

ARTICLE I

Development Code Enactment and Applicability

CHAPTER 22.01 - PURPOSE AND EFFECT OF DEVELOPMENT CODEI-3

22.01.010 - Title	I-3
22.01.020 - Purpose of Development Code.....	I-3
22.01.030 - Authority, Relationship to Marin Countywide Plan and Applicable Plans.....	I-4
22.01.040 - Applicability of Development Code.....	I-4
22.01.050 - Responsibility for Administration	I-6
22.01.060 - Partial Invalidation of Development Code	I-7

CHAPTER 22.02 - INTERPRETATION OF CODE PROVISIONSI-9

22.02.010 - Purpose of Chapter	I-9
22.02.020 - Rules of Interpretation.....	I-9
22.02.030 - Procedures for Interpretations	I-12

Chapter 22.01 - Purpose and Effect of Development Code

Sections:

22.01.010 - Title

22.01.020 - Purpose of Development Code

22.01.030 - Authority, Relationship to Marin Countywide Plan and Applicable Plans

22.01.040 - Applicability of the Development Code

22.01.050 - Responsibility for Administration

22.01.060 - Partial Invalidation of Development Code

22.01.010 - Title

This Title is and may be cited as the Marin County Development Code, Title 22 of the Marin County Code, hereafter referred to as "this Development Code."

22.01.020 - Purpose of Development Code

This Development Code carries out the policies of the Marin Countywide Plan by classifying and regulating the uses of land and structures within the unincorporated areas of Marin County. The Marin Countywide Plan includes policies to preserve and enhance the natural environment of the County, and to strive for a high quality built environment. The Marin Countywide Plan also includes adopted Community Plans that are intended to further detail the policies of the Countywide Plan as they pertain to specific areas.

The County has adopted this Development Code to protect and to promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents and businesses in the County. Specifically, the purposes of this Development Code are to:

- A. Implement the Marin Countywide Plan, adopted community plans and other specific plans, and the Local Coastal Program (LCP) by encouraging the uses of land envisioned by these land use documents, and by avoiding conflicts between land uses;
- B. Protect the character and social and economic stability of agricultural, residential, commercial, industrial, and other areas within the County and ensure the orderly and beneficial development of those areas as part of a well-coordinated community;
- C. Conserve and protect the natural resources of the County, provide open space resources for passive and active recreational activities, and protect the public from safety hazards in the natural and built environments;
- D. Provide a diversity of areas characterized by differing land use activity, scale and intensity, while maintaining community identity and quality development;
- E. Create a comprehensive and stable pattern of land uses upon which to plan efficient systems for transportation, water supply, sewerage and other public facilities and utilities;

- F. Maintain Marin County as a unique, distinctive and secure environment for the County's residents and businesses; and
- G. Provide regulations for the subdivision of land in compliance with the Subdivision Map Act, Title 7, Section 4, Chapter 2 of the California Government Code.

22.01.030 - Authority, Relationship to Marin Countywide Plan and Applicable Plans

- A. This Development Code is enacted based on the authority vested in the County of Marin by the State of California, including: the State Constitution, Sections 65800 and subsequent sections of the California Government Code, the California Environmental Quality Act, the Coastal Act, the Housing Act, the Subdivision Map Act, the Health and Safety Code, and case law of the courts of California and the Supreme Court as they may all be modified from time to time.
- B. The County of Marin uses this Development Code as the primary tool to carry out the goals, objectives, and policies of the Marin Countywide Plan and applicable community and specific plans. The Marin County Board of Supervisors intends that this Development Code be consistent with the Marin Countywide Plan, and that any land use, subdivision, or development approved in compliance with this Development Code will also be consistent with the Marin Countywide Plan and applicable specific plans. However, the Countywide Plan, specific plans, and Local Coastal Program may contain policies or standards that are not included in this Development Code, but may be applicable to a land use or development proposal. Therefore, the users of this Development Code should consult with the Community Development Agency regarding such policies or standards. It is not the intent of this Development Code to implement private land use standards, such as Conditions, Covenants, and Restrictions (CC&Rs), which are generally administered and enforced outside of the County's regulatory authority.

22.01.040 - Applicability of Development Code

This Development Code applies to all land uses, subdivisions, and development within unincorporated Marin County.

- A. **New land uses, structures, and changes to them.** Compliance with the following requirements is necessary for any person or public agency to lawfully establish a new land use or structure, or to alter or replace any land use or structure:
 1. **Allowable use.** The proposed use of land shall be allowed by Article II of this Development Code (Zoning Districts and Allowable Land Uses) within the zoning district that applies to the site;
 2. **Development standards.** The proposed use of land or structure shall satisfy or be exempted from all applicable requirements of this Development Code, including but not limited to minimum lot area, height limits, required yard and street setbacks, residential density, sign standards, etc.; and
 3. **Permit/approval requirements.** Any land use permit or other approval required by Article II (Zoning Districts and Allowable Land Uses) or Article V shall be obtained. The preparation, filing, and processing of land use permit applications shall comply with Article IV (Land Use and Development Permits).

- B. Issuance of building permits.** The Building and Safety Inspection Division may issue building permits only when:
1. The proposed land use and/or structure satisfy the requirements of Subsection A. above;
 2. The Director determines that the site was subdivided in compliance with Article VI (Subdivision Procedures) of this Development Code; and
 3. The Director determines that the permit application contains all materials necessary to determine compliance with this Section.
- C. Subdivision of land.** Any subdivision of land within Marin County occurring after the effective date of this Development Code shall be consistent with the minimum lot size or maximum density requirements of Article II (Zoning Districts and Allowable Land Uses) or Article V (Coastal Zones – Permit Requirements and Development Standards), the subdivision requirements of Chapter 22.82 (Subdivision Design Standards), the procedures set forth in Article VI (Subdivision Procedures), and all other applicable requirements of this Development Code.
- D. Continuation of an existing structure or land use.** An existing land use is lawful and not in violation of the Marin County Code only when operated and maintained in compliance with all applicable provisions of this Development Code. However, the requirements of this Development Code are not retroactive in their effect on a land use that was lawfully established before this Development Code or any applicable amendment became effective. See Chapter 22.112 (Nonconforming Structures and Uses).
- E. Alteration or expansion of an existing structure or land use.** Any alteration, expansion or modification of an existing land use shall comply with all provisions of this Development Code, specifically including Chapter 22.112 (Nonconforming Structures and Uses).
- F. Effect of Development Code changes on projects in progress.** The enactment of this Development Code or amendments to its requirements may impose different standards on new land uses than those that applied to existing development. For example, this Development Code, or a future amendment, could require larger building setbacks for a particular land use than former Zoning Ordinance or Development Code provisions. The following provisions determine how the requirements of this Development Code apply to development projects in progress at the time requirements are changed.
1. **Projects with pending applications.** Land use permit and subdivision applications and extension requests that have been determined by the Community Development Agency to be complete before the effective date of this Development Code or any amendment, will be processed in compliance with the requirements in effect when the application was accepted as complete.
 2. **Approved projects not yet under construction.** An approved development for which construction has not begun as of the effective date of this Development Code or amendment, may still be constructed as approved, as long as required building permits have been obtained before the expiration of any applicable land use permit or, where applicable, before the expiration of any approved time extension. (See Section 22.56.050 (Time Limits and Extensions).)

3. **Approved projects not requiring construction.** An approved land use not requiring construction that has not been established by its land use permit being exercised (see Section 22.56.020 (Effective Date of Permits)) as of the effective date of this Development Code or amendment, may still be established in compliance with its approved permit, as long as establishment occurs before the expiration of the permit or, where applicable, before the expiration of any approved time extension. (See Section 22.56.050 (Time Limits and Extensions).)
 4. **Approved subdivisions not yet recorded.** An approved subdivision for which a parcel or final map has not been recorded as of the effective date of this Development Code or amendment, may still have a parcel or final map recorded in compliance with the approved Tentative Map, as long as recordation occurs before the expiration of the Tentative Map (Section 22.84.120 (Tentative Map Time Limits)) or, where applicable, before the expiration of any approved time extension granted under Section 22.84.140 (Extensions of Time for Tentative Maps) or authorized by State Law.
 5. **Projects under construction.** A structure that is being constructed under a valid building permit on the effective date of this Development Code or any amendment, need not be changed to satisfy any new or different requirements of this Development Code.
- G. Structures related to an emergency.** During a period of emergency declared by the Board, the Director may waive the height limit and setback requirements of this Development Code applying to structures, including provisions for public notices and public hearings; provided, that the Director finds:
1. The proposed structure is necessary in order to provide water during emergency circumstances; and
 2. The waiver of zoning requirements is necessary to meet the intent and purpose of the structure effectively.
- The Director may include appropriate conditions in the waiver of requirements, including but not limited to height, placement, design, color, materials, landscaping, and time limit for removing any structures.
- H. Other requirements may still apply.** Nothing in this Development Code eliminates the need for obtaining any other permits required by the County, or any permit, approval or entitlement required by other provisions of the County Code, the regulations of any County department, or any regional, State, or Federal agency.
- I. Conflicting permits and licenses to be void.** All permits or licenses shall be issued by the County in compliance with the provisions of this Development Code, after the effective date of this Development Code or any applicable amendment. Any permit or license issued in conflict with this Development Code shall be void, except as provided in Subsection D., above.

22.01.050 - Responsibility for Administration

This Development Code shall be administered by the Marin County Board of Supervisors, Planning Commission, Community Development Director, Zoning Administrator, and the Marin County Community Development Agency, as provided in Chapter 22.110 (Administrative Responsibility).

22.01.060 - Partial Invalidation of Development Code

If any article, section, Subsection, paragraph, subparagraph, sentence, clause, phrase or portion of this Development Code is for any reason held to be invalid, unconstitutional or unenforceable, these decisions shall not affect the validity of the remaining portions of this Development Code. The Marin County Board of Supervisors hereby declares that this Development Code and each article, section, Subsection, paragraph, subparagraph, sentence, clause, phrase and portion thereof would have been adopted irrespective of the fact that one or more of portions of this Development Code be declared invalid, unconstitutional or unenforceable.

Chapter 22.02 - Interpretation of Code Provisions

Sections:

- 22.02.010 - Purpose of Chapter
- 22.02.020 - Rules of Interpretation
- 22.02.030 - Procedures for Interpretation

22.02.010 - Purpose of Chapter

This Chapter provides rules for resolving questions about the meaning or applicability of any part of this Development Code. The provisions of this Chapter are intended to ensure the consistent interpretation and application of the provisions of this Development Code and the Marin Countywide Plan.

22.02.020 - Rules of Interpretation

A. Authority. The Director is assigned the responsibility and authority to interpret the requirements of this Development Code.

B. Language:

- 1. Abbreviated titles and phrases.** For the purpose of brevity, the following phrases, personnel and document titles are shortened in this Development Code:

The County of Marin	“County”
This Development Code	“this Development Code”
The Board of Supervisors	“Board”
The Planning Commission	“Commission”
The Community Development Agency	“Agency”
The Community Development Director	“Director”
Buildings and structures	“structures”
The California Subdivision Map Act	“Map Act”
California Government Code	“Government Code”

- 2. Terminology.** When used in this Development Code, the words "shall," "will," "is to," and "are to" are always mandatory. "Should" is not mandatory but is strongly recommended; and "may" is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the natural construction of the word indicates otherwise. "Including" means ". . . including but not limited to. . .".

- 3. Number of days.** Whenever a number of days is specified in this Development Code, or in any permit, condition of approval, or notice issued or given as provided in this Development Code, the number of days shall be construed as calendar days, unless business days are specified. Time limits will extend to the following business day where

the last of the specified number of days falls on a weekend or holiday acknowledged by the Board as a County-observed holiday.

4. **Minimum requirements.** When the regulations of this Development Code are being interpreted and applied, all provisions shall be considered to be minimum requirements, unless stated otherwise (e.g., height limits, site coverage requirements for structures, and the numbers and size of signs allowed are identified as maximums, not minimums).
- C. Calculations - Rounding.** Where provisions of this Development Code require calculations to determine applicable requirements, any fractional/decimal results of the calculations shall be rounded as provided by this Subsection.
1. **Minimum lot area and number of lots.** The fractional/decimal results of calculations of the number of parcels allowed through subdivision based on a minimum lot area requirement shall be rounded down to the next lowest whole number. For example, the R-1 zoning district minimum lot area requirement of 7,500 square feet would allow division of a 21,000 lot into two lots ($21,000 / 7,500 = 2.66$, rounded down to two).
 2. **Residential density.** When the number of housing units allowed on a site are calculated based on density limits established by a zoning district, any fraction of a unit of 0.9 or greater shall be counted as a whole unit; any fraction of a unit less than 0.9 shall be rounded down to the next lowest whole number. For example, a planned zoning district allows one housing unit for each 1,000 square feet of lot area; a lot of 8,500 square feet would be allowed eight housing units ($8,500 / 1,000 = 8.5$, rounded down to eight). A lot of 8,900 square feet would be allowed nine housing units ($8,900 / 1,000 = 8.9$, rounded up to nine).
 3. **Floor Area Ratio (FAR).** When calculating the allowable floor area of a structure based on the FAR established by the applicable zoning district, the fractional/decimal results of calculations shall be rounded to the next highest whole number when the fraction/decimal is 0.5 or more, and to the next lowest whole number when the fraction is less than 0.5. For example, a maximum Floor Area Ratio of 0.30 applied to a lot of 25,856 square feet results in a maximum allowable floor area of 7,757 square feet ($25,856 \times .030 = 7,756.8$, rounded up to 7,757).
 4. **All other calculations.** For all calculations required by this Development Code other than those described in Subsections C.1 and C.2 above, the fractional/decimal results of calculations shall be rounded to the next highest whole number when the fraction/ decimal is 0.5 or more, and to the next lowest whole number when the fraction is less than 0.5.
- D. Zoning Map boundaries.** If there is uncertainty about the location of any zoning district boundary shown on the official Zoning Map, the following rules are to be used in resolving the uncertainty:
1. Where zoning district boundaries approximately follow lot, alley, or street lines, the lot lines and street and alley centerlines shall be construed as the zoning district boundaries;
 2. If a zoning district boundary divides a parcel and the boundary line location is not specified by distances printed on the zoning map, the location of the boundary will be determined by using the scale appearing on the zoning map;

3. Where a public street or alley is officially vacated or abandoned, the property that was formerly in the street or alley will be included within the zoning district of the adjoining property on either side of the centerline of the vacated or abandoned street or alley; and
4. Any property not clearly designated on the Zoning Map in any of the zoning districts established by Section 22.06.020 (Zoning Districts Established) shall hereby be designated as being in the A2 (Agriculture, Limited) zoning district (Chapter 22.08 (Agricultural and Resource-Related Districts)).

E. Allowable uses of land. If a proposed use of land is not specifically listed in Article II (Zoning Districts and Allowable Land Uses) the use shall not be allowed, except as follows.

1. The Director may determine that a proposed use not listed in Article II (Zoning Districts and Allowable Land Uses) is allowable if all of the following findings are made:
 - a. The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the allowable uses listed in the zoning district;
 - b. The proposed use will not involve a higher level of activity or population density than the uses listed in the zoning district;
 - c. The proposed use will meet the purpose/intent of the zoning district that is applied to the site; and
 - d. The proposed use will be consistent with the goals, objectives and policies of the Marin Countywide Plan.
2. When the Director determines that a proposed, but unlisted, use is equivalent to a listed allowable use, the proposed use will be treated in the same manner as the listed use in determining where it is allowed, what permits are required and what other standards and requirements of this Development Code apply.
3. The Director may forward questions about equivalent uses directly to the Commission for a determination at a public hearing.

F. Conflicting requirements:

1. **Other County Code provisions.** If conflicts occur between requirements of this Development Code, or between this Development Code and a Community Plan or other regulations of the County where a discretionary permit is applicable, the most restrictive provision shall apply.
2. **Private agreements.** It is not intended that the requirements of this Development Code are to interfere with, repeal, abrogate or annul any easement, covenant, or other agreement that existed when this Development Code became effective. This Development Code applies to all land uses and development regardless of whether it imposes a greater or lesser restriction on the development or use of structures or land than a private agreement or restriction, without affecting the applicability of any agreement or restriction.

Many communities have private conditions, covenants, and restrictions (CC&Rs) administered by homeowners' associations. The County can not enforce any private covenant or agreement unless it is a party to the covenant or agreement.

22.02.030 - Procedures for Interpretations

The Director shall respond in writing to any written request for interpretation of the provisions of this Development Code. Any member of the public may submit an interpretation request to the Director.

- A. Request for interpretation.** The written request shall state the provision(s) in question, and provide any information that the Director deems necessary to assist in the review.
- B. Record of interpretations.** Whenever the Director determines that the meaning or applicability of any of the requirements of this Development Code are subject to interpretation generally or as applied to a specific case, the Director may issue an official interpretation. Official interpretations shall be:
 - 1. In writing, and shall quote the provisions of this Development Code being interpreted, and explain their meaning or applicability in the particular or general circumstances that caused the need for interpretation; and
 - 2. Distributed to the Board, Commission, County Counsel, County Clerk, and Agency staff.

Any provisions of this Development Code that are determined by the Director to need refinement or revision will be corrected by amending this Development Code as soon as is practical. Until amendments can occur, the Director will maintain a complete record of all official interpretations, available for public review, and indexed by the number of the Section that is the subject of the interpretation.

- C. Appeals and referral.** Any written interpretation of this Development Code by the Director may be appealed to the Commission as provided by Chapter 22.114 (Appeals). The Director may also refer any written interpretation to the Commission for a determination.