requirements:

1. **Fencing.** Court fencing shall be subject to the height limits of Section 22.20.050 (Fencing and Screening Standards).
2. **Lighting.** Court lighting may be prohibited, as a condition of the Design Review approval. If allowed, the court lighting may be installed with a height not exceeding 10 feet, measured from the court surface. The lighting shall be directed downward, shall only illuminate the court, and shall not illuminate adjacent property.

CE. Vehicle storage. The storage of vehicles, including incidental restoration and repair, shall be in compliance with Section 22.20.090.F (Restrictions on the Use of Front Yard Setbacks in Residential Districts), and Chapter 7.56 (Abandoned Vehicles) of the County Code.

DF. Workshops or studios. A residential accessory structure intended for engaging in artwork, crafts, handcraft manufacturing, mechanical work, etc. may be constructed or used as a workshop or studio in a residential zoning district solely for: non-commercial hobbies or amusements; maintenance of the primary structure or yards; artistic endeavors (e.g., painting, photography or sculpture); maintenance or mechanical work on vehicles owned or operated by the occupants; or other similar purposes.

1. Eligible facility requests described in Subsection A.1 shall be approved within 60 days of application filing unless the applicant and the County mutually agree to additional time or the County provides notice to the applicant in writing within 30 days of the initial filing that identifies the application as incomplete and specifically delineates all missing information. Completeness reviews for subsequent submittals shall be based solely on the applicant's failure to supply the missing information identified within 30 days of initial filing. The County shall review subsequent submissions within 10 days for completeness. Determination of incompleteness tolls or temporarily stops the 60 day time limit.
2. All other telecommunications facilities applications shall be approved or denied within 150 days of application filing and shall be processed as required by the California Government Code. Determination of incompleteness tolls or temporarily stops the 150 day time limit.
3. If a decision on a telecommunication facility application is not issued in conformance with the timelines referred to in this section, then that application is deemed denied by operation of Federal law. Otherwise, if a telecommunications facilities application is denied, the reason(s) for denial shall be in writing and supported by substantial evidence. Reason(s) for denial shall be provided at essentially the same time as the denial.

- D. Electromagnetic fields.** The electromagnetic field (EMF) strengths or equivalent plane-wave power densities generated by the approved facility, in combination with other existing ambient sources of EMF, shall not expose the general public to EMF levels which exceed the Maximum Permitted Exposure levels for electric and magnetic field strength and equivalent plane-wave power density in the EMF emission guidelines adopted by the Federal Communications Commission (FCC). In the event the FCC adopts a more restrictive Maximum Permitted Exposure Level, or the County adopts a more restrictive EMF exposure standard if allowed by future changes in Federal law, the applicant shall demonstrate compliance with the more restrictive standard unless such a requirement is preempted by State or Federal law.
- E. Development standards.** The development standards for telecommunications facilities are identified in the policies and programs of the Marin County Telecommunications Facilities Policy Plan, as may be updated from time to time.

22.32.168 – Tidelands

This section applies to all development in tidelands.

A. Prohibitions

It is unlawful for any person, firm, corporation, or public agency to allow, cause, or do any of the following on any of the tidelands without first obtaining any required land use permits from the County:

1. Construct, deposit, or dump within, or fill with dirt, earth, garbage, mud, refuse, or any other material;
2. Dredge, excavate, or remove any dirt, earth, gravel, mud, sand, or any other material; and/or

9. **Decision.** The Director shall make all determinations regarding ministerial planning permits. The Director's determinations regarding ministerial planning permits are not appealable.

22.40.055 – Review of Previously Denied Applications for Discretionary Permits

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

22.40.060 – Environmental Review

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

22.40.070 – Staff Report and Recommendations for Discretionary Permits

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

22.40.080 – Post Approval

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

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

- A. Planned Zoning Districts (combining coastal zones included).** Residences, non-residential structures, accessory structures, agricultural structures, and other physical improvements in ~~ARP, RSP, RMP, RX, CP, OP, RCR, RMPC, RF, and IP zoning~~ all Planned zoning districts.
- B. Conventional Zoning Districts.** ~~Non-residential development and residential development and residential accessory structures in A2 to A60, C1, H1, AP, RA, RR, RE, R1, R2, and VCR~~ Conventional zoning districts on a lot that would contain more than 3,500 square feet of floor area with the proposed development and/or where the proposed development would be greater than 30 feet in height or 15 feet for residential accessory structures. ~~Non-residential structures in A2 to A60, C1, H1, RA, RR, RE, R1, R2, VCR, and PF zoning districts.~~
- C. Permit Waivers.** Any waiver or exception to a standard specifically identified in this Development Code as being subject to this Chapter as well as Variance waivers identified in Chapter 22.54 (Variances).
- D. Substandard Building Sites.** Where a vacant legal lot is proposed for single-family residential development, and when the lot is at least 50 percent smaller in total area than required for new lots under the applicable zoning district or slope regulations, in compliance with Section 22.82.050 (Hillside Subdivision Design Standards), whichever is more restrictive, the proposed development shall be subject to the requirements of this Chapter. In these instances, any exemption from Design Review provided by Section 22.42.025 (Exemptions from Design Review) shall be void and setback requirements shall be waived. The subsequent development and physical improvements of these properties shall continue to be subject to the requirements of this Chapter.

22.42.025 – Exemptions from Design Review

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

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

**TABLE 4-2
STANDARDS FOR EXEMPTION FROM DESIGN REVIEW FOR ONE-STORY**

CHAPTER 22.46 – FLOATING HOME EXCEPTIONS

Sections:

- 22.46.010 – Purpose of Chapter
- 22.46.020 – Applicability
- 22.46.030 – Application Filing, Processing, and Review
- 22.46.040 – Decision and Findings

22.46.010 – Purpose of Chapter

This Chapter provides procedures for Floating Home Exceptions, which are intended to allow for exceptions from the strict application of the standards for maximum floor area, [setback](#), height, length, and width standards for floating homes.

22.46.020 – Applicability

This Chapter shall apply to floating homes, where allowed by Article II (Zoning Districts and Allowable Land Uses), and in compliance with Section 22.32.075 (Floating Homes).

22.46.030 – Application Filing, Processing, and Review

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

Floating Home Exception Permit application forms are available online and at the Agency's public service counter.

- B. Project review procedure.** Each Floating Home Exception Permit application shall be analyzed by the Agency to ensure that the application is consistent with the purpose and intent of this Chapter.

- C. Review Authority.** The Director may approve, approve with conditions or deny a Floating Home Exception Permit application for the following:

- a. Floor Area;
- b. Length;
- c. Width;
- d. Height; and
- e. Setbacks (spacing and mooring requirements).

- D. Notice of action and/or hearing date.** The Director may act on Floating Home Exception administratively without holding a public hearing.

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

22.50.050 – Development Standards

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

22.50.060 – Decision and Findings

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

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

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

22.50.070 – Post Approval

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

- A. Condition of site following temporary use.** Each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used in compliance with the provisions of this Development Code. A bond may be required prior to initiation of the use to ensure cleanup after the use is finished.

- B. Time limits.** The Notice of Decision for a Temporary Use Permit shall specify the permit duration. However, Temporary Use Permits may only be approved for a maximum of two years. Temporary Use Permits may not be renewed, but a new Temporary Use Permit may be issued for the same use on the same site.

- D. Notice of action and/or hearing date.** Administrative decisions and public hearings on a proposed Variance application shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).

22.54.040 – Exemptions

- A. Reconstruction of legal or legal non-conforming structures that were damaged or destroyed by a natural disaster is exempt from Variance requirements.
- B. The conversion of garages to accessory dwelling units or construction of accessory dwelling units above garages that encroach into setbacks but otherwise meet the development standards, in conformance with Section 22.32.120.

22.54.045 – Waivers

~~In situations where development is proposed within the footprint of a legal or legal non-conforming building constructed prior to January 1, 2012, the~~ Variance requirement shall be waived and the project shall instead be subject to Chapter 22.42 - Design Review, provided it meets one of the following criteria:

- A. The cubical contents of the structure ~~shall not~~may only be increased with ~~the exception of~~ minor dormers and bay windows ~~which that~~ provide headroom ~~or circulation~~ or for projects that are addressed in this Waivers section, below in subsection C below, but do not add to the bulk and mass of the structure.
- B. In situations where development is proposed within the footprint of a legal or legal non-conforming building, ~~t~~The floor area ratio may increase by an amount, not to exceed 35 percent~~0.35 maximum,~~ or 300 square feet, whichever is more restrictive, except that such area limitations do not apply to circumstances in flood zones that are addressed below in section 22.54.040.C.
- C. In situations where development is proposed within the footprint of a legal or legal non-conforming building, ~~t~~The floor area ratio may increase above 30 percent if the increase in floor area is due to a Federal or County requirement that an existing structure be raised above the base flood elevation. In this instance, the finished floor of the first level above the base flood elevation shall not be more than 18 inches above the base flood elevation. Floor area underneath the proposed additions does not qualify for this exemption.
- D. Existing legal non-conforming setbacks may be maintained if a structure is being raised to conform to a Federal or County requirement that an existing structure be raised above the base flood elevation. In this instance, the finished floor of the first level above the base flood elevation shall not be more than 18 inches above the base flood elevation. Development underneath the proposed additions does not qualify for this exemption.
- E. The height of a roof of an existing primary structure that encroaches into a required setback is being lowered by any height or is being raised by not more than three feet in height above the existing roof, or to a maximum of 30 feet above grade, whichever is more restrictive.
- F. Detached accessory structures, retaining walls, fences and screening walls, and primary agricultural structures that would otherwise need to meet height and setback requirements, may vary from those requirements.

- G. Primary residential buildings exceeding a height of 30 feet but not exceeding a height of 35 feet above grade in conventional districts.

22.54.050 – Decision and Findings

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

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

22.56.040 – Exemptions

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

22.56.050 – Decision and Findings for Accessory Dwelling Units

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

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

CHAPTER 22.70 – PERMIT IMPLEMENTATION, TIME LIMITS, EXTENSIONS

Sections:

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

22.70.010 – Purpose of Chapter

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

22.70.020 – Effective Date of Permits

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

22.70.030 – Deadline for Action

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

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

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

22.70.040 – Performance Guarantees

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

22.70.050 – Time Limits and Extensions

A. Time limits, vesting. Unless conditions of approval establish a different time limit, any permit or entitlement not vested within three years of the date of approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained a Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval, or has recorded a Parcel or Final Map.

B. Extensions of time. Upon request by the applicant, the Director may extend the time for an approved permit to be vested.

- 1. Filing.** The applicant shall file a written request for an extension of time with the Agency, at least 10 days prior to the expiration of the permit, together with the filing fee required by the County Fee Ordinance.
- 2. Review of extension request.** The Director shall determine whether the permit holder has attempted to comply with the conditions of the permit. The burden of proof is on the permittee to establish, with substantial evidence, that the permit should not expire. The Director may instead refer the extension request to the Commission for review.
- 3. Action on extension.** If the Director determines that the permittee has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner, the Director may extend the permit for a maximum period of three years following the original expiration date. If the approval was granted concurrently with a Tentative Map, the maximum amount of time extensions would be determined by Section 22.84.140 (Extensions of Time for Tentative Maps).

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

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

CHAPTER 22.80 – SUBDIVISION MAP APPROVAL REQUIREMENTS

Sections:

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

22.80.010 – Title

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

22.80.020 – Purpose of Article

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

22.80.030 – Applicability

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

A. Tentative Map requirements. Pursuant to Map Act Section 66426, a Tentative and Final Map are required for all subdivisions creating five or more parcels, five or more condominiums, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where any of the following occurs: requires that any subdivision or resubdivision of land shall require the filing and approval of a Tentative Map (see Chapter 22.84 (Tentative Maps)), Tentative Map Filing and Processing, except as otherwise provided by Section 22.80.040 (Exemptions from Subdivision Approval Requirements), and except when any one of the following occurs, which shall require the filing and approval of a Parcel Map without a Tentative Map:

1. The original, unsubdivided parcel contains less than five acres, each proposed parcel abuts upon a maintained public street, and no dedications or improvements are required by adopted County Plans or Codes.

2. Each parcel created by the division has a gross area of 20 acres or more and has approved access to a maintained public street.
3. The parcel(s) have approved access to a public street which comprises part of a tract of land zoned for industrial or commercial development, and which has County approval for street alignments and widths.
4. Each parcel has a minimum gross area of 40 acres.
5. [The land being subdivided is solely for the creation of an environmental subdivision pursuant to Map Act Section 66418.2](#)

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

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

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

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

22.80.040 – Exemptions from Subdivision Approval Requirements

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

- A. **Agricultural leases.** Leases of agricultural land for the cultivation of food or fiber, or the grazing or pasturing of livestock.

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

22.84.060 – Findings for Approval of Tentative Map

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

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

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

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

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

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

D. Approval of conversion, required findings:

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

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

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

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

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

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

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

~~G. **Appeal.** A merger determination or decision may be appealed in compliance with Chapter 22.114 (Appeals).~~

22.92.050 – Criteria for Unmerger

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

A. The parcel met each of the following criteria:

1. Comprised at least 5,000 square feet in area;
2. Was created in compliance with applicable laws and ordinances in effect at the time of its creation;

22.92.060 – Determination of Unmerger

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

- A. Application.** An application for Determination of Unmerger shall include the forms, other application materials, and fees required by the Agency.
- B. Review authority.** When a property owner files an application for determination of an unmerger, the Zoning Administrator shall conduct the public hearing, except when the Director determines that significant policy questions are at issue, the Director may refer the determination of unmerger to the Commission for action. The Zoning Administrator shall provide 30 days written notice to the owner of the affected parcels of the date and place of the hearing or decision on the determination of merger.
- C. Decision.** The review authority shall make a determination that the affected parcels have merged or, if meeting the criteria of Section 22.92.050 (Criteria for Unmerger), are deemed not to have merged.
- D. Notification to owner.** The owner of the affected parcels shall be notified as follows:
 - 1. Upon a determination that the parcels meet the standards specified in Section 22.92.050 (Criteria for Unmerger), the Director shall issue to the owner and record with the County Recorder a Notice of the Status of the Parcels, which shall identify each parcel and declare that the parcels are unmerged in compliance with this Chapter.
 - 2. Upon a determination that the parcels have merged and do not meet the criteria specified in Section 22.92.050 (Criteria for Unmerger), the Director shall issue to the owner and record with the County Recorder, a Notice of Merger, in compliance with Section 22.92.030 (Effective Date of Merger) unless a prior notice of merger has been recorded.
- ~~**E. Appeal.** The unmerger determination or decision may be appealed in compliance with Chapter 22.114 (Appeals).~~

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

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

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

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

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

E. Completion of process. ~~Following expiration of the 10-day appeal period,~~ The Agency shall file either a Certificate of Compliance or a Conditional Certificate of Compliance with the County Recorder. The certificate shall identify the property, and serve as notice to the property owner or purchaser who applied for the certificate, a grantee of the owner, or any subsequent transferee or assignee of the property that either the division complies with the provisions of the Map Act and this Development Code or the fulfillment and implementation of the conditions shall be required before subsequent issuance of a permit or other approval for the development of the property.

- C. **Meeting Rules.** The Commission shall conduct and operate its meetings in accord with adopted procedures.

22.110.055 – Design Review Boards

- A. **Appointment.** Design Review Board members shall be appointed by the Board of Supervisors in compliance with State law (Government Code Sections 65900 et seq.).

- B. **Duties and authority.** The Design Review Boards shall carry out the following functions and duties only in an advisory capacity:

- 1. Advise the County about project compliance with the ~~Countywide Plan, applicable Community Plans and other specific plans, and the Development Code;~~

- 2. ~~Make recommendations to the Agency regarding the adequacy of an application, the appropriate level of environmental review, and the relative merit of development proposals~~ Advise the County about the compliance of major Public Works Department projects with the applicable Community Plan; ~~and~~

- 3. Advise the County about amendments to the local Community Plan; and

- 43. Perform other appropriate responsibilities assigned by the Board of Supervisors and accepted by the Design Review Board.

- C. **Meeting Rules.** The Design Review Boards shall conduct and operate its meetings in accord with adopted procedures.

22.110.060 – Actions Void

Any action by the Agency that is in conflict with any provision of this Development Code shall be void.

CHAPTER 22.114 – APPEALS

Sections:

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

22.114.010 – Purpose of Chapter

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

22.114.020 – Appeal Subjects and Jurisdiction

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

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

2. **Appeals to Planning Commission.** The Planning Commission shall determine an appeal of the Director's or Zoning Administrator's action no later than its fourth regular meeting following the date on which the appeal was filed with the Agency. The action from which an appeal is taken may be reversed or modified only by the affirmative vote of a majority of the full membership of the Commission (i.e., four affirmative votes).
 3. **Appeals to Board.** The Board of Supervisors shall determine an appeal of a decision by the Planning Commission, Zoning Administrator, or Director no later than its eighth regular meeting following the date on which the appeal was filed with the Agency. The action or appellate determination from which an appeal is taken may be reversed or modified only by the affirmative vote of a majority of the membership of the Board.
 4. **Failure to Act.** Failure of the appellate body to act within the time specified shall sustain the action being appealed, except that if the project is a wireless facility, failure to act within the time specified shall result in a denial of the application.
 5. **Tentative Map Appeals.** The timing for consideration of an appeal of a Tentative Map action shall be governed by the requirements of Section 22.84.040 – Tentative Map Public Hearings.
- C. **Appeal of completeness.** ~~Any person~~ project applicant affected by a determination by the Agency staff that a discretionary permit application together with the submitted materials is not complete, may appeal the determination in compliance with State law (Government Code Section 65943.c (30-day review period)). Such appeals shall bypass the Commission and shall be heard before the Board. The Board shall issue a decision on the appeal within 60 days of the appeal being submitted.
- D. **Extensions.** Nothing in this section precludes an applicant and the County from mutually agreeing to an extension of time limits.
- E. **Withdrawal of appeal.** After an appeal of a decision has been filed, the appeal shall not be withdrawn except with the consent of the Director.
- F. **Judicial challenge.** If the decision is challenged in court, the appellant may be limited to raising only those issues which were raised at the public hearing, or in written correspondence delivered to the Agency, at or prior to the public hearing, in compliance with State law (Government Code Section 65009.b.2).

- F. Summary Publication.** The Director may publish the summary of any ordinance, Development Code, Zoning Map or Countywide Plan Amendment in compliance with State law (Government Code Section 25124).

22.118.030 – Hearing Procedure, Continuances

Hearings shall be held at the date, time, and place, for which notice has been given as required in this Chapter.

The Zoning Administrator, Commission, and Board as applicable, may continue any public hearing to a future specific date at the hearing body's discretion, except that continuances beyond the prescribed final date for action may only be granted with the agreement of the applicant (and non-applicant appellant if the application seeks to resolve a code enforcement case) and that the continuance is clearly announced to all persons attending the hearing prior to the adjournment or recess of the hearing. The public announcement of the continuance shall specify the date, approximate time, and place, to which the hearing will be continued unless public notice of the continued hearing is provided for in accordance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).

22.118.035 – ~~Notice of Decision~~ by -Director

The Director may issue a written decision or refer the matter to the Commission for determination. If the decision is to be announced at a later date, the Director shall, at the hearing, specify the date on which the decision will be issued. The decision shall contain applicable findings and any conditions of approval, and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. Following the issuance of the written decision, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application.

22.118.040 – ~~Notice of Decision~~ -Decision by Zoning Administrator

The Zoning Administrator may announce and issue the decision at the conclusion of a scheduled public hearing, refer the matter to the Commission for determination, or defer action and take specified items under advisement and announce and issue the decision at a later date. The decision shall contain applicable findings and any conditions of approval, and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. Following the hearing, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application.

22.118.050 – ~~Notice of Decision~~ by -Commission

The Commission may announce and issue the decision at the conclusion of a scheduled public hearing, or defer action and take specified items under advisement and announce and issue the decision at a later date. The decision shall contain applicable findings and any conditions of approval and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. Following the hearing, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application.

22.118.060 – Recommendation by Commission

After a public hearing on a proposed Master Plan, amendment to this Development Code, the Zoning Map or the Countywide Plan, the Commission shall forward a recommendation, including all required findings, to the Board for final action. Following the hearing, a notice of the Commission's recommendation shall be mailed to the applicant at the address shown on the application.

22.118.070 – ~~Notice of Decision~~ by -Board

For applications requiring Board approval, the Board shall announce and record its decision after the public hearing. The decision shall contain the findings of the Board and any conditions of approval and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. The decision of the Board shall be final.

22.118.080 – Indemnification

~~The~~ For applications that are approved by the review authority, the applicant and successors in interest to the project and site shall, and the review authority may require by condition of approval that the applicant and successors in interest to the project and site indemnify, protect, and hold harmless the County, its Board members, employees, and agents, from and against any and all liability, losses, claims, damages, expenses, and costs (including attorney, expert witness and consultant fees, and litigation expenses) that may at any time arise or be set up because of damages to property or personal injury arising out of or in connection with negligent acts by the applicant, successors in interest, and/or the agents or employees of same, except loss or damage that was caused by the negligence or willful misconduct of the County.

22.122.040 – Remedies are Cumulative

All remedies contained in this Development Code for the handling of violations or enforcement of the provisions of this Development Code shall be cumulative and not exclusive of any other applicable provisions of County or State law. Should a person be found guilty and convicted of a misdemeanor ~~or infraction~~ for the violation of any provision of this Development Code, the conviction shall not prevent the County from pursuing any other available remedy to correct the violation.

22.122.050 – Legal Remedies

The County may choose to undertake any of the following legal actions to correct and/or abate nuisances and violations of this Development Code:

- A. **Civil actions.** At the request of the Board, the County Counsel may apply to the Superior Court for injunctive relief to terminate a violation of this Development Code.
- B. **Abatement Hearing.** Where any person, firm, or corporation fails to remove a violation after being provided an opportunity to correct or end the violation, the Director may pursue an enforcement action as provided in Title 1, Chapter 1.05 (Nuisance Abatement) of the County Code, including penalties of up to \$2,500 per violation per day.
- C. **Citations.** The Director is authorized to enforce the provisions of this Development Code by the issuance of citations (for either misdemeanors or administrative citations).

~~**1D. Misdemeanor Citation Penalties.** Any person, partnership, firm, or corporation whether as principal, agent, employee, or otherwise, violating or failing to comply with any provisions(s) of this Development Code or any conditions imposed on any entitlement, development permit, map or license, shall be guilty of a misdemeanor as provided in Title 1, Section 1.04.160 (Violation Declared Misdemeanor) of the County Code.~~

~~Any person, partnership, firm, or corporation whether as principal, agent, employee, or otherwise, violating or failing to comply with the sign regulations of this Development Code or any conditions imposed on a Sign Permit or Sign Review, shall be guilty of an infraction.~~

~~**2E. Administrative Citations.** At the discretion of the Director, administrative citations may be issued for violations of this Development Code. The issuance of an administrative citation under this section shall not supersede or limit the remedies provided elsewhere in this code or California law, including other administrative citation remedies. Issuance of an administrative citation may be exercised in place of, but shall not be considered a waiver of, the use of any other available enforcement remedy.~~

~~**a. Infraction Fine Schedule**~~**Administrative Citation Penalty Schedule.** The following schedule shall apply:

- ~~1) a1.~~ A fine not exceeding \$100.00 for the first violation;

- 2) ~~b2~~—A fine not exceeding \$200.00 for a second violation of the same Code provision within one year; and
- 3) ~~e3~~—A fine not exceeding \$500.00 for each additional violation in excess of two, of the same Code provision within one year.

F.—

b. Nonpayment Of Citation For More Than one Year Deemed Nuisance In And Of Itself. Nonpayment of any assessed violation for longer than one year shall constitute a nuisance and be subject to the nuisance abatement procedures in Marin County Code Chapter 1.05, including payment of civil penalties of up to \$2,500 per violation per day and enforcement and other abatement costs incurred by the County.

c. Service of Citation.

1. If the property owner(s) who has violated the Ordinance is present at the scene of the violation, the enforcement officer shall attempt to obtain their signature on the administrative citation and shall deliver a copy of the administrative citation to them.
2. If the enforcement officer is unable to serve the property owner(s) on the premises, the administrative citation may be left with the occupant(s) of the property. If left with the occupant(s) of the property, a copy of the administrative citation shall also be mailed to the property owner(s) by certified mail, return receipt requested.
3. If no one can be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy mailed by certified mail, return receipt requested to the owner(s), occupant(s) or other person who has violated the Ordinance. The citation shall be mailed to the property address and/or the address listed for the owner(s) on the latest County Assessment Roll.
4. The failure of any interested person to receive the citation shall not affect the validity of the proceedings.

d. Participation of Minors. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a person under the age of eighteen years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

e. Administrative review on the imposition of administrative fines for failure to comply with requirements; Appeal.

1. Any person subject to an administrative fine pursuant to Section 22.122.050, et seq. shall have the right to request an administrative review within forty-five days of the issuance of a citation for an administrative violation of this ordinance pursuant to the authority granted to the Board of Supervisors by Government Code Section 53069.4, et seq. To request such a review, the

person requesting the review shall notify the Zoning Administrator in writing within forty-five days of the issuance of the citation.

2. The hearing officer shall be the Zoning Administrator or his/her designee. The hearing officer may conduct a hearing on the matter within ninety days of the request for the hearing unless one of the parties requests a continuance for good cause. The hearing officer shall render a decision within thirty days of the conclusion of the hearing, or from the receipt of the review request (if no hearing is held).
3. The person upon whom an administrative fine is imposed pursuant to Section 22.122.050 may file a legal appeal of the decision of the hearing officer. No appeal can lie unless the party filing the appeal has first properly requested the administrative review under Subsection 22.122.050.L.1.
4. The appeal must be filed within twenty days after service of the final decision issued by the hearing officer pursuant to California Government Code Section 53069.4, subdivision (b). The procedures outlined in Government Code 53069.4 shall apply.

D. **Payment.** The penalties assessed shall be payable to the County of Marin.

E. **Penalties.** Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action.

F. **Recordation of Notice of Violation.** Where any person, firm or corporation fails to remove a violation after being provided an opportunity to correct or end the violation, the Director may pursue recordation of a Notice of Violation as provided in Title 1, Chapter 1.06 (Recordation of Notice of Violation) of the County Code.

G. ~~**G.**~~ **Withholding Permits.** When there is an existing violation on a property, building and other construction permits may be withheld at the Director's discretion until such time as the agency confirms that the violation has been remedied.

H. **Remedies Cumulative.** The remedies provided by this chapter are cumulative and are in addition to any other remedies available at law or in equity, including withholding the issuance of any building and construction permit.

22.122.060 – Additional Permit Processing Fees

Any person who establishes a land use, or alters, constructs, enlarges, erects, maintains, or moves any structure without first obtaining a permit required by this Development Code, shall pay the additional permit processing fees established by the County Fee Ordinance for the correction of the violations, before being granted any permit for any structure or use on the subject site.

Chapter 22.124 – POST-DISASTER RESPONSE AND RECOVERY

Sections:

[22.124.010 Purpose.](#)

[22.124.020 Applicability.](#)

[22.124.030 Relationship to the Marin Operational Area Emergency Operations Plan, Emergency Recovery Plan, And Other Organizations.](#)

[22.124.040 Essential Disaster Response and Recovery Services.](#)

[22.124.050 Application Filing](#)

[22.124.060 Fees and Deferral, Reduction, or Waiver of Fees or Other Submittal Requirements.](#)

[22.124.070 Effect of Disaster Recovery Licenses on Zoning Restrictions.](#)

[22.124.080 Temporary Living Quarters.](#)

[22.124.090 Temporary Commercial and Institutional Facilities.](#)

[22.124.100 Conditions for Disaster Recovery Licenses.](#)

[22.124.110 Suspension or Revocation.](#)

22.124.010 – Purpose.

[It is the purpose and objective of this Chapter to establish temporary regulations in the event of a proclaimed or declared emergency by which the County can take extraordinary actions to protect the public health, safety, and welfare by assisting those citizens, businesses, and community organizations, facilitating the speed and effectiveness of disaster response and recovery, and providing pre-event planning to implement the Marin Operational Area Emergency Operations Plan, Post-Disaster Housing Annex, and Marin Operational Area Recovery Plan.](#)

22.124.020 – Applicability.

[This chapter applies to instances where the normal zoning restrictions contained in this Title are to be suspended temporarily to facilitate disaster response and recovery. The provisions of this chapter may be activated by the Director for the whole County or a portion thereof upon the proclamation of a disaster by the County, the State, or the Federal Government relating to the Marin Operational Area or adjoining jurisdictions. The provisions of this chapter shall cease to be applicable to an area two years following the date of the proclamation of a disaster, or as stipulated in an individual Disaster Recovery License issued by the Community Development Agency Director \(“Director”\).](#)

22.124.030 – Relationship to the Marin Operational Area Emergency Operations Plan, Emergency Recovery Plan, and Other Organizations.

[In the event of a proclaimed disaster, the Director shall report to the Marin Operational Area Recovery Committee \(Recovery Committee\) or Director of Emergency Services on all actions taken by the Director regarding disaster recovery operations in the period prior to the Recovery Committee convening, and shall thereafter coordinate with the Recovery Committee in implementing the Marin Area Emergency Operations Plan.](#)

In the event of a declared emergency, the Director shall report to the Post-Disaster Housing Task Force (Task Force) on all housing-related actions taken by the Director in the period prior to the Task Force convening, and shall thereafter coordinate with the Task Force in implementing the Housing Annex Action Items of the Marin Operational Area Emergency Operations Plan.

The Director shall also coordinate with other governmental and non-governmental organizations involved with disaster response and recovery, including periodic reports to the Board of Supervisors on actions taken pursuant to the Director's disaster response authority.

22.124.040 – Essential Disaster Response and Recovery Services.

Essential disaster response and recovery services provided by the Federal Government, the State, the County or non-governmental organizations coordinated by the County, or special districts within the County, are temporarily exempt from zoning restrictions contained in this Title for up to two years following a proclaimed disaster and from Disaster Recovery License requirements.

22.124.050 – Application Filing.

A Disaster Recovery License application is required for any temporary use described herein and shall be made to the Director in the form of a written application, together with fees, plans, and other submittal materials deemed necessary.

22.124.060 – Fees and Deferral, Reduction, or Waiver of Fees or Other Submittal Requirements.

Review fees for Disaster Recovery Licenses shall be based on the Community Development Agency Planning Division's standard hourly rate, unless the Board adopts special fees for those applications. The Board of Supervisors or Director is authorized to temporarily defer, reduce, or waive fees and other applications and materials as may otherwise be required for Disaster Recovery Licenses if said deferral, waiver, or reduction is deemed necessary to secure disaster-damaged structures and property against further damage or to protect adjoining structures or property. The Director must be notified of such repairs or other work within 10 days, and regular permits with fees may subsequently be required.

22.124.070 – Effect of Disaster Recovery Licenses on Zoning Restrictions.

Valid disaster Recovery Licenses temporarily suspend and supersede the normal zoning restrictions contained in this Development Code.

22.124.080 – Temporary Living Quarters.

A Disaster Recovery License may authorize the installation and use of temporary living quarters in any zoning district, including both housing and campgrounds, for those needing shelter because they were dislodged by the disaster or are responding to the disaster. Temporary living quarters may only be allowed when necessary to support an orderly recovery from the disaster consistent with implementation of the Marin Operational Area Emergency Operations Plan and Emergency Recovery Plan, provided they would not adversely affect public health or safety.

22.124.090 – Temporary Commercial and Institutional Facilities.

A Disaster Recovery License may authorize those temporary commercial and institutional facilities in any zoning district when necessary to support an orderly recovery from the disaster consistent with implementation of the Marin Operational Area Emergency Operations Plan and Emergency Recovery Plan, provided they would not adversely affect public health or safety.

22.124.100 – Conditions for Disaster Recovery Licenses.

In granting any Disaster Recovery License the Director may designate conditions of approval which, in his or her opinion, are necessary to substantially secure the objectives of the regulation or provision under which such Disaster Recovery License is granted. Such conditions of approval may include, but are not necessarily limited to, the period for which the Disaster Recovery License is valid, restrictions on the types and operational parameters of approved temporary uses, measures necessary to protect public health and safety, and the posting of a completion bond or other guarantee satisfactory to the Director, to cover the cost of the removal of the temporary use, cleaning, or restoration of the site after termination of the Disaster Recovery License. A decision by the Director to grant or not grant a Disaster Recovery License, and any conditions attached to an approval therein, shall be considered a ministerial action.

22.124.110 – Suspension or Revocation.

The Director may suspend or revoke any Disaster Recovery License granted if the Director finds that the temporary use bears no significant relation to the recovery of the areas adversely impacted by the disaster, the conditions pertaining to the Disaster Recovery License have been violated, or that the living quarters or facilities are resulting in potential health and safety hazards.

CHAPTER 22.130 – DEFINITIONS

Sections:

- 22.130.010 – Purpose of Chapter
- 22.130.020 – Applicability
- 22.130.030 – Definitions of Specialized Terms and Phrases

22.130.010 – Purpose of Chapter

This Chapter provides definitions of terms and phrases used in this Development Code that are technical or specialized, or that may not reflect common usage.

22.130.020 – Applicability

If any of the definitions in this Chapter conflict with definitions in other chapters of the Marin County Code, these definitions shall prevail for the purposes of this Development Code. If a word used in this Development Code is not defined in this Chapter, or other Titles of the County Code, the most common dictionary definition is presumed to be correct.

22.130.030 – Definitions of Specialized Terms and Phrases

Definitions are listed in alphabetical order.

A. Definitions, "A."

Accessory Retail Uses (land use). This land use consists of the retail sale of various products (including food) in a store or similar facility that is located within a health care, hotel, office, or industrial complex, for the purpose of serving employees or customers, and is not visible from a public street. These uses include pharmacies, gift shops, food service establishments within hospitals, convenience stores and food service establishments within hotels, and office and industrial complexes.

Accessory Structure, Detached. A structure that is physically detached from, secondary and incidental to, and commonly associated with the primary structure or use. Physically detached means independent of any type of substantial connection with the primary structure. A substantial connection for a structure other than a building means having a physical connection above the ground surface; except for retaining walls and fences outside of a building footprint, which are always considered detached. continuous foundation and a connecting roof. For buildings to be considered detached, the roofs between the primary building structure and the accessory building structure must be at least five feet apart.

Acres, Gross and Net. See "Lot Area."

Adult Entertainment Establishment (land use). This land use consists of any adult bookstore, adult hotel or motel, adult motion picture arcade, adult motion picture theater, cabaret, sexual encounter center, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," but not including those uses or activities, the regulation of which is preempted by state law.

Affordable Housing. Dwelling units that are income restricted and rented or sold at rates that are affordable to households with income qualifying as low, very low or extremely low income, as described in Chapter 22.22 (Affordable Housing Regulations) or Chapter 22.24 (Affordable Housing Incentives) and defined by Health and Safety Code Sections 50052.5 and 50053. Affordable Housing includes Transitional

Conventional District. Any zoning district established by Sections 22.06.020 (Zoning Districts Established), and Article V (Coastal Zones – Permit Requirements and Development Standards), that is not included under the definition of "Planned District" provided by this Chapter. The conventional districts include:

A (Agriculture and Conservation)	C-R2 (Coastal, Residential, Two-Family)
A2 (Limited Agriculture)	VCR (Village Commercial/Residential)
RA (Residential, Agricultural)	C1 (Retail Business)
C-RA (Coastal, Residential, Agricultural)	AP (Administrative and Professional)
RR (Residential, Restricted)	H1 (Limited Roadside Business)
RE (Residential, Estate)	C-VCR (Coastal, Village Commercial/Residential)
R1 (Residential, Single-Family)	C-H1 (Coastal, Limited Roadside Business)
C-R1 (Coastal, Residential, Single-Family)	OA (Open Area)
R2 (Residential, Two-Family)	C-OA (Coastal, Open Area)
	PF (Public Facilities)

Cottage Industry (land use). This land use consists of the design, light manufacturing or product assembly, and the sale of products and services inside a dwelling or within an accessory building located on the same site as the dwelling, by the inhabitants of the dwelling. This land use involves the design, manufacture, and sale of the following products and services, or other uses determined by the Director to be similar in nature including: See Section 22.32.060 (Cottage Industries).

- | | |
|---|--------------------------|
| - antique repair and refinishing | - jewelry making |
| - baking & food preparation for off-site consumption | - painting and sculpture |
| - batik and tie dyeing | - photography |
| - catering | - sewing |
| - ceramics | - weaving |
| - dress making, cloth decoration, etc. | - other handcrafts |
| - furniture and cabinet making, other woodworking | |

County. The County of Marin, State of California, referred to in this Development Code as "the County."

County Boundary. The boundary of the unincorporated limits of the County of Marin.

County Code. The Marin County Code.

Countywide Plan. The Marin Countywide Plan, including all of its elements and amendments, and all Community Plans, as adopted by the Board of Supervisors under the provisions of the Government Code (Sections 65300 et seq.), and referred to in this Development Code as the "Countywide Plan."

Coverage. See "Lot Coverage."

D. Definitions, "D."**Deck.** An open platform without a roof.

Dairy Operations (land use). This land use consists of specialized and intensive commercial animal facilities for the raising and keeping of dairy animals, including facilities for milking.

Demolition. The act of tearing down, removing, or replacing an existing building, structure, or other physical improvement. For structures other than buildings (e.g. fences, retaining walls), removal of more than 75 percent of the length or area of the structure shall be considered demolition. For buildings, cumulative removal or substantial modification of more than 75 percent of the linear sum total of a building's exterior walls, counted for all stories, shall be considered demolition of the building. Modification of improvements is considered to be substantial when the work makes structural modifications to the exterior walls of buildings in accordance with the California Building Code, including new shear walls over existing framing and/or the substitution or replacement of existing framing materials. The installation of interior drywall and in-kind replacement of exterior material treatment (e.g., stucco for stucco), regardless of color, is considered substantial modification only when structural modifications are included. The replacement of doors and windows and in-kind barge replacements for floating homes are not considered to be substantial modifications.

Density. The number of dwellings per acre of lot area, unless otherwise stated, for residential uses.

Density Bonus. An increase in the number of dwelling units over the base density.

Design Review. See Chapter 22.42 (Design Review).

Development. On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973(commencing with Section 4511 of the Public Resources Code).

As used in this section, "structure" includes any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

"Development" does not mean a "change of organization", as defined in California Code Section 56021 or a "reorganization", as defined in California Code Section 56073.

Development Code. The Marin County Development Code, Title 22 of the Marin County Code, referred to herein as "this Development Code."

Development Permit. See "Land Use Permit."

Development Project. (Non-Coastal) Any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction but not a permit to operate. "Development project" does not include any ministerial projects proposed to be carried out or approved by public agencies.

Playground. See “Parks and Playgrounds.”

Porch. [A deck with a roof, which is attached to a building.](#)

Poster Board. A sign consisting of a framed or unframed surface, freestanding or attached to a wall or fence or other structure, designed and located only for the display of announcements of coming performances of cultural, educational, and athletic events.

Poultry Processing Facility (Land Use). This land use consists of facilities permanently installed on a site engaged in slaughtering poultry for meat to be sold.

Precise Development Plan. See Chapter 22.44 (Master Plans and Precise Development Plans).

Premise(s). The site of a land use or activity subject to the requirements of this Development Code.

Primary Structure. See "Structure, primary."

Primary Zoning District. One of the agricultural, residential, commercial, or special purpose zoning districts established by Sections 22.06.020 (Zoning Districts Established) and Article V (Coastal Zones – Permit Requirements and Development Standards), that is applied to a site by the Zoning Map in addition to one or more of the combining districts established by Section 22.06.020.

Printing and Publishing (land use). This land use consists of printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying, and other "quick printing" services; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; and establishments manufacturing business forms and binding devices.

Private Residential Recreation Facilities (land use). This land use consists of privately-owned, non-commercial outdoor recreation facilities provided for members or project/neighborhood residents, including swim and tennis clubs, park and sport court facilities. Does not include golf courses/country clubs, which are separately defined.

Private Road. A street or right-of-way owned and maintained by a private person(s) or entity(ies).

Project. See "Development, or Project."

Property Line. See "Lot Line or Property Line."

Proposed Parcel(s). Each separate parcel shown on a tentative map or lot line adjustment, as proposed by an applicant.

Protected Tree and Heritage Tree. Any one of the following as indicated in the table below:

Common Name	Botanical Name	Protected Size Diameter at Breast Height	Heritage Size Diameter at Breast Height
Arroyo willow	<i>S. lasiolepis</i>	6 inches	18 inches
Big-leaf maple	<i>Acer macrophyllum</i>	10 inches	30 inches
Bishop pine	<i>Pinus muricata</i>	10 inches	30 inches
Blue oak	<i>Q. douglasii</i>	6 inches	18 inches
Box elder	<i>A. negundo var. californicum</i>	10 inches	30 inches
California bay	<i>Umbellularia californica</i>	10 inches	30 inches
California black oak	<i>Q. kelloggii</i>	6 inches	18 inches

Stream Conservation Area. An area designated by the Marin Countywide Plan along all natural watercourses shown as a solid or dashed blue line on the most recent appropriate USGS topographic quadrangle map, or along all watercourses supporting riparian vegetation for a length of 100 feet or more. See Marin Countywide Plan policy [BIO-4.1EQ-2.3](#).

Street. A public right-of-way or access normally used for vehicular traffic, excluding vehicular driveways serving a single lot or parcel and trails or paths used for pedestrian access purposes only.

Structural Alterations. Any change in the supporting members of a building, including bearing walls, columns, beams or girders.

Structural Clay and Pottery Products (land use). This land use consists of the manufacture of brick and structural clay products, including pipe, china plumbing fixtures, and vitreous china articles, fine earthenware and porcelain products. Artist/craftsman uses are included in "Cottage Industries," "Handcraft Industries and Small Scale Manufacturing," "Home Occupations."

Structure. Anything constructed or erected, the use of which requires attachment to the ground or attachment to something located on the ground. For the purposes of this Development Code, the term "structure" includes "buildings." Examples of structures include:

- residence/guest house
- garage/carport/car deck
- swimming pool/spa
- barn
- arbor/gazebo
- retaining wall
- fence/trellis

Structure, Accessory. See "Accessory Structures."

Structure, Primary. A structure in which the principal use of the site is conducted. On sites with multiple structures, the Director shall determine which is the primary structure based on zoning, use, floor area, owner occupancy, etc.

Studios for Art, Dance, Music, Photography, etc. (land use). This land use consists of the provision of individual and group instruction and training in: the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; and martial arts training studios.

Subdivider. A person, firm, corporation, partnership or association, a governmental agency, public entity or public utility, or the grantor to any such agency, entity, utility or subsidiary, who proposes to subdivide real property for themselves or for others, except employees and consultants or these persons or entities acting in this capacity.

Subdivision. The division, by any subdivider, of any unit or portion of land shown on the latest equalized Marin County assessment roll as a unit or contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. Subdivision includes a condominium project, as defined in Section 1351.f of the Civil Code, and a community apartment project, as defined in Section 1351.d of the Civil Code.

Subdivision Map. A Tentative, Parcel or Final Map, as described in Article VI (Subdivisions).

Subdivision Map Act. Division 2, Title 7 of the California Government Code, commencing with Section 66410 as presently constituted, and any amendments to those provisions.

Tidelands. All land and water areas that are below, or were at any time within a preceding 12-month period below the Mean High Tide line, and to contiguous land between that line, and either a point 100 feet inland or the nearest publicly maintained road, whichever is closer.

Areas behind secured dykes, which is normally not subject to tidal action by virtue of the dyke, are not considered tidelands.

Timber Harvesting. The cutting of timber and/or removal of forest products for commercial purposes, together with all the work incidental to those operations, including road building, tree marking, hazard reduction, etc.

Tobacco Paraphernalia. Cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette-rolling machines, and any other item designed for the smoking, use or ingestion of tobacco products.

Tobacco Products. Any substance containing any tobacco leave, including cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, and smokeless tobacco.

Tobacco Retailer. Any person who sells, offers for sale, or offers to exchange for any form of consideration, tobacco, tobacco products, and/or tobacco paraphernalia.

Total Height (System Height). The total WECS height is the height from natural grade to the fixed portion of the tower and includes the highest vertical length of any extensions above grade, such as the rotor blades when being operated.

Tower. The tower is the support structure, including guyed monopole and lattice types, upon which a wind turbine or other mechanical device is mounted as part of a wind energy system.

Tower Height (WECS). The tower height is the height from natural grade to the upper-most fixed portion of the tower excluding the length of any vertical axial-rotating turbine blade.

Transfer of Development Rights (TDR). The process established by Chapter 22.34 (Transfer of Development Rights), which allows some or all of the number of dwelling units potentially allowed by the zoning applicable to a "donor" site, to be transferred and built on another "receiving" site, in addition to the number of units potentially allowed by the zoning of the receiving site.

Transit Stations and Terminals (land use). This land use consists of passenger stations for vehicular, ferry, and rail mass transit systems; also terminal facilities providing maintenance and service for the vehicles operated in the transit system. Includes buses, taxis, railway, etc.

Transit Stop Shelter (land use). This land use consists of a small-scale covered waiting area for busses, taxis, and rail/mass transit stops.

Transitional Housing. Buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months per Health and Safety Code section 50675.2(h).

Trash Full Capture System. [Any device or series that traps all particles that area five millimeters or greater, and has a design treatment capacity of not less than the peak flow rate resulting from a one-year, one-hour, storm in the tributary drainage catchment area.](#)

Two-Family Dwelling (land use). This land use consists of detached residential structures under single ownership containing two dwellings. This land use does not include residential accessory dwelling units, which are separately defined.