

COMPILED MODIFICATIONS TO RECOMMENDED REVISED POLICIES FOR AMENDMENTS 3 & 7

December 11, 2018

Highlighted text below shows modifications to select items contained in Attachment 2 to the December 4, 2018 Board Letter. These incorporate the revisions included in the supplemental memos of December 2, 2018 and December 4, 2018.

AMENDMENT 3

3.1 Definition of Ongoing Agriculture

The question of whether changes in agricultural production activities should require coastal permits, and if so, what the parameters of such requirements should be, was extensively discussed and debated in public workshops, meetings and hearings over a long period during the development of the LCP's agricultural policies and implementing provisions. Among the fundamental objectives of the revised language below is to provide farmers and ranchers with clarity and predictability in operating under the LCP. The definition of "ongoing agriculture" specifies coastal permitting exemptions for enumerated routine agricultural operations that do not extend into "areas never before used for agriculture." The definition includes certain activities that would not be considered ongoing agriculture (and thereby require a Coastal Permit), including one additional category of activity intended to provide the Community Development Agency Director with discretion to require a Coastal Permit where an agricultural activity will have significant impacts to coastal resources.

Agriculture, ongoing

Agricultural production activities (including crop rotation, plowing, tilling, planting, harvesting, ~~and~~ seeding, grazing, and raising of animals.) which have not been expanded into areas never before used areas for agriculture. Determinations of such ongoing activities may be supported by Marin County Department of Agriculture, Weights and Measures information on such past activities. ~~Examples of activities that are NOT considered ongoing include but are not limited to:~~

~~In the context of development, the following types of activities are not considered ongoing agriculture.~~

- *Development of new water sources (such as construction of a new or expanded well or surface impoundment),*
- *Installation or extension of irrigation systems,*
- *Terracing of land for agricultural production,*
- *Preparation or planting of land for viticulture,*
- *Preparation or planting of land for cannabis,*
- *Preparation or planting of land with an average slope exceeding 15%*
- *Other agricultural production activities that the Director of CDA determines will have significant impacts to coastal resources.*

A Coastal Development Permit will not be required if the County determines the activity qualifies for a de minimis waiver pursuant to the requirements Section 22.68.070 or is categorically excluded pursuant to Categorical Exclusion Order 81-2 or 81-6.

Additionally, Section 22.68.050-*Coastal Permit Not Required: Exempt Development* in the portion of the LCP (Amendment 6) already certified by the Coastal Commission specifically support this approach by specifying that "ongoing agriculture" is exempt from Coastal Permits:

Section 22.68.030 – Coastal Permit Required

A Coastal Permit is required for development in the Coastal Zone that is undertaken by any person, including a private entity or a state or local agency, unless the development is categorically excluded (per Section 22.68.040), **exempt (per Section 22.68.050)**, or qualifies for a De Minimis Waiver (per Section 22.68.070).*(emphasis added)*

Section 22.68.050-Coastal Permit Not Required: Exempt Development

A. The following development shall be exempt from the requirements of Section 22.68.030 unless listed as non-exempt by Section 22.68.060...

12. Ongoing Agricultural Activities. See Chapter 22.130 for definition.

Revisions to Table 5-1-a Allowed Uses and Permit Requirements for Coastal Agricultural and Resource-Related Districts.

Footnote “6” applied to the “agriculture accessory activities” and “agriculture accessory structure” currently provides that these land uses are “(6) Only allowed where an agricultural dwelling is first approved” in the C-APZ. However, the primary purpose of the C-APZ is protect and continue agricultural use, so making such agricultural use dependent on the presence of an agricultural dwelling does not further that purpose. It is quite reasonable to expect, and encourage, agricultural uses on parcels that do not currently have a dwelling upon them. It would be counterproductive to make such agricultural use dependent on having a house, and could even create an incentive for an operator to seek construction of a house to meet the requirement. This provision was likely carried over from the traditional requirements in residential zones, where the principal use is placing a home on the lot, and not having the lot developed with an accessory structure as an independent use. In the C-APZ the opposite is true – its purpose is agriculture, and agricultural uses should not be dependent on the construction of a house. The removal of Footnote 6 corrects that problem. In addition, in order to add to clarify the relationship of C-APZ Land Use Table 5-1-a and ongoing agriculture, footnote “(11)” has been added to reference the definition of “Agriculture, Ongoing” and how it applies to the C-APZ land uses. (Exhibit 3)

(EXCERPT)

TABLE 5-1-a - ALLOWED USES AND PERMIT REQUIREMENTS FOR COASTAL AGRICULTURAL & RESOURCE-RELATED DISTRICTS

LAND USE (1)	PERMIT REQUIREMENT BY DISTRICT			See Standards in Section:
	C-APZ Agricultural Production (11)	C-ARP Agricultural Residential Planned (11)	C-OA Open Area (11)	
AGRICULTURE, MARICULTURE				
Agricultural accessory activities	PP (6), E	PP(10), P	PP	22.32.021
Agricultural accessory structures	PP (6), E	PP(10), P	PP	22.32.022

Notes:

(1) Listed land uses must be consistent with definitions in Article VIII [Section 22.130.030](#) (Development Code Definitions). (2) Design review requirements are contained in Chapter 22.42 rather than in the LCP and such design review requirements apply independent of, and in addition to, coastal permit requirements.

(4) Dairy operations allowed only on a site of 50 acres or larger.

~~(5) Permit requirements are determined by Section 22.32.030 (Animal Keeping).~~

~~(6) Only allowed where an agricultural dwelling is first approved.~~

(10) Only allowed as a principally permitted use when the legal lot is zoned C-ARP-10 to C-ARP-60, which provide that the principally permitted use of the property shall be for agriculture.

(11) Agricultural uses and activities that meet the definition of “Agriculture, Ongoing” in Chapter 22.130 and “Coastal Permit Not Required: Exempt Development” in Section 22.68.050.A.12. shall be processed consistent with those sections.

Development shall also be consistent, as applicable, with Chapters 22.130 (Definitions), 22.32 (Standards for Specific Land Uses), 22.64 (Coastal Zone Development and Resource Management Standards), 22.65 (Coastal Zone Planned District Development Standards), 22.66 (Coastal Zone Community Standards), and 22.68 (Coastal Permit Requirements).

Cross-referencing “Agriculture, Ongoing” definition in Land Use Table and sec 22.68

Footnote “(11)” above has been added to cross-reference the definition of “Agriculture, Ongoing” and applicable IP sections to clarify how those apply to the C-APZ land use tables.

AMENDMENT 7

7.6 Service capacity analysis for private wells (Section 22.64.140)

The County has expressed concerns that the Modifications to the domestic water standards would create a new rule subjecting even small projects to demanding and expensive studies out of scale with any potential impacts. Requiring evaluation of “streams, riparian habitats, and wetlands that are located on ... neighboring lots” could create an untenable situation where access is not granted by the neighboring land owner. Setting thresholds for the size or intensity of projects subject to the requirements makes the policy more equitable, workable and enforceable. The proposed amendment would clarify that the requirement for the additional report would apply to ~~projects served by a public water supply, including projects where there will be an increase in the amount of water used by more than 50%.~~ **public water supply projects, private/public projects proposing the subdivision or rezoning of land that would increase the intensity of use, and private/public projects on develop lots that would increase the amount of water use by more than 50%.**

22.64.140.A.1.b. An application for new or increased well production shall include a report prepared by State Licensed Well Drilling Contractors, General (Class A License) Engineering Contractors, Civil Engineers, or Geologists which demonstrates, to the satisfaction of the Director, that:

- 1) The sustainable yield of the well meets the LCP-required sustained pumping rate (minimum of 1.5 gallons per minute) and must be equal to or exceed the project’s estimated water demand.
- 2) The water quality meets safe drinking water standards.
- 3) **For public water supply projects, projects proposing the subdivision or rezoning of land that would increase the intensity of use, and or projects on developed lots that would increase the amount of water use by more than 50%,** the extraction will not adversely impact other wells located within 300 feet of the proposed well; adversely impact adjacent biological and hydrogeologically-connected resources including streams, riparian habitats, and wetlands that are located on the subject lot or neighboring lots; and will not adversely impact water supply available for existing and continued agricultural production or for other priority land uses that are located on the subject parcel or served by the same water source.