



GUIDE FOR THE 2024 AMENDMENTS TO THE MARIN COUNTY DEVELOPMENT CODE RELATED TO HOUSING ELEMENT IMPLEMENTATION

Explanations of the key topics addressed in the amendments are provided below. The guide is not intended to be all-inclusive and should be used in conjunction with the draft code amendments shown in the track changes format in Exhibit A (Development Code 2024 Amendments). All code sections listed are in Marin County Code Title 22.

A. CLARIFICATIONS AND CORRECTIONS

The amendments related to clarifications and corrections include the following sections:

- 14.090, Table 2-12 - A site in Tomales was listed as a site in Tamalpais.
- 14.090 Table 2-12 - A new footnote is added.
- 14.100(B) - Text amended to reflect that the requirements only apply when the County is subject to SB-35 (which is currently not the case).

Most of the clarifications and corrections are self-explanatory and do not need detailed descriptions. The insertion of a new footnote in the “Housing Overlay Designation (HOD) District” section provides clarifying language such that housing development projects on those sites designated for lower income households in the 2023 Housing Element Update must be developed at no less than 20 units per acre as prescribed by Government Code Section 65523.2.

B. INTERNAL CONSISTENCY WITH CODE AND POLICY

The amendments related to internal consistency with code and policy include the following sections:

- 08.040, Table 2-2 - footnotes (3), (6) and (7).
- 10.040, Table 2-5 - footnotes (2), (5) and (6).
- 12.030(3) – New text added.
- 32.150 - Amended to recognize residential uses are permitted in commercial districts.

The amendments proposed under this topic are intended to eliminate internal inconsistencies. For example, Table 2-2, footnote No. 3 and Table 2-5, footnote No. 2, conflict with the CWP policies related to rounding-up, or footnotes No. 5, 6, and 7 reflect CWP policies that no longer exist. Similarly, VCR and RMPC districts permit mixed-use development but are not listed as allowing mixed-use development in Sec. 32.150.

C. ALIGNMENT WITH HOUSING ELEMENT UPDATE

The amendments related to alignment with the Housing Element update of 2023 include the following sections:

- 02.020.C – Text amended to align with recent amendments to the CWP related to rounding up provisions.
- 02.020.F(1) – Text deleted to align with recent amendments to the CWP related to internal consistency between community plans, the development, and CWP policies.
- 02.020.F(2) – Text added to establish clarity that, where conflicts exist, Federal and State laws prevail over local requirements.
- 08.040, Table 2-2, footnote (3) – Text amended to reflect CWP rounding up provisions.
- 08.040, Table 2-2, footnote (6) – Deleted to align with CWP.
- 08.040, Table 2-2, footnote (7) – Deleted to align with CWP.
- 10.040, Table 2-5, footnote (2) – Text amended to reflect CWP rounding up provisions.
- 10.040, Table 2-5, footnote (5) – Deleted to align with CWP.
- 10.040, Table 2-5, footnote (6) – Deleted to align with CWP.
- 12.030, Reference No 5 - Expanded to recognize residential uses are permitted in commercial districts.
- 12.030, Table 2-6 – Revised to allow multi-family residences in VCR zoning district.
- 12.030, Table 2-6 – Revised to allow two-family dwellings in VCR and CP zoning districts.
- 12.030 Table 2-6, footnote (5) – Expanded for internal consistency purposes.
- 12.030 Table 2-7, footnote (5) – Expanded for internal consistency purposes.
- 12.040 Table 2-8. Footnote (2a) – Text amended to reflect CWP rounding up provisions.
- 12.040 Table 2-8. Footnote (6) – Text amended to reflect CWP rounding up provisions.
- 12.040 Table 2-8. Footnote (7) – Text amended to reflect CWP rounding up provisions.
- 14.050(B) – Deleted to align with CWP.D
- 14.050, Table 2-11, footnote 5 – Deleted to align with CWP.
- 16.030(a) – Text revised to increase the maximum height for multi-family housing from 40 to 45 feet.

The amendments proposed under this section are intended to align the Development Code with the recent CWP amendments enacted with the Housing Element Update. For example, Table 2-2, footnote No. 3 and Table 2-5, footnote No. 2, conflict with the CWP policies related to rounding up, or footnotes No. 5, 6, and 7 reflect CWP policies that no longer exist. Similarly, Housing Element Program 8 includes a policy to increase the maximum height for multi-family housing from 30 to 45 feet.

According to the consistency test set forth by the Governor’s Office of Planning and Research, a zoning ordinance is consistent with a general plan where it furthers the objectives and policies of the general plan and does not obstruct their attainment. Most of the proposed Development Code amendments are intended to align with the Countywide plan and implement the policies and goals established therein.

D. ALIGNMENT WITH STATE LAW

The amendments related to alignment with State law include the following sections:

- 12.030 Table 2-6 – Footnote revised to cure conflict with state law.
- 12.040 Table 2-8 – Footnote (2c) revised to cure conflict with state law.
- 14.100(B)(1) – Text added to clarify SB 35 requirements only apply when the County is subject to SB 35 requirements.
- 14.100(B)(1) – Text added to requirement compliance with FBC for projects developed pursuant to AB 2011.

- 14.100(B)(2) – Text added to clarify housing developments must meet the density prescribed by the HOD, Table 2-12.
- 24.010 – Text added to acknowledge the State Density Bonus Law in its entirety.
- 24.020, Table 3-5a – Revised to reflect maximum potential density bonus.
- 24.040(6) – A new section added to codify AB 1287.
- 24.020, Table 3-5b – A new table added to reflect the State density bonus law in effect as of January 1, 2024.
- 24.020, Table 3-5c – Table revised to reflect the number of concessions prescribed by the State density bonus law in effect as of January 1, 2024.
- 24.020(C)(4) – Text related to onsite parking requirements deleted.
- 24.020(E)(4) and (5) - New text to clarify minimum submittal requirements.
- 24.030 – Text deleted as it is no longer relevant, or State law has superseded its benefit.
- 24.030 - New section added to clarify requirements for replacement units.
- 24.040 - New section added to codify childcare facilities in a housing development project (Gov't Code Sec. 65915(h)).
- 24.050 - New section to codify commercial development bonus (Gov't Code Sec 65915.7).
- 32.150(1) – A new section was added to recognize mixed-use standards as required by the State.
- 32.188 – New Section intended to codify AB 2011.
- 64.060 Expanded Type 3 application types to include other State legislation mandates for ministerial review.
- 130.030 (maximum allowable density) – Amended to reflect State law.

The amendments that are proposed to align the Development Code with State Law focus on the State Density Bonus Law, maximum permissible density, calculation of density, mixed-use development standards, conversion of sites in commercial properties to residential developments, and the no net loss provisions of the Housing Crisis Act of 2019 (SB 330).

In recognition of the adoption of AB 2011, which would allow housing development on commercial properties by-right, the proposed new section would codify AB 2011. Further, the revision to the Density Bonus regulations are meant to align the Development Code with the most recent State density bonus law.

E. SENATE BILL (SB) 9 REGULATIONS

The amendments related to SB 9 regulations include the following sections:

- 32.184(D)(3) – Text amended to reflect most recent State law (SB 423) and to implement changes recommended by the Planning Commission.
- 32.184(D)(4) – Text amended to reflect most recent State law (SB 423) and to implement changes recommended by the Planning Commission.
- 32.184(I) – Increase the maximum floor area from 1,200 square feet to 1,600 square feet or 30 percent floor area, whichever is more restrictive.
- 80.064(A)(4)(c) – Amended to reflect State law (SB 423).
- 80.064(A)(4)(d) – Amended to reflect State law (SB 423).
- 80.064(F)(2)– Amended to reflect to SB 9 access issues.

The Planning Commission voted to replace this requirement with text copied verbatim from State law, which imposes a requirement that the lots have access to, provide access to, or adjoin the public right-of-way. Second, a residence built under the provisions of SB 9 is currently limited to 1,200 square feet. At the recommendation of staff, the Planning Commission voted to revise the current cap to allow the floor area to reach 30 percent of the lot size, up to a maximum of 1,600 square feet. Notwithstanding the floor area ratio, a residence of at least 800 square feet would be allowed.

F. FORM BASED CODE

- 040.050.D – Slope Standards
- 040.050, Table 04.050.A – Maximum Amount of Sloped Areas Allowed to be Developed
- 040.080.5 – Environmental Protection Standards
- 070.050.9 - Windows

Planning staff has consulted with a few property owners and architects about the Form-Based Code. Developers and architects have raised concerns related to the maximum allowable development in steep sites as well as the requirements for irregular window sizes. The proposed amendments are intended to allow greater development potential on sites with sloped topography as well as revised window openings to standards window sizes.