

ARTICLE III

Site Planning and General Development Regulations

CHAPTER 22.20 – GENERAL PROPERTY DEVELOPMENT AND USE STANDARDS	III-5
22.20.010 – Purpose of Chapter	III-5
22.20.020 – Applicability – General Standards.....	III-5
22.20.030 – Access Standards	III-5
22.20.040 – Archaeological and Historic Resources.....	III-6
22.20.045 – Energy Efficiency	III-6
22.20.050 – Fencing and Screening Standards.....	III-6
22.20.055 – Bridge Standards.....	III-8
22.20.060 – Height Measurement and Height Limit Exceptions.....	III-9
22.20.070 – Hillside Development Standards	III-11
22.20.080 – Parking Requirements.....	III-11
22.20.090 – Setback Requirements and Exceptions	III-11
22.20.100 – Solid Waste/Recyclable Materials Storage.....	III-18
22.20.110 – Undergrounding of Utilities.....	III-20
CHAPTER 22.22 – AFFORDABLE HOUSING REGULATIONS	III-21
22.22.010 – Purpose of Chapter	III-21
22.22.015 – Density for Affordable Housing Projects	III-21
22.22.020 – General Requirements—Housing Projects	III-22
22.22.030 – Inclusionary Requirements for Rental Housing Developments.....	III-25
22.22.040 – Inclusionary Requirements for Ownership Housing Developments	III-26
22.22.050 – Inclusionary Requirements for Lot Subdivisions	III-27
22.22.060 – Eligibility Requirements for Ownership Housing Developments	III-27
22.22.070 – Control of Resale	III-27
22.22.080 – In-Lieu Participation Fees for Residential Development.....	III-28
22.22.090 – Availability of Government Subsidies.....	III-29
22.22.095 – Inclusionary Requirements for Commercial and Industrial Development	III-29
22.22.100 – In-Lieu Participation Fees for Commercial and Industrial Development.....	III-32
22.22.110 – Waivers and Appeals of Affordable Housing Requirements.....	III-33
CHAPTER 22.24 – AFFORDABLE HOUSING INCENTIVES.....	III-35
22.24.010 – Purpose of Chapter	III-35
22.24.020 – County Incentives for Inclusionary and Other Affordable Housing.....	III-35
22.24.030 – Density Bonus and Other Incentives Pursuant to State Law	III-37

CHAPTER 22.26 – LANDSCAPING..... III-45

22.26.010 – Purpose of Chapter III-45
 22.26.020 – Applicability – Landscaping Plans Required III-45
 22.26.030 – Landscaping Plan Procedures III-45
 22.26.040 – Landscaping Objectives..... III-45
 22.26.050 – Security for Delayed Installation III-46

CHAPTER 22.27 – NATIVE TREE PROTECTION AND PRESERVATION... III-47

22.27.010 – Purpose of Chapter III-47
 22.27.020 – Applicability..... III-48
 22.27.030 – Prohibition on Removal of a Protected Tree III-48
 22.27.040 – Exemptions..... III-49
 22.27.050 – Oak Woodland Management Guidelines III-50
 22.27.060 – Oak Woodland Management Educational Guidelines III-50
 22.27.070 – Tree Removal Permit III-50
 22.27.080 – Application and Fees for a Tree Removal Permit III-50
 22.27.090 – Action on Tree Removal Permit – Criteria III-50
 22.27.100 – Replacement Requirements for a Permit Validly Obtained III-51
 22.27.110 – Appeals..... III-51
 22.27.120 – Violations and Penalties..... III-51
 22.27.130 – Tree Replacement/Preservation Fund III-52
 22.27.140 – Site Inspection..... III-52
 22.27.150 – Liability III-52

CHAPTER 22.28 – SIGNS III-53

22.28.010 – Purpose of Chapter III-53
 22.28.020 – Applicability III-53
 22.28.030 – General Sign Regulations III-53
 22.28.040 – Exempt Signs III-54
 22.28.050 – Prohibited Signs..... III-56
 22.28.060 – Signs Requiring a Sign Permit..... III-57
 22.28.070 – Signs Requiring Sign Review III-59
 22.28.080 – Sign Permit and Sign Review Procedures III-61
 22.28.090 – Nonconforming signs..... III-62
 22.28.100 – Removal of Dangerous Signs III-63

CHAPTER 22.30 – STANDARDS FOR SPECIFIC COMMUNITIES..... III-65

22.30.010 – Purpose of Chapter III-65
 22.30.020 – Applicability III-65
 22.30.030 – Communities within the Coastal Zone..... III-65
 22.30.040 – Lucas Valley Community Standards III-65
 22.30.050 – Sleepy Hollow Community Standards..... III-67
 22.30.060 – Tamalpais Planning Area Community Standards III-69

CHAPTER 22.32 – STANDARDS FOR SPECIFIC LAND USES III-71

22.32.010 – Purpose of Chapter III-71
22.32.020 – Accessory Retail Uses III-71
22.32.023 – Agricultural Worker Housing III-72
22.32.025 – Airparks III-73
22.32.030 – Animal Keeping III-73
22.32.040 – Bed and Breakfast Inns III-76
22.32.050 – Child Day-Care Facilities III-77
22.32.060 – Cottage Industries III-79
22.32.070 – Floating Home Marinas III-80
22.32.075 – Floating Homes III-81
22.32.080 – Group Homes and Residential Care Facilities III-84
22.32.090 – Guest Houses III-84
22.32.100 – Home Occupations III-85
22.32.110 – Mobile Home Parks III-86
22.32.115 – Non-Agricultural Uses III-88
22.32.130 – Residential Accessory Uses and Structures III-89
22.32.140 – Residential Second Units III-90
22.32.150 – Residential Uses in Commercial Areas III-97
22.32.155 – Employee Housing in Commercial Areas III-98
22.32.160 – Service Stations with Mini-Markets III-99
22.32.165 – Telecommunications Facilities III-99
22.32.170 – Tobacco Retail Establishments III-101
22.32.180 – Wind Energy Conversion Systems (WECS) III-101

CHAPTER 22.34 – TRANSFER OF DEVELOPMENT RIGHTS III-105

22.34.010 – Purpose of Chapter III-105
22.34.020 – Applicability of TDR Provisions III-105
22.34.030 – TDR Process III-105
22.34.040 – TDR Development Design III-106

CHAPTER 22.20 – GENERAL PROPERTY DEVELOPMENT AND USE STANDARDS

Sections:

- 22.20.010 – Purpose of Chapter
- 22.20.020 – Applicability – General Standards
- 22.20.030 – Access Standards
- 22.20.040 – Archaeological and Historic Resources
- 22.20.045 – Energy Efficiency
- 22.20.050 – Fencing and Screening Standards
- 22.20.055 – Bridge Standards
- 22.20.060 – Height Measurement and Height Limit Exceptions
- 22.20.070 – Hillside Development Standards
- 22.20.080 – Parking Requirements
- 22.20.090 – Setback Requirements and Exceptions
- 22.20.100 – Solid Waste/Recyclable Materials Storage
- 22.20.110 – Undergrounding of Utilities

22.20.010 – Purpose of Chapter

The provisions of this Chapter are intended to ensure that the construction of new development and the establishment of new and modified uses contribute to the maintenance of a stable and healthy environment, that new development is harmonious in character with existing and future development and that the use and enjoyment of neighboring properties are protected, as established in the Countywide Plan.

22.20.020 – Applicability – General Standards

- A. The standards of this Chapter shall be considered in combination with the standards for each zoning district in Article II (Zoning Districts and Allowable Land Uses) and Article V (Coastal Zones – Permit Requirements and Development Standards), and any standards established by Chapter 22.30 (Standards for Specific Communities). Where a conflict is perceived, the standards specific to the zoning district or specific community shall override these general standards (e.g., Section 22.30.030 (Sleepy Hollow Community Standards) shall control).
- B. All proposed development and new land uses shall conform with *all* of the standards of this Chapter and any applicable Community and Specific Plan prior to construction, unless specifically exempted by the Director. All uses requiring a discretionary land use permit or entitlement shall comply with any applicable Community and Specific Plan as determined by the review authority.
- C. The Director may modify or waive any one or more of the standards of this Chapter as they may apply to a development, based upon findings consistent with the provisions of this Chapter.

22.20.030 – Access Standards

Every structure or use shall have frontage upon a public street or permanent means of access to a public street by way of a public or private easement or recorded reciprocal (mutual) access agreement, as

determined by the Director. Driveways shall be developed in compliance with the standards contained in Chapter 24.04 (Improvements) of the County Code and applicable fire protection district regulations.

22.20.040 – Archaeological and Historic Resources

In the event that archaeological or historic resources are discovered during any construction, construction activities shall cease, and the Agency shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. The disturbance of an Indian midden may require the issuance of an Excavation Permit by the Department of Public Works, in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.

22.20.045 – Energy Efficiency

The following standards shall be applied to development projects requiring discretionary permits for the purpose of incorporating efficient and sustainable energy use in the design and/or location of new buildings and structures.

- A. Project Design.** The project design includes cost-effective features that foster energy and natural resource conservation while maintaining compatibility with the prevailing architectural character of the area.
- B. Solar Access.** Solar access shall be considered through appropriate studies or other information verifying that proposed structures are located and/or designed for solar gain.

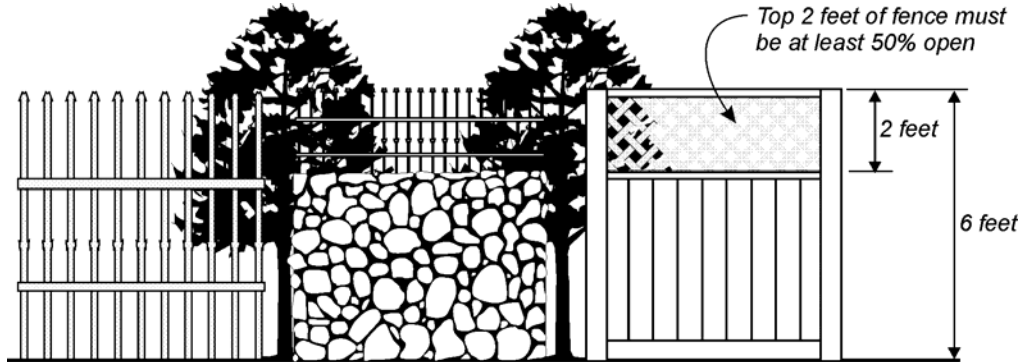
The type and extent of energy efficient features shall be consistent with the size and scale of the proposed development and the physical characteristics of the development site.

22.20.050 – Fencing and Screening Standards

The following standards shall apply to the installation of all fences and walls in the A, A2, OA, RA, RR, RE, R1, R2, C-RA, C-R1, and C-R2 zoning districts. Fences may require Design Review in all other zoning districts.

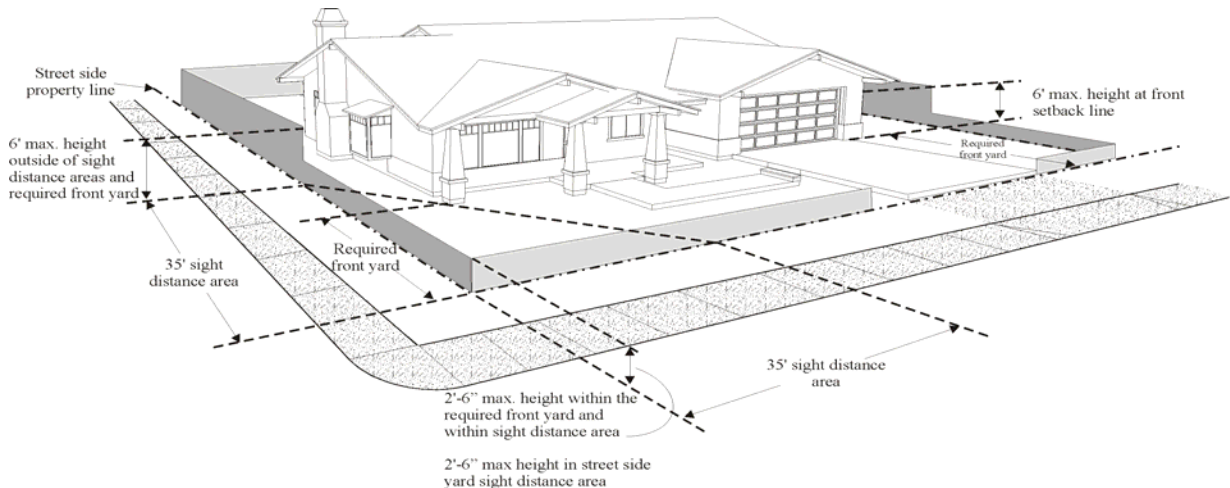
- A. Height limitations.** Fences, walls, and trellises are subject to the following height limitations.
 - 1. General height limit.** A fence or wall having a maximum height of four feet or less above grade may be located within a required setback for a front yard or side yard that abuts a street. A fence or wall having a maximum height exceeding four feet but no more than six feet above grade may be located within a required setback for a front yard or side yard that abuts a street if the entire section or portion of the fence or wall above four feet in height above grade has a surface area that is at least 50% open and unobstructed by structural elements. (See Figure 3-1.) A solid fence or wall having a maximum height of six feet above grade may be located within a required interior yard setback, a rear yard setback, a rear yard setback of a through lot, or on the property line defining such yards. A trellis above a gate or opening along the line of a fence, not exceeding a maximum height of eight feet above grade and a width of six feet, is permitted within a required setback for a front, side, or rear yard that abuts a street. A fence, wall, trellis, or other similar detached structure that exceeds the above height limits may be authorized subject to the requirements for Design Review.

**FIGURE 3-1
EXAMPLES OF FENCES WITH THE AREA
ABOVE FOUR FEET AT LEAST 50% OPEN**



- 2. Corner lots.** Fences within the front and/or street side setbacks of a corner lot shall not exceed a height of two feet, six inches above the street level of an adjacent intersection, within the area between the property lines and a diagonal line joining points on the property lines which are 35 feet from their intersection. See Chapter 13.18 (Visibility Obstructions) of the County Code. See Figure 3-2.

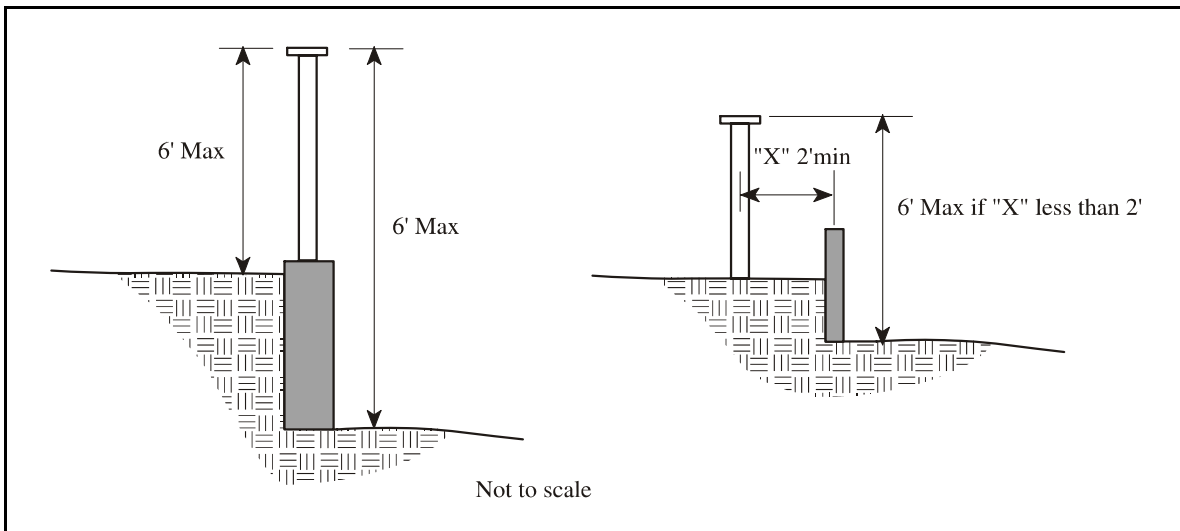
**FIGURE 3-2
HEIGHT LIMITATIONS FOR FENCES ON CORNER LOTS**



- 3. Parcels with grade differential.** Where there is a difference in the ground level between two adjoining parcels, the height of the fence or wall shall not exceed six feet as measured from grade on either side of the structure. See Figure 3-3 (Fence Height Limits).
- 4. Parallel fences and walls.** Two approximately parallel fences and/or walls shall maintain a separation of at least two feet to encourage landscaping between the separation, or the height of both structures shall be computed as one structure, subject to the six foot height limitation. See Figure 3-3 (Fence Height Limits).

- B. Setback requirements.** Fences or walls up to four feet in height or six feet in height above grade may be located within a required setback or on property lines in compliance with the height limits of Subsection A., above. Fences, walls, trellises, or other similar detached structures exceeding the height limits specified in Subsection A, shall be subject to the same setback requirements of this Development Code applicable to the primary structure, unless approved through Design Review.
- C. Fences exempt from permit requirements.** For situations where fences do not require a permit, see 22.06.050.B (Exemptions from Land Use Permit Requirements – Fences).

**FIGURE 3-3
FENCE HEIGHT LIMITS**



22.20.055 – Bridge Standards

The following standards shall apply to the installation of all bridges in A, A2, RA, RR, RE, R1, R2, C-RA, C-R1 and C-R2 zoning districts. Bridges require Design Review in all other zoning districts.

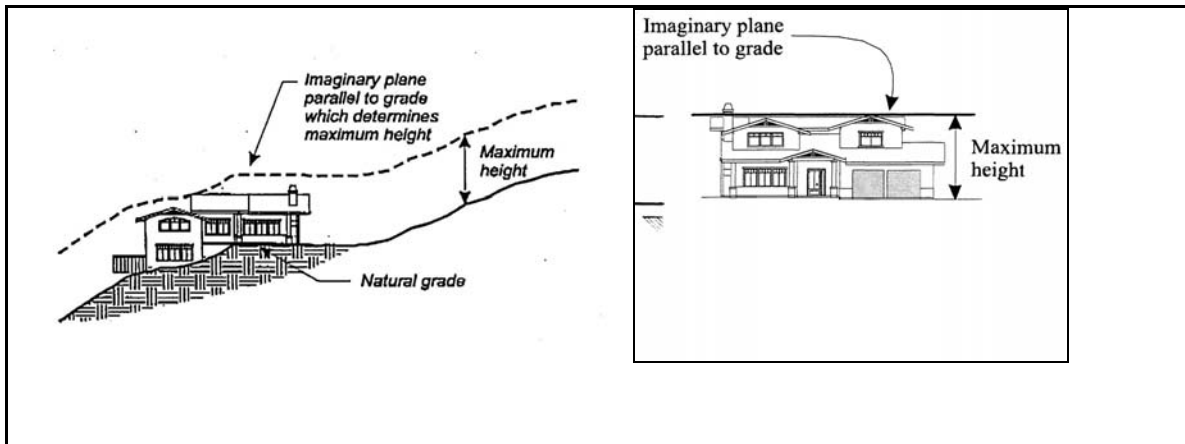
- A. Height limitations.** Bridges with a deck or surface elevation that does not exceed the minimum height above creek bank required to comply with Chapter 24.04 (Improvements) and Chapter VI (Drainage Facilities) may be located within a required setback, or on the property line. A bridge may have design or structural features that are no more than six feet in height above the top of bank.
- B. Setback Requirements.** Bridges that do not exceed the minimum height above creek bank required to comply with County flood control standards may be located within a required setback or on property lines in compliance with the height limits of 22.20.055A (Height Limitations), above. Bridges greater than 6 feet above the top of bank shall be subject to the same setback requirements of this Development Code applicable to the primary structure, unless approved through Design Review.

22.20.060 – Height Measurement and Height Limit Exceptions

All structures shall meet the following standards relating to height, except for fences, which shall comply with 22.20.050 (Fencing and Screening Standards), above.

- A. Maximum height.** The height of any structure shall not exceed the standard established by the applicable zoning district in Article II (Zoning Districts and Allowable Land Uses). Maximum height shall be measured as the vertical distance from grade to an imaginary plane located the allowed number of feet above and parallel to the grade. See Figure 3-4 (Measurement of Maximum Height) and definition of “Grade” in Article VIII (Definitions).

**FIGURE 3-4
MEASUREMENT OF MAXIMUM HEIGHT**



- B. Detached accessory structures.** A detached accessory structure shall not exceed 15 feet in height above grade. However, a detached accessory structure may be constructed to the height allowed for primary structures, by the applicable zoning district, if the accessory structure is located at least 40 feet from all property lines.
- C. Structures for parking.** A detached parking structure is subject to the height limit required by Section 22.20.060.B (Detached accessory structures), above. Where a garage or other parking structure is located three feet from a front or side property line, in compliance with Section 22.32.130.B.2 (Residential Accessory Uses and Structures), its height shall be measured from the floor level of the parking area.
- D. Fences.** Height limits for fences are established by Section 22.20.050.A (Fencing and Screening Standards—Height Limitations), above.
- E. Exceptions to height limits:**
- 1. Institutional buildings.** Where the maximum height established by the applicable zoning district is less than 75 feet, public and semi-public buildings, churches, hospitals, schools, and other institutional structures allowed in the zoning district may be erected to a height not exceeding 75 feet; provided that:
 - a. The front, side, and rear yard setbacks shall be increased one foot for each one foot by which the structure exceeds the height limit established by the zoning district; and

- b. The Director determines that the amount of structure height allowed above the height limit of the underlying zoning district will not result in significant glare, light, privacy, shadow, or visual impacts to surrounding properties or scenic locations.
2. **Single-family dwellings.** Single-family dwellings in an A, A2, RA, RR, RE, R1, and R2 zoning district may be increased in height without Variance approval by a maximum of 10 feet when side setbacks of 15 feet or greater are provided, subject to the regulations of Chapter 22.42 (Design Review).
 3. **Solar Panels.** In A, A2, RA, RR, RE, R1, R2, H1, and VCR zoning districts, roof-mounted solar electric and solar thermal panels may exceed 30 feet above grade, provided no part of the equipment exceeds a height of 32 feet above grade unless approved through Design Review. The requirements of Sections 22.16.030.F.1, 22.16.030.F.2., 22.16.030.J relative to protection of rural visual character, 22.16.030.K.1.c., 22.16.030.K.2, 22.42.060.A (Decisions and Findings), and 22.42.060.F.1 (Decisions and Findings) shall not apply to Design Review for solar panels.
 4. Spires, towers, water tanks, etc. Chimneys, cupolas, flag poles, monuments, spires, towers (e.g., transmission, utility, etc.), water tanks, wind energy conversion systems (WECS), similar structures and necessary mechanical appurtenances may be allowed to exceed the height limit established for the applicable zoning district, subject to the following standards.
 - a. The structure shall not cover more than 15 percent of the lot area at any level.
 - b. The area of the base of the structure shall not exceed 1,600 square feet.
 - c. No spire, tower or similar structure shall be used for sleeping or eating quarters or for any commercial purpose other than that which is incidental to the allowed uses of the primary structure.
 - d. No structure shall exceed a maximum height of 150 feet above grade, except for parcels in the A2 or IP zoning districts.

F. Height limit exceptions by Variance or Design Review:

1. **Primary structure.** A primary structure may exceed the height limit of the applicable conventional zoning district with Variance approval; provided that the structure shall not exceed the maximum floor area ratio (FAR) for the applicable zoning district. See exceptions for single-family dwellings in certain zoning districts contained in Section 22.20.060.E.2. See Chapter 22.54 (Variances).
2. **Detached accessory structure.** A detached accessory structure may exceed the height limit of the applicable zoning district with Design Review approval provided that the structure shall not exceed the maximum floor area ratio (FAR) for the applicable zoning district and the height limit for the primary structure. See Chapter 22.42 (Design Review).

22.20.070 – Hillside Development Standards

The following standards apply to subdivisions and other development proposed in hillside areas where the slope of the proposed site is six percent or greater.

- A. Subdivision design.** Proposed subdivisions shall comply with the standards of Section 22.82.050 (Hillside Subdivision Design).
- B. Standard parcels.** The following requirements apply where the area of a vacant parcel proposed for single-family residential development is less than 50 percent of the minimum lot area required by Section 22.82.050 (Hillside Subdivision Design):
 - 1. The proposed development shall be subject to Design Review (Chapter 22.42); and
 - 2. The setback requirements otherwise prescribed for the site by the applicable zoning district shall be waived, provided that nothing in this Section shall imply that the applicable setbacks shall not be applied wherever possible.

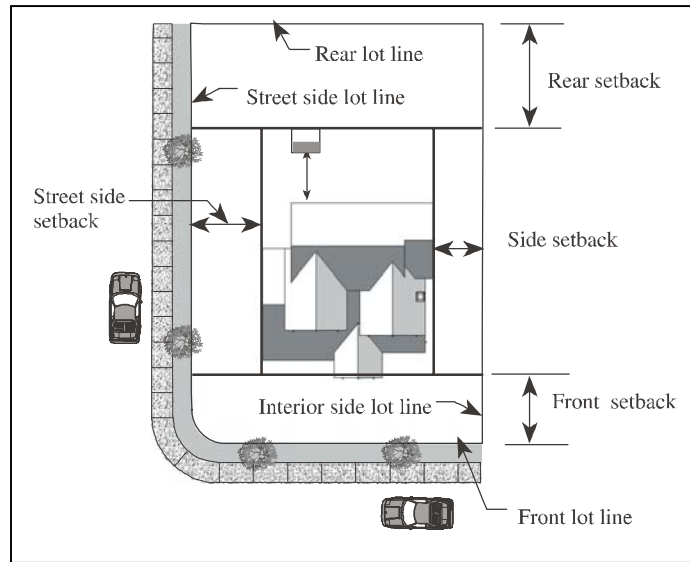
22.20.080 – Parking Requirements

Parking standards for new and existing land uses are contained in Sections 24.04.330 through .400 (Parking and Loading) of the County Code. Every structure or use created or established shall be provided with the minimum number of off-street parking and loading spaces specified in Sections 24.04.330 through .400 (Parking and Loading), and in compliance with Chapter 15.06 (Trip Reduction) of the County Code. Applicants are encouraged, to the extent permitted by Marin County Code Section 24.04 (Development Standards), to utilize shared parking arrangements and pervious surfaces (e.g. Turfblock, porous asphalt and gravel) in order to reduce the area of impervious surfaces.

22.20.090 – Setback Requirements and Exceptions

- A. Purpose.** This Section establishes standards for the use and minimum size of setbacks. These standards are intended to provide for open areas around structures for: visibility and traffic safety; access to and around structures; access to natural light, ventilation and direct sunlight; separation of incompatible land uses; and space for privacy, landscaping, recreation, and fire safety.

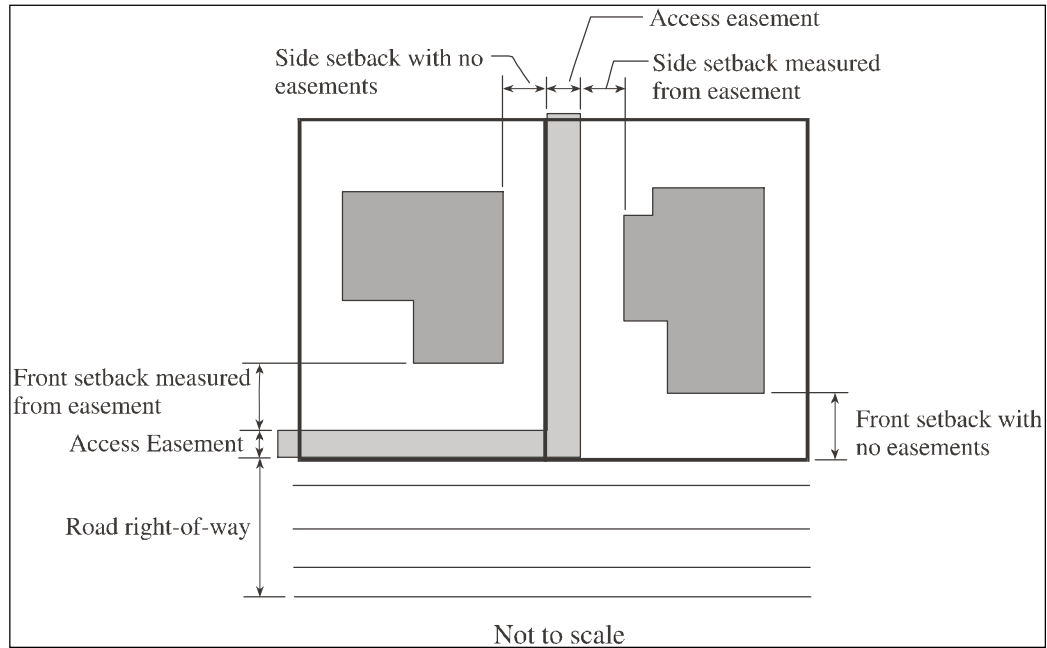
**FIGURE 3-5
LOCATION AND MEASUREMENT OF SETBACKS**



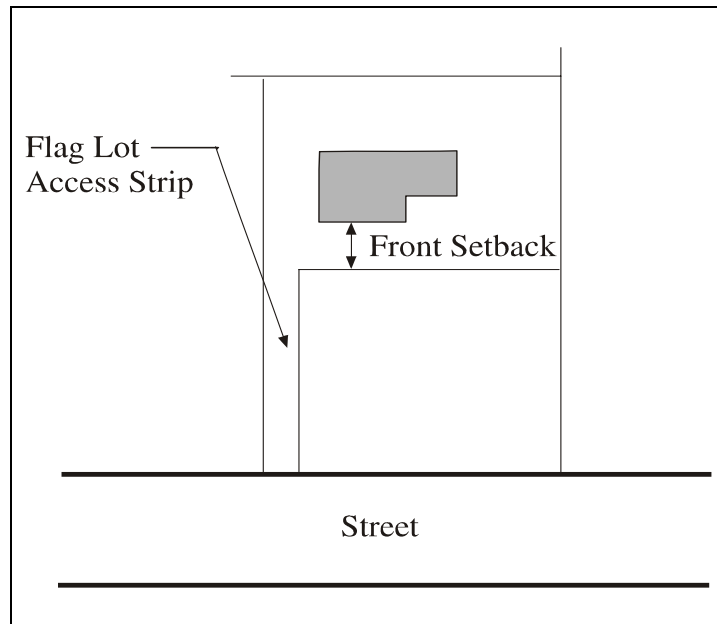
B. Measurement of Setbacks. Setbacks shall be measured from property lines, as shown by Figure 3-5 (Location and Measurement of Setbacks), and as follows; however, if an access easement or street right-of-way line extends into or through a yard setback, the measurement shall be taken from the nearest point of the easement or right-of-way line, not the more distant property line. See Figure 3-6 (Front and Side Setbacks with Easements).

- 1. Front yard setbacks.** The front yard setback shall be measured at right angles from the nearest point on the front property line of the lot to the nearest point of the wall of the structure, establishing a setback line parallel to the front property line.
 - a. Flag lots.** For a parcel with a fee ownership strip extending from a street or right-of-way to the building area of the parcel, the measurement shall be taken from the nearest point of the wall of the structure to the point where the access strip meets the bulk of the parcel along a continuous line, establishing a setback line parallel to it. See Figure 3-7 (Flag Lot Setbacks).

**FIGURE 3-6
FRONT AND SIDE SETBACKS WITH EASEMENTS**



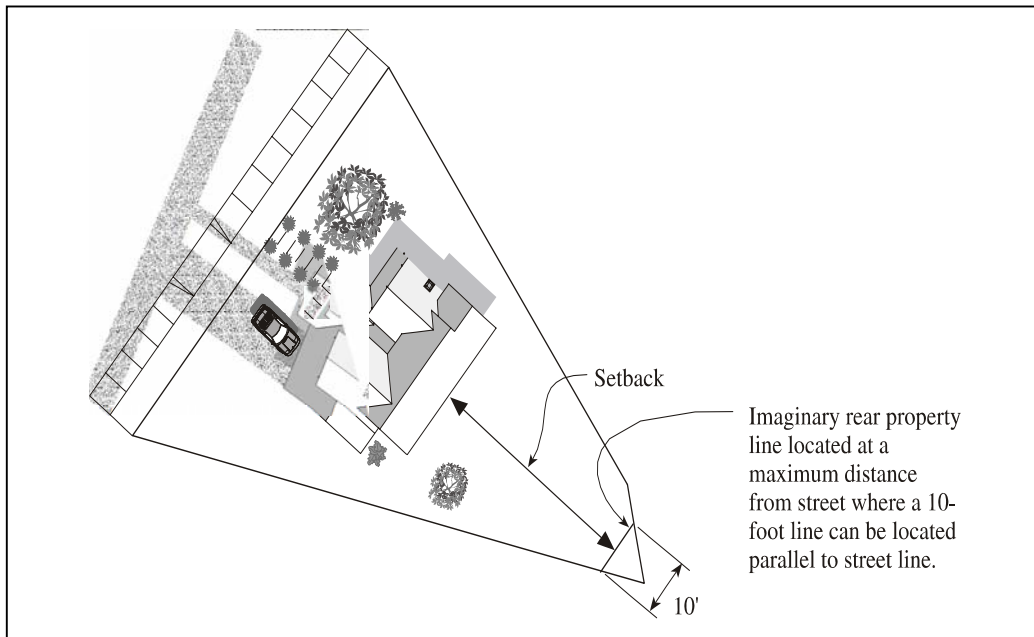
**FIGURE 3-7
FLAG LOT SETBACKS**



- b. Corner lots.** The measurement shall be taken from the nearest point of the structure to the nearest point of the property line adjoining the street to which the property is addressed and the street from which access to the property is taken.

2. **Side yard setbacks.** The side yard setback shall be measured at right angles from the nearest point on the side property line of the parcel to the nearest point of the wall of the structure; establishing a setback line parallel to the side property line, which extends between the front and rear yards.
3. **Street side yard setbacks.** The side yard on the street side of a corner parcel shall be measured at right angles from the nearest point of the side property line adjoining the street to the nearest point of the wall of the structure, establishing a setback line parallel to the side property line which extends between the front and rear yards.
4. **Rear yard setbacks.** The rear yard shall be measured at right angles from the nearest point on the rear property line to the nearest point of the wall of the structure, establishing a setback line parallel to the rear property line.
5. **Rear yard setbacks in irregular, triangular, or gore-shaped parcels.** On an irregular, triangular, or gore-shaped parcel, where it is difficult to identify a rear lot line, the rear yard shall be measured at right angles from a line 10 feet in length within the parcel, parallel to and at a maximum distance from the front property line. See Figure 3-8 (Rear Setback in Irregular Parcels).

**FIGURE 3-8
REAR SETBACK IN IRREGULAR PARCELS**



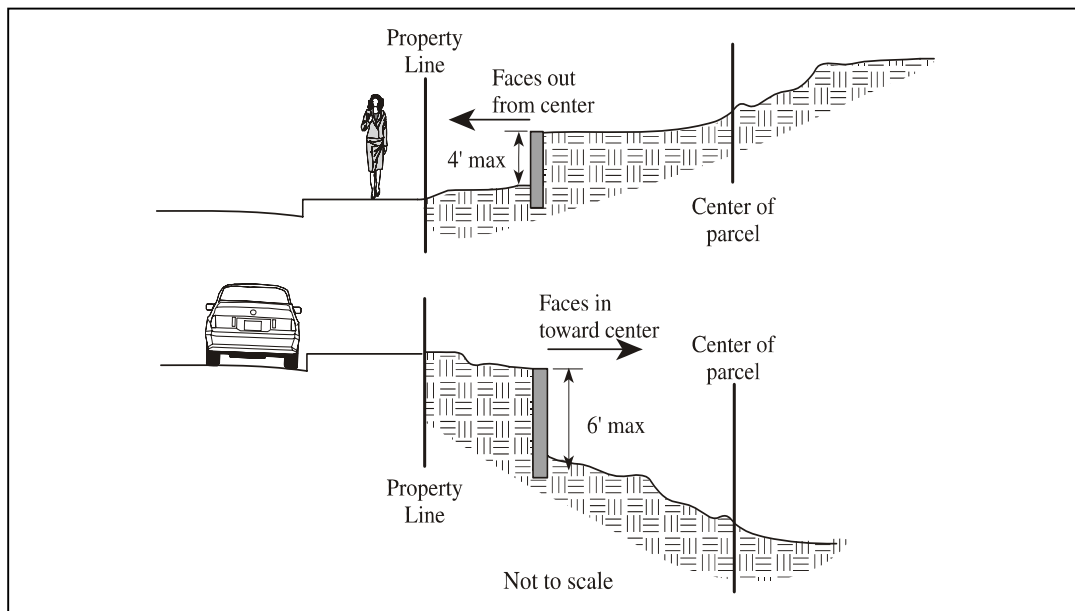
- C. **Setback requirements.** Unless exempted in compliance with Subsections D and E, below, all structures shall conform with the setback requirements established for each zoning district by Article II (Zoning Districts and Allowable Land Uses), and with any special setbacks established for specific uses by this Development Code, except as otherwise provided by this Section.

1. **General requirements.** In no case shall any portion of a structure, including eaves or roof overhangs, extend beyond a property line, or into an access easement or street right-of-way.
 2. **Accessory structures.** Detached accessory structures shall comply with the same setback requirements established by the applicable zoning district for primary structures, except as follows.
 - a. The rear yard setback for a detached accessory structure shall equal the required side setback to a maximum rear setback of 10 feet; except that the rear setback on a through lot shall be 20 percent of the lot depth to a maximum of 25 feet.
 - b. The total aggregate floor area of all detached accessory structures shall not exceed 30 percent of the area of the yard in which they are located.
 - c. Detached accessory structures may be located within a required setback with Design Review approval. See Chapter 22.42 (Design Review).
 3. **Detached site elements.** Detached decks, hot tubs, steps, terraces, and other site design elements that are placed at or below grade, and which exceed a height of 18 inches above grade at any point, shall conform with the setback requirements of this Chapter for detached accessory structures. Hand railings and other safety features required by the Uniform Building Code and attached directly to a detached site element shall not be included in the measurement of the maximum height of the detached site element.
 4. Site design elements less than 18 inches above grade are exempt from setback requirements in compliance with Subsection D (Exemptions from setback requirements), below. Examples of site design elements less than 18 inches above grade include ponds, shuffleboard courts, and water elements (e.g., fountains, sprays, etc.).
- D. Exemptions from setback requirements.** The minimum setback requirements of this Development Code apply to all uses except the following:
1. Fences or walls that comply with the height limits specified in Section 22.20.050 (Fencing and Screening Standards) and as restricted by Chapter 13.18 (Visibility Obstructions) of the County Code;
 2. Detached energy efficiency devices located within required rear yard and side yards that do not exceed a height of four feet in height above grade;
 3. Decks, free-standing solar devices, hot tubs, steps, terraces, and other site design elements which are placed at or below grade and do not exceed a height of 18 inches above grade at any point. Hand railings and other safety features required by the Uniform Building Code and attached directly to a detached site element which meets the criteria herein are exempt from the minimum setback requirements;
 4. Flag poles that do not exceed a height of 30 feet above grade; and
 5. An application for single-family residential development that requires Design Review

pursuant to Section 22.42.030 (Substandard Building Sites).

6. Retaining walls. The following standards shall apply to all retaining walls. See Figure 3-9 (Maximum Height for Retaining Walls Exempt from Setbacks).
 - a. Retaining walls greater than four, but less than eight, feet in height above grade shall be subject to the same setback requirements as the primary structure.
 - b. Retaining walls greater than four, but less than six, feet in height above grade may be located within a required setback only if the exposed face of the retaining wall faces into the center of the property.
 - c. Retaining walls greater than four feet in height above grade shall be subject to the same setback requirements as the primary structure if the exposed face of the retaining wall faces outward from the center of the property.
 - d. All other retaining walls are subject to Chapter 22.42 (Design Review).

**FIGURE 3-9
MAXIMUM HEIGHT FOR RETAINING WALLS EXEMPT FROM SETBACKS**



E. Allowed projections into setbacks. Attached architectural features and certain detached structures may project into or be placed within a required setback in compliance with the following requirements.

1. **Architectural features.** Architectural features attached to the primary structure may extend beyond the wall of the structure and into the front, side and rear yard setbacks, in compliance with Table 3-1 (Allowed Projections into Setbacks). See also Figure 3-10 (Examples of Allowed Projections into Required Setbacks).

**TABLE 3-1
ALLOWED PROJECTIONS INTO SETBACKS**

Feature	Allowed Projection into Specified Setback		
	Front Setback	Side Setback	Rear Setback
Chimney	30 in. (1)	30 in. (1)	30 in. (1)
Cantilevered architectural features (2)	30 in.	30 in.	30 in.
Deck (3)	6 ft.	3 ft. (1)	6 ft.
Porch (4)	6 ft.	3 ft. (1)	6 ft.
Solar devices	30 in.	30 in.	30 in.
Stairway (5)	6 ft.	3 ft. (1)	6 ft.

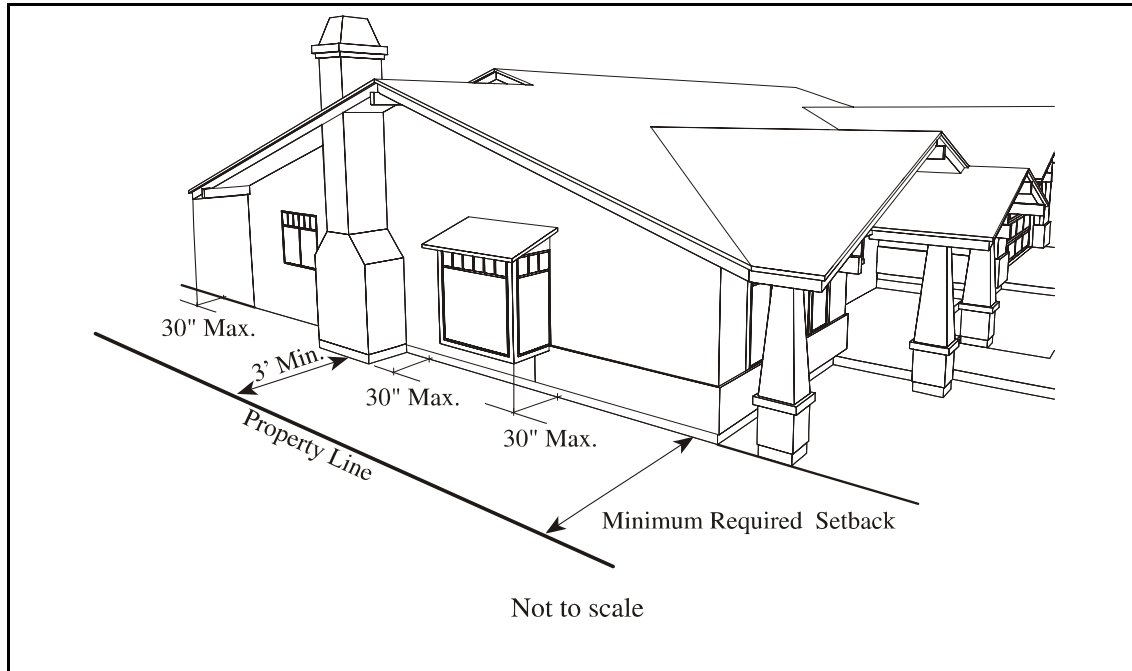
Notes:

- (1) Feature may project no closer than three feet to the property line.
- (2) Cantilevered architectural features including balconies, bay windows, cornices, eaves and roof overhangs may project into setbacks as shown. In order to qualify for the allowed projection into the required setback, a bay window shall be at least 18 inches above the adjoining finished floor or finished exterior grade, whichever is more restrictive, as measured to the lowest horizontal point of the projection, and must have a distinct roof element apart from the main structure.
- (3) Decks less than 18 inches above grade are exempt, in compliance with 22.20.090.D.2 (Exemptions from Setback Requirements), above.
- (4) A roofed porch may project into a setback, provided it is enclosed only by a railing in compliance with Title 19 (Buildings) of the County Code, and is located at the same level as the entrance floor of the structure. An additional projection into the front yard setback may be allowed with Design Review approval, provided it does not exceed 40% of the required porch setback permitted by Table 3-1. (For example, in a R-1 zoning district, Table 3-1 would allow the porch to maintain a 19-foot front yard setback. An additional 7.6-foot encroachment (representing 40% of the 19-foot setback) resulting in an 11.4-foot front yard setback may be permitted with Design Review approval.)
- (5) A stairway may project into a setback, provided it is not roofed or enclosed above the steps.

2. **Parking structures on steep lots.** In any zoning district allowing residential uses, where the slope of the one-half of the parcel beginning at the street-access side is 20 percent or more, or where the elevation of the parcel at the property line from which vehicular access is taken is five feet or more above or below the elevation of the adjoining street, a parking structure may be built to within three feet of the front and side property lines that abut the adjoining street from which vehicular access is taken.

All portions of the dwelling other than the parking structure shall maintain the setbacks required for the primary structure in the applicable zoning district.

3. **Trellises.** See Section 22.20.050.A.1 (Fencing and Screening Standards – Height Limitations).

FIGURE 3-10**EXAMPLES OF ALLOWED PROJECTIONS INTO REQUIRED SETBACKS**

- F. Restrictions on the use of front yard setbacks in residential districts.** No junk or scrap shall be allowed in the front yard on any parcel in any residential zoning district. This restriction includes the storage of operable or inoperable vehicles in other than improved parking or driveway areas.

22.20.100 – Solid Waste/Recyclable Materials Storage

- A. Purpose.** This Section provides for the construction and maintenance of storage areas for solid waste and recyclable materials in compliance with the California Solid Waste Reuse and Recycling Access Act (Public Resources Code Sections 42900-42911, as may be amended from time to time), and Chapter 7.02 (Theft of Recyclable Materials) of the County Code.
- B. Applicability.** This Section applies to the new construction or remodeling of multi-family residential projects with five or more dwelling units, commercial, and other non-residential projects requiring a discretionary land use permit or entitlement.
- C. Multi-family residential structures.** Multi-family residential projects with five or more dwellings shall provide on-site solid waste and recyclable material storage areas as follows:
- 1. Individual unit storage requirements.** Each dwelling unit shall include an area, within the dwelling, designed for the storage of solid waste and recyclable material.
 - 2. Common storage area requirements.** Facilities shall be provided for the temporary storage of solid waste and recyclable materials, adequately sized to serve the needs of the project, as determined by the review authority. Table 3-2 provides suggested standards for shared solid waste and recyclable materials storage areas for individual structures within multi-family projects.

**TABLE 3-2
SOLID WASTE STORAGE – MULTI-FAMILY PROJECTS**

Number of Dwellings	Minimum Storage Areas (sq.ft.)		
	Solid Waste	Recycling	Total Area
5-6	12	12	24
7-15	24	24	48
16-25	48	48	96
26-50	96	96	192
51-75	144	144	288
76-100	192	192	384
101-125	240	240	480
126-150	288	288	576
151-175	322	322	672
176-200	384	384	768
201+	Every additional 25 dwellings should require an additional 100 sq.ft. for solid waste and 100 sq.ft. for recyclables.		

- D. Non-residential structures and uses.** Non-residential structures and uses shall be provided with solid waste and recyclable material storage areas, adequately sized to serve the needs of the project, as determined by the review authority. Table 3-3 provides suggested minimum storage area standards for each individual structure.

**TABLE 3-3
SOLID WASTE STORAGE – NON-RESIDENTIAL PROJECTS**

Building Floor Area (sq.ft.)	Minimum Storage Areas (sq.ft.)		
	Solid Waste	Recycling	Total Area
0-5,000	12	12	24
5,001-10,000	24	24	48
10,001-25,000	48	48	96
25,001-50,000	96	96	192
50,001-75,000	144	144	288
75,001-100,000	192	192	384
100,001+	Every additional 25,000 sq.ft. should require an additional 48 sq.ft. for solid waste and 48 sq.ft. for recyclables.		

- E. Location requirements.** Solid waste and recyclable materials storage areas may be located indoors or outdoors as long as they are accessible to all residents and employees, as follows:

1. **Location and design of storage areas.** Solid waste and recyclable material storage areas shall be adjacent to, or combined with one another. They may only be located inside a specially-designated structure; or outdoors, within an approved fence or wall enclosure, a designated interior court or yard area with appropriate access, or in a rear yard or interior side yard.
2. **Accessibility.** The storage area(s) shall be accessible to residents and employees. Storage areas within multi-family residential developments shall be located within 250 feet of the dwellings which they are intended to serve.
3. **Unobstructed vehicle access.** Driveways or aisles shall provide unobstructed access for collection vehicles and personnel, and shall provide at least the minimum clearance required by the collection methods and vehicles of the designated collector. Where a site is served by an alley, all exterior storage area(s) shall be directly accessible from the alley.

F. Design and construction requirements for multi-family and non-residential development. The design and construction of storage areas in multi-family residential and non-residential developments shall comply with the following standards.

1. **Architectural compatibility, screening.** The storage enclosure shall be architecturally compatible with the surrounding structures and subject to the approval of the Director. Storage areas shall be appropriately located and screened from view on at least three sides and shall not conflict or interfere with surrounding land uses.
2. **Security.** The storage enclosure shall be properly secured to prevent access by unauthorized persons while allowing authorized persons access for disposal of materials in compliance with Chapter 7.02 (Theft of Recyclable Materials) of the County Code.
3. **Concrete pad and apron.** The storage area shall include a concrete pad within a fenced or walled area, and a concrete apron, to facilitate the handling of the individual bins or containers.
3. **Weather protection.** The storage area and individual bins or containers shall be enclosed to protect the recyclable materials from adverse weather conditions which may render the materials unmarketable.
5. **Runoff protection.** The storage area and individual bins or containers shall, to the extent feasible, incorporate a curb or berm to protect the pad from run-on surface drainage, and a drainage system that connects to the sanitary sewer system.

22.20.110 – Undergrounding of Utilities

Utilities to serve proposed development shall be placed underground except where the Director determines that the cost of undergrounding would be so prohibitive as to deny utility service to the development.

CHAPTER 22.22 – AFFORDABLE HOUSING REGULATIONS

Sections:

- 22.22.010 – Purpose of Chapter
- 22.22.015 – Density for Affordable Housing Projects
- 22.22.020 – General Requirements—Housing Projects
- 22.22.030 – Inclusionary Requirements for Rental Housing Developments
- 22.22.040 – Inclusionary Requirements for Ownership Housing Developments
- 22.22.050 – Inclusionary Requirements for Lot Subdivisions
- 22.22.060 – Eligibility Requirements for Ownership Housing Developments
- 22.22.070 – Control of Resale
- 22.22.080 – In-lieu Participation Fees for Residential Development
- 22.22.090 – Availability of Government Subsidies
- 22.22.095 – General Requirements – Commercial and Industrial Development
- 22.22.100 – In-lieu Participation Fees for Commercial and Industrial Development
- 22.22.110 – Waivers and Appeals of Affordable Housing Requirements

22.22.010 – Purpose of Chapter

This Chapter provides procedures and requirements applicable to property or development proposals in the unincorporated areas of the county, including the coastal zone, which are intended to achieve the following goals:

- A. Countywide Plan housing goals.** Enhance the public welfare and ensure that further residential, commercial, and industrial development contribute to the attainment of the housing goals of the Countywide Plan by increasing the production of housing affordable by households of very low, low and moderate income, and stimulating funds for development of low income housing.
- B. Reduce affordable housing shortage.** Reduce the housing shortage for very low, low, and moderate income households.
- C. Balanced community.** Achieve a balanced community with housing available for households with a range of income levels.
- D. Inclusionary housing.** Ensure that remaining developable land within the County is utilized in a manner consistent with the County’s housing policies and needs. This can be accomplished by requiring 20 percent of the total number of housing units of all new residential developments containing 2 or more units to be affordable by households of very low or low income and by requiring 25 percent of the total number of very low, low, and moderate income housing units generated by new commercial and industrial developments to be affordable by households of very low, low or moderate income.

22.22.015 – Density for Affordable Housing Projects

The maximum density in planned zoning districts and minimum lot size requirement in conventional zoning districts for deed-restricted housing developments that are affordable to very low or low income persons shall be determined through the Use Permit procedures of Chapter 22.48 (Use Permits) if the resulting density complies with the density range established by the Marin Countywide Plan.

22.22.020 – General Requirements—Housing Projects

Any proposed development of 2 or more residential parcels or housing units intended for permanent occupancy, including but not limited to single-family housing, multi-family housing, condominiums, townhouses, stock cooperatives, or subdivisions, shall comply with all the following requirements. The inclusionary housing requirements of this Section shall be imposed only once on a given development.

This Section does not apply to agricultural worker housing or second units. Section B does not apply to any deed-restricted housing development that is affordable to very low or low income households, or any residential development project developed at the targeted income level and percentage cited in the Housing Overlay Designation policies included in the Countywide Plan.

- A. Where allowed.** Development of affordable housing in compliance with this Chapter may be allowed with Use Permit approval in any zoning district provided that the review authority first finds that residential uses are allowed by the applicable Countywide Plan land use designation.
- B. Number of inclusionary units required.** Proposed residential development projects with 2 or more units shall:
1. Provide 20 percent of the total number of housing units within the development as inclusionary units, affordable by low or very low income households;
 2. Provide 20 percent of the total number of parcels in the case of land subdivisions, for the development of inclusionary units;
 3. Where the application of the above percentages results in any decimal fraction less than or equal to 0.50, the project applicant shall pay an in-lieu fee proportional to the decimal fraction in compliance with Section 22.22.080 (In-Lieu Participation Fees). Any decimal fraction greater than 0.50 shall be interpreted as requiring one additional dwelling unit or lot.

**TABLE 3-4a
INCLUSIONARY HOUSING CALCULATION FOR RESIDENTIAL
DEVELOPMENT**

Project Size (Number of Units)	Inclusionary Calculation	Inclusionary Requirement
1	N/A	N/A
2	0.4	Fee for 0.4 unit
3	0.6	1 unit
4	0.8	1 unit
5	1	1 unit
6	1.2	1 unit and Fee for 0.2 unit
7	1.4	1 unit and Fee for 0.4 unit
8	1.6	2 units
9	1.8	2 units
10	2	2 units

4. For purposes of complying with the requirements of this chapter, an existing lot that was developed with a primary residence as of July 13, 2006 is not counted in the total number of developable parcels. In this case, the inclusionary requirement is applied based on the net increase in the number of lots.

C. Conditions of approval. Any development permit for a residential development project that is subject to the requirements of this Chapter shall contain conditions of approval that will ensure compliance with the provisions of this Chapter. The conditions of approval shall:

1. Specify the construction of the inclusionary units and/or the timing of payment of in-lieu fees;
2. Specify the number of inclusionary units at appropriate price levels, to be determined by the review authority;
3. Specify provisions for any incentives granted pursuant to Chapter 22.24 (Affordable Housing Incentives) where applicable; and
4. Require a written agreement between the County and the applicant which indicates the number, type, location, size, and construction scheduling of all housing units, and the reasonable information that shall be required by the County for the purpose of determining compliance with this Chapter. This agreement shall also specify provisions for income certification and screening of potential purchasers and/or renters of inclusionary units, and specify resale control mechanisms, including the financing of ongoing administrative and monitoring costs.

D. Location and type of inclusionary units.

1. All inclusionary residential units shall be provided within the development, except as provided for in Section 2 below. The options below are listed in order of priority, with the provision of in-lieu fees being the lowest priority. Inclusionary units shall be reasonably dispersed throughout the development, where feasible.
2. If the Director finds that the required inclusionary units cannot be provided on-site, one or more of the following alternatives may be approved for compliance with the requirements of this chapter:
 - a. The inclusionary residential units may be constructed on one or more sites not contiguous with the proposed development if the Director finds that placement of the required housing units within the larger development is not reasonable or appropriate, taking into consideration factors, including, but not limited to, overall project character, density, location, size, accessibility to public transportation, and proximity to retail and service establishments. Additionally, the Director shall find that the off-site construction will provide an equivalent or better means of serving the County in achieving its affordable housing goals than construction of the on-site inclusionary housing units. The off-site property shall be located in an area with appropriate zoning, character and density, location, size, accessibility to public transportation, and other services, consistent with sound community planning principles.
 - b. The project applicant may dedicate suitable real property for the required housing to the County or its designee to be developed by the County, or a profit or nonprofit,

private or public applicant if the Director finds that placement of the required housing units within the larger development is not reasonable or appropriate, taking into consideration factors, including, but not limited to, overall project character, density, location, size, accessibility to public transportation, and proximity to retail and service establishments. Additionally, the Director shall find that the dedication of real property will provide a better means of serving the County in achieving its affordable housing goals than construction of the on-site inclusionary housing units. The off-site property shall be located in an area with appropriate community character, residential density, location, and accessibility to public transportation, and other services, consistent with sound community planning principles. Additionally, the property shall be offered in a condition that is suitable for development, including appropriate access and services, shall be devoid of contaminants and other hazardous wastes and shall be appropriately sized and zoned for development equivalent to or more than the residential units that are not created on-site.

- c. Inclusionary residential units not constructed within the larger development shall be constructed within the unincorporated area of the County. Inclusionary units may also be constructed within the boundaries of a City or Town provided there is an inter-agency agreement with the County which defines the sharing of affordable housing resources and compliance with fair share housing allocations.
 - d. The project applicant may pay an in-lieu participation fee in compliance with Section 22.22.080 (In-Lieu Participation Fees). The Director shall apply the lowest preference to the payment of an in-lieu fee for compliance with the requirements of this chapter.
- E. Design and character of inclusionary units.** Inclusionary units shall contain on average the same number of bedrooms as the non-inclusionary units in the development, and shall be compatible with the exterior design and use of the remaining units in appearance, materials, amenities, and finished quality. All inclusionary rental units on the ground floor that are provided in compliance with this chapter shall be accessible to the disabled.
- F. Timing of construction.** All inclusionary housing units and other phases of a development shall be constructed prior to or concurrent with the construction of non-inclusionary units, unless the Director approves a different schedule.
- G. Eligible occupants.** All inclusionary units shall be sold or rented to low or very low income households as certified by the County or its designee.
- H. Applicability to density bonus projects.** All residential development projects are required to provide inclusionary units pursuant to this Chapter 22.22. Any affordable housing units that qualify a project for a density bonus pursuant to Government Code Section 65915 must be provided in addition to the required inclusionary units and may not also be counted as inclusionary units pursuant to this Chapter.
- I. Submittal of affordable housing plan.** An affordable housing plan shall be submitted as part of the first approval of any residential development project subject to this chapter and shall be processed, reviewed, and approved, conditionally approved, or denied concurrently with all other applications required for the project. The affordable housing plan shall include the following:

1. Number, affordability level, unit type, tenure, number of bedrooms, location, size, and design of all inclusionary units.
2. Construction schedule and phasing of inclusionary units in relation to market-rate units.
3. Provisions for income certification and screening of potential purchasers and/or renters of inclusionary units, resale control mechanisms, and ongoing monitoring and administration.
4. Any requested alternative to on-site provision of units, including information as required by the Director to determine if the required findings can be made.
5. Any incentives requested pursuant to Chapter 22.24 (Affordable Housing Incentives), including the additional information specified in that Chapter.
6. Such additional information as may be required by the Director to ensure conformance of the project with this Chapter or the Countywide Plan.

22.22.030 – Inclusionary Requirements for Rental Housing Developments

The following requirements apply to proposed residential development projects with housing units intended for rental, in addition to the provisions of Section 22.22.020 (General Requirements – Housing Projects), above. The provisions of this Section do not apply to agricultural worker housing or second units. Section A does not apply to any deed-restricted housing development that is affordable to very low or low income households, or any residential development project developed at the targeted income level and percentage cited in the Housing Overlay Designation policies included in the Countywide Plan.

- A. Limitation on rental prices.** In rental developments of 2 or more units, 20 percent of the units shall be inclusionary rental units in perpetuity, unless the review authority reduces the term of the inclusionary requirement to reflect the maximum term that is permitted by the financing sources. The inclusionary rental units shall be offered at affordable rent not exceeding 30 percent of the gross income of households earning 50 percent of area median income, adjusted for household size.

The housing unit rental prices shall be established by the County or its designee and shall be based on the number of bedrooms and location.

If an applicant chooses to satisfy all or a portion of the inclusionary housing requirement with rental units, as permitted by Government Code Section 65589.8, then the written agreement between the County and the applicant shall include the applicant's agreement to the limitations on rents required by this Section.

- B. Eligible tenants.** Inclusionary rental units shall be rented to very low income households. The applicant or owner shall agree to advertise available rental housing, screen applicants and perform annual income certifications for the inclusionary rental units, or retain a qualified agency to do so. The applicant or owner shall have final discretion in the selection of eligible tenants, provided that the same rental terms and conditions are applied to tenants of inclusionary units as are applied to all other tenants, with the exception of rent levels, household income, and any requirements of government subsidy programs.

- C. **Administration.** The County or its designee shall monitor inclusionary housing programs. The applicant or owner shall enter into recorded agreements with the County and take appropriate steps necessary to ensure that the required inclusionary rental dwelling units are provided, and that they are rented to very low income households. Recorded documentation may include a Marketing Plan, Rent Regulatory Agreement, Compliance Report, Notice of Affordability Restrictions on Transfer of Property, and other documents as may be required by the County to maintain the continued affordability of the inclusionary units. The applicant or owner shall be required to provide tenant income qualification reports to the County for monitoring on an annual or biennial basis.
- D. **Rental units with recorded subdivision maps.** It is the County's policy to protect and retain rental stock. Rental units that may be sold individually pursuant to recorded subdivision maps may be converted to ownership units if the owner receives written approval from the County to do so. The sales price at the time of the conversion shall be affordable to a buyer qualified at the previous rental level.
- E. **Deed Restriction.** All inclusionary units shall be deed-restricted as affordable in perpetuity, unless the review authority reduces the term of the inclusionary requirement to reflect the maximum term that is permitted by the financing source.

22.22.040 – Inclusionary Requirements for Ownership Housing Developments

The following requirements apply to residential development projects with units intended for sale, in addition to the provisions of Section 22.22.020 (General Requirements). The provisions of this Section do not apply to agricultural worker housing or second units. Section A does not apply to any deed-restricted housing development that is affordable to very low or low income households, or any residential development project developed at the targeted income level and percentage cited in the Housing Overlay Designation policies included in the Countywide Plan.

- A. **Limitation on sales prices.** In ownership residential development projects of 2 or more units, 20 percent of the units shall be inclusionary units affordable in perpetuity, unless the review authority reduces the term of the inclusionary requirement to reflect the maximum term that is permitted by the financing sources. The housing unit sales prices shall be established by the County or its designee to be offered at an ownership cost affordable to a household earning 60 percent of the area median income, adjusted for household size, and shall be based on the number of bedrooms and location.
- B. **Duration of initial inclusionary requirement.** For a period of not less than 90 days from the date of the County's approval of a final inspection, the applicant shall be required to offer to the County or its designee, all the inclusionary units required by this Chapter for sale to eligible purchasers.

In the event the County or its designee does not complete the sale of a unit to an eligible purchaser or public entity or non-profit organization responsible for providing affordable housing within an additional 120 days of the above offer to transfer, the applicant shall provide an alternative means of compliance, subject to the approval of the Director.

- C. **Notice of resale restrictions.** The County or its designee shall advise all prospective purchasers of the resale restriction applicable to ownership inclusionary units contained in Section 22.22.070 (Control of Resale).

- D. Screening of eligible purchasers.** Inclusionary ownership units shall be sold to very low or low income households. The County or its designee shall review the assets and income of prospective purchasers of the ownership inclusionary units on a project-by-project basis. The County or its designee shall advertise the inclusionary units to the general public. Upon notification of the availability of ownership units by the applicant, the County or its designee shall seek and screen qualified purchasers through a process involving applications and interviews. Where necessary, the County or its designee shall hold a lottery to select purchasers from a pool of income-eligible applicants.
- E. Deed Restriction.** All inclusionary units shall be deed-restricted as affordable in perpetuity, unless the review authority reduces the term of the inclusionary requirement to reflect the maximum term that is permitted by the financing source.

22.22.050 – Inclusionary Requirements for Lot Subdivisions

In subdivisions of 2 or more parcels, where one or more additional housing units could be developed, 20 percent of the developable parcels or their equivalent shall be set aside for immediate or future development of low or very low income units. The land may be developed by the applicant or another profit or nonprofit applicant, private or public, or deeded to the County or its designee. The units built on the parcels may be rental or owner occupied, and shall be in compliance with the requirements of this Chapter. The method of providing inclusionary units from lot subdivisions shall be specified in the conditions of approval of each applicable subdivision. Calculation of the inclusionary requirement shall be consistent with Section 22.22.020.B.4.

22.22.060 – Eligibility Requirements for Ownership Housing Developments

- A.** In establishing very low or low income household eligibility, the County or its designee shall utilize data establishing Area Median Income by household size provided periodically by either the Department of Housing and Urban Development (HUD) or the California Department of Housing and Community Development (HCD), and shall consider, among other things, household size and number of dependents, and all sources of household income and assets.
- B.** Every purchaser of an inclusionary housing unit shall certify, by a form acceptable to the County, that the unit is being purchased for the purchaser's primary place of residence. The County or its designee shall verify this certification.

Failure of the purchaser to maintain eligibility for a homeowner's property tax exemption shall be construed to mean that the inclusionary unit is not the primary place of residence of the purchaser.

22.22.070 – Control of Resale

- A. Limitation on resale price.** In order to maintain the availability of the housing units constructed in compliance with this Chapter, the County shall impose the following resale condition. The price received by the seller of a resale unit shall be the lowest of the following:
- 1. Median income.** The original price paid by the seller increased by an amount equal to purchase price multiplied by the percentage increase in the median household income for the San Francisco Primary Metropolitan Statistical Area since the date of purchase;
 - 2. Index price.** The original price increased by an amount equal to the original price

multiplied by the percentage increase in the Consumer Price Index for the San Francisco Bay Area since the date of purchase; or

3. **Fair market value.** The fair market value of the resale unit as determined by an appraiser selected and paid for by the seller.
- B. Eligible purchasers.** Homeownership inclusionary units shall be sold and resold from the date of the original sale only to very low or low income households, as determined to be eligible for inclusionary units by the County or its designee, in compliance with the requirements of this Chapter.

The seller shall not levy or charge any additional fees nor shall any "finders fee" or other monetary consideration be allowed other than customary real estate commissions and closing costs.

- C. Deed restrictions.** The owners of any inclusionary unit shall, upon purchase, sign and record appropriate resale and other restrictions, deeds of trust, and other documents as provided by the County or its designee, stating the restrictions imposed in compliance with this Chapter. The recorded documents shall afford the grantor and the County the right to enforce the restrictions. The restrictions shall include all applicable resale controls, occupancy restrictions, and prohibitions required by this Chapter.
- D. Monitoring of resales.** The County or its designee shall be given the responsibility of monitoring the resale of ownership inclusionary units. The County or its designee shall have the option to commence purchase of ownership inclusionary units after the owner gives notification of intent to sell or in the event of any default or violation of the deed restrictions. Any abuse in the resale provisions shall be referred to the County for appropriate action.

22.22.080 – In-Lieu Participation Fees for Residential Development

- A. Purpose.** The purpose of this Section is to provide the means to levy fees for construction of affordable housing, when the inclusion of affordable housing is impractical or unreasonable within a proposed residential development or in cases where the inclusionary requirement includes a decimal fraction of a unit, and a combination of both inclusionary units and in-lieu fees is required.
- B. Use of in-lieu participation fees.** In-lieu fees shall be used by the County, or its designee (e.g., a non-profit housing development corporation) for the purpose of developing affordable housing for very low and low income households, with preference for use in the unincorporated areas of the County.
- C. Calculation of in-lieu fees.** The in-lieu participation fees for all residential development, including lot subdivisions, shall be calculated as the difference between the ability of low income families (earning 60 percent of median income for ownership units and 50 percent of median income for rental units) to pay for housing, and the estimated cost of a market rate unit of appropriate size, to be determined by the County. This differential shall be multiplied by the required number of inclusionary units to determine the total required fee to be paid in-lieu of constructing below market rate units. For the purposes of applying percentages to in-lieu fees on developments of 2 or more units, decimal fractions of a unit shall be used.

Estimates of the price of a market rate unit and the corresponding in-lieu participation fee are to

be determined periodically by the Director.

- D. Timing of in-lieu fee payment.** The Director shall determine when in-lieu fees shall be paid, including whether payment shall be made in a single payment prior to recordation of the map or in an installment plan. If the installment method of payment is approved by the Director, the in-lieu fee shall in no case be due later than 24 months from the recordation of the map. If an installment plan is approved, the in-lieu fees shall constitute a lien on the property, which shall be recorded as a separate document at the recordation of the map. The lien shall include a provision for foreclosure under power of sale if the in-lieu payment is not made within 24 months from the recordation of the lien, regardless of whether or not the individual parcels have been sold. If payment of the in-lieu fee is not made in full at the end of the 24-month period, any unpaid balance shall accrue interest at the rate of 1% per month.

22.22.090 – Availability of Government Subsidies

It is the intent of this Chapter that the requirements for inclusionary units affordable by very low and low income families shall not be determined by the availability of government subsidies. This is not to preclude the use of these programs or subsidies. This Chapter is also not intended to be an undue burden on the applicants of residential developments. Therefore, as detailed in Chapter 22.24 (Affordable Housing Incentives), incentives are given to provide inclusionary units.

22.22.095 – Inclusionary Requirements for Commercial and Industrial Development

Any proposed commercial or industrial development, including light industrial, office/research and development, warehouse, hotel, and retail uses, shall provide the amount of affordable inclusionary residential units in compliance with the following requirements. The inclusionary units may be developed by the applicant or another profit or nonprofit applicant, private, or public. In order to provide a jobs/housing balance and address traffic congestion concerns, the review authority may condition the project to include market rate housing in excess of the inclusionary units required in this chapter on a case-by-case basis through the discretionary permit review process.

- A. Where Allowed.** Required inclusionary residential units are allowed in any zoning district where residential uses are permitted as a principal use and with Use Permit approval in any other zoning district. Inclusionary units that are required to be built on-site shall comply with all other provisions of this title.
- B. Number of Inclusionary Units Required.** Proposed commercial and industrial development projects shall comply with the following requirements:
1. Twenty-five (25) percent of the total number of housing units for very low, low, and moderate income households that are generated by the development shall be provided within the development;
 2. Where the application of the above percentages results in any decimal fraction less than or equal to 0.50, the project applicant shall pay an in-lieu fee proportional to the decimal fraction in compliance with Section 22.22.096 (In-Lieu Participation Fees for Commercial and Industrial Development). Any decimal fraction greater than 0.50 shall be interpreted as requiring one additional dwelling unit.

- C. Number of Very Low, Low and Moderate Income Households Generated.** The number of new very low, low and moderate income households that are generated by new non-residential development shall comply with Table 3-4b.

TABLE 3-4b
NUMBER OF NEW VERY LOW, LOW AND MODERATE INCOME HOUSEHOLDS
GENERATED BY COMMERCIAL AND INDUSTRIAL DEVELOPMENT

Development Type	Number of New Very Low, Low and Moderate Income Households (per 1,000 square feet of floor area ¹)
Manufacturing/Light Industry/Assembly	0.18
Office ² /Research and Development	0.34
Warehouse	0.09
Hotel/Motel ³	0.08
Retail/Restaurant	0.23
Non-residential uses including assisted living	Applicant to provide information and statistics on new jobs generated by use.

¹ For purposes of this Chapter, the floor area excludes all areas permanently allocated for vehicle parking, unless such areas are used for commercial or industrial purposes.

² Office uses include those associated with professional, business, and medical services.

³ Accessory uses, such as retail, restaurant, and meeting facilities within a hotel shall be subject to requirements for a retail use.

- D. Conditions of approval.** Any development permit for a commercial or industrial development project that is subject to the requirements of this Chapter shall contain conditions of approval that will ensure compliance with the provisions of this Chapter. The conditions of approval shall:

1. Specify the construction of the inclusionary units and/or the timing of payment of in-lieu fees;
2. Specify the number of inclusionary units at appropriate price levels to be determined by the review authority; and
3. Require a written agreement between the County and the applicant which indicates the number, type, location, approximate size, and construction scheduling of all housing units, and the reasonable information that shall be required by the County for the purpose of determining compliance with this Chapter. This agreement shall also specify provisions for income certification and screening of potential purchasers and/or renters of inclusionary units, and specify resale control mechanisms. All rental units developed in compliance with this Chapter shall be affordable to very low, low, or moderate income renters in perpetuity, unless the review authority reduces it to 55 years. The requirements of Section 22.22.030 and Section 22.22.040 shall apply where applicable.

- E. Location and type of inclusionary units.**

1. All inclusionary residential units shall be provided within the development, except as provided for in Section 2 below. The options below are listed in order of priority, with the provision of in-lieu fees being the lowest priority.

2. If the Director finds that the required inclusionary units cannot be provided on-site, one or more of the following alternative means may be approved for compliance with the requirements of this chapter:
 - a. The inclusionary residential units may be constructed on one or more sites not contiguous with the proposed development if the Director finds that placement of the required housing units within the larger development is not reasonable or appropriate, taking into consideration factors, including, but not limited to, overall project character, density, location, size, accessibility to public transportation, and proximity to retail and service establishments or where the nature of the commercial or industrial use or its surroundings is incompatible with residential uses in terms of noise or other nuisance, health, or safety hazards. Additionally, the Director shall find that the off-site construction will provide an equivalent or better means of serving the County in achieving its affordable housing goals than construction of the on-site inclusionary housing units. In allowing compliance through off-site construction, the Director may consider commercial lending requirements which render construction of the housing on-site infeasible. The off-site property shall be located in an area with appropriate zoning, character and density, location, size, accessibility to public transportation, and other services, consistent with sound community planning principles.
 - b. The project applicant may dedicate suitable real property for the required housing to the County or its designee to be developed by the County, or a profit or nonprofit, private or public applicant if the Director finds that placement of the required housing units within the larger development is not reasonable or appropriate, taking into consideration factors, including, but not limited to, overall project character, density, location, size, accessibility to public transportation, and proximity to retail and service establishments or where the nature of the commercial or industrial use or its surroundings is incompatible with residential uses in terms of noise or other nuisance, health or safety hazards. Additionally, the Director shall find that the dedication of real property will provide a better means of serving the County in achieving its affordable housing goals than construction of the on-site inclusionary housing units. In allowing compliance through off-site dedication, the Director may also consider commercial lending requirements which render construction of the housing on-site infeasible. The off-site property shall be located in an area with appropriate community character, residential density, location, and accessibility to public transportation, and other services, consistent with sound community planning principles. Additionally, the property shall be offered in a condition that is suitable for development, including appropriate access and services, shall be devoid of contaminants and other hazardous wastes and shall be appropriately sized and zoned for development equivalent to or more than the residential units that are not created on-site.
 - c. Inclusionary residential units not constructed within the larger development shall be constructed within the unincorporated area of the County. Inclusionary units may also be constructed within the boundaries of a City or Town provided there is an inter-agency agreement with the County which defines the sharing of affordable housing resources and compliance with fair share housing allocations.
 - d. The project applicant may submit a housing mitigation plan which includes financial subsidies towards new affordable housing development in the County. This alternative may be acceptable if the Director finds that it would provide a better means

of serving the County in achieving its affordable housing goals than construction of the on-site inclusionary housing units, that there are sufficient County resources to monitor and implement the plan, and that compliance with the alternative means described in Sections a, b, and c is not feasible.

- e. The project applicant may pay an in-lieu participation fee in compliance with Section 22.22.096 (In-Lieu Participation Fees for Commercial and Industrial Development). The Director shall apply the lowest preference to the payment of an in-lieu fee for compliance with the requirements of this chapter.

- F. Size, design and character of inclusionary units.** Inclusionary units shall provide a mixture of sizes and shall be compatible with the design of the commercial or industrial development or the predominant residential character in the immediate neighborhood in appearance, materials, amenities, and finished quality. All inclusionary rental units on the ground floor that are provided in compliance with this chapter shall be accessible to the disabled.
- G. Timing of construction.** All inclusionary housing units and other phases of a development shall be constructed prior to or concurrent with the construction of the commercial or industrial development, unless the Director approves a different schedule.
- H. Eligible occupants.** All inclusionary units shall be rented or sold to very low, low, or moderate income households as certified by the County or its designee.

22.22.100 – In-Lieu Participation Fees for Commercial and Industrial Development

- A. Purpose.** The purpose of this Section is to provide the means to levy fees for construction of affordable housing, when the inclusion of affordable housing is impractical or unreasonable within a proposed commercial or industrial development or in cases where the inclusionary requirement includes a decimal fraction of a unit, and a combination of both inclusionary units and in-lieu fees is required.
- B. Use of in-lieu participation fees.** In-lieu fees shall be used by the county, or its designee (e.g. a non-profit housing development corporation) for the purpose of developing affordable housing for very low and low income households, with preference for use in the unincorporated areas of the County.
- C. Calculation of in-lieu fees.** The in-lieu participation fees for all commercial and industrial development shall be determined based on Table 3-4c. The fees represent 25% of the fees that are necessary to subsidize housing for new very low, low, and moderate income households that would be created from the commercial or industrial development.

TABLE 3-4c
IN-LIEU PARTICIPATION FEES FOR
COMMERCIAL AND INDUSTRIAL DEVELOPMENT
(per square feet of floor area¹ unless noted otherwise)

Development Type	Fee
Manufacturing/Light Industry/Assembly	\$3.74
Office ² /Research and Development	\$7.19
Warehouse	\$1.94
Hotel/Motel ³	\$1,745 per room
Retail/Restaurant	\$5.40

¹ For purposes of this Chapter, the floor area excludes all areas permanently allocated for vehicle parking, unless such areas are used for commercial or industrial purposes.

² Office uses include those associated with professional, business, and medical services.

³ Accessory uses, such as retail, restaurant, and meeting facilities within a hotel shall be subject to requirements for a retail use.

22.22.110 – Waivers and Appeals of Affordable Housing Requirements

A. An applicant may request that the requirements of this Chapter 22.22 be waived or modified, based on substantial evidence that applying the requirements of this Chapter would result in an unconstitutional taking of property or would result in any other unconstitutional result. Any request for a waiver or modification shall be submitted concurrently with the affordable housing plan required by Section 22.22.020(I). The applicant shall bear the burden of presenting substantial evidence to support the request and shall set forth in detail the factual and legal basis for the claim, including all supporting technical documentation. Any request for a waiver or modification based on this section shall be reviewed and considered at the same time as the affordable housing plan. In deciding whether to grant the waiver or modification, the review authority shall assume each of the following when it is applicable to the project:

1. The applicant will provide the most economical inclusionary units feasible in terms of construction, design, location and tenure.
2. The applicant is likely to obtain housing subsidies when such funds are reasonably available.
3. The applicant will benefit from the inclusionary incentives set forth in Chapter 22.24 (Affordable Housing Incentives).

The waiver or modification may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence. If a waiver or modification is granted, any change in the project shall invalidate the waiver or modification, and a new application shall be required for a waiver or modification pursuant to this section.

B. Any person aggrieved by any action involving disapproval, suspension or revocation of a Building or Occupancy Permit or disapproval, suspension or revocation of any development approval may appeal the action or determination to the Commission, with further appeal possible to the Board of Supervisors, in compliance with Chapter 22.114 (Appeals).

- C.** Any applicant or other persons who contend that their interests are adversely affected by any determination or requirement of the County or its designee in compliance with this Chapter may appeal the determination to the Planning Commission. Subsequent appeal may be made to the Board of Supervisors.
- D.** The appeal shall clearly specify how the action of the County or its designee fails to conform to the provisions of this Chapter, thereby adversely affecting the appellant's interests. Subsequent appeal may be made to the Board of Supervisors, in compliance with Chapter 22.114 (Appeals). The Board, by resolution, may reverse or modify any determination or requirement of the County or its designee if it can make the finding that the action under appeal does not conform with the provisions of this Chapter.

CHAPTER 22.24 – AFFORDABLE HOUSING INCENTIVES

Sections:

22.24.010 – Purpose of Chapter

22.24.020 – County Incentives for Inclusionary and Other Affordable Housing

22.24.030 – Density Bonus and Other Incentives Pursuant to State Law

22.24.010 – Purpose of Chapter

This Chapter provides procedures for granting incentives for the construction of affordable housing to encourage the production of affordable housing and to achieve the following additional goals:

- A. Countywide Plan goals and policies.** To implement goals and policies contained in the Countywide Plan providing for incentives for the construction of affordable housing.
- B. Compliance with State law.** To comply with the provisions of Government Code Section 65915, which mandates the adoption of a County ordinance specifying procedures for providing density bonuses and other incentives and concessions, as required by that section.

22.24.020 – County Incentives for Inclusionary and Other Affordable Housing

The incentives provided by this Section 22.24.020 are available to residential development projects which either: 1) comply with Chapter 22.22 (Affordable Housing Regulations); 2) are comprised of deed-restricted housing that is affordable to very low or low income persons; or 3) are developed pursuant to the Housing Overlay Designation policies included in the Countywide Plan. Residential development projects which have been granted a density bonus pursuant to Section 22.24.030 are not eligible for the County density bonus described in subsection (A) below but may be granted the other incentives included in this section.

- A. County density bonus.** The density bonus allowed by this Section shall not be combined with the density bonus permitted by Section 22.24.030 or with any other density bonus. No single residential development project shall be granted more than one density bonus.
 - 1. Eligibility.** The County density bonus may be granted only where the proposed density (including the density bonus) complies with all applicable Countywide Plan policies, including traffic standards, environmental standards, and Countywide Plan designations.
 - 2. Determination of bonus.** The granting of this density bonus shall be based on a project-by-project analysis and the determination that the increase in density will not be detrimental to the public health, safety, welfare, and/or environment.
 - 3. Amount of bonus.** The review authority may grant an increase in density of up to 10 percent of the number of units normally allowed by the applicable zoning district in a proposed residential development or subdivision.

- B. Interior design.** The applicant may have the option of reducing the interior amenity level and the square footage of inclusionary units below that of large market-rate units, provided that all of the units conform to the requirements of County Building and Housing Codes and the Director finds that the reduction in interior amenity level will provide a quality and healthy living environment. The County strongly encourages the use of green building principles such as the use of environmentally preferable interior finishes and flooring, as well as the installation of water and energy efficient hardware, wherever feasible.
- C. Unit types.** In a residential project which contains single-family detached homes, inclusionary units may be attached living units rather than detached homes or may be constructed on smaller lots, and in a residential project that contains attached multistory living units, affordable units may contain only one story, provided that all of the units conform to the requirements of County Building and Housing Codes and the Director finds that the modification of the design will provide a quality living environment.
- D. Rental units within an ownership housing development.** The applicant shall have the option, in a homeownership development, of constructing rental units in a number sufficient to meet the inclusionary requirements of Chapter 22.22 (Affordable Housing Regulations). These rental units shall be subject to Section 22.22.030 (Inclusionary requirements for rental housing developments). The County may assist the applicant in identifying available financing and/or subsidies for the rental housing development.
- E. On-site inclusionary housing for commercial and industrial development.** As an inducement to the development of on-site inclusionary housing in commercial and industrial development, the County may grant a reduction in the site development standards of this Development Code or architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission in compliance with State law (Health and Safety Code Sections 18901 et seq.), including, but not limited to setback, coverage, and/or parking requirements.
- F. Affordable housing on mixed-use and industrial sites.** In commercial/mixed-use and industrial land use categories, as designated in the Countywide Plan, the floor-area ratio may be exceeded for deed-restricted units that are affordable to very low or low income persons, subject to any limitations in the Countywide Plan. For deed-restricted units that are affordable to moderate-income persons, the floor area ratio may be exceeded in areas with acceptable levels of traffic service, subject to any limitations in the Countywide Plan, and so long as the level of service standard is not exceeded.
- G. Impacted roadways.** In areas restricted to the low end of the density range due to vehicle Level of Service standards, affordable housing developments may be considered for densities higher than the low end standard per the Countywide Plan.
- H. Fee waivers.** The County may waive any County fees applicable to the affordable or deed-restricted units of a proposed residential, commercial, or industrial development. In addition, for projects developed pursuant to Housing Overlay Designation policies and for deed-restricted housing developments that are affordable to very low or low income persons, the Director may waive fees or transfer In-Lieu Housing Trust funds to pay for up to 100 percent of Community Development Agency fees, based on the proportion of the project that is affordable to very low or low income persons and the length of time that the housing shall remain affordable.
- I. Projects developed pursuant to Housing Overlay Designation policies.** Residential

development projects developed in conformance with Housing Overlay Designation policies may be granted adjustments in development standards, such as parking, floor area ratio, and height, as provided in the Countywide Plan, not to exceed unit counts identified in the Countywide Plan.

- J. Technical assistance.** In order to emphasize the importance of securing affordable housing as a part of the County's affordable housing program, the County may provide assistance in obtaining financial subsidy programs to applicants.
- K. Priority processing.** The County shall priority process projects developed pursuant to Housing Overlay Designation policies and deed-restricted housing developments that are affordable to very low or low income persons.

22.24.030 – Density Bonus and Other Incentives Pursuant to State Law

This Section specifies procedures for providing density bonuses and other incentives and concessions as required by State law (Government Code Section 65915).

- A. Density bonuses; calculation of bonuses.** Pursuant to State law, a residential development project is eligible for a density bonus if it meets the requirements as described below and shown in Table 3-5a.
1. The residential development project must result in a net increase of at least 5 dwelling units.
 2. A residential development project is eligible for a 20 percent density bonus if the applicant seeks and agrees to construct any one of the following, in addition to the inclusionary units required by Chapter 22.22 and in addition to any affordable units required by Housing Overlay Designation policies:
 - a. 10 percent of the units at affordable rent or affordable ownership cost for low income households;
 - b. 5 percent of the units at affordable rent or affordable ownership cost for very low income households; or
 - c. a senior citizen housing development of 35 units or more as defined in Section 51.3 of the Civil Code.
 3. A residential development project is eligible for a 5 percent density bonus if the applicant seeks and agrees to construct the following, in addition to the inclusionary units required by Chapter 22.22 and in addition to any affordable units required by Housing Overlay Designation policies:
 - a. 10 percent of the units at affordable ownership cost for moderate income households,
 - b. Located in a common interest development, as defined in Section 1351 of the Civil Code; and
 - c. All of the dwelling units in the project are offered to the public for purchase.

4. The density bonus for which the residential development project is eligible shall increase if the percentage of units affordable to very low, low, and moderate income households exceeds the base percentage established in subsections (2) and (3) above, as follows:
 - a. Very low income units – For each 1 percent increase above 5 percent in the percentage of units affordable to very low income households, the density bonus shall be increased by 2.5 percent, up to a maximum of 35 percent.
 - b. Low income units – For each 1 percent increase above 10 percent in the percentage of units affordable to low income households, the density bonus shall be increased by 1.5 percent, up to a maximum of 35 percent.
 - c. Moderate income units – For each 1 percent increase above 10 percent in the percentage of units affordable to moderate income households, the density bonus shall be increased by 1 percent, up to a maximum of 35 percent.

**TABLE 3-5a
DENSITY BONUS CALCULATION**

Income Category	% Affordable Units*	Bonus Granted	Additional Bonus for Each 1% Increase in Affordable Units*	% Affordable Units Required for Maximum 35% Bonus*
Very low income	5%	20%	2.5%	11%
Low income	10%	20%	1.5%	20%
Moderate income (for-sale common interest development only)	10%	5%	1%	40%
Senior citizen housing development	--	20%	--	--
*Note: Required inclusionary units and any affordable units required by Housing Overlay Designation policies will not be counted as affordable units for the purpose of granting incentives and concessions.				

5. The following provisions apply to the calculation of density bonuses:
 - a. Each residential development project is entitled to only one density bonus, which may be selected based on the percentage of either units affordable to very low income households, units affordable to low income households, or units affordable to moderate income households, or the project's status as a senior citizen housing development. Density bonuses from more than one category may not be combined.
 - b. Consistent with Section 22.24.030.A.2 and 22.24.030.A.3, required inclusionary units and any affordable units required by Housing Overlay Designation policies will not be counted as affordable units for the purpose of granting a density bonus. Affordable units qualifying a project for a density bonus must be provided in addition to required inclusionary units, in addition to affordable units required by Housing Overlay Designation policies, and must be included in the base density.

- c. When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded up to the next larger integer. When calculating the number of required affordable units, any calculations resulting in fractional units shall be rounded up to the next larger integer.
 - d. The density bonus units shall not be included when determining the number of affordable units required to qualify for a density bonus.
 - e. A project proposed below the base density may qualify for incentives and concessions if it meets the requirements of Section 22.24.030.B.3.
 - f. The applicant may request a lesser density bonus than the project is entitled to, but no reduction will be permitted in the number of required affordable units.
 - g. The County may, at its sole discretion, grant a density bonus exceeding the state requirements where the applicant agrees to construct a greater number of affordable housing units or at greater affordability than required by this subsection (A). If an additional density bonus is granted by the County and accepted by the applicant, the additional density bonus shall be considered an incentive or concession for purposes of Section 65915.
6. Density bonuses may also be granted for child care facilities and land donation in excess of that required by Chapter 22.22, pursuant to Government Code Sections 65915(h) and 65915(i).

B. Incentives and concessions. Subject to the findings included in Section 22.24.030(E), when an applicant seeks a density bonus and requests incentives or concessions, the County shall grant incentives or concessions as shown in Table 3-5b and as described in this section

**TABLE 3-5b
DENSITY BONUS INCENTIVES AND CONCESSIONS
REQUIRED BY GOVERNMENT CODE SECTION 65915**

Affordability Category	% of Units		
Very low income (Health & Safety Code Section 50105)	5%	10%	15%
Low income (Health & Safety Code Section 50079.5)	10%	20%	30%
Moderate-income (ownership units only) (Health & Safety Code Section 50093)	10%	20%	30%
Maximum Incentive(s)/Concession(s)	1	2	3

Notes:

(A) A concession or incentive may be requested only if an application is also made for a density bonus, except as may be permitted pursuant to Section 22.24.030(B)(3).

(B) Required inclusionary units and any affordable units required by Housing Overlay Designation policies will not be counted as affordable units for the purpose of granting incentives and concessions.

(C) Concessions or incentives may be selected from only one category (very low, low, or moderate).

(D) No concessions or incentives are available for land donation or senior housing.

(E) Day care centers may have one concession or a density bonus at the County's option, but not both.

1. For the purposes of this section, incentive or concession means the following:

- a. A reduction in the site development standards of this Development Code or other County policy, or local architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission in compliance with State law (Health and Safety Code Sections 18901 et seq.), including, but not limited to height, setback, coverage, floor area, and/or parking requirements, which result in identifiable, financially sufficient, and actual cost reductions based upon appropriate financial analysis and documentation as specified in Section 22.24.030(D).
 - b. Approval of mixed-use zoning in conjunction with the proposed residential development project if non-residential land uses will reduce the cost of the residential development, and the non-residential land uses are compatible with the residential development project and existing or planned surrounding development.
 - c. Other regulatory incentives or concessions proposed by the applicant or the County that will result in identifiable, financially sufficient, and actual cost reductions, including those incentives listed in Section 22.24.020, and based upon appropriate financial analysis and documentation as specified in Section 22.24.030(D).
2. Nothing in this section requires the provision of direct financial incentives for the residential development project, including but not limited to the provision of financial subsidies, publicly owned land, fee waivers, or waiver of dedication requirements. The County at its sole discretion may choose to provide such direct financial incentives. Any such incentives may require payment of prevailing wages by the residential development project if required by State law.
 3. The County, at its sole discretion, may provide incentives or concessions for a residential development project that is eligible for a density bonus pursuant to Section 22.24.030(A) but where the applicant does not request a density bonus, providing the following findings can be made:
 - a. The project is a deed-restricted housing development that is affordable to very low or low income persons, or is any residential development project developed pursuant to the Housing Overlay Designation policies included in the Countywide Plan.
 - b. The incentive or concession is in compliance with the California Environmental Quality Act and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.
 4. Pursuant to Government Code Section 65915(p), an applicant for a residential development project that is eligible for a density bonus pursuant to Section 22.24.030(A) may request that onsite vehicular parking ratios, inclusive of handicapped and guest parking not exceed the following standards:
 - a. For zero to one bedroom dwelling units: 1 onsite parking space.
 - b. For two to three bedroom dwelling units: 2 onsite parking spaces.
 - c. For four or more bedroom dwelling units: 2.5 onsite parking spaces.

Onsite parking may include tandem and uncovered parking

5. An applicant for a residential development project that is eligible for a density bonus pursuant to Section 22.24.030(A) and who requests a density bonus, incentives, or concessions may seek a waiver of development standards that have the effect of precluding the construction of the project with the density bonus or with the incentives or concessions permitted by this section. The applicant shall show that the waiver is necessary to make the residential development project economically feasible, based upon appropriate financial analysis and documentation as specified in Section 22.24.030(D).

C. Standards for affordable housing units. Affordable units that qualify a residential development project for a density bonus pursuant to this section shall conform to the following provisions applicable to inclusionary units:

1. Section 22.22.020(C) (Conditions of approval).
2. Section 22.22.020(E) (Design and character of inclusionary units).
3. Section 22.22.020(F) (Timing of construction).
4. Section 22.22.020(G) (Eligible occupants), except that affordable ownership units designated for moderate income households shall be sold to moderate income households as certified by the County or its designee.
5. Section 22.22.030 (Inclusionary Requirements for Rental Housing Developments), except that rental prices shall be determined pursuant to Health and Safety Code Section 50053 and Section 6922, Title 25, California Code of Regulations, and the units shall be affordable for at least 30 years.
6. Section 22.22.040 (Inclusionary Requirements for Ownership Housing Developments), except that sales prices shall be determined pursuant to Health and Safety Code Section 50052.5 and Section 6924, Title 25, California Code of Regulations. Units affordable to very low and low income households shall be affordable for 30 years or as long a period of time as permitted by current law, and units affordable to moderate income households shall be affordable in perpetuity.
7. Section 22.22.050 (Inclusionary Requirements for Lot Subdivisions).
8. Section 22.22.060 (Eligibility Requirements for Ownership Housing Developments).
9. Section 22.22.070 (Control of Resale).

D. Application for density bonus, incentives, and concessions. Any request for a density bonus, incentive, concession, parking reduction, or waiver pursuant to this Section 22.24.030 shall be included in the affordable housing plan submitted as part of the first approval of any residential development project and shall be processed, reviewed, and approved, conditionally approved, or denied concurrently with all other applications required for the project. The affordable housing plan shall include, for all affordable units that qualify a residential development project for a density bonus pursuant to this section, the information that is required for inclusionary units as specified in Section 22.22.020(I). In addition, when requested by staff, the affordable housing plan shall include the following information:

1. A description of any requested density bonus, incentive, concession, waiver of development standards, or modified parking standard.

2. Identification of the base project without the density bonus, number and location of all affordable units qualifying the project for a density bonus, and identification of the density bonus units.
3. A pro forma demonstrating that any requested incentives and concessions result in identifiable, financially sufficient, and actual cost reductions, unless the request for incentives and concessions is submitted pursuant to Section 22.24.030(B)(3). The pro forma shall include: (a) the actual cost reduction achieved through the incentive or concession; and (b) evidence that the cost reduction allows the developer to provide affordable rents or affordable sales prices.
4. For waivers of development standards: (a) a pro forma demonstrating that the waivers are necessary to make the residential development project economically feasible; and (b) evidence that the development standards for which the waivers are requested would have the effect of precluding the construction of the residential development project at the density or with the incentives or concessions requested.
5. The County may require that any pro forma submitted pursuant to subsections (3) and (4) include information regarding capital costs, equity investment, debt service, projected revenues, operating expenses, and such other information as is required to evaluate the pro forma. The cost of reviewing any required pro forma data, including but not limited to the cost to the County of hiring a consultant to review the pro forma, shall be borne by the applicant.
6. If a density bonus is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings in Government Code Section 65915(h) can be made.
7. If a density bonus or concession is requested for a child care facility, the application shall provide evidence that the findings in Government Code Section 65915(i) can be made.
8. If a request for a density bonus, incentive, concession, parking reduction, or waiver is submitted after the first approval of any residential development project, an amendment to earlier approvals may be required if the requested density bonus, incentive, concession, parking reduction, or waiver would modify either the earlier approvals or the environmental review completed pursuant to the California Environmental Quality Act.

E. Review of application. Any request for a density bonus, incentive, concession, parking reduction, or waiver pursuant to this Section 22.24.030 shall be submitted as part of the first approval of any residential development project and shall be processed, reviewed, and approved or denied concurrently with the discretionary applications required for the project.

1. Before approving a request for a density bonus, incentive, concession, parking reduction, or waiver, the review authority shall make the following findings, as applicable:
 - a. The residential development project is eligible for a density bonus and any concessions, incentives, waivers, or parking reductions requested; conforms to all standards for affordability included in this chapter; and includes a financing mechanism for all implementation and monitoring costs.
 - b. Any requested incentive or concession will result in identifiable, financially sufficient, and actual cost reductions based upon appropriate financial analysis and

documentation if required by Section 22.24.030(D), unless the incentive or concession is provided pursuant to Section 22.24.030(B)(3).

- c. If the density bonus is based all or in part on dedication of land, all of the findings included in Government Code Section 65915(h) can be made.
 - d. If the density bonus, incentive, or concession is based all or in part on the inclusion of a child care facility, all of the findings included in Government Code Section 65915(i) can be made.
 - e. If the incentive or concession includes mixed uses, all of the findings included in Government Code Section 65915(k)(2) can be made.
 - f. If a waiver is requested, the waiver is necessary to make the housing units economically feasible, and the development standards would have the effect of precluding the construction of the residential development project at the densities or with the incentives or concessions permitted by this Section 22.24.030.
2. The review authority may deny a request for an incentive or concession for which the findings set forth in Section 22.24.030(E)(1) above can be made only if it makes a written finding, based upon substantial evidence, of either of the following:
 - a. The incentive or concession is not required to provide for affordable rents or affordable ownership costs; or
 - b. The incentive or concession would have a specific adverse impact upon public health or safety, or the physical environment, or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low, very low and moderate income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions, as they existed on the date that the application was deemed complete.
 3. The review authority may deny a request for a waiver for which the findings set forth in Section 22.24.030(E)(1) above can be made only if it makes a written finding, based upon substantial evidence, of either of the following:
 - a. The modification would have a specific adverse impact upon health, safety, or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low, very low and moderate income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete; or
 - b. The modification would have an adverse impact on any real property that is listed in the California Register of Historic Resources.

4. The review authority may deny a density bonus, incentive, or concession that is based on the provision of child care facilities and for which the required findings can be made only if it makes a written finding, based on substantial evidence, that the County already has adequate child care facilities.

CHAPTER 22.26 – LANDSCAPING

Sections:

- 22.26.010 – Purpose of Chapter
- 22.26.020 – Applicability – Landscaping Plans Required
- 22.26.030 – Landscaping Plan Procedures
- 22.26.040 – Landscaping Objectives
- 22.26.050 – Security for Delayed Installation

22.26.010 – Purpose of Chapter

This Chapter provides landscaping objectives for proposed developments.

22.26.020 – Applicability – Landscaping Plans Required

Landscaping plans shall be required for all discretionary permit applications for new development unless waived by the Director.

22.26.030 – Landscaping Plan Procedures

- A. A preliminary landscaping plan shall be submitted as part of the development application, and be reviewed by the Agency concurrent with the land use permit application;
- B. After approval of the development application, a final landscaping plan shall be prepared and submitted concurrent with the application for a Building Permit, and shall be reviewed by the Agency concurrent with the Building Permit application; and
- C. Landscaping plans should be prepared by a landscape professional.

22.26.040 – Landscaping Objectives

Proposed landscaping should be designed and installed to achieve the following objectives:

- A. **Provide visual amenities.** Landscaping should enhance the appearance of new development and surrounding areas by being designed, installed, and maintained to blend new structures into the context of an established community.
- B. **Provide environmental benefits.** Landscaping should be utilized to stabilize soil on hillsides, reduce soil erosion, improve air quality, reduce noise, and provide for appropriate fire protection. To the extent practicable, landscaping should also use non-toxic products or integrated pest management techniques in order to minimize impacts to water quality and wildlife habitat.
- C. **Conserve water.** Landscaping and related irrigation shall comply with the provisions of Chapter 23.10 (Water Efficiency in Landscaping) of the Marin County Code.

- D. Screen incompatible land uses.** Landscaping should be utilized to screen incompatible land uses by creating visual separation, where deemed necessary and appropriate, between land uses.
- E. Improve safety.** Landscaping should be utilized to improve pedestrian and vehicular safety by providing landscaping in proper proportion to the setting (e.g., reduced heights at intersections, driveways, etc.).
- F. Preserve the character and integrity of neighborhoods.** Landscaping should be utilized to enhance and preserve the characteristics which give a neighborhood its identity and integrity by providing a prescribed selection of trees and plant materials which are compatible with those existing in the neighborhood.
- G. Preserve native plant species.** Landscaping should be designed to use native plants as much as possible in order to preserve and/or enhance valuable plant habitats, create suitable habitats for wildlife, and protect endangered or threatened plants and animals.
- H. Preserve the number of trees in the County.** In compliance with the policies of the Countywide Plan, require the replacement of any trees proposed for removal at a minimum ratio of two new, appropriately sized and installed trees for each tree designated to be removed, unless a higher or lower replacement ratio is determined to be appropriate.
- I. Provide for fire safe landscaping.** Landscaping should utilize plant selection, placement and maintenance to provide a fire safe environment for individual structures, ingress, egress routes, and neighborhoods as a whole. Vegetation should not be planted in locations where, when mature, it may contact overhead power lines.

22.26.050 – Security for Delayed Installation

In the event that weather or other unavoidable conditions prevent the effective installation of required landscaping prior to occupancy, adequate security, in the amount equal to 150 percent of the value of the landscaping, including installation costs, may be allowed, subject to the approval of the Director.

CHAPTER 22.27 – NATIVE TREE PROTECTION AND PRESERVATION

Sections:

- 22.27.010 – Purpose of Chapter
- 22.27.020 – Applicability
- 22.27.030 – Prohibition on Removal of Protected Trees
- 22.27.040 – Exemptions
- 22.27.050 – Oak Woodland Management Guidelines
- 22.27.060 – Oak Woodland Management Education Guidelines
- 22.27.070 – Tree Removal Permit
- 22.27.080 – Application and Fees for a Tree Removal Permit
- 22.27.090 – Action on Tree Removal Permit – Criteria
- 22.27.100 – Replacement Requirements for a Permit Validly Obtained
- 22.27.110 – Appeals
- 22.27.120 – Violations and Penalties
- 22.27.130 – Tree Replacement/Preservation Fund
- 22.27.140 – Site Inspection
- 22.27.150 – Liability

22.27.010 – Purpose of Chapter

This Chapter establishes regulations for the preservation and protection of native trees in the non-agricultural unincorporated areas of Marin County by limiting tree removal in a manner which allows for reasonable use and enjoyment of such property. This Chapter does not confer any obligation on the part of the County to protect viewsheds.

A. Intent. This Chapter is intended to:

1. Control the removal of protected trees and maintain and enhance tree cover on improved and unimproved property to ensure that values and benefits provided by native trees are realized;
2. Prevent the unpermitted wholesale removal of a majority of native trees on a parcel prior to application for a development permit.
3. Protect woodland environments on agricultural land through an educational outreach program;
4. Educate residents of the County about the functions, benefits and values of trees to further the protection, preservation, and regeneration of trees.

B. Findings. The Board finds it in the public interest to adopt a native tree preservation and protection ordinance for the purpose of promoting the health, safety, and general welfare of the residents of Marin County, insofar as trees provide a wide variety of functions, values and benefits including:

1. Providing an important and essential functional element of the plant communities that constitute Marin County’s natural heritage;
2. Providing habitat for wildlife;
3. Stabilizing soil and improving water quality by reducing erosion and sedimentation;
4. Allowing for the natural replenishment of groundwater supplies by reducing stormwater runoff;
5. Controlling drainage and restoring denuded soil subsequent to construction or grading;
6. Preserving and enhancing aesthetic qualities of the natural and built environments and maintaining the quality of life and general welfare of the County;
7. Reducing air pollution by absorbing carbon dioxide, ozone, particulate matter, and producing oxygen;
8. Assisting in counteracting the effects of global warming resulting from the depletion of forest and urban trees;
9. Conserving energy by shading buildings and parking areas;
10. Maintaining and increasing real property values;
11. Reducing wind speed and human exposure to high winds and other severe weather; and
12. Assist in reducing noise pollution through the effects of vegetative buffers.

22.27.020 – Applicability

This Chapter applies only to “protected trees” as defined in Article VIII (Definitions) on improved and unimproved parcels as defined in Article VIII in the non-agricultural unincorporated areas of Marin County. Protected trees may be removed in specific circumstances as stated in Section 22.27.040 (Exemptions to the Prohibition on Removal of a Protected Tree) without triggering a requirement for a permit.

This Chapter provides an opportunity for a property owner to request permission to remove a protected tree (which cannot otherwise be removed in compliance with the exemptions described in Section 22.27.040 (Exemptions to the Prohibition on Removal of a Protected Tree) as allowed by the Tree Removal Permit process described in Sections 22.27.070 (Tree Removal Permits), 22.27.080 (Application and Fees for a Tree Removal Permit), and 22.27.090 (Action on Tree Removal Permit – Criteria). Trees which are not defined as “Protected Trees” are not covered by the provisions in this Chapter.

22.27.030 – Prohibition on Removal of Protected Trees

Protected Trees shall not be removed except in compliance with Section 22.27.050 (Exemptions), and as provided for in Section 22.27.080 (Tree Removal Permits).

22.27.040 – Exemptions

Prior to removal of a protected tree, the property owner must demonstrate to the satisfaction of the Director that the proposed work is exempt from the requirements of this Chapter because it meets at least one of the following criteria for removal:

- A. The tree is not specifically defined as a protected tree by this Chapter;
- B. The general health of the tree is so poor due to disease, damage, or age that efforts to ensure its long-term health and survival are unlikely to be successful;
- C. The tree is infected by a pathogen or attacked by insects that threaten surrounding trees as determined by an arborist report or other qualified professional as defined above;
- D. The tree is a potential public health and safety hazard due to the risk of its falling and its structural instability cannot be remedied;
- E. The tree is a public nuisance by causing damage to improvements, such as building foundations, retaining walls, roadways/driveways, patios, sidewalks and decks, or interfering with the operation, repair, or maintenance of public utilities;
- F. The tree has been identified by a Fire Inspector as a fire hazard;
- G. The removal of the tree has been specifically proposed and authorized as part of the final approval of a discretionary development permit, including but not necessarily limited to Master Plan, Development Plan, Design Review, Coastal Permit, Tentative Subdivision Map, Final Subdivision Map, Use Permit, or Variance;
- H. The tree was planted for a commercial tree enterprise, such as Christmas tree farms or orchards;
- I. Prohibiting the removal of the tree will conflict with CC&R's which existed at the time this Chapter was adopted;
- J. The tree is located on land which is zoned agriculture (A, ARP, APZ, C-ARP or C-APZ) and is used for commercial agricultural purposes. (This criterion is provided to recognize the agricultural property owner's need to manage these large properties and continue their efforts to be good stewards of the land.); or
- K. The tree removal is by a public agency to provide for the routine management and maintenance of public land or to construct a fuel break.

The Director may require submittal of documentation, including, but not limited to, an arborist report, to demonstrate that the proposed tree removal is exempt from the requirements of this chapter. It is recommended that a property owner obtain an arborist report or verify the status of the tree with photographs to document the applicability of the criteria listed above to a tree which is considered for removal in compliance with this section. Property owners removing trees under the provisions of this section are encouraged to review the management guidelines set forth in this Chapter (Section 22.27.050 (Oak Woodland Voluntary Management Guidelines)). Efforts should be made to encourage regeneration and replanting where appropriate.

22.27.050 – Oak Woodland Management Guidelines

When trees are removed and/or management plans are prepared in compliance with this Chapter, the County's Oak Woodland Management Guidelines provided by the Agency should be taken into consideration.

22.27.060 – Oak Woodland Management Educational Guidelines

The County shall mail a copy of the Oak Woodland Management Guidelines to all owners of properties greater than 60 acres zoned for agricultural use. In addition, the County shall make copies of the Oak Woodland Management Guidelines available for distribution to any interested person.

22.27.070 – Tree Removal Permit

The owner of property upon which a protected tree is located may request to remove protected trees not otherwise exempt from this chapter in compliance with Section 22.27.050 (Exemptions) by filing an application for a Tree Removal Permit. However, a Tree Removal Permit is not required if the tree was required to be maintained as a condition of another land use permit and the proposed removal of the tree will be considered as part of an amendment to the prior land use permit.

If the removal of protected trees is proposed in connection with development that requires a discretionary permit application, the Director may waive the requirement for a separate Tree Removal Permit and instead review and issue a decision on the proposed removal of protected trees through the permit procedures for the discretionary permit application subject to provisions of this Chapter.

22.27.080 – Application and Fees for a Tree Removal Permit

Application for an a Tree Removal Permit shall be made to the Director in the form of a written application, together with the appropriate fee, and other graphic or written material as may be required to describe clearly and accurately the proposed tree removal as it pertains to the criteria listed in Section 22.27.100 (Action on Tree Removal Permit – Criteria).

22.27.090 – Action on Tree Removal Permit – Criteria

The Director shall approve or disapprove applications for Permits in compliance with this Chapter. However, if the Director determines that significant policy questions are at issue, the Director may refer the application to the Planning Commission for action. For the Director, or other appropriate County decision making body, to grant a Permit to remove a protected tree, it shall be necessary to find that removal of the tree(s) is necessary for the reasonable use and enjoyment of land under current zoning regulations and Countywide Plan and Community Plan (if applicable) policies and programs, taking into consideration the following criteria:

- A. Whether the preservation of the tree would unreasonably interfere with the development of land;
- B. The number, species, size and location of trees remaining in the immediate area of the subject property;
- C. The number of healthy trees that the subject property can support;

- D. The topography of the surrounding land and the effects of tree removal on soil stability, erosion, and increased runoff;
- E. The value of the tree to the surrounding area with respect to visual resources, maintenance of privacy between adjoining properties, and wind screening;
- F. The potential for removal of a protected tree to cause a significant adverse effect on wildlife species listed as threatened or endangered by State or Federal resource agencies in compliance with the California Environmental Quality Act (CEQA);
- G. Whether there are alternatives that would allow for the preservation of the tree(s), such as relocating proposed improvements, use of retaining walls, use of pier and grade beam foundations, paving with a permeable substance, the use of tree care practices, etc.

22.27.100 – Replacement Requirements for a Permit Validly Obtained

In order to mitigate for any trees removed under the provisions of this Chapter, the Director may require one or more of the following:

- A. Establishment and maintenance of replacement trees.
- B. For large properties, a management plan which designates areas of the property for preservation of young stands of trees or saplings and replacement plantings as required.
- C. Removal of invasive exotic species.
- D. Posting of a bond to cover the cost of an inspection to ensure success of measures described above.

In the event that tree planting on the site is not feasible or appropriate, the Director may require in lieu of planting on the specific property, the payment of money in the amount of \$500.00 per tree removed to be deposited into the Tree Preservation Fund managed by the Marin County Parks and Open Space Department for planting, maintenance, and management of trees and other vegetation.

22.27.110 – Appeals

The decision to approve or disapprove an application for a Tree Removal Permit, may be appealed in compliance with Section 22.114 (Appeals) of this Development Code.

22.27.120 – Violations and Penalties

Where any person, firm, or corporation violates the provisions of this Chapter, the Director may pursue an enforcement action in compliance with Chapter 22.122 (Enforcement of Development Code Provisions), and County Code Chapter 1.05 (Nuisance Abatement). The procedures may result in substantial fines for enforcement costs and civil penalties, the exact amount to be determined through the abatement process.

22.27.130 – Tree Replacement/Preservation Fund

Monies for civil penalties received by the County in compliance with Section 1.05.030 or money received in lieu of replacement planting shall be forwarded to the Director of the Marin County Parks and Open Space Department for deposit in a Tree Preservation Fund. Under no circumstances shall the monies collected by the Department for the Tree Preservation Fund be directed to any other account or used for any purpose other than the planting, maintenance, and management of trees or other vegetation:

- A. On lands owned and managed for park or open space purposes by the Marin County Parks and Open Space Department or the County of Marin; and
- B. For public uses as directed by the Marin County Board of Supervisors.

22.27.140 – Site Inspection

The Director shall seek entry to private property for the purpose of conducting an inspection to determine whether trees have been removed in violation of this chapter. The Director shall first seek the property owner's permission to conduct such an inspection.

22.27.150 – Liability

Nothing in this Chapter shall be deemed to impose any liability upon the County, its officers and employees, nor to relieve the owner of any private property from the responsibility to maintain any tree on his/her property in such condition as to prevent it from constituting a hazard or impediment to travel or vision upon any public right-of-way.

CHAPTER 22.28 – SIGNS

Sections:

- 22.28.010 – Purpose of Chapter
- 22.28.020 – Applicability
- 22.28.030 – General Sign Regulations
- 22.28.040 – Exempt Signs
- 22.28.050 – Prohibited signs
- 22.28.060 – Signs Requiring a Sign Permit
- 22.28.070 – Signs Requiring Sign Review
- 22.28.080 – Sign Permit and Sign Review Procedures
- 22.28.090 – Nonconforming signs
- 22.28.100 – Removal of Dangerous Signs

22.28.010 – Purpose of Chapter

This Chapter provides procedures for the review of proposed signs which are designed to achieve the following:

- A. Protection of public safety within the County and the visual quality of its communities;
- B. Protection of uses, which are adequately and appropriately identified and advertised, from the installation of too many and too large signs;
- C. Protection of commercial districts from visual chaos and economic detriment;
- D. Protection of the public's ability to identify uses and premises without confusion;
- E. Elimination of unnecessary distractions which may diminish driving and pedestrian safety; and
- F. Enhancement and improvement of properties and their neighborhoods by encouraging signs which are compatible with and complementary to related structures and uses and harmonious with their surroundings.

22.28.020 – Applicability

Signs shall be constructed, installed, or altered, only with the approval of a Sign Permit or Sign Review by the Director, and in compliance with all applicable provisions of this Chapter. Signs that are exempt from the provisions of this Chapter are described in Section 22.28.040 (Exempt Signs). Prohibited signs are described in Section 22.28.050 (Prohibited Signs).

22.28.030 – General Sign Regulations

Signs shall only be erected, placed, constructed, altered, maintained, or otherwise located in compliance with the requirements of Sections 22.28.060 (Sign Permit), or 22.28.070 (Sign Review).

- A. Sign content – Freestanding signs.** The message content of freestanding signs shall be limited to the name of the use or premises, and shall be designed and located to be viewed primarily from the immediately surrounding public streets.
- B. Utility clearance.** The owner of any sign shall maintain legal clearance from communications and electrical facilities. Notwithstanding any other provisions of this Chapter, no sign shall be constructed, erected, installed, maintained or repaired in any manner that conflicts with any rule, regulation or order of the California Public Utilities Commission pertaining to the construction, operation and maintenance of public utility facilities.
- C. Sight Distance.** Freestanding signs shall not obstruct sight distance as established by the County Code and Section 22.20.050.A.2 (Corner lots).
- D. Other approvals.** A sign shall conform with all other applicable laws and with any regulations or conditions contained in any applicable County or State approval.

22.28.040 – Exempt Signs

The following signs are allowed without Sign Permit or Review, in compliance with the following specific requirements. Signs not conforming to the limits contained in this Section relating to number, size, location, height, copy or time, are subject to Sign Review in compliance with Section 22.28.070 (Signs Requiring Sign Review).

- A. Governmental signs:**
 - 1. Emergency and warning signs necessary for public safety or civil defense, by an authorized public agency;
 - 2. Traffic signs erected and maintained by an authorized public agency; and
 - 3. Legal notices, licenses, permits and other signs required to be displayed by law.
- B. Flags.** Flags and emblems of governmental jurisdictions not used for commercial advertising.
- C. Holiday displays.** Holiday bunting, decoration and displays.
- D. Miscellaneous signs:**
 - 1. Address numbers not exceeding 12 inches in height;
 - 2. Sign identifying a neighborhood, district or community;
 - 3. Historical plaques erected and maintained by nonprofit organizations, memorials, building cornerstones and erection date stones;
 - 4. Association membership, credit cards accepted, trading stamps given, patronage games, etc., provided that one sign not exceeding one square foot for each face of the structure is mounted flush with the building;
 - 5. Posted restaurant menu identical to those made available to diners;

6. Poster board or bulletin board;
 7. Parking, vehicular and pedestrian directional signs not exceeding four square feet each nor containing any advertising message;
 8. Signs located for viewing exclusively from within the premises of the use;
 9. Signs containing no product advertising with letters not exceeding six inches in height, for identification of telephones, service entrances, restrooms, litter receptacles and other similar signs allowed by the Director; and
 10. Signs indicating the emplacement/location of public utility facilities.
- E. Political signs.** One sign not exceeding 12 square feet located by an individual on their own residence or place of business or on some part of the property; provided the sign is displayed not more than 45 days prior to, or more than 10 days after, the conclusion of the political campaign to which it relates.
- F. Temporary signs:**
1. **Construction signs.** One sign identifying the proposed use and/or structure and persons or firms involved during the period of construction not exceeding 36 square feet.
 2. **Real estate signs.** In compliance with California Civil Code 713, an owner of real property or authorized agent, may display, on the owner's real property, or on real property owned by others with their consent, signs which are determined by the Director to be reasonably located and of reasonable dimensions and design, which do not adversely affect public health and safety and which advertise only the following:
 - a. That the property is for sale, lease, or exchange by the owner or agent;
 - b. Directions to the property;
 - c. The owner's or agent's name;
 - d. The owner's or agent's address and telephone number; and
 - e. On-site real estate signs of four square feet, and a height of five feet above grade.
 3. **Sales signs.** Temporary signs announcing sales or special features attached to or painted on the surfaces of store windows provided they do not exceed 25 percent of the area of the windows and provided they are removed immediately after the termination of the subject event.
 4. **Seasonal use signs.** One sign is permitted for a Christmas tree lot, pumpkin sales, etc., not exceeding 50 square feet.
 5. **Subdivision Signs.** One subdivision sign on the premises not exceeding 36 square feet for a period not exceeding two years unless renewed; one subdivision sign not exceeding four square feet for a period not exceeding two years, unless renewed, located at the nearest arterial intersection and giving only directions to a subdivision not adjoining an arterial.

- G. Use identification signs:** (Only one sign for each property, which may be freestanding.)
1. **Bed and breakfast inns.** One sign not exceeding four square feet.
 2. **Cottage industries.** One sign not exceeding two square feet.
 3. **Dwellings.** One name plate not exceeding one square foot.
 4. **Farm, plant nursery or ranch.** One sign not exceeding 12 square feet.
 5. **Home occupations.** One sign not exceeding one square foot.
- H. Other:** Change to the copy of existing signs that were previously authorized by a Sign Permit or Sign Review.

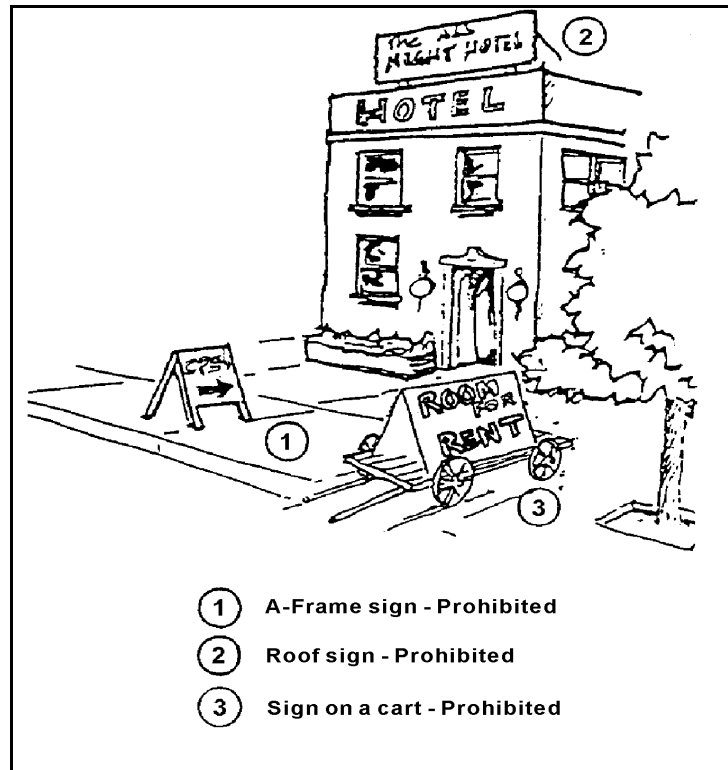
22.28.050 – Prohibited Signs

The following types of signs, sign illumination and sound facilities, and sign materials and forms are prohibited:

- A. Prohibited types of signs:**
1. Private use signs located on public land or in a public right-of-way;
 2. Signs cut, burned or otherwise marked on a cliff, hillside or tree;
 3. Signs in storage or in the process of assemblage or repair, that are located outside of the premises other than that advertised in the sign, and are visible from a public right-of-way;
 4. Billboards;
 5. Signs advertising a use no longer in operation; and
 6. Roof top signs.
- B. Prohibited types of illumination and sound.** No electrical sign shall blink, flash or emit a varying intensity of color or light which would cause glare, momentary blindness or other annoyance, disability or discomfort to persons on surrounding properties or passing by.
- C. Prohibited types of material and form:**
1. Sign with reflective material;
 2. Banners, pennants, streamers except in conjunction with an athletic event, carnival, circus, fair, or during the first 30 days of occupancy of a new structure or operation of a new business in compliance with Section 22.28.040.F (Temporary Signs);
 3. Signs, other than clocks or meteorological devices, having moving parts or parts so devised that the sign appears to move or to be animated; and

4. Portable signs including "A" frame sign, or a sign on a balloon, boat, float, vehicle, or other movable object designed primarily for the purpose of advertising.

**FIGURE 3-11
PROHIBITED TYPES OF SIGNS**



22.28.060 – Signs Requiring a Sign Permit

The Director shall approve a Sign Permit in compliance with Section 22.28.080 (Sign Permit and Sign Review Procedures) for the following signs if the Director determines that the proposed sign complies with the provisions of this Section. Signs not conforming to the limits in this Section relating to number, size, location, height, copy or time, or otherwise requiring Sign Review by this Section are subject to the provisions of Section 22.28.070 (Signs Requiring Sign Review).

- A. Number and location.** A maximum of one sign may be installed on the same premises for each primary activity or person identified, except as specifically provided in this Chapter. The sign shall be located on, and parallel to, the front wall of the structure in which the use is conducted, except in the case of a use without a structure.
- B. Sign area.** The size of a sign shall not exceed the areas specified in Subsections E and F below, for each type of sign.
- C. Projection.** A sign mounted parallel to a front wall of a structure shall not project beyond the ends of the wall to which it is attached.
- D. Height.** Signs on structures shall not extend to an elevation higher than the following:

1. The window sills on a floor above the one on which the lowest portion of the sign is affixed;
2. The top of the wall to which the sign would be attached; and
3. 20 feet above grade.

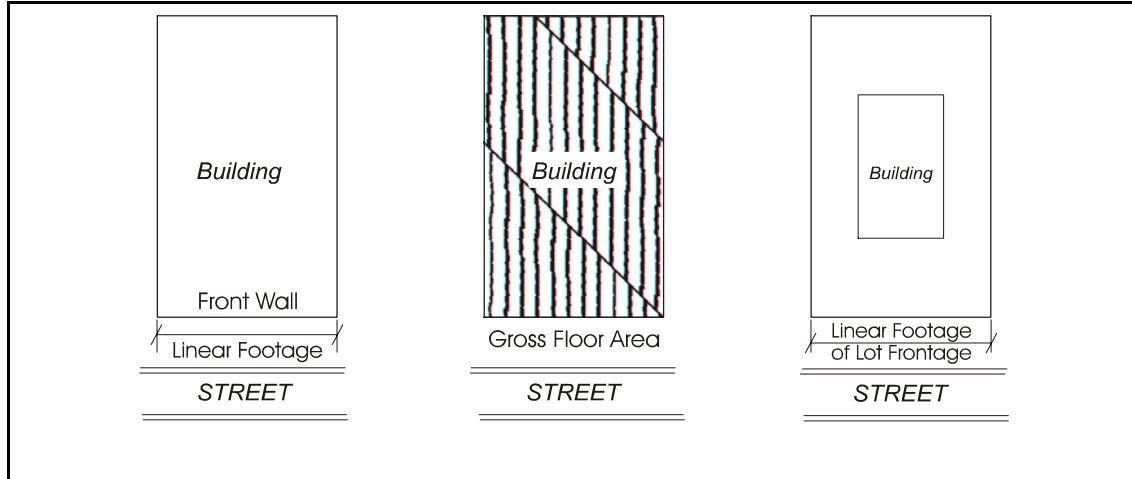
E. Use identification signs:

1. **Apartment building.** One sign not exceeding six square feet, may be freestanding.
2. **Institutional uses.** Institutions of an educational, religious, charitable or civic nature; hospital, rest home or sanitarium; cemeteries; and other similar uses: one sign not exceeding 24 square feet, may be freestanding.
3. **Recreational uses.** Including country club, golf course, riding academy, stable, tennis court, and other similar uses: one sign not exceeding 12 square feet, may be freestanding.
4. **Businesses and industrial land use activities:**
 - a. **Ground floor use:** a maximum of two signs on the front wall not exceeding in the aggregate one square foot for each linear foot of the wall to a maximum of 50 square feet;

Through lot exception: for a use extending from one street through the structure to another street parallel to the first, each of the two walls facing a street may be considered as a separate front wall; and
 - b. **Second floor use different from ground floor use:** one sign on the front wall of the building not exceeding 12 square feet.

F. Off-site real estate signs: a maximum of four square feet and five feet high.

**FIGURE 3-12
DETERMINING ALLOWABLE SIGN AREA**



22.28.070 – Signs Requiring Sign Review

The types of signs included in this Section require Sign Review in compliance with Section 22.28.080 (Sign Permit and Sign Review Procedures). This Section also provides for exceptions to other requirements of this Chapter through the approval of a Sign Review application by the Director, in compliance with the following standards.

In all cases the Sign Review approval shall specify findings consistent with this Chapter upon which the sign exception is approved.

- A. Oversize and over height signs.** The Director may allow additional area or height in excess of that allowed by Sections 22.28.040 (Exempt Signs) and 22.28.060 (Signs Requiring a Sign Permit) as follows.
- 1. Criteria for additional area.** In determining the total area to be allowed, the Director shall use one of the following as a guide, as maximum sizes:
 - a. One square foot for each linear foot of the front wall;
 - b. One square foot for each 100 square feet of gross floor area;
 - c. One-half square foot for each linear front foot of the premises; and
 - d. For a freestanding sign, a maximum of 75 square feet, based on structure and parcel frontage, except for the following freeway oriented uses:
 - (1) A restaurant or lodging establishment located, designed and operated to serve freeway through traffic: 100 square feet;
 - (2) A shopping center having six or more independently operated uses and adjoining a freeway or freeway frontage road: 100 square feet; and

- (3) Service stations operating to serve freeway through traffic: 100 square feet.
- 2. Criteria for additional height.** The total height of the sign shall not exceed the following:
- a. For freeway-oriented uses in Subsection A.1.d, above, elevations up to 20 feet above grade; and
 - b. For other uses, elevations up to 15 feet above the surface elevation of the nearest street or public right-of-way.
- 3. Findings.** An oversize or over height sign may be authorized only where the Director first finds that the proposed sign is needed to fulfill one of the following objectives:
- a. To allow a sign to be in proper scale with its structure or use;
 - b. To allow a sign compatible with others in the vicinity;
 - c. To overcome a visibility disadvantage caused by an unfavorable orientation of the front wall to the public right-of-way or by an unusually large setback; or
 - d. To achieve an effect which is essentially architectural, sculptural or graphic art, through use of expanded area, as with murals or "supergraphics."
- B. Alternative locations including freestanding signs.** The allowed sign area may be transferred from the front wall to another wall or a freestanding sign location, where the Director first finds that the alternate location is necessary to overcome a visibility disadvantage caused by an unfavorable orientation of the front wall to the public right-of-way or by an unusually large setback.
1. In these cases the plans shall clearly indicate that the alternate location would be more practical, effective and complementary to the design of the structure.
 2. Freestanding signs shall be limited to the name of the use or premises, and shall be designed and located to be viewed primarily from the immediately surrounding public streets.
- C. Additional number.** Where Sign Review is required to allow a number of signs higher than otherwise allowed in this Chapter, any sign under consideration shall not be approved unless all of the signs can be reasonably compatible in order to prevent a cluttered, chaotic or confusing appearance.
- D. Changeable copy.** Signs using changeable copy for an auditorium, commercial multi-use premises, church, meeting hall, theater (live or movie), or other similar use having changing programs or events, including nonflashing electronic readerboard signs, with the following restrictions:
1. For a non-commercial use, up to 50 percent but not exceeding 50 square feet of the allowed sign area may be used for changeable copy; and

2. For a multi-commercial use, over 50 percent but not exceeding 100 square feet of the allowed sign area may be used for changeable copy.
- E. Interior lighting.** Signs using interior lighting.
- F. Organization signs.** Sign identifying service and religious organizations when combined in a single sign at a community entrance.
- G. Outdoor uses.** One sign not exceeding one-half square foot for each front foot of the parcel on which the use is located, to a maximum of 50 square feet.
- H. Service stations.** Three signs with an aggregate area not exceeding 100 square feet, in addition to those mandated by State law.
- I. Shopping centers.** A shopping center or other premises having six or more independently operated uses; signs in the aggregate not to exceed one-half square foot for each linear front foot of the building or tenant space.
- J. Directional.** Signs in the form or shape of a directional arrow, or otherwise displaying a directional arrow, except these signs when approved by Sign Review, or as may be required for safety and convenience and for control of pedestrian and vehicular traffic within the premises of the subject use.

22.28.080 – Sign Permit and Sign Review Procedures

- A. Application filing and processing.** Sign Permit and Sign Review applications shall be completed and submitted in compliance with Chapter 22.40 (Application Filing and Processing, Fees).
- B. Action by Director – Sign Permit.** In considering a Sign Permit application, the Director may only grant approval for a sign that complies with the provisions of Section 22.28.060 (Signs Requiring a Sign Permit).
- C. Action by Director – Sign Review.** In considering a Sign Review application, the Director may only grant approval in compliance with the following findings, in addition to any other applicable provisions of this Chapter:
1. The proposed sign(s) comply with the purpose of this Chapter, stated in Section 22.28.010 (Purpose), and ensure the following:
 - a. Protection of public safety within the County and the visual quality of its communities;
 - b. Protection of uses, which are adequately and appropriately identified and advertised, from the installation of too many and too large signs;
 - c. Protection of commercial districts from visual chaos and economic detriment;
 - d. Protection of the public's ability to identify uses and premises without confusion;
 - e. Elimination of unnecessary distractions which may diminish driving safety; and

- f. Enhancement and improvement of properties and their neighborhoods by encouraging signs which are compatible with and complementary to related structures and uses and harmonious with their surroundings.
2. The proposed sign(s) comply with the provisions, regulations, standards (e.g., dimensional, locational, etc.) and criteria contained in this Chapter, and Chapter 22.42 (Design Review), to the extent they are applicable to the proposed sign(s).

D. Conditions and guarantees:

1. An application for Sign Review may be approved with or without modifications, conditionally approved or denied.
2. Guarantees, sureties or other evidence of compliance may be required in connection with, or as a condition of, a Sign Review.

E. Expiration and extension. Sign Permit and Sign Review approvals are subject to the expiration and extension provisions of Chapter 22.56 (Permit Implementation, Time Limits, Extensions).

22.28.090 – Nonconforming signs

Any legally installed sign which does not conform to the provisions of this Chapter to the extent specified below, shall be removed or modified to conform within the amortization period established by this Section, unless approved by Sign Review during the amortization period.

A. Nonconforming signs subject to removal or modification:

1. Any freestanding, freeway-oriented:
 - a. Service station sign exceeding 100 square feet in area;
 - b. Restaurant or lodging establishment sign exceeding 100 square feet in sign area;
 - c. Shopping center sign exceeding 100 square feet in sign area; and
 - d. Sign for other use(s) exceeding 75 square feet in sign area.
2. Signs on a single site with a total aggregate area exceeding 250 square feet.
3. Any roof-mounted sign.
4. Billboards.
5. Any sign projecting at an angle from the wall.
6. Any freestanding sign with a height greater than 30 feet.

B. Amortization period. A nonconforming sign shall be removed or made to conform within five years from the date of notice. The owner of a nonconforming sign may make application to the Zoning Administrator for an extension of the amortization period. The Zoning Administrator

may grant an extension not exceeding five years upon the finding and determination of unique or unusual circumstances relative to the sign.

- C. Notice of nonconforming signs.** The amortization period for a nonconforming sign shall begin on the date when the Director gives written and recorded notice to the owner of the property with the sign, and any other persons whom the Director determines, after a reasonable investigation, to have a beneficial interest in the sign.

Upon expiration of the amortization period, the Director shall give final notice of nonconformance to the property owner and the other persons previously determined to have a beneficial interest in the sign, or their successors. If the sign is not removed or modified to conform with applicable requirements within 60 days, it shall be deemed a public nuisance and may be removed by the County in compliance with the nuisance abatement procedures contained in Section 22.122.050 (Legal Remedies).

22.28.100 – Removal of Dangerous Signs

Notwithstanding any other provisions of this Chapter, the Director or any authorized County employee may, without notice, remove any sign which:

- A.** Is a physical danger to the public health and safety;
- B.** Is located within public lands or the public rights-of-way; or
- C.** Obstructs traffic signals or otherwise constitutes a hazard to roadside traffic.

CHAPTER 22.30 – STANDARDS FOR SPECIFIC COMMUNITIES

Sections:

- 22.30.010 – Purpose of Chapter
- 22.30.020 – Applicability
- 22.30.030 – Communities within the Coastal Zone
- 22.30.040 – Lucas Valley Community Standards
- 22.30.050 – Sleepy Hollow Community Standards
- 22.30.060 – Tamalpais Planning Area Community Standards

22.30.010 – Purpose of Chapter

This Chapter provides development standards for specific unincorporated communities, where the preservation of unique community character requires standards for development that differ from the general requirements of this Article and Article II (Zoning Districts and Allowable Land Uses).

22.30.020 – Applicability

The provisions of this Chapter apply to proposed development and new land uses in addition to the general site planning standards of Article II (Zoning Districts and Allowable Land Uses), this Article, and all other applicable provisions of this Development Code. In the event of any conflict between the provisions of this Chapter and any other provision of this Development Code, this Chapter shall control.

22.30.030 – Communities within the Coastal Zone

Standards for specific communities within the Coastal Zone are located in Article V (Coastal Zones – Permit Requirements and Development Standards).

22.30.040 – Lucas Valley Community Standards

The following standards shall apply in the area identified by the Countywide Plan as Lucas Valley that is zoned R1:BLV.

- A. Limitation on use, R1:BLV district.** Allowable land uses shall be limited to the following on properties in the R1:BLV zoning district, instead of those normally allowed in the R1 zoning district by Section 22.10.030 (Residential Zone Land Uses and Permit Requirements):
1. Single-family dwellings;
 2. Public parks and playgrounds;
 3. Non-commercial greenhouses accessory to single-family dwellings;
 4. Home occupations, in compliance with Section 22.32.100 (Home Occupations);

5. Schools, libraries, churches, monasteries, convents, tennis courts and similar non-commercial recreational uses, subject to Use Permit approval in compliance with Chapter 22.48 (Use Permits);
6. Child day-care facilities, in compliance with Section 22.32.050 (Child Day-Care Facilities); and
7. Accessory buildings and accessory uses. Accessory buildings shall not exceed 100 square feet in floor area and 6 feet in height. Larger and taller accessory buildings may be permitted, subject to Design Review approval in compliance with Chapter 22.42 (Design Review) and subject to provisions of subsection C, below.

B. General development and use standards.

1. **Height limit:** 14.5 feet or the height of the existing roofline, whichever is greater. See Section 22.20.060 (Height Measurement and Height Limit Exceptions). Non-Eichler residential structures fronting on Mount Tallac Court, Mount Muir Court, and Mount Wittenburg Court may exceed the height limit, up to a maximum height of 35 feet, with Design Review approval in accordance with Chapter 22.42 (Design Review).
2. **Setback requirements.** Structures shall be located in compliance with the following minimum setbacks. See Section 22.20.100.B (Measurement of Setbacks).
 - a. **Front:** 25 feet.
 - b. **Sides:** 6 feet on each side; 10 feet for a street side setback on a corner parcel.
 - c. **Rear:** 20 percent of the lot depth, up to a maximum of 25 feet.
3. **Floor Area Ratio (FAR):** 30 percent (0.30) of lot area.
4. **Minimum lot area required:** 7,500 square feet, except as provided for in Section 22.82.050 (Hillside Subdivision Design).

C. Design Review required, additional findings. All new construction and modifications to existing structures in R1:BLV zoning districts shall be subject to Design Review approval in compliance with Chapter 22.42 (Design Review). The review authority may approve a Design Review, with or without conditions, only if all of the following findings are made:

1. The proposed development is in compliance with the findings in Section 22.42.060 (Design Review--Decision and Findings).
2. For an Eichler residential structure the proposed development will result in substantial architectural similarity with other Eichler residential structures in the neighborhood. It will maintain the unique architectural features of the existing structure and will not detract from the architectural characteristics prevalent in the surrounding neighborhood.
3. The proposed development will utilize similar building materials and colors consistent with the existing structure and/or structures in the immediate vicinity.
4. The proposed development will utilize compatible building materials and colors consistent

with the existing structure and/or structures in the immediate vicinity.

D. Exemptions from Design Review. The following developments and physical improvements in R1-BLV zoning districts are exempt from Design Review:

1. Skylights, flush-mounted solar panels, chimneys, satellite dishes, ground-mounted air conditioning units, and pool equipment;
2. Replacement and repair of exterior siding, roofing, windows and doors;
3. Installation of new bay windows;
4. Exterior painting;
5. Interior remodels;
6. Atrium enclosures which do not exceed the height of the existing roofline;
7. Wood fences which do not exceed 6 feet in height and comply with the requirements of Section 22.20.050 (Fencing and Screening Standards);
8. Decks and patios not exceeding 18 inches in height;
9. Landscape improvements; and
10. Other work that the Director determines to be minor and incidental in nature, and which is in compliance with the purpose of the Chapter 22.42 (Design Review).

22.30.050 – Sleepy Hollow Community Standards

The following standards shall apply in the area identified by the Countywide Plan as Sleepy Hollow that is zoned R1:BD or A2:BD.

A. Limitation on use, R1:BD district. Allowable land uses shall be limited to the following on properties in the R1:BD zoning district, instead of those normally allowed in the R1 zoning district by Section 22.10.030 (Residential Zone Land Uses and Permit Requirements):

1. Single-family dwellings;
2. Golf courses, country clubs, tennis courts, and similar non-commercial recreational uses;
3. Public parks and playgrounds;
4. Residential accessory uses and structures, in compliance with Section 22.32.130 (Residential accessory uses and structures); and
5. Home occupations, in compliance with Section 22.32.100 (Home Occupations).

B. Limitation on use, A2:BD district. Allowable land uses shall be limited to those normally allowed in the A2 zoning district by Section 22.08.030 (Agricultural District Land Uses and Permit Requirements).

- C. Limitation on animal keeping, R1:BD district.** The keeping of livestock of any kind shall be prohibited, except for ordinary household pets. Horses, donkeys, mules or ponies for the personal use of residents may be kept on the site in compliance with Section 22.32.030 (Animal Keeping), provided that the stable or barn is not located closer than 40 feet from any existing dwelling, 10 feet from interior side property lines, and 15 feet from street side property lines.

The running area for the animal(s) shall not be closer than 40 feet to an existing dwelling.

D. General development and use standards.

- 1. Minimum floor area for dwelling units.** The habitable floor area of each dwelling unit shall contain a minimum of 1,300 square feet, exclusive of porches and garage(s).
- 2. Timely construction required.** Any structure commenced to be erected or placed on a parcel shall be completed with due diligence.
- 3. Setback requirements.** Structures shall be located in compliance with the following minimum setbacks. See Section 22.20.090.B (Measurement of Setbacks).
 - a. Front:** 25 feet.
 - b. Sides:** 10 feet on each side; 15 feet for a street side setback on a corner parcel.
 - c. Rear:** 20 percent (0.20) of the parcel depth, up to a maximum of 25 feet.
- 4. Height limits:** 30 feet. See Section 22.20.060 (Height Measurement and Height Limit Exceptions).
- 5. Floor Area Ratio (FAR):** 30 percent (0.30) of lot area.

E. Minimum lot area required. The following minimum areas shall apply in new subdivisions:

- 1. General requirement.** Each single-family dwelling and any accessory structures shall be located upon a parcel in one ownership with an area of not less than one acre, or an area of not less than 15,000 square feet with a frontage of not less than 100 feet on a public right-of-way.
- 2. Sloping lots.**
 - a.** Where the average ground slope is 15 percent or less, the minimum parcel area shall be 15,000 square feet; and
 - b.** Where the average ground slope is greater than 15 percent, 1,000 square feet of additional parcel area shall be added for each additional one percent of slope over 15 percent, to a maximum of 45,000 square feet.

22.30.060 – Tamalpais Planning Area Community Standards

For lots within the Tamalpais Community Plan Area, the following maximum adjusted Floor Area Ratio standards shall apply to: (1) new residential construction proposed on vacant lots; (2) substantial remodels proposed on properties with a slope of 25% or greater; or (3) substantial remodels proposed on properties that do not comply with the minimum lot area requirements. For purposes of this section, substantial additions to an existing structure are additions that add 25% or more of floor area to an existing structure.

A. Maximum adjusted Floor Area Ratio standards. Maximum adjusted Floor Area Ratio shall not exceed 30 percent (0.30) of lot area, unless modified through discretionary review pursuant to floor area guidelines contained in Appendix B of the Tamalpais Community Plan. The maximum adjusted floor area is the gross enclosed floor area, specifically including:

1. Unconditioned, unimproved basements and unexcavated crawl spaces that potentially could be converted to living space with minimum dimensions of 7 feet by 7 feet and a minimum ceiling height of 7.5 feet;
2. Cathedral ceiling space that potentially could be converted to living space with minimum dimensions 7.5 feet by 10 feet and a minimum ceiling height of 7.5 feet;
3. Second units;
4. The combined total of all detached accessory structures totaling 120 square feet or more, excluding garage space;
5. Window boxes or bays less than 18 inches above finished floor, or which extend more than 3 feet from the face of a building;
6. Garage space exceeding 400 square feet on a lot 6,000 square feet or less;
7. Garage space exceeding 480 square feet on a lot larger than 6,000 square feet; and
8. Covered areas (other than carports or garages, porches and entryways) that potentially could be enclosed and converted to living space. These areas shall be measured to the exterior face of surrounding walls, columns, or posts.

B. Maximum adjusted floor area permitted: For new residential development proposed on a lot that: (1) exceeds a 25% average slope; and (2) requires Design Review, the maximum adjusted floor area permitted shall be limited to the lesser of 7,000 square feet or the adjusted floor area ratio as shown in Appendix B of the Tamalpais Area Community Plan.

CHAPTER 22.32 – STANDARDS FOR SPECIFIC LAND USES

Sections:

- 22.32.010 – Purpose of Chapter
- 22.32.020 – Accessory Retail Uses
- 22.32.023 – Agricultural Worker Housing
- 22.32.025 – Airparks
- 22.32.030 – Animal Keeping
- 22.32.040 – Bed and Breakfast Inns
- 22.32.050 – Child Day Care Facilities
- 22.32.060 – Cottage Industries
- 22.32.065 – Employee Housing in Commercial Areas
- 22.32.070 – Floating Home Marinas
- 22.32.075 – Floating Homes
- 22.32.080 – Group Homes and Residential Care Facilities
- 22.32.090 – Guest Houses
- 22.32.100 – Home Occupations
- 22.32.110 – Mobile Home Parks
- 22.32.115 – Non-Agricultural Uses
- 22.32.130 – Residential Accessory Uses and Structures
- 22.32.140 – Residential Second Units
- 22.32.150 – Residential Uses in Commercial Areas
- 22.32.160 – Service Stations with Mini-Markets
- 22.32.165 – Telecommunications Facilities
- 22.32.170 – Tobacco Retail Establishments
- 22.32.180 – Wind Energy Conversion Systems (WECS)

22.32.010 – Purpose of Chapter

This Chapter provides site planning and development standards for land uses that are allowed by Article II (Zoning Districts and Allowable Land Uses) and Article V in individual or multiple zoning districts (e.g., in residential, commercial, and industrial districts and in residential and commercial, and/or in commercial and industrial districts).

22.32.020 – Accessory Retail Uses

The retail sales of food and other products may be allowed in a restaurant, store, or similar facility within a health care, hotel, office, or industrial complex for the purpose of serving employees or customers in compliance with this Section.

- A. Limitation on use.** Accessory retail uses shall be limited to serving employees and customers in pharmacies, gift shops, and food service establishments within institutional uses (e.g., hospitals and schools); convenience stores, gift shops, and restaurants/bars within hotels and resort complexes; restaurants within office and industrial complexes; and/or other uses determined to be similar by the Director.
- B. External appearance.** There shall be no external evidence (e.g., signs, windows with merchandise visible from streets or sidewalks external to the site, etc.) of any commercial

activity other than the primary use of the site (except in the case of a restaurant/bar within a hotel).

22.32.023 – Agricultural Worker Housing

The standards of this Section shall apply to agricultural worker housing. The intent of these provisions is to allow sufficient numbers of agricultural worker housing units that are necessary to support agricultural operations and that are consistent with the applicable provisions of State law.

A. Permitted use, zoning districts. Agricultural worker housing providing accommodations for 12 or fewer employees shall be considered a principally-permitted agricultural land use in the following zoning districts: A2, A3 to A60, ARP, C-ARP, C-APZ, O-A, and C-OA, and are allowed by Articles II (Zoning Districts and Allowable Land Uses) and V (Coastal Zones – Permit Requirements and Development Standards).

B. Limitations on use:

1. Density. The maximum density shall not exceed that allowed in the underlying zoning district which governs the site. Agricultural worker housing that exceeds the maximum density may be allowed only in A2, A3 to A60, ARP, and C-ARP zoning districts subject to Use Permit approval in compliance with Chapter 22.48 (Use Permits).

For purposes of determining compliance with the density requirements for agricultural worker housing, each agricultural worker housing that provides accommodations for six or fewer employees shall be considered equivalent to one dwelling unit, with the exception that agricultural worker housing providing accommodations for 7 to 12 employees shall not be counted for purposes of computing residential density. For purposes of this section, family members are not included in the determination of the number of employees.

2. Referrals. Prior to making a determination that agricultural worker housing which exceeds the maximum density for a specific site is necessary to support agriculture, the review authority may consult with such individuals or groups with agricultural expertise as appropriate for a recommendation.

3. Temporary mobile home. Any temporary mobile home not on a permanent foundation and used as living quarters for 7 to 12 agricultural workers is permitted subject to the requirements of the State Department of Housing and Community Development. Any temporary mobile home providing living quarters for 6 or fewer agricultural workers requires Use Permit approval, is counted as one dwelling unit for purposes of compliance with the zoning district's density limitations, and shall be subject to the requirements of the State Department of Housing and Community Development.

22.32.025 – Airparks

Airparks may be located where allowed by Article II (Zoning Districts and Allowable Land Uses) of this Development Code, for business or emergency purposes, subject to the following standards:

- A. State permit required.** A land Use Permit or exemption shall be obtained from the California Department of Transportation, Division of Aeronautics, and evidence of the permit or exemption shall be presented to the Agency, prior to establishing any airpark.
- B. Nuisance mitigation.** A proposed airpark shall be located so that neither air or related surface traffic constitute a nuisance to neighboring uses. The applicant shall demonstrate that adequate controls or measures will be taken to mitigate offensive bright lights, dust, noise, or vibration.

Airparks shall not constitute a nuisance resulting from frequency and timing of flights, location of landing area, or departure and approach patterns that conflict with surrounding land uses.

22.32.030 – Animal Keeping

The standards of this Section shall apply to the keeping of animals in specified zoning districts and their Coastal Zone counterparts, in addition to the standards in Chapter 8.04 (Animal Control) of the County Code.

- A. General standards.** The following general standards shall apply:
 - 1. Requirements.** All animal keeping activities shall comply with the general requirements in Tables 3-6 and 3-7; and
 - 2. Household pets.** Household pets are allowed in all zoning districts.

**TABLE 3-6
GENERAL REQUIREMENTS FOR THE KEEPING OF SMALL ANIMALS**
(Chickens, Ducks, Exotics, Geese, Guinea Fowl, Peacocks,
Rabbits, Roosters and Similar Animals)

Zoning Districts	Applicable Standards	Standards
A2, A3 to A60 ARP, APZ	All animals allowed subject to Standard 4	1. Maximum 12 animals. 2. In R zoning districts, the keeping of small animals shall be an accessory use to the primary residential use of the parcel. 3. Roosters, quacking ducks, geese, guinea fowl, and pea fowl are not permitted 4. A Use Permit is required for the keeping of exotic animals outdoors in all zoning districts where permitted.
RSP, RMP, RMPC	All standards apply	
RA and RE RR, R1, R2, R3	All standards apply	

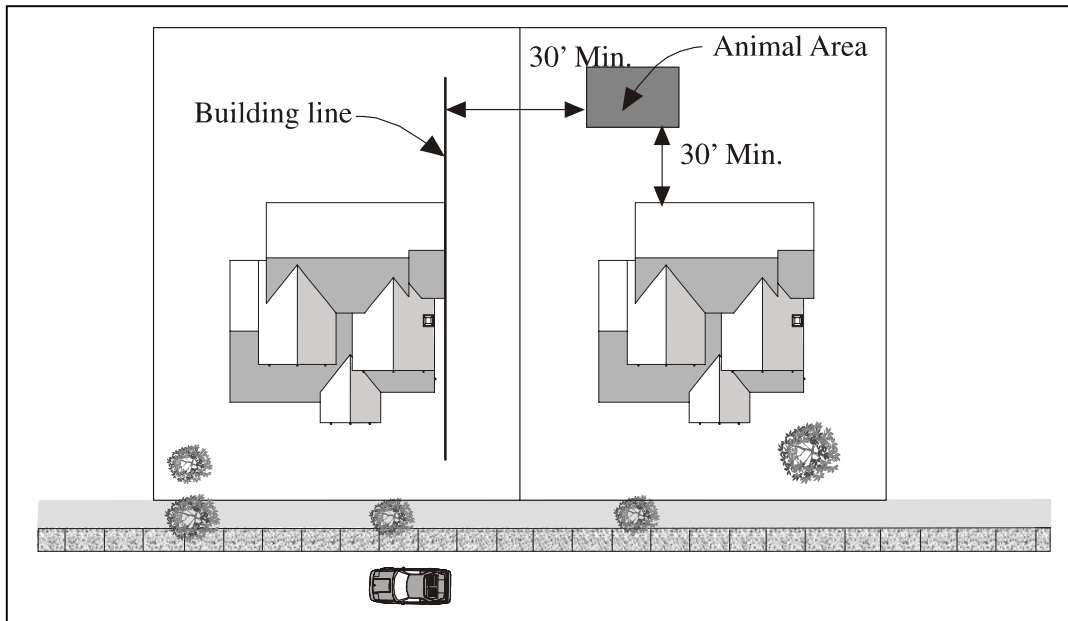
TABLE 3-7
GENERAL REQUIREMENTS FOR THE KEEPING OF LARGE ANIMALS
 (Cows, donkeys, exotics, goats, horses, mules, pigs, ponies, sheep, llamas & similar animals)

Zoning Districts	Allowed Animals and Applicable Standards	Standards
A3 to A60 and APZ to ARP	All animals allowed subject to standards 1, 4, and 5	<ol style="list-style-type: none"> 1. Livestock sales/feed lots and stockyards require a Use Permit in all zoning districts where permitted. 2. Livestock operations for grazing and large animals are allowed in the RSP, RMP, and RMPC zoning districts only where the site is three acres or more, and only with a Use Permit. 3. The keeping of livestock and large animals is allowed in compliance with Section 22.32.030.B. 4. A Use Permit is required for the keeping of exotic animals outdoors in all zoning districts where permitted. 5. A Use Permit is required for keeping more than five horses, donkeys, mules, or ponies within the APZ zoning district where these are the primary or only animals raised.
A2, RSP, RMP, RMPC	All animals allowed and all standards apply.	
RA	All animals allowed and all standards apply.	<ol style="list-style-type: none"> 1. Maximum: Three large animals. 2. Large dairy animals for a dairy operation allowed in RA zoning district only on parcels of five acres or more. 3. Equestrian facilities require a Use Permit. 4. The keeping of livestock and large animals is allowed in compliance with Section 22.32.030.B. 5. A Use Permit is required for the keeping of exotic animals outdoors in all zoning districts where permitted.
RR, R1, R2, R3, RE	Allowed animals limited to donkeys, horses, mules and ponies, subject to all standards.	<ol style="list-style-type: none"> 1. Only donkeys, horses, mules and ponies allowed in compliance with Section 22.32.030.B. 2. In R zoning districts, the keeping of animals shall be an accessory use to the primary residential use of the parcel.
OA	All animals allowed and all standards apply.	<ol style="list-style-type: none"> 1. Large animals allowed in conjunction with dairies and grazing. Horses, donkeys, mules, and ponies allowed in compliance with Section 22.32.030.B. 2. A Use Permit is required for the keeping of exotic animals outdoors in all zoning districts where permitted

B. Livestock and large animal standards. The following standards, which do not apply in the A-3 to A-60, ARP or APZ zoning districts, shall apply to the keeping of livestock and large animals in addition to those in 22.32.030.A (General Standards), above:

1. **Location of animals and structures.** No animal or any structure for animals shall be located closer than 30 feet to:
 - a. The public right-of-way upon which the parcel faces;
 - b. Any dwelling;
 - c. Any building line on an adjoining parcel (the boundary extended from the nearest edge of a primary or accessory structure or the required setback line on the adjoining parcel, whichever is closer to the property line). (See Figure 3-13); and
 - d. Additionally, no livestock or any structure for livestock shall be located in a required setback area, or closer than 10 feet to a property line.

**FIGURE 3-13
LOCATION OF ANIMALS AND ANIMAL STRUCTURES**



2. **Minimum area and slope standards.** The keeping of livestock or large animals livestock shall comply with the following standards:
 - a. The minimum lot area for the keeping of one animal shall be 15,000 square feet for properties with one percent through 15 percent slope. For each percent of slope over 15 percent, the minimum lot area shall be increased by 1,000 square feet.
 - b. For each additional animal, an additional 5,000 square feet of lot area shall be provided.
 - c. No animals shall be allowed on slopes exceeding 50 percent.
3. **Erosion and drainage control plan required.** An erosion and drainage control plan shall be submitted and approved by the County Department of Public Works for the keeping of livestock on sites over 25 percent in slope.

4. **Site maintenance.** The property owner shall submit a manure management plan that should require periodic manure collection and composting or removal of manure from the premises, subject to the approval of the County Health Officer.
5. **Water supply.** An adequate supply of fresh water shall be available to livestock at all times, subject to the approval of the County Health Officer.
6. **Exceptions by Use Permit.** The keeping of horses, donkeys, mules, or ponies may be allowed with Use Permit approval, in compliance with Chapter 22.48 (Use Permits), in any zoning district not listed in this Section or for an exception from any of the standards.
7. **Existing uses conforming.** Any residential property where horses, donkeys, mules, or ponies are legally kept as of the effective date of this Development Code shall be deemed to be conforming. Any expansion of use shall be subject to the provisions of this Section.

22.32.040 – Bed and Breakfast Inns

Bed and breakfast inns (B&Bs) are subject to the requirements of this Section. The intent of these provisions is to ensure that compatibility between the B&B and any adjoining zoning district or use is maintained or enhanced.

- A. **Permit requirement.** B&Bs are allowable in the zoning districts and with the permit requirements determined by Articles II (Zoning Districts and Allowable Land Uses), and V (Coastal Zones – Permit Requirements and Development Standards).
- B. **Site requirements.** Except for minimum lot size requirements, the proposed site shall conform to all standards of the applicable Residential, Commercial, Coastal, or Agricultural zoning district.
- C. **Appearance.** The exterior appearance of the structure used for the B&B shall maintain single-family residential characteristics.
- D. **Limitation on services provided.** The services provided guests by the B&B shall be limited to the rental of bedrooms and the provision of breakfast and light snacks for registered guests. There shall be no separate/additional food preparation facilities for guests.

No receptions, private parties, retreats, or similar activities, for which a fee is paid shall be allowed.
- E. **Business license required.** A current business license shall be obtained/posted, in compliance with Title 5, Chapter 5.54 (Business Licenses) of the County Code.
- F. **Occupancy by permanent resident required.** All B&Bs shall have one household in permanent residence.
- G. **Transient Occupancy Tax.** B&Bs shall be subject to the Transient Occupancy Tax, in compliance with Chapter 3.05 (Uniform Transient Occupancy Tax) of the County Code.
- H. **Signs.** Signs shall be limited to one on-site sign not to exceed four square feet in area and shall be installed/maintained in compliance with Chapter 22.28 (Signs).

- I. Fire safety.** The B&B shall meet all of the requirements of the County Fire Department.
- J. Parking.** On-site parking shall be provided in compliance with 24.04.330 through .400 (Parking and Loading) of the County Code.
- K. Sewage disposal.** Any on-site sewage disposal shall be provided in compliance with Title 18 (Sewers) of the County Code.

22.32.050 – Child Day-Care Facilities

This Section establishes standards for the County review of child day-care facilities, in conformance with State law (Health and Safety Code Section 1596.78), including the limitations on the County's authority to regulate these facilities.

These standards apply in addition to all other applicable provisions of this Development Code and any requirements imposed by the California Department of Social Services through its facility licensing procedures. Licensing by the Department of Social Services is required for all child day-care facilities.

- A. Applicability.** Where allowed by Article II (Zoning Districts and Allowable Land Uses) child day-care facilities shall comply with the standards of this Section. As provided by State law (Health and Safety Code Sections 1596.78, et seq.), small and large family day-care homes are allowed within any single-family residence located in an agricultural or residential zoning district. Child day-care centers are allowed in the zoning districts determined by Article VII (Zoning Districts and Allowable Land Uses), subject to Use Permit approval, in compliance with Chapter 22.48 (Use Permits), and all of the standards in Subsection D, below.

These standards apply in addition to all other applicable provisions of this Development Code and any requirements imposed by the California Department of Social Services. Licensing by the Department of Social Services is required for all child day-care facilities. A California Department of Social Services license for a child day-care facility shall be obtained and evidence of the license shall be presented to the Agency prior to establishing any child day-care facility.

- B. Definitions.** Definitions of the child day-care facilities regulated by this Section are in Article VIII (Development Code Definitions) under “Child Day-Care Facilities”.
- C. Large family day-care homes.**
 - 1. Permit requirement.** A large family day-care home shall require the approval of a Large Family Day-care Permit by the Director.
 - 2. Standards for large family day-care homes.** As allowed by Health and Safety Code Sections 1597.46 et seq., a large family day-care home shall be approved if it complies with the following standards.
 - a. Fire protection.** The facility shall contain a fire extinguisher and smoke detector devices and comply with all standards established by the County Fire Department.
 - b. Location requirements.** No residential property shall be bordered on more than one side by a large family day-care home. The Director shall also determine that the

proposed facility will not result in an over concentration of child day-care facilities to the detriment of the neighborhood.

- c. **Noise standards.** A facility within or adjoining any residential zoning district may only operate up to 14 hours per day and may only conduct outdoor activities between the hours of 7:00 A.M. and 7:00 P.M. The actual hours of operation shall be specified in the permit.
- d. **Passenger loading area.** A drop-off and pick up area shall be established to ensure that children are not placed at risk and street traffic is not unduly interrupted. The driveway may serve as a drop-off area, provided that the driveway is not required to remain available for resident or employee parking.
- e. **Parking.** Adequate off-street parking shall be available to accommodate residents of the site and all employees, staff and/or volunteers engaged at the child day-care facility. On-street parking may be substituted for the required off-street parking for employees and/or volunteers if the applicant can demonstrate to the satisfaction of the Director that there is adequate on-street parking for this purpose in the immediate area without creating a parking problem for adjacent uses.
- f. **Signs.** All on-site signs shall be in compliance with Chapter 22.28 (Signs).
- g. **Zoning district requirements.** The facility shall conform to all property development standards of the applicable zoning district.
- h. **Permit compliance review.** A Large Family Day-care Permit shall require an administrative permit compliance review two years following issuance of the permit to ensure that the facility complies with all standards and does not result in an overconcentration of child care facilities in the neighborhood. The Director shall issue administrative criteria for determining overconcentration. Additional compliance review may be required by the Director if necessary.

D. Child day-care centers.

- 1. **Permit requirement.** A child day-care center shall require approval of a Use Permit in compliance with Chapter 22.48 (Use Permits).
- 2. **Standards for child day-care centers.** The following standards apply to child day-care centers in addition to the standards in Subsection 22.32.050.C.2.
 - a. **Fencing.** A six-foot high fence or wall shall be constructed on all property lines or around the outdoor activity areas, except in the front yard or within a traffic safety visibility area. All fences or walls shall provide for safety with controlled points of entry in compliance with 22.20.050 (Fencing and Screening Standards).
 - b. **Outdoor lighting.** On-site exterior lighting shall be allowed for safety purposes only, shall consist of low wattage fixtures, and shall be directed downward and shielded, subject to the approval of the Director.
 - c. **Swimming pools/spas prohibited.** No swimming pool/spa shall be installed on the site after establishment of the child day-care center, due to the high risk and human

safety considerations. Any pool/spa existing on the site prior to application for approval of a child day-care center shall be removed prior to establishment of the use, unless the Director determines that adequate, secure separation exists between the pool/spa and the facilities used by the children.

22.32.060 – Cottage Industries

A. Limitation on use. Cottage industries shall be limited to activities involving the design, manufacture, and sale of the following products and services, or others determined by the Director to be similar. See 22.02.020.E (Rules of Interpretation—Allowable Uses of Land).

1. Antique repair and refinishing;
2. Baking and the preparation of food specialties for consumption at locations other than the place of preparation;
3. Catering;
4. Ceramics;
5. Cloth decorating by batik, dyeing, printing, silk screening, or other similar techniques;
6. Clothing production, including dressmaking, etc.;
7. Furniture and cabinet making and other woodworking;
8. Jewelry making;
9. Painting and sculpture;
10. Photography;
11. Sewing;
12. Weaving; and
13. Other handicrafts.

B. Limitation on location. A cottage industry may be established in a zoning district where, and only where, a residence is a principally allowed land use, and only where explicitly authorized by an adopted Community Plan.

C. Permit requirement. Use Permit approval, in compliance with Chapter 22.48 (Use Permits), is required for a cottage industry. During review of the application, the Zoning Administrator shall consider the adequacy of on- and off-site parking, the degree and intensity of any proposed retail sales, and shall first find that the proposed cottage industry would not result in any adverse impacts on the neighborhood.

D. Equipment, noise. Approved cottage industries may use mechanical equipment or processes as necessary, provided that no noise shall be audible beyond the property line of its site.

- E. Employees.** A cottage industry established in a dwelling or a detached accessory structure may have employees as authorized by the review authority, provided the number of employees does not exceed limitations established in an adopted community or specific plan.
- F. Other codes.** Cottage industries shall comply with all applicable health, sanitary, and fire codes, and shall obtain a County Business License.

22.32.070 – Floating Home Marinas

This Section provides for the creation and protection of floating home marinas in pleasing and harmonious surroundings, through the control of water coverage, vessel spacing, and height of structures, with emphasis on usable public access to the shoreline.

- A. Allowed uses.** In addition to floating homes, the following accessory uses may be allowed subject to appropriate conditions in floating home marinas.
 1. Car washing facilities, for residents only;
 2. Chapel;
 3. Coin-operated laundry and dry cleaning facilities, for residents only;
 4. Management office and maintenance equipment storage;
 5. Non-commercial recreation, meeting halls, club houses, etc.;
 6. Overnight accommodations, for guests of residents;
 7. Storage facilities, for residents only;
 8. Vending machines, for residents only; and
 9. Any other use which is clearly incidental and subordinate to the primary use.
- B. Allowed accessory uses – Large marinas.** In floating home marinas of over 200 homes, the following accessory uses may be allowed in addition to the uses listed in Subsection A, above:
 1. Convenience goods shopping and personal service establishments, primarily for residents only; and
 2. One doctor's and one dentist's office.
- C. Standards and criteria.** The following standards shall apply to the location, development, and maintenance of floating home marinas.
 - 1. Open water.** At least 50 percent of the total water area proposed for the floating home marinas shall be open water. The balance of the water area shall be used exclusively for floating homes and ramps or exit ways.
 - 2. Spacing.** The minimum distance between adjoining floating homes shall be six feet. This distance shall be increased to 10 feet if either of the floating homes is in excess of one

story. Each floating home shall abut a fairway with access to open water. The minimum width of the fairway shall be 35 feet.

3. **Type of unit.** Not more than one dwelling unit per vessel shall be allowed.
 4. **Required findings.** Marina approval shall require findings that the area is of sufficient size, type, location and has special features (e.g., access to public transportation and shopping facilities), which makes it a desirable residential area.
 5. **Appearance.** Particular emphasis shall be placed upon the view of the area from surrounding communities and protection of the water habitat.
 6. **Adverse impacts.** A floating home marina shall not be allowed if its presence creates adverse effects on surrounding communities or would be detrimental to water quality.
 7. **Density.** No more than 10 vessels per acre shall be allowed.
- F. Submittal requirements.** In addition to the general submission requirements for Master Plan and Precise Development Plan approval, in compliance with Chapter 22.44, an application for approval of a floating home marina shall also include the following information:
1. A detailed drawing of a typical floating home pad, including adjacent walkways;
 2. The location and dimensions of the area proposed for open water;
 3. The location and dimensions of fairways; and
 4. The location and dimensions of abutting public waterways.
- G. Other regulations and ordinances.** All pertinent County, State, and Federal laws and regulations concerning the development and operation of floating home marinas shall be observed. Nothing in this Section shall be construed to abrogate, void or minimize other pertinent regulations.

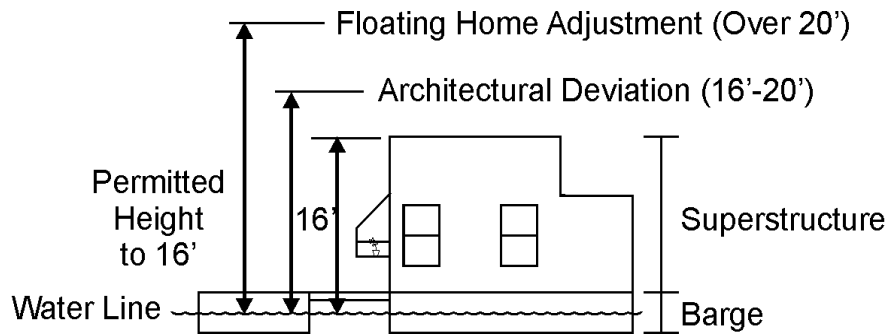
22.32.075 – Floating Homes

This Section provides standards for the floating homes that may be located within floating home marinas.

- A. Permit requirement.** No person shall, without first securing a permit from the County, move, locate, relocate, transport, or dock a floating home within the unincorporated area of the County.
- B. Standards and criteria.** The following standards apply to floating homes, in addition to those contained in Title 11, Chapters 11.20 (Moorage and Occupancy of Vessels) and 11.21 (Floating Home Marinas), and Title 19 (Buildings) of the County Code.
 1. **Floating home size limitations.** Floating homes shall not exceed the following maximum dimensions, except where a Floating Home Architectural Deviation or Floating Home Adjustment Permit is approved in compliance with Chapter 22.46 (Floating Home Adjustments and Deviations). Maximum dimensions for length and width shall include the barge or other floatation structure.

- a. **Floor area.** The floor area of any story above the lowest story of the superstructure shall not exceed 80 percent of the story immediately below the second story.
- b. **Height:** 16 feet, measured from the water line. (See Figure 3-14.)
- a. **Length:** 46 feet.
- b. **Width:** 20 feet.

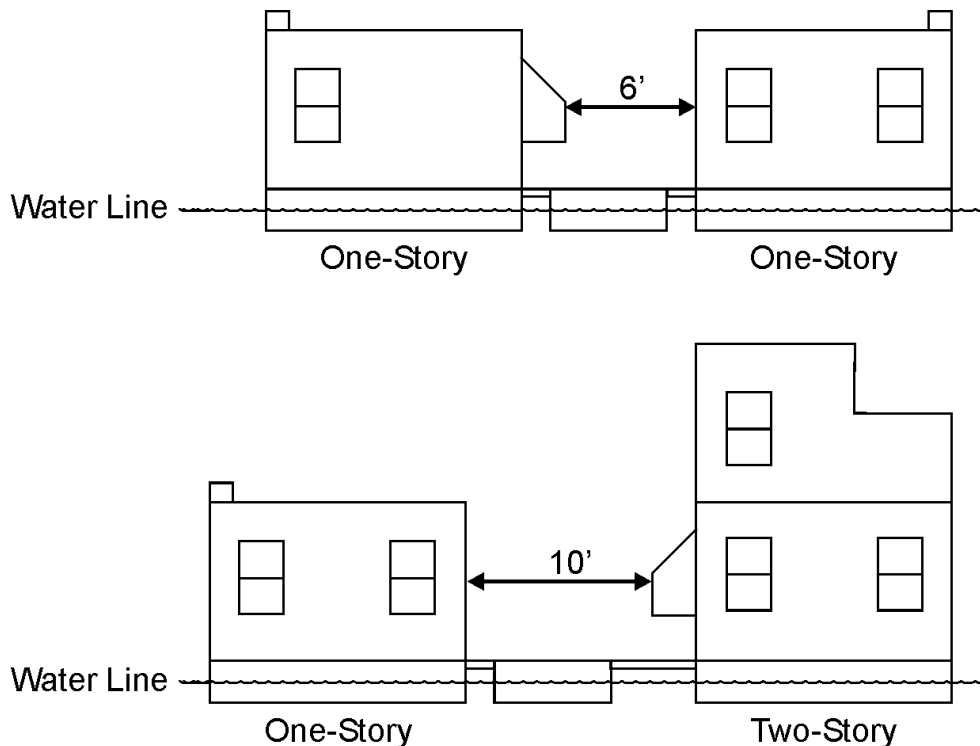
**FIGURE 3-14
FLOATING HOME HEIGHT LIMITATIONS**



2. **Mooring.** All vessels shall be securely and safely moored to ensure that the required space between floating homes is maintained at all times, in compliance with Section 22.32.070.C (Floating Home Marinas – Standards and Criteria). Vessels shall be moored to provide a clear waterway projection between adjoining boats or floating homes of at least six feet on all sides. A clearance of 10 feet shall be maintained when either floating home is in excess of one habitable story in height, as defined by the California Building Code. These requirements shall not apply between the vessel and the walkway or slip. See Figure 3-15.

Vessels shall be moored so as to allow landward vessels unlimited access. When used, mooring lines shall be of sufficient strength and be installed in a manner that will prevent the floating home from moving more than 12 inches in any lateral direction.

**FIGURE 3-15
FLOATING HOME SETBACKS**



22.32.080 – Group Homes and Residential Care Facilities

The standards of this Section shall apply to group homes and residential care facilities. Group homes and residential care facilities are dwellings licensed or supervised by any Federal, State, or local health or welfare agency that provide 24-hour non-medical care of unrelated persons, who are in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environment.

- A. Permitted use, zoning districts.** Group homes and residential care facilities are permitted in all zoning districts where dwellings are allowed by Articles II (Zoning Districts and Allowable Land Uses) and V (Coastal Zones – Permit Requirements and Development Standards).
- B. Limitations on use:**
1. **Group homes.** Group homes are for persons who are not disabled.
 2. **Residential care facilities.** Residential care facilities are for persons who are disabled, as defined in Article VIII (Development Code Definitions).
- C. Permit requirements:**
1. **Small group homes (six or fewer persons).** A small group home is a permitted use in all zoning districts where dwellings are allowed.
 2. **Large group home (seven or more persons).** A large group home is a permitted use in all zoning districts where dwellings are allowed, subject to Use Permit approval in compliance with Chapter 22.48 (Use Permits).
 3. **Residential care facilities.** A residential care facility is a permitted use in all zoning districts where dwellings are allowed.
 4. **Multiple group homes or residential care facilities.** Two or more group homes or residential care facilities occupying a lot are a permitted use, subject to:
 - a. Use Permit approval in compliance with Chapter 22.48 (Use Permits) and, where required, Master Plan approval in compliance with Chapter 22.44 (Master Plans and Precise Development Plans); and
 - b. Compliance with minimum lot area per unit and maximum density requirements of the zoning district where the dwellings are located.

22.32.090 – Guest Houses

A “guest house” is a living/sleeping quarters within a detached residential accessory structure located on the same premises with the primary residential structure, for use by occupants of the premises or guests without a payment of a fee. Only one guest house may be allowed on each parcel. The guest house shall have no food preparation facilities and shall not be rented or otherwise used as a separate dwelling.

22.32.100 – Home Occupations

The following provisions allow for home occupations that are secondary to a residential use, and compatible with surrounding uses. A “Home Occupation” is any use customarily conducted entirely on properties where residences are authorized and carried on only by its residents.

- A. Permit requirement.** A business license shall be obtained/posted in compliance with Title 5, Chapter 5.54 (Business Licenses) of the County Code for home occupations, which are allowed as accessory uses in all residential zoning districts. Home occupations shall comply with all health, sanitary, and fire codes.
- B. Operating standards.** Home occupations shall comply with all of the following operating standards.
1. **Accessory use.** The home occupation shall be clearly secondary to the full-time residential use of the property, and shall not cause noise, odors, and other activities not customarily associated with residential uses.
 2. **Visibility.** The use shall not require any modification not customarily found in a dwelling, nor shall the home occupation activity be visible from the adjoining public right-of-way or from neighboring properties.
 3. **Display, signs.** There shall be no window display or advertising sign(s), other than one name plate not exceeding one square foot in area. There shall be no display of merchandise or stock in trade or other identification of the home occupation activity on the premises.
 4. **Parking.** The use shall not impact the on-street parking in the neighborhood.
 5. **Safety.** Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises. The use shall not employ the storage of flammable, explosive, or hazardous materials unless specifically approved by the County Fire Department, in compliance with Title 16 (Fire) of the County Code.
 6. **Off-site effects.** No home occupation activity shall create dust, electrical interference, fumes, gas, glare, light, noise, odor, smoke, toxic/hazardous materials, vibration, or other hazards or nuisances as determined by the Director.
 7. **Employees.** A home occupation may be authorized to have a maximum of one nonresident employee with a Use Permit, in compliance with Chapter 22.48.
- C. Prohibited home occupation uses.** The following are *examples* of uses that are not incidental to or compatible with residential activities, and are therefore *prohibited* as home occupations:
1. Adult businesses;
 2. Dance or night clubs;
 3. Mini storage;
 4. Storage of equipment, materials, and other accessories for the construction and service trades;

5. Vehicle repair (body or mechanical), upholstery, automobile detailing and painting;
6. Welding and machining;
7. Any use which generates more than one client appointment at a time; and
8. Any other use not incidental to or compatible with residential activities as determined by the Director.

22.32.110 – Mobile Home Parks

This Section applies to areas set aside for mobile home parks in locations that are properly integrated with adjoining neighborhoods, in a way which will ensure the optimum benefit of residents of the mobile home park and of the larger community.

A. Allowable uses. Mobile home parks may include the primary uses normally associated with a mobile home park. The following accessory uses may be established in compliance with the applicable standards of this Development Code:

1. Car washing facilities, for residents, only;
2. Chapel;
3. Coin-operated laundry and dry cleaning facilities, for residents;
4. Home occupations;
5. Management office and maintenance equipment storage;
6. Non-commercial recreation, meeting halls, club houses, etc.;
7. Overnight accommodations, for guests of residents;
8. Storage facilities, for residents, only;
9. Vending machines, for residents, only; and
10. Any other use determined by the Director to be clearly incidental and subordinate to the primary use.

B. Large parks. The following additional accessory uses may be allowed in a mobile home park with over 200 mobile homes:

1. Convenience goods shopping and personal service establishments primarily for residents, only; and
2. One doctor's and one dentist's office.

C. Standards and criteria. Mobile home parks shall comply with the following standards.

1. **Minimum site area:** 10 contiguous acres.
2. **Maximum density.**
 - a. The maximum density for a mobile home park in the RX zoning district shall be set by the Board as part of rezoning to the RX district and simultaneous Master Plan approval (see Section 22.32.110.D (Submission Requirements), below), but shall not exceed the density provided by Section 22.32.110.D.2.b (Standards and Criteria), below.

In determining the appropriate density, the Board shall consider any adopted Community Plan or the Countywide Plan, any Master Plan for the area in which the RX zoning district is to be established, existing zoning and development in the area, and any applicable parcel slope.
 - b. Maximum density, determined by Master Plan approval, shall not exceed 10 mobile homes of 750 square feet or less in gross floor area per acre or eight mobile homes of more than 750 square feet in gross floor area per acre; or a combination of both.
3. **Completion of construction.** Prior to occupancy of the first mobile home, not less than 50 mobile home lots shall be prepared and available for occupancy.
4. **Parking requirements.** The overall parking ratio shall be two parking spaces for each mobile home lot. At least one parking space shall be provided on, or immediately adjoining to, each mobile home lot, in compliance with Sections 24.04.330 through .400 (Parking and Loading) of the County Code.
5. **Setbacks.** All structures and mobile homes shall be set back at least 25 feet from all property lines and streets or public rights-of-way. If a greater building line has been established by ordinance, it shall be observed. The setback area shall be landscaped and maintained as a buffer strip, in compliance with Chapter 22.26 (Landscaping).
6. **County Health requirements.** A County Health Department permit shall be obtained in compliance with Chapter 7.44 (Mobile Home Parks) of the County Code.
7. **Utilities.** All utilities shall be installed underground. Individual exposed antennae shall not be allowed.
8. **Height limits.** The maximum height for:
 - a. Mobile homes shall be 15 feet;
 - b. Accessory structures shall be 15 feet; and
 - c. Service facilities shall be 30 feet.

- D. Submission requirements.** In addition to the general submission requirements for Master Plan and Precise Development Plan approval, in compliance with Chapter 22.44 (Master Plans and Precise Development Plans), a petition for a zoning district change for an RX district and a Master Plan for the mobile home park shall be filed simultaneously with the Agency.

For the purpose of this Section, the rezoning and the Master Plan shall be considered as one application and shall be considered in compliance with Chapter 22.116 (Development Code, Zoning Map, and Countywide Plan Amendments).

- E. Other laws, regulations and ordinances.** All applicable County and State laws and regulations concerning the development and operation of mobile home parks shall be observed. Nothing contained in this Section shall be construed to abrogate, void, or minimize other pertinent requirements of law.

22.32.115 – Non-Agricultural Uses

This Section applies only in those instances where Table 2-1, Table 3-5, or Table 5-1 expressly refers to this Section. The purpose of applying the following standards is to determine whether a specific non-agricultural land use is accessory and incidental to the primary use of land for agricultural production. The intent of these provisions is to ensure that non-agricultural uses do not become the primary use of agricultural land to the detriment of agricultural production.

- A. Permitted use, zoning districts.** Non-agricultural uses may be allowed as a principally permitted land use in the following zoning districts: A2, A3 to A60, ARP, C-ARP, C-APZ, O-A, and C-OA, and as allowed by Articles II (Zoning Districts and Allowable Land Uses) and V (Coastal Zones - Permit Requirements and Development Standards) subject to the requirements of this section. This Section does not apply to ARP-1 to ARP-5 zoning districts.

B. Limitations on use:

- 1. Accessory Use.** In the aggregate, identified non-agricultural uses shall be accessory and incidental to the primary use of the property for agricultural production. The following factors shall be considered in determining whether a property is used primarily for agricultural production:
 - a. The primary use of the property is consistent with the definition of agriculture; and
 - b. The agricultural products produced on site are sold commercially.
- 2. Referrals.** In determining whether a non-agricultural use is accessory and incidental to the primary use of the property for agricultural production, the review authority may refer such a question to such individuals or groups with agricultural expertise as appropriate for a recommendation prior to making a determination. When determining whether a property is primarily used for agricultural production, the review authority may consider the following:
 - a. Whether the aerial extent of land dedicated to agriculture is sufficient to support agricultural production; and
 - b. Whether the agricultural producer can demonstrate that agricultural products are sold commercially; and
 - c. Whether the agricultural land is used at a level of intensity that is, and the income derived therefrom is, consistent with similar agricultural activities in the County and in the State.

22.32.130 – Residential Accessory Uses and Structures

When allowed in the zoning district applicable to a site, see Section 22.10.030 (Residential District Land Uses and Permit Requirements), specific residential accessory uses and structures are subject to the provisions of this Section. Residential accessory uses include any use customarily related to a residence, including swimming pools, workshops, studios, storage sheds, greenhouses, and garages.

- A. General requirements.** All residential accessory uses and structures are subject to the following standards, except where more restrictive requirements are established by other provisions of this Section for specific uses.
- 1. Relationship of accessory use to primary use.** Residential accessory uses and structures shall be incidental to and not alter the character of the site from that created by the primary use. Accessory uses and structures shall not be allowed until a primary use or structure has been established on the site.
 - 2. Attached structures.** A residential accessory structure that is attached to a primary structure shall be made structurally a part of the primary structure with a continuous foundation and roof line, subject to the approval of the Director. It shall also comply with all requirements of this Development Code applicable to the primary structure, including but not limited to, setbacks, height, and floor area ratio.
 - 3. Detached structures:**
 - a. Height.** Residential accessory structures shall be in compliance with Section 22.20.060 (Height Measurement and Height Limit Exceptions). A residential accessory structure shall not exceed a height of 15 feet; except that an accessory structure may be constructed to the maximum height allowed by the applicable zoning district for a primary structure, where the structure is located at least 40 feet from any property line.
 - b. Setback requirements:** Residential accessory structure(s) shall be in compliance with Section 22.20.090 (Setback Requirements and Exceptions).
 - c. Coverage.** The total site area occupied by detached residential accessory structures, except pools, shall not exceed 30 percent of the front, side, or rear yard setback area that they occupy.
 - d. Floor Area Ratio (FAR).** A detached residential accessory structure shall be subject to the FAR requirements of the applicable zoning district, as FAR is defined in Article VIII (Development Code Definitions).
- B. Parking structures.** The following requirements shall apply to garages and other residential accessory structures for parking.
- 1. Floor area ratio.** A parking structure shall be subject to the FAR requirements of the applicable zoning district, as FAR is defined in Article VIII (Development Code Definitions).
 - 2. Front setback exception.** Where the slope of the one-half of the parcel beginning at the street-access side is 20 percent or more, or where the elevation of the parcel at the property

line from which vehicular access is taken is five feet or more above or below the elevation of the adjoining street, a garage, carport, or cardeck may be built to within three feet of the front and side property lines that abut the adjoining street from which vehicular access is taken. All portions of the dwelling other than the parking structure shall maintain the setbacks applicable to the primary dwelling in the applicable zoning district. No portion of a residential parking structure, including eaves or roof overhangs, shall extend beyond a property line or into an access easement or street right-of-way.

- C. Home occupations.** Home occupations are subject to Section 22.32.100 (Home Occupations).
- D. Tennis and other recreational uses.** Private non-commercial outdoor tennis courts and courts for other sports (e.g., racquetball, etc.) accessory to a residential use may be established with a Use Permit, in compliance with Chapter 22.48, and are subject to the following requirements:
- 1. Fencing.** Court fencing shall be subject to the height limits of Section 22.20.050 (Fencing and Screening). Fencing for tennis courts do not require separate Design Review approval.
 - 2. Lighting.** Court lighting may be prohibited, as a condition of the Use Permit approval. If allowed, the court lighting may be installed with a height not exceeding 10 feet, measured from the court surface. The lighting shall be directed downward, shall only illuminate the court, and shall not illuminate adjacent property.
- D. Vehicle storage.** The storage of vehicles, including incidental restoration and repair, shall be in compliance with Section 22.20.100.F (Restrictions on the Use of Front Yard Setbacks in Residential Districts), and Chapter 7.56 (Abandoned Vehicles) of the County Code.
- F. Workshops or studios.** A residential accessory structure intended for engaging in artwork, crafts, handcraft manufacturing, mechanical work, etc. may be constructed or used as a workshop or studio in a residential zoning district solely for: non-commercial hobbies or amusements; maintenance of the primary structure or yards; artistic endeavors (e.g., painting, photography or sculpture); maintenance or mechanical work on vehicles owned or operated by the occupants; or other similar purposes.

Any use of accessory workshops for a commercial activity shall comply with the requirements for Home Occupations in Section 22.32.100 (Home Occupations) or, where applicable Cottage Industries in Section 22.32.060 (Cottage Industry).

22.32.140 – Residential Second Units

- A. Purpose.** This Section establishes a procedure to accomplish the following:
1. Meet the County's projected housing needs and provide affordable housing opportunities;
 2. Provide needed income for homeowners;
 3. Provide second units which are safe and built to code;
 4. Provide second units which are compatible with the neighborhood and the environment; and
 5. Comply with provisions of State law, including those contained in Section 65852.2 of the

California Government Code.

B. Applicability:

1. **General geographic areas.** The provisions of this Section shall apply to single-family and multifamily residential zoning districts, including the R1, R-2, RA, RR, RE, RSP, C-R1, C-R2, C-RA, C-RSP, C-RSPS, A, A2, ARP, C-ARP, RMP, and C-RMP districts in the unincorporated portions of the County. Pursuant to Subsection G.1.b, below, second units may be permitted within certain geographical areas within the Kentfield/Greenbrae, Kent Woodlands, and Sleepy Hollow Community Plan areas. Nothing in this Section (22.32.140) shall supersede or alter Coastal Zone permit requirements and development standards pursuant to Article V of this Code.
2. **Specific communities.**
 - a. The required criteria for the granting of a Residential Second Unit Permit for the communities of Bolinas, Tamalpais Planning Area, Stinson Beach, Inverness, Kentfield/Greenbrae, Kent Woodlands, and Sleepy Hollow, and incorporated into Subsections F.2 and G.1, shall remain in effect unless modified through the procedures described in Subsection B.2.b, below.
 - b. Representatives of a community or neighborhood may petition the Board to modify the second unit criteria set forth in Subsections F.2 and G.1. Upon acceptance of this petition, the Board shall refer the petition to the Commission for a recommendation. This Section shall not be construed to allow a community or neighborhood to establish second unit criteria that are inconsistent with State law or prohibit second units in a manner that is inconsistent with State law.
3. **Existing second units.** Owners of second units existing anywhere in the unincorporated area of the County may obtain a certificate of registration in compliance with Subsection F (Registration/permit requirements for existing second units), below, if the Agency determines that the second unit has a legal, non-conforming status.

Owners of second units which existed prior to March 27, 1987, or the effective dates of the resolutions establishing second unit standards for specific communities (September 29, 1983 in Bolinas, January 10, 1984 in the Tamalpais Area, and June 25, 1985 in Stinson Beach) shall obtain a Residential Second Unit Permit, in compliance with Subsection F., if the Agency determines that the second unit was not established in compliance with applicable regulations.

C. Design Characteristics. A second residential unit shall be designed and constructed as a permanent residence, including: food preparation facilities which may include, but are not limited to, kitchen counters and cabinets, a stove, oven, hot plate, microwave, refrigerator, or sink; both a separate bathroom and separate entrance intended for the use of the occupants, as determined by the Director. A second unit may be established by:

1. The alteration of a single-family unit whereby food preparation facilities are not shared in common;
2. The conversion of an attic, basement, garage, or other previously uninhabited portion of a

single-family unit;

3. The addition of a separate unit onto the existing single-family unit; or
4. The conversion or construction of a separate structure on the parcel in addition to the existing single-family unit.

D. Limitation on sale. A second unit may be rented but shall not be sold separately from the single-family unit.

E. Minimum standards for second units. All second units shall:

1. Meet the Uniform Housing Code for existing second units, and the Uniform Building Code for new second units, as adopted by the County;
2. Provide adequate sanitary services for the additional increment of effluent resulting from the second unit, in compliance with County and State regulations;
3. Provide an adequate quality and amount of water for domestic and fire suppression purposes in compliance with local and State regulations; and
4. Provide a minimum floor area of 150 square feet.

F. Registration/permit requirements for existing second units. Second units existing prior to March 27, 1987, or the effective dates of resolutions establishing second unit standards for specific communities (September 29, 1983 in Bolinas, January 10, 1984 in the Tamalpais Area, and June 25, 1985 in Stinson Beach), shall either be registered or obtain Residential Second Unit Permit approval, as follows.

1. Registration process. At any time following the enactment of this Section, the owner of each existing second unit which was constructed in conformity with the law and which has become legally non-conforming by reason of later enactment of County ordinances, rules, or regulations, may register the unit with the Agency. Non-registration of these units does not change their legal non-conforming status.

a. Application for registration. The application for registration shall be made by the owner in writing and shall contain all information required by the Agency.

b. Issuance of certificates of registration. In order to grant a certificate of registration, the Director shall first find that the parcel on which the second unit is located shall have a minimum of one additional off-street parking space assigned to a studio or one-bedroom second unit or two additional off-street parking spaces assigned to a two-or-more-bedroom second unit.

In addition, certificates of registration may be issued with the conditions that the Director determines are required in order to find that the minimum standards established in Subsection E above have been satisfied.

c. Expiration date of certificates of registration. The certificates of registration shall have no expiration date unless, due to specific findings, the Director determines that the protection of property and public welfare require a specific review date.

2. **Residential Second Unit Permit process for existing second units .** ,The owner of each existing second unit that was not constructed in conformity with the law or was constructed after the enactment of the Zoning Ordinance in 1938 (and did not subsequently become a legal, non-conforming use), shall apply to the Director for a Residential Second Unit Permit.

In order to grant a Residential Second Unit Permit for a second unit existing prior to March 27, 1987, or the effective dates of resolutions establishing Second Unit Use Permit standards in specific communities (September 29, 1983 in Bolinas, January 10, 1984 in the Tamalpais Area, and June 25, 1985 in Stinson Beach)the following criteria shall be met as determined by the Director:

- a. The existing second unit is located on the same parcel on which the owner of record maintains a primary residence.

Community Plan Area Exceptions: The owner-occupancy requirement does not apply to existing second units in the communities of Bolinas and Inverness. In the Tamalpais Area, a property owner of an existing second unit may request an exemption from the owner-occupancy requirement for a period of two years for good cause such as temporary job transfer or settlement of an estate that involves the property. Public notice shall be given prior to a decision of exemption. The exemption may be extended for up to two years at a time subject to new public noticing for each exemption. Exemptions may be granted without public hearing.

- b. The existing second unit meets all current property development standards of this Development Code (e.g., height, setbacks, floor area ratio), for a dwelling unit in the residential zoning district in which it is located.
- c. The existing second unit is the only additional dwelling unit on the parcel.
- d. The existing second unit meets current Uniform Housing Code (UHC) requirements as adopted by the County.
- e. Adequate sanitary services exist for the wastewater flow resulting from the existing second unit, in compliance with County and State regulations, and with the requirements of the local sanitary district, if applicable.
- f. Adequate water supplies exist to serve the existing second unit in compliance with County and State regulations, and with the requirements of the local water district, if applicable.
- g. The parcel on which the existing second unit is located shall have a minimum of one off-street parking space assigned to a studio or one-bedroom second unit or two off-street parking spaces assigned to a two-or-more-bedroom second unit. Off-street parking spaces assigned to the second unit shall be independently accessible and shall be in addition to those required for the primary residence.

Additional Criteria Applicable to Existing Second Units in Specific Community Plan Areas:

- h. In the Tamalpais and Inverness areas, the parcel on which the existing second unit is located meets the minimum lot size requirement of the zoning or is at least 7,500 square feet in size.
- i. In the Tamalpais Area, the floor area of the existing second unit shall not exceed 750 square feet.

3. Replacement of legal nonconforming residential second units. A legal nonconforming second unit is subject to the provisions of Chapter 22.112, (Nonconforming Structures, Uses, and Parcels). The unit may not be enlarged, extended, reconstructed, structurally altered, or moved unless the use is changed to a use allowed under the regulations of Article II (Zoning Districts and Allowable Land Uses) and in compliance with Subsection G below.

G. Residential Second Unit Permits for new residential second units. The applicant for a second unit established after March 27, 1987, or the effective dates of resolutions establishing second unit standards in specific communities (September 29, 1983 in Bolinas, January 10, 1984 in the Tamalpais Area, and June 25, 1985 in Stinson Beach), shall apply to the Director for a Residential Second Unit Permit).

.1. Required Second Unit Permit criteria. In order to grant a Residential Second Unit Permit for a new residential second unit, the following criteria shall be met as determined by the Director:

- a. The new second unit would be located on the same parcel on which the owner of record maintains a primary residence.

Community Plan Area Exceptions: The owner-occupancy requirement does not apply to new second units in the communities of Bolinas and Inverness. In the Tamalpais Area, a property owner of a new second unit may request an exemption from the owner-occupancy requirement for a period of two years for good cause such as temporary job transfer or settlement of an estate that involves the property. Public notice shall be given prior to a decision of exemption. The exemption may be extended for up to two years at a time subject to new public noticing for each exemption. Exemptions may be granted without public hearing.

- b. The new second unit complies with all of the current property development standards of this Development Code (e.g., height, setbacks, floor area ratio), for a dwelling unit in the residential zoning district in which it is located. A detached second unit shall comply with development standards required for detached structures within the residential zoning district in which it is located.

Community Plan Area Exceptions: Within the Kentfield/Greenbrae, Kent Woodlands, and Sleepy Hollow Community Plan areas, and nearby unincorporated communities within the Sir Francis Drake Boulevard traffic corridor that extend to the westerly limit of the City Centered corridor, the development of new second dwelling units shall be permitted on a ministerial basis within existing structures where they do not increase the number of existing bedrooms on the property. On properties within one-quarter mile of

an established bus or other transit route operated by a public transportation agency, the development of new second units which result in additional bedrooms on the property, or which expand the cubical contents of existing development may be considered through a discretionary Design Review process pursuant to Chapter 22.42 (Design Review). New second units which result in additional bedrooms on the property, or which expand the cubical contents of existing development shall not be permitted on properties further than one-quarter mile from an established bus or other transit route.

- c. The new second unit would meet all applicable building codes adopted by the County.
- d. The new second unit would be the only additional dwelling unit on the parcel.
- e. Adequate sanitary services would be provided for the additional wastewater resulting from the new second unit, in compliance with County and State regulations, and with the requirements of the local sanitary district, if applicable.
- f. Adequate water supplies would be provided to serve the new second unit in compliance with County and State regulations, and with the requirements of the local water district, if applicable.

Community Plan Area Exceptions: *In Bolinas, no new second units are permitted within the Bolinas Public Utility District (BPUD) service area until BPUD certifies that adequate water is available for new primary units within its boundaries.*

- g. The parcel on which the new second unit would be located meets the minimum building site area requirements of the zoning district in which it is located. The slope ordinance shall apply in determining the minimum parcel size, where appropriate. The minimum building site area requirements of the governing zoning and the slope ordinance shall be waived in those cases where the second unit is created within the footprint of an existing structure on the site.

Community Plan Area Exceptions: *In Stinson Beach, new detached second units are only permitted on lots of one acre or more, subject to Design Review. In Bolinas, the parcel must meet the minimum building site area requirements of the zoning district in which it is located unless it is ½ acre or larger. In Bolinas, there is no minimum lot size requirement if the new second unit is located within the existing residence. In the Tamalpais and Inverness areas, the lot must be at least 7,500 square feet in size.*

- h. The addition of a second unit would incorporate materials, colors, and building forms that are compatible with the existing residence on the property.
- i. The floor area of a new second unit shall not exceed 750 square feet. In addition, the floor area of the primary and second unit combined shall not exceed the floor area ratio of the particular residential zoning district in which the parcel is located, if applicable. For new detached second units, the square footage of attached, potentially habitable storage or other accessory use areas (not including garage space) shall be counted toward the 750 square foot size limit.

- j. The parcel on which the new second unit would be located shall have a minimum of one off-street parking space assigned to a studio or one-bedroom second unit or two off-street parking spaces assigned to a two-or-more-bedroom second unit. Off-street parking spaces assigned to the second unit shall be independently accessible and shall be in addition to those required for the primary residence, in compliance with Title 24 standards.
- k. A second unit shall be allowed only where the street providing access to the site is of the minimum width necessary to allow for the safe passage of emergency vehicles, in compliance with Title 24 standards, as determined by the Department of Public Works.

Community Plan Area Exceptions: In Inverness, no new second units are permitted in the Paradise Ranch Estates Subdivision due to concerns regarding road safety and emergency access.

- 2. **Design Review requirements for new residential second units.** In addition to meeting the required criteria set forth in Section G.1 above, an application for a new second unit shall be subject to the standards and provisions of Chapter 22.42 (Design Review) if any of the following apply:
 - a) The new second unit would be located on a property governed by Planned District zoning or other zoning district requiring Design Review;
 - b) Regardless of the governing zoning, construction of the second unit would result in a total building area on the site of more than 4,000 square feet or a structure which exceeds a height of 30 feet (or 25 feet in the Coastal Zone); or
 - c) Regardless of the governing zoning, the property is subject to the Streamside Conservation Area (SCA) policies of the Countywide Plan or LCP or contains identified wetland areas.

Notwithstanding Section 2.a and 2.c above, a new second unit proposed on a property subject to Planned District zoning or other zoning districts requiring Design Review or on a property in any zoning district subject to SCA policies, shall be exempt from Design Review if: 1) the unit is created within an existing authorized primary or accessory structure through the alteration of existing habitable area or the conversion of previously uninhabitable area (e.g., attic, basement, garage) without increasing the cubical contents of the structure (with the exception of minor dormers, bay windows, and stairwells); and 2) no site disturbance related to the provision of parking and access improvements or other construction encroaches into an SCA area or wetland.

- H. **Second Unit Permitting Procedure.** Applications for Second Unit Permits that meet the second unit criteria contained in Subsections F and G, and are not otherwise subject to a discretionary review process pursuant to Subsections F or G or Title 22 of Marin County Code (e.g. Coastal Permit, Design Review, Variance) shall be approved ministerially without discretionary review or public hearing. Requests for exceptions to the criteria in Subsections F and G are limited to those related to parcel size, parking requirements, and architectural compatibility only and shall be considered through the Design Review process pursuant to Chapter 22.42 (Design Review).
- I. **Recordation of certificates of registration and Residential Second Unit Permits.** Any

certificate of registration or Residential Second Unit Permit granted in compliance with this Section shall be recorded in the County Recorder's Office as an informational document in reference to the title of the subject property.

J. Building Permits. A Building Permit shall be required:

1. In conjunction with the issuance of a certificate of registration in compliance with Section 22.32.140.F.1 (Registration/permit requirements for existing second units), above, if the second unit was created without the benefit of a Building Permit;
2. In conjunction with the issuance of a Residential Second Unit Permit in compliance with Section 22.32.140.F.2 (Registration/permit requirements for existing second units), above, if the second unit was created without the benefit of a Building Permit;
3. If repair or rehabilitation work was performed to convert the original structure as allowed, or if repair or rehabilitation work is necessary to comply with Section 22.32.140.F (Registration/permit requirements for existing second units), above; or
4. For a new second unit approved in compliance with Section 22.32.140.G.1 (Grant of Residential Second Unit Permit – Required findings), above.

K. Periodic report. The Agency shall periodically prepare a report to the Commission and Board on the status of this Section. The report shall include information about the number, size, type, and rent, as available, of each second unit by neighborhood. The report shall provide a basis for an evaluation of the effectiveness of this Section.

22.32.150 – Residential Uses in Commercial Areas

This Section applies to single-family, two-family, and multi-family housing where allowed in a C-1 zoning district subject to this Section by Article II (Zoning Districts and Allowable Land Uses) and Chapters 22.12 (Commercial Districts), or 22.14 (Special Purpose Districts).

- A. Permit requirement.** Use Permit approval, in compliance with Chapter 22.48 (Use Permits), is required for residential uses in commercial areas subject to this Section.
- B. Limitation on location.** Residential uses shall be located above the first floor of the building, with the first floor occupied by a non-residential use.
- C. Development standards.** All development standards (e.g., density, height limits, access, parking, etc.) for residential uses subject to this Section shall be determined by the review authority through Use Permit approval.
- D. Required findings.** Approval of a Use Permit in compliance with this Section shall require that the review authority first find that the proposed residential use will be compatible with the purposes of the applicable zoning district, and the existing and anticipated uses in the site vicinity, in addition to all findings required by Section 22.48.040 (Use Permits – Decision and Findings).

22.32.155 – Employee Housing in Commercial Areas

The standards of this Section shall apply to employee housing which are accessory to the primary commercial use in those zoning districts where residential uses are not otherwise allowed. The intent of these provisions is to allow employee housing to be provided on the same premise as the place of employment in order to reduce commute traffic, conserve energy resources, and provide more balanced communities.

A. Permitted use, zoning districts. Employee housing shall be considered a conditionally-permitted land use in the following zoning districts: CP, AP, RCR, and PF pursuant to Article II (Zoning Districts and Allowable Land Uses) and the corresponding zoning districts in the Coastal Zone pursuant to Article V. As used herein, the primary commercial use shall include all principally permitted and conditionally-permitted uses under the governing zoning district.

B. Permit requirement. Use Permit approval, in compliance with Chapter 22.48, is required for employee housing in commercial areas subject to this Section.

C. Development Standards.

1. Employee housing shall be clearly secondary to the full-time use of the property for a commercial use.
2. Employee housing shall either be located above the first floor of the primary or accessory building, with the first floor occupied by the commercial use, or located in the rear one-half or the side of the building.
3. The commercial character of the property shall be maintained. The employee housing unit shall have an entrance which is separate from the primary entrance to the commercial use.
4. Occupancy of each employee housing unit shall include at least one part-time or full-time employee of the commercial use of the property. As used herein, a part-time employee is someone who works at least 50% of the time scheduled for a full-time employee.
5. Each employee housing unit shall be limited to a maximum size of 750 square feet.
6. No more than 25 percent of the gross floor area of each building may be used for employee housing.
7. Adequate off-street parking facilities shall be available for the employee housing. Consideration may be given to a relaxation of the strict application of the parking standards contained in Marin County Code Title 24 due to shared parking use between the commercial and residential uses.

D. Required findings. Approval of a Use Permit in compliance with this Section shall require that the review authority find that the proposed employee housing will be compatible with the existing and anticipated uses in the vicinity of the property, that the use complies with all development standards contained in this section, and that all findings required by Section 22.48.040 (Use Permits – Decision and Findings) can be made. The maximum size of each employee housing unit may be waived through the Use Permit process, although no exceptions to the other development standards in this section shall be allowed. Exceptions to other

development standards contained in other sections of this code may also be waived through the Use Permit process.

22.32.160 – Service Stations/Mini-Markets

The retail sales of food and beverage products and other general merchandise in conjunction with a motor vehicle service station is allowed subject to Use Permit approval, in compliance with Chapter 22.48 (Use Permits), and the following standards.

- A. Sales area.** The maximum allowable floor area for retail sales shall be 175 square feet or 15 percent of the total floor area of the structure whichever is greater. These area limitations may be increased through Use Permit approval provided that the following findings are made:
1. Retail sales shall be subordinate to the primary motor vehicle service station use(s);
 2. The proportion of retail sales to total floor area of the structure(s) shall be limited to an amount that is reasonable to allow sales of a limited number of items for the convenience of travelers as permitted by Subsection B, below.
 3. The size, extent and operation of retail sales shall not conflict with the predominant character of the area surrounding the service station.
 4. The size, extent, and operation of retail sales shall not cause a significant increase in traffic and noise in the area surrounding the service station.
- B. Allowed products.** Retail sales of non-automotive products shall be limited to items for the convenience of travelers, including film, personal care products, and packaged food and beverage items.
- C. Signs.** No exterior signs are allowed to advertise specific items for sale. All on-site signs shall be in compliance with Chapters 22.28 (Signs) and Title 5, Chapter 5.40 (Posting of Gasoline Prices) of the County Code.
- D. Parking.** On-site parking shall comply with Sections 24.04.330 through .400 (Parking and Loading) of the County Code, and shall include sufficient spaces for all employees on a single shift.
- E. Restrooms.** Restrooms shall be provided and available to the public.
- F. Self-service stations.** Establishment of self-service stations or the conversion of existing full-service stations to self-service stations shall require an additional finding by the Zoning Administrator, that the establishment of a self-service station will not adversely affect public health, safety, and welfare by either diminishing the availability of minor emergency help and safety services, including minor motor vehicle repair and public restrooms, or discriminating against individuals needing refueling assistance.

22.32.165 – Telecommunications Facilities

This Section establishes permit requirements and standards for the development and operations of telecommunications facilities in compliance with the Marin County Telecommunications Facility Policy Plan and State law.

- A. Permit requirements.** Telecommunications facilities are allowable in all zoning districts, subject to the following permit requirements.
- 1. Planned districts.** Telecommunications facilities located in planned district zones shall require the approval of a Master Plan and Precise Development Plan unless these requirements are waived and a Use Permit and Design Review are instead required in compliance with Section 22.44.040 (Waiver of Master Plan/Precise Plan Development Review). The requirements for Use Permit and Design Review may be waived only for a facility that is co-located on or adjoining an existing wireless telecommunications facility in compliance with Subsection 3 below.
 - 2. Other Districts.** Telecommunications facilities located in zoning districts other than a planned district shall require a Use Permit and Design Review approval. The requirement for Use Permit may be waived only for a facility that is co-located on or adjoining an existing wireless telecommunications facility in compliance with Subsection 3 below.
 - 3. Use Permit and Design Review waiver.** An applicant for a telecommunications facility may file a formal written request for waiver of the requirements for a Use Permit and Design Review with the Agency. It is the responsibility of the applicant to establish evidence in support of the waiver criteria required by this section. The Director may waive the requirements for a Use Permit and Design Review only for telecommunications facilities that meet all the following criteria in conformance with the Marin County Telecommunications Facilities Policy Plan and State law. A Design Review shall be required if the telecommunications facility meets all of the requirements below except subsection e.
 - a. Co-location.** The new facility or equipment is co-located on or adjoining an existing wireless telecommunications facility;
 - b. Preferred location.** The facility is located on a property developed predominantly with commercial or industrial land uses;
 - c. Stealth Design.** The telecommunications facility is designed or located in such a way that the facility is not readily recognizable as telecommunications equipment to an average person;
 - d.** The existing wireless telecommunication facility was subject to Use Permit approval and complies with the County’s policies and regulations;
 - e.** The existing wireless telecommunication facility has a certified environmental impact report or adopted negative declaration or mitigated negative declaration, and the existing facility has incorporated the required mitigation measures. The new equipment or structures do not constitute a substantial change in the project or new information as outlined in Public Resources Code Section 21166; and
 - f.** The new equipment or structures are consistent with Subsection B, below.
 - 4. Time Limits.** The approval for a wireless telecommunication facility shall be granted for a term of no less than 10 years.

- B. Development standards.** The development standards for telecommunications facilities shall be based upon the policies and programs of the Marin County Telecommunications Facilities Policy Plan, as may be updated from time to time.

22.32.170 – Tobacco Retail Establishments

This Section establishes permit requirements and standards for the development and operation of tobacco retail establishments.

- A. Permit requirements.** Notwithstanding any provision of this title, a significant tobacco retailer may be established in the following zoning districts subject to securing a Use Permit or Master Plan where required: C1, CP, OP, H1, IP, C-H1, or C-CP.
- B. Development standards.** No significant tobacco retailer shall be located within 1,000 feet from a parcel occupied by the following uses:
1. Public or private kindergarten, elementary, middle, junior high or high schools;
 2. Licensed child day-care facility or preschool other than a small or large family day-care home;
 3. Public playground or playground area in a public park (e.g., a public park with equipment such as swings and seesaws, baseball diamonds or basketball courts);
 4. Youth or teen center;
 5. Public community center or recreation center;
 6. Arcade;
 7. Public park;
 8. Public library; or
 9. Houses of worship conducting youth programs or youth oriented activities.
- C. Exceptions.** Notwithstanding any other provisions of this code, nothing in this section shall prohibit the County from approving any of the uses specified above in Subsection B, if they are subsequently proposed to be located within 1,000 feet of an existing significant tobacco retailer, if the appropriate decision-making body finds that the establishment of such uses is necessary to protect the public, health, safety, and welfare, or other substantial governmental interest is thereby served.

22.32.180 – Wind Energy Conversion Systems (WECS)

- A. Permit requirements.** Except as indicated in Article II, WECS shall require a Use Permit, in compliance with Chapter 22.48 (Use Permits), subject to the provisions of this Section.
- B. Limitation on use:**
1. Non-commercial WECS shall be allowed in all zoning districts.
 2. Commercial WECS shall be allowed only in the A, ARP, C-ARP and C-APZ zoning districts.
- C. Public notice.** Notice of the Use Permit application shall be given in compliance with Section 22.118.020 (Notice of Hearing).

Notice of a Use Permit application for any WECS within one mile of Federal, State, and regional park property shall be provided to the superintendent of the appropriate park. The same notice to park officials shall be provided for any WECS exceeding 150 feet in total height and within five miles of any Federal parkland.

D. Site and design requirements:

1. **General standards.** All WECS shall comply with the following.
 - a. **Height limit.** The minimum height of the lowest position of a WECS blade shall be 30 feet above the grade at the base of the tower.
 - b. **Setbacks.** In all zoning districts, WECS shall comply with minimum zoning district standards and shall be set back a distance equal to the total height of the WECS from any residence and any other on-site habitable structure.
2. **Non-commercial WECS.** Non-commercial WECS shall comply with the following, in addition to the general standards in Section 22.32.180.D.1 (Site and design requirements), above.
 - a. **Agricultural zoning districts.**
 - (1) **Minimum site area.** Non-commercial WECS shall be allowed on agricultural lands with a minimum lot area of five acres.
 - (2) **Setbacks.** The minimum setback for WECS shall comply with minimum zoning district standards, and shall be 1.25 times the total height of the WECS from any public highway, road or lot line when both of the following conditions exist:
 - (a) The nearest adjoining parcel to the WECS is a minimum size of five acres; and
 - (b) There is no residential dwelling on the adjoining parcels within a distance of five times the total height of the WECS.

Non-commercial WECS may be allowed at a distance of less than 1.25 times the total height from the property line when consistent with the requirements of Section 22.32.180.D.1.a (Site and design requirements), above, when the location of the WECS would enhance aesthetic, noise, or safety considerations.
 - b. **All other zoning districts.** WECS shall comply with minimum zoning district standards, and shall be set back three times the total height of the WECS from any public highway, road, or lot line. The applicant may be exempted from this setback requirement if it can be clearly demonstrated that the WECS will not be detrimental to the health, safety, and general welfare of persons in the immediate area nor be detrimental to property or improvements in the neighborhood.
3. **Commercial WECS.** Commercial WECS shall comply with the following, in addition to the general standards in Subsection D.1 (Site and design requirements), above.

- a. **Minimum site area.** Commercial WECS shall be allowed only on agriculturally zoned parcels with a minimum size of 20 acres.
- b. **Setbacks.** The minimum setback for commercial WECS shall comply with minimum zoning district standards, and shall be 1.25 times the total height of the WECS from any public highway, road, or lot line when both the following conditions exist:
 - (1) The nearest adjoining parcel to the WECS is a minimum size of 20 acres; and
 - (2) There is no residential dwelling on the nearest adjoining parcel within a distance of five times the total height of the WECS.

Commercial WECS may be allowed at a distance of less than 1.25 times the total height from the property line when consistent with the requirements of Subsection D.1 (Site and design requirements), above, when the location of the WECS would enhance aesthetic, noise, or safety considerations.

E. Appearance and visibility:

1. In addition to any conditions which may be required by Use Permit approval, all WECS shall comply with the following design standards:
 - a. Where wind characteristics permit, WECS shall be set back from the tops of visually prominent ridgelines to minimize the visual contrast from any public access.
 - b. A specific finding shall be made for commercial WECS that the operation does not significantly impair a scenic vista or scenic corridor.
2. WECS shall be designed and located to minimize adverse visual impacts from neighboring residential areas, to the greatest extent feasible.
3. Brand names or advertising associated with any WECS installation shall not be visible from any public access.
4. Colors and surface treatment of the WECS and supporting structures shall minimize visual disruption.
5. WECS shall be equipped with air traffic warning lights and shall have prominent markings on the rotor blade tips of an international orange color where:
 - a. The total height of the WECS exceeds 175 feet; or where
 - b. A WECS exceeding 175 feet in total height is placed at an adjoining elevation over 200 feet.
6. Where feasible, commercial WECS shall be located in a manner which minimizes their visibility from any existing Federal wilderness area.

- F. Noise.** The noise level of the WECS shall not exceed 55 dbA at the property line in residential zoning districts or 60 dbA at the property line of all other zoning districts.
- G. Wind measurement.** A wind study using an anemometer shall be performed for the five-month prime wind period of May to September at the proposed site prior to the installation of a WECS. Any certified study within a one-half mile distance of the proposed WECS installation shall meet the requirements of this Section.

CHAPTER 22.34 – TRANSFER OF DEVELOPMENT RIGHTS

Sections:

- 22.34.010 – Purpose of Chapter
- 22.34.020 – Applicability of TDR Provisions
- 22.34.030 – TDR Process
- 22.34.040 – TDR Development Design

22.34.010 – Purpose of Chapter

This Chapter provides for a transfer of development rights (TDR) process that can allow the relocation of potential development from areas where environmental or land use impacts could be severe, to other areas where those impacts can be minimized, while still granting appropriate development rights to each property.

22.34.020 – Applicability of TDR Provisions

- A. The participation of a property owner in TDR shall be on a voluntary basis and shall be subject to Master Plan approval, in compliance with Chapter 22.44 (Master Plans and Precise Development Plans).
- B. The owners of properties adjacent to an application for a TDR may participate on a voluntary basis.
- C. The properties covered in the application shall be subject to the provisions of the Countywide Plan, the Local Coastal Program or a Community Plan policy that recommends TDR as an implementation measure.
- D. The properties covered in the application shall be located within the A3 to A60, ARP, C-ARP, or C-APZ zoning districts.

22.34.030 – TDR Process

The number of residential dwelling units allowed on one property (the donor property) may be transferred and built on another property (the receiving property), resulting in a higher density of development than that normally allowed on the receiving property by the applicable zoning district, as provided by this Section.

- A. **Approval process.** The use of TDR requires Master Plan approval, in compliance with Chapter 22.44 (Master Plans and Precise Development Plans).
- B. **Findings.** Approval of a TDR application shall require that the review authority first make the following findings, in addition to the findings required for a Master Plan as provided in Subsection A. (TDR Process), above:
 1. TDR is necessary to conserve the site from which the density is proposed to be transferred.
 2. The site receiving the density can accommodate it.

3. The proposed TDR is consistent with any TDR criteria established in the Countywide Plan, the Local Coastal Program, a Community Plan policy that recommends TDR as an implementation measure, or zoning district identified in Section 22.34.020.D (Applicability of TDR Provisions), above.

- C. Conservation easements or restrictions.** A condition of TDR between properties is that the property proposed for restricted development or conservation shall have conservation easements or restrictions recorded against it which reflect the conditions of approval of the Master Plan and which restrict the future development or division of the donor property in compliance with those conditions.

The conservation easements or restrictions shall be recorded against the donor property prior to the recording of a parcel map or final map or the issuance of construction permits for the receiving property.

22.34.040 – TDR Development Design

- A. Density bonuses.** Density bonuses shall be considered if the proposed TDR meets the criteria contained in the Countywide Plan, the Local Coastal Program, or a Community Plan.
- B. Clustering.** Clustering shall be considered when applying for a TDR. Generally, structures should be clustered or sited in the most accessible, least visually prominent, and most geologically stable portion or portions of the site, consistent with the need for privacy to minimize visual and sound intrusion into each unit's indoor and outdoor living area from other living areas. Clustering is especially important on open grassy hillsides. In areas with wooded hillsides, a greater scattering of structures may be preferable to save trees and minimize visual impacts.

The prominence of construction can be minimized by placing structures so that they will be screened by existing vegetation, wooded areas, rock outcroppings and depressions in the topography. In areas where usable agricultural land exists, residential development shall be clustered or sited so as to minimize disruption of existing or possible future agricultural uses.