

ARTICLE VII

Development Code Administration

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CHAPTER 22.110 – ADMINISTRATIVE RESPONSIBILITY

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- 22.110.010 – Purpose of Chapter
- 22.110.020 – Planning Agency Defined
- 22.110.030 – Community Development Director
- 22.110.040 – Zoning Administrator
- 22.110.050 – Planning Commission
- 22.110.055 – Design Review Boards
- 22.110.060 – Actions Void

22.110.010 – Purpose of Chapter

This Chapter describes the authority and responsibilities of County staff and officials in the administration of this Development Code. These authorities and responsibilities are in addition to those vested in the Board of Supervisors.

22.110.020 – Planning Agency Defined

As provided by State law (Government Code Section 65100), the Marin County Board of Supervisors, Planning Commission, Zoning Administrator, Community Development Director and Community Development Agency (referred to in this Development Code as the Agency) shall perform the functions of a Planning Agency.

22.110.030 – Community Development Director

- A. Appointment.** The Community Development Director shall be appointed by the Board.
- B. Duties and authority.** The Director shall:
 1. Have the responsibility to perform all of the functions designated by State law (Government Code Section 65103 – Planning Agency Functions);
 2. Have the responsibility and authority to review, approve, conditionally approve, or deny applications for all administrative permits issued by the Agency, including the review of development projects, in compliance with this code and CEQA.
 3. Perform any other responsibilities assigned by the Board;
 4. Delegate the responsibilities of the Director to Agency staff under the supervision of the Director;
 5. Serve in an advisory capacity, in compliance with State law (Map Act Section 66415), where this responsibility is assigned by Article VI (Subdivisions);
 6. Serve as the Zoning Administrator if appointed by the Board of Supervisors; and

7. Make typographical, technical, or format corrections to the Development Code provided the corrections are not of a substantive nature that would warrant consideration by the Planning Commission and the Board of Supervisors.

22.110.040 – Zoning Administrator

- A. Appointment.** The Zoning Administrator shall be appointed by the Board in compliance with State law (Government Code Sections 65900 et seq.).
- B. Duties and authority.** The Zoning Administrator shall:
 1. Perform the duties and functions prescribed in this Development Code, including the review of development projects, in compliance with this Development Code and the California Environmental Quality Act (CEQA);
 2. Perform any other responsibilities assigned by the Community Development Director; and
 3. Appoint deputies to carry out the responsibilities of the Zoning Administrator under the supervision of the Zoning Administrator.
- C. Supervision.** When the Zoning Administrator appoints an Agency staff person as Deputy Zoning Administrator, the staff person shall perform any duties assigned by the Zoning Administrator, in addition to those listed in 22.110.030.B (Duties and authority), above, as appropriate to the personnel title of the designee.

The designee shall be subordinate and directly responsible to the Director and/or any intermediate supervisory Agency staff in the performance of all duties other than those of the Zoning Administrator, but shall not be subordinate to, nor under the direction or control of the Director when performing the duties of the Zoning Administrator.

22.110.050 – Planning Commission

- A. Appointment.** The Commission shall consist of seven members appointed by the Board. Five commissioners shall be representative of the five supervisorial districts. Each Board member may nominate one commissioner for appointment by the Board. The remaining two commissioners shall be appointed and serve at-large.

The terms of the five district commissioners shall be four years and the two at large commissioners shall be two years. Commissioners may be removed at any time during their term by a majority vote of the Board. All vacancies shall be filled for the unexpired term in the same manner as the original appointment.

- B. Duties and authority.** The Commission shall perform the duties and functions prescribed in this Development Code, and recommend to the Board for final determinations on Master Plan applications, Development Code Amendments, Zoning Map Amendments, Countywide Plan Amendments, environmental documents, and other applicable policy or ordinance matters related to the County's planning process.

- 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, 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; and
 3. 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 22.112 – NONCONFORMING STRUCTURES, USES, AND LOTS

Sections:

- 22.112.010 – Purpose of Chapter
- 22.112.020 – Nonconforming Structures, Uses, and Lots
- 22.112.030 – Loss of Nonconforming Status
- 22.112.050 – Conformity of Uses Requiring Use Permits
- 22.112.060 – Previous Use Permits in Effect

22.112.010 – Purpose of Chapter

This Chapter provides uniform provisions for the regulation of legal nonconforming structures, land uses, and lots.

Within the zoning districts established by this Development Code, there exist structures, land uses, and lots which were lawful prior to the adoption, or amendment of this Development Code, but which would be prohibited, regulated, or restricted differently under the terms of this Development Code and future amendments, thereof. It is the intent of this Development Code to discourage the expansion of nonconformities, but to permit them to continue to exist and to be maintained and enhanced to protect public safety and property values.

22.112.020 – Nonconforming Structures, Uses, and Lots

Nonconforming uses and structures may continue, subject to the following provisions:

- A. **Nonconforming uses of land.** A nonconforming use of land may be continued, transferred or sold, provided that the use shall not be enlarged, increased, or intensified (e.g., longer hours of operation, more employees, etc.), nor be extended to occupy a greater area than it lawfully occupied prior to becoming a nonconforming use. The nonconforming use may not be relocated to another location on the lot, or moved from the inside to an outside location.
- B. **Nonconforming lots.** Lots that are nonconforming due to substandard lot area shall not be reduced in area in conventional zoning districts.
- C. **Nonconforming structures.** A nonconforming structure may be allowed to continue being used unless the structure is demolished. However, if the nonconforming structure is demolished as a result of a natural disaster its reconstruction shall be allowed as provided for in section 22.112.020.E (Reconstruction after damage or destruction).
 - 1. **Conforming additions.** Additions to a nonconforming structure may be made as long as the additions are in conformance with this Development Code.
 - 2. **Floodplain compliance.** All repairs or alterations to a structure with a legal nonconforming setback in order to raise the structure to an elevation that meets but does not exceed by more than 18 inches the minimum flood elevation standards contained in Marin County Code Chapter 23.09 (Floodplain Management) shall be permitted provided the extent of the nonconformity with regard to the required setback is not

increased, and the maximum height limit for the governing zoning district is not exceeded.

3. **Previously approved projects.** Physical improvements that do not meet the height, setback, or floor area ratio zoning standards codified in Marin County Code Title 22, which were subject to the California Building Code or its antecedents and that received final Building Permit inspection approval, constitute legal nonconforming structures with respect to those zoning standards. Only when evidence demonstrates that the Building Permit applicants or property owners who obtained the Building Permit had actual or constructive knowledge that they were misrepresenting facts critical for Building Permit review will the physical improvements that received final inspection be considered unauthorized with respect to those zoning standards.

D. Nonconforming use of a conforming structure. The nonconforming use of a structure may be continued, transferred, and sold, but not changed, increased, expanded, or intensified (e.g., longer hours of operation, more employees, etc.) Modifications to the nonconforming use of a structure may only occur as follows:

1. **Expansion of use.** The nonconforming use of a portion of a structure may be extended throughout the structure if it does not increase, expand, or intensify the nonconforming use.
2. **Substitution of use.** The nonconforming use of a structure may be changed to a use of the same or more restricted nature if the change does not result in an increase, expansion, or intensification of the nonconforming use as determined by the Director.
3. **Relocation of use.** The nonconforming use of a structure may not be relocated to another location on the parcel, or moved from the inside to an outside location, unless such relocation eliminates or substantially reduces the degree of nonconformity as determined by the Director.

E. Reconstruction after damage or destruction. The reconstruction of a nonconforming structure damaged or destroyed by fire, flood, earthquake or other natural disaster or as the result of an emergency may be allowed, provided that the following requirements are satisfied:

1. There is adequate information available regarding the pre-existing placement, height, bulk, and floor area of the structure to be reconstructed.
2. The extent of the nonconformity is not increased.
3. The structure shall be reconstructed on the same location on the lot (have the same structure footprint).
4. The structure shall be reconstructed with no greater height, bulk, or floor area than the original structure.
5. Reconstruction shall be vested within 24 months of the date of the damage, unless extended by the Director to respond to circumstances outside the property owner's control.
6. Reconstruction shall not adversely affect public the health, safety, and welfare.

22.112.030 – Loss of Nonconforming Status

If a nonconforming use of land or a nonconforming use of a conforming structure is discontinued for a continuous period of one year or is moved, the use shall be deemed to have been abandoned, and shall lose its nonconforming status. The one year period of discontinued use may be extended on a case by case basis at the discretion of the Director for reasons beyond the owner's control by up to a maximum of five additional years, based on a written request from the applicant submitted at least 10 business days before the use will otherwise be considered to be abandoned. Without further action by the County, further use of the site or the structure shall comply with all of the regulations of the applicable zoning district and all other applicable provisions of this Development Code.

22.112.050 – Conformity of Uses Requiring Use Permits

Any use that exists and was legally established at the time that changes in the Development Code were adopted that allow the use subject to the granting of a Use Permit, shall be deemed a conforming use, but only to the extent that it previously existed (e.g., maintains the same site area boundaries, location, hours of operation, etc.). If the same use is abandoned for a continuous period of one year, the conforming status of the use shall expire, unless the Director approves a longer time period due to circumstances beyond the property owner's control.

22.112.060 – Previous Use Permits in Effect

Any use that exists and was legally established with a Use Permit, issued in compliance with the regulations in effect at the time of application, that is subsequently disallowed by adopted changes in the Development Code may continue, but only in compliance with the provisions and terms of the original Use Permit.

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

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

22.114.030 – Filing of Appeals

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

22.114.040 – Processing of Appeals

- A. Report and scheduling of hearing.** When an appeal has been filed, the Director shall prepare a staff report on the matter, and schedule the matter for a public hearing by the appropriate appeal authority identified in Section 22.40.020 (Review Authority for County Land Use and Zoning Decisions) and as modified by Section 22.114.020.A.
- B. Action and findings:**
 - 1. General procedure.** The appeal authority shall conduct a public hearing in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). At the hearing, the appeal authority may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal.
 - a. The appeal authority may affirm, affirm in part, or reverse the action, decision, or determination that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with the provisions of this Development Code.
 - b. When reviewing a decision on a land use permit the appeal authority may adopt additional conditions of approval that may address other issues or concerns than the bases of the appeal.
 - c. A decision by an appeal authority may also be appealed in compliance with Section 22.114.040.B.3 (Appeals to Board), below, provided that the decision of the Board on an appeal shall be final.

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

CHAPTER 22.116 – DEVELOPMENT CODE, ZONING MAP, COMMUNITY PLAN, AND COUNTYWIDE PLAN AMENDMENTS

- 22.116.010 – Purpose of Chapter
- 22.116.020 – Hearings and Notice
- 22.116.025 – Preliminary Hearing
- 22.116.030 – Commission Action on Amendments
- 22.116.040 – Board Action on Amendments
- 22.116.060 – Adoption of Amendments

22.116.010 – Purpose of Chapter

This Chapter provides procedures for the amendment of this Development Code, the official Zoning Map, the Countywide Plan, or Community Plans whenever required by public necessity and general welfare.

22.116.020 – Hearings and Notice

Public hearings shall be set before the Commission and Board upon receipt of a complete application for an amendment or upon initiation by the Board, Commission, or Director, and following Agency review. Public notice of the hearings shall be given in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). However, typographical, technical, or format corrections may be made by the Director administratively without an amendment to the Development Code provided the corrections are not of a substantive nature that would warrant consideration by the Planning Commission and the Board of Supervisors.

22.116.025 – Preliminary Hearing

Prior to commencing environmental review for a complete application for a Countywide Plan and/or Community Plan amendment, the Director may schedule the application for a preliminary hearing by the Planning Commission and the Board of Supervisors. The purpose of the hearing would be to solicit public input and to provide preliminary feedback to the applicant on the merits of the proposed amendments.

22.116.030 – Commission Action on Amendments

The Commission shall make a written recommendation to the Board whether to approve, approve in modified form, or deny the proposed amendment.

22.116.040 – Board Action on Amendments

Upon receipt of the Commission's recommendation, the Board shall approve, approve in modified form or deny the proposed amendment.

If the Board proposes to adopt any substantial modification to the amendment not previously considered by the Commission during its hearings, the proposed modification shall be first referred back to the Commission for its recommendation. Failure of the Commission to report within 90

days after the referral, or within any longer time set by the Board, shall be deemed a recommendation for approval of the modification.

22.116.050 – Adoption of Amendments

Amendments to this Development Code, the official Zoning Map, the Countywide Plan, or Community Plans are adopted by the Board, as follows:

- A. This Development Code and the official Zoning Maps are amended by ordinance; and
- B. The Countywide Plan and Community Plans are amended by resolution.

CHAPTER 22.118 – NOTICES, PUBLIC HEARINGS, AND ADMINISTRATIVE ACTIONS

Sections:

- 22.118.010 – Purpose of Chapter
- 22.118.020 – Notice of Hearing or Administrative Action
- 22.118.030 – Hearing Procedure, Continuances
- 22.118.035 – Notice of Decision-Director
- 22.118.040 – Notice of Decision-Zoning Administrator
- 22.118.050 – Notice of Decision-Commission
- 22.118.060 – Recommendation by Commission
- 22.118.070 – Notice of Decision-Board
- 22.118.080 – Indemnification

22.118.010 – Purpose of Chapter

This Chapter provides procedures for the scheduling and noticing of public hearings before the Zoning Administrator, Commission, and Board. When a public hearing or administrative action is required by this Development Code, public notice shall be given and the hearing shall be conducted in compliance with this Chapter.

22.118.020 – Notice of Hearing or Administrative Action

The public shall be provided notice of public hearings and administrative actions in compliance with State law (the Planning and Zoning Law, Government Code Sections 65000 et seq., Subdivision Map Act, Government Code Sections 66410 et seq., and the California Environmental Quality Act, Public Resources Code 21000 et seq.).

A. Content of notice. Notice of a public hearing or administrative action shall include the following:

1. The date, time, and place of the hearing or action (or date before which a hearing or action will not be taken);
2. The name of review authority and contact information;
3. A general explanation of the matter to be considered; and
4. A general description, in text or by diagram, of the location of the real property that is the subject of the hearing or action.

If a proposed negative declaration or final environmental impact report (EIR) has been prepared for the project, in compliance with the County's CEQA Guidelines, the hearing notice shall include a statement that the review authority will also consider approval of the proposed negative declaration or certification of the final environmental impact report (EIR).

B. Method of notice distribution for public hearing actions. Notice of a hearing action required by this Title for a permit, permit amendment, appeal, or amendment shall be given as follows, as required by State law including Government Code Sections 65090, 65091, and 65092:

1. Notice shall be published at least once in a local newspaper of general circulation in the County at least 10 days prior to the decision; and
2. Written notice shall be mailed or delivered at least 10 days prior to the decision to the following parties:
 - a. The owner(s) or owner's agent of the property being considered, and the applicant;
 - b. Each local agency expected to provide essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected by the proposed project, unless the local agency has accepted an alternative means of receiving notification through an online method of delivery;
 - c. All owners of real property within 300 feet of the property which is the subject of the public hearing action, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of less than 20,000 square feet or a maximum density higher than two units per acre;

If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide the alternate notice allowed by State law (Government Code Section 65091.a.3);

or

- d. All owners of real property within 600 feet of the property which is the subject of the public hearing action, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of 20,000 square feet or greater, or a maximum density of two units per acre or lower.

If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide the alternate notice allowed by State law 22.(Government Code Section 65091.a.3);

and

- e. Any person who has filed a written request for notice with the Director and has paid the annual fee set by the most current County Fee Ordinance for the notice.
3. Notices of merger or unmerger hearings shall follow the procedures set forth in Chapter 22.92 (Merger of Parcels), and the Subdivision Map Act (Govt. Code Sections 66451.10-66451.24).

C. Method of notice distribution for administrative actions. Notice of an administrative action required by this Title for a permit or permit amendment is not required by law but may be given as follows:

1. Written notice maybe mailed or delivered at least 10 days prior to the decision to the following parties:

- a. The owner(s) or owner's agent of the property being considered, and the applicant;
- b. Each local agency expected to provide essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected by the proposed project;
- c. All owners of real property within 300 feet of the property which is the subject of the administrative action, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of less than 20,000 square feet or a maximum density higher than two units per acre;

If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide the alternate notice allowed by State law (Government Code Section 65091.a.3);

or

- d. All owners of real property within 600 feet of the property which is the subject of the administrative action, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of 20,000 square feet or greater or allows a maximum density of two units per acre or lower.

If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide the alternate notice allowed by State law (Government Code Section 65091.a.3);

and

- e. Any person who has filed a written request for notice with the Director and has paid the annual fee set by the most current County Fee Ordinance for the notice.

D. Site notice. Written notice that an application has been submitted shall be posted in at least one location on or adjacent to the property which is the subject of the permit at least 10 days prior to the public hearing or administrative decision date. The notice shall include contact information for the staff who is assigned to process the application, applicable information that is available online, and a general description, in text or by diagram, of the proposed project and the location of the real property that is the subject of the application,

E. Additional Notice. The Director may provide any additional notice as the Director determines is necessary or desirable, such as posting notices in public locations within a community.

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

22.118.030 – Hearing Procedure, Continuances

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

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

22.118.035 – Decision by Director

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

22.118.040 – Decision by Zoning Administrator

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

22.118.050 – Decision by Commission

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

22.118.060 – Recommendation by Commission

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

22.118.070 – Decision by Board

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

22.118.080 – Indemnification

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

CHAPTER 22.120 – USE PERMIT REVOCATIONS

Sections:

- 22.120.010 – Purpose of Chapter
- 22.120.020 – Hearings and Notice
- 22.120.030 – Master Use Permit Revocations
- 22.120.040 – Use Permit Revocation

22.120.010 – Purpose of Chapter

This Chapter outlines requirements for securing revocation or modification of previously approved Use Permits, which were not developed or operated in compliance with the original Use Permit approval.

22.120.020 – Hearings and Notice

The Board of Supervisors shall hold a public hearing in order to revoke or modify any Use Permit granted in compliance with the provisions of this Development Code.

Ten days prior to the public hearing (except for Temporary Use Permits, which require only a 24-hour notice), written notice shall be delivered to the applicant and/or owner of the property for which the Use Permit was granted. Notice shall be mailed, first class postage paid, to the applicant and/or owner, as shown on the County's latest equalized assessment roll.

The notice of the public hearing shall explain the reasons why the review authority has determined that a noncompliance with an approved Use Permit exists, and shall contain information in support of the request to revoke or modify the Use Permit.

22.120.030 – Master Use Permit Revocations

A Master Use Permit can be revoked in its entirety, or one or more specific uses authorized by the Master Use Permit may be individually revoked. When specific uses are individually revoked, the remainder of the uses authorized by the Master Use Permit remain unchanged.

22.120.040 – Use Permit Revocation

A Use Permit may be revoked or modified by the Board of Supervisors if any one of the following findings can be made:

- A. The permit was obtained by misrepresentation or fraud.
- B. One or more of the conditions of the permit have not been met.
- C. The improvement/use allowed by the permit is detrimental to the public interest, health, safety, convenience, or welfare of the County or constitutes a nuisance.

CHAPTER 22.122 – ENFORCEMENT OF DEVELOPMENT CODE PROVISIONS

Sections:

- 22.122.010 – Purpose of Chapter
- 22.122.020 – Sheriff's Duty to Enforce
- 22.122.030 – Violations
- 22.122.040 – Remedies are Cumulative
- 22.122.050 – Legal Remedies
- 22.122.060 – Additional Permit Processing Fees

22.122.010 – Purpose of Chapter

The provisions of this Chapter are intended to ensure compliance with the requirements of this Development Code and any conditions of land use permit or subdivision approval, to promote the County's planning efforts, and for the protection of the public interest, health, safety, convenience, and welfare.

22.122.020 – Sheriff's Duty to Enforce

It is the duty of the Sheriff and the officers of the County herein or otherwise charged by law with the enforcement of this Development Code to enforce the provisions of this Development Code.

22.122.030 – Violations

- A. Any structure or use which is established, operated, erected, moved, altered, enlarged, or maintained, contrary to provisions of this Development Code or any applicable condition of approval, is hereby declared to be unlawful and a public nuisance, and shall be subject to the remedies and penalties specified in this Chapter and Title 1, Chapter 1.05 (Nuisance Abatement) of the County Code.
- B. When County officials have reason to believe that a condition exists on a premise or property that violates this Development Code, they may inspect to determine whether the premise or property is in compliance with this Development Code.
- C. Any construction in violation of this Development Code or any condition(s) imposed on a permit may result in the cessation of some or all work through the issuance of an order or notice requiring such construction to cease ("Stop Work Order"). Any violation of this order or notice shall constitute a misdemeanor.

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 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).
 - 1. **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.
 - 2. **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. **Administrative Citation Penalty Schedule.** The following schedule shall apply:
 - 1) A fine not exceeding \$100.00 for the first violation;
 - 2) A fine not exceeding \$200.00 for a second violation of the same Code provision within one year; and
 - 3) A fine not exceeding \$500.00 for each additional violation in excess of two, of the same Code provision within one year.

- 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.E.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. 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 disaster by which the County can take extraordinary actions to protect the public health, safety, and welfare by assisting citizens, businesses, and community organizations, facilitating the speed and effectiveness of disaster response and recovery, and providing pre-disaster 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 proclaimed disaster, 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.

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.

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.

