



MARIN COUNTY LOCAL COASTAL PROGRAM AMENDMENTS OVERVIEW:
CHANGES TO COASTAL PERMIT FRAMEWORK

At their meeting of July 13, 2021, the Board of Supervisors activated the updated portions of the County's Local Coastal Program (LCP) Amendments, effective August 12, 2021. The updated LCP includes new and improved policies and regulations that implement the Coastal Act and is available at: <https://www.marincounty.org/depts/cd/divisions/planning/local-coastal-program>. The following information highlights some of the new Coastal Permit changes.

- **Types of Coastal Permits.** The LCP includes new Coastal Permit processing categories for proposed development including De Minimis Coastal Permit waivers and Emergency Permits, as well as broader notification requirements. The processing categories for development in the Coastal Zone are as follows:
 - **Categorical exclusion.** A determination that development is categorically excluded from the requirements to obtain a Coastal Permit pursuant to the terms of a Categorical Exclusion Order shall be noticed and may be challenged by an interested party in addition to the coastal Commission per Sections 22.68.040 and 22.70.040.
 - **Exemption.** A determination that development is exempt from the requirement to obtain a Coastal Permit may be challenged per Section 22.68.050.B.
 - **De Minimis Waiver.** A determination that a project qualifies for a De Minimis Waiver shall comply with Section 22.68.070.

The Director may determine a project is eligible for a De Minimum Waiver if the development: 1) does not adversely impact coastal resources, 2) is consistent with the LCP and, 3) is not located in an area where an action on development would be appealable to the Coastal Commission.

Proper notification of a De Minimis Waiver is required for both the public and the Executive Director of the California Coastal Commission.

Public notice of the proposed De Minimis Waiver of Coastal Permit and opportunities for public comment shall be provided as required by Section 22.70.050, including provision of notice to the Coastal Commission.

A De Minimis Waiver may not be issued unless it has been reported to the Board of Supervisors at a regularly scheduled meeting where the public shall have the opportunity to testify and otherwise participate in a hearing on the De Minimis Waiver. If two or more Supervisors so request at this hearing, the De Minimis Waiver shall not be issued and, instead, an application for a Coastal Permit shall be required and processed in accordance with the provisions of this chapter. Otherwise, the Waiver shall be deemed approved, effective, and issued the day of the Board of Supervisors hearing.

The determination of whether a development qualifies for a De Minimis Waiver from the requirements for a Coastal Permit can be challenged pursuant to Section 22.70.040.

- **Non-public hearing applications.** A public hearing shall not be required when an application is not appealable to the Coastal Commission by Section 22.70.080 unless a public hearing is required for another discretionary planning permit for the same project or as determined by the Director.

The determination of whether a development qualifies for a non-public hearing can be challenged pursuant to Section 22.70.040.

- **Public hearing applications.** A public hearing shall be required when a project is defined as appealable to the Coastal Commission by Section 22.70.080 unless the proposed project only entails the approval of a second unit in a residential zone or if it qualifies for a public hearing waiver.

The determination of whether a development qualifies for a public hearing can be challenged pursuant to Section 22.70.040.

- **Public hearing waiver for minor development.** A public hearing that would otherwise be required for the below identified minor development shall be waived if both the following occur:

- a. Notice is provided as required by Section 22.70.050 that a public hearing shall be held upon request by any person, and
- b. No request for a public hearing is received within 15 working days from the date of sending the notice required by Section 22.70.050.

- **Emergency Coastal Permits.** The process for emergency work in the Coastal Zone is now formalized, as outlined in Section 22.70.140. All emergency development pursuant to this section is considered temporary and must be removed and the affected area restored if it is not recognized by a regular Coastal Permit within 6 (six) months of the date of permit issuance, unless the Director authorizes an extension of time for good cause.

- **Vesting.** Previously, Coastal Permit approvals must be vested within two years of project approval. Now, Coastal Permits not vested within three years of the date of approval shall expire and become void, as outlined in Section 22.70.120.
- **Takings Analysis.** If the application of the policies, standards or provisions of the Local Coastal Program to proposed development would potentially constitute a taking of private property, then a development that is not consistent with the LCP may be allowed on the property to avoid a taking. Development must be as consistent as possible with all applicable LCP policies, and is the minimum amount of development necessary to avoid a taking as determined through a takings evaluation. Standards for the takings evaluation are further discussed in Section 22.70.180.

Should you have any questions about these changes, or questions for a particular property, please contact the Marin County Planning Department at 415.473.6269 or by email at cdapanning@marincounty.org.