

# ARTICLE VII

## Development Code Administration

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## **CHAPTER 22.110 – ADMINISTRATIVE RESPONSIBILITY**

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### **Sections:**

- 22.110.010 – Purpose of Chapter
- 22.110.020 – Planning Agency Defined
- 22.110.030 – Community Development Director
- 22.110.040 – Zoning Administrator
- 22.110.050 – Planning Commission
- 22.110.055 – Design Review Boards
- 22.110.060 – Actions Void

### **22.110.010 – Purpose of Chapter**

This Chapter describes the authority and responsibilities of County staff and officials in the administration of this Development Code. These authorities and responsibilities are in addition to those vested in the Board of Supervisors.

### **22.110.020 – Planning Agency Defined**

As provided by State law (Government Code Section 65100), the Marin County Board of Supervisors, Planning Commission, Zoning Administrator, Community Development Director and Community Development Agency (referred to in this Development Code as the Agency) shall perform the functions of a Planning Agency.

### **22.110.030 – Community Development Director**

- A. Appointment.** The Community Development Director shall be appointed by the Board.
- B. Duties and authority.** The Director shall:
  1. Have the responsibility to perform all of the functions designated by State law (Government Code Section 65103 – Planning Agency Functions);
  2. Have the responsibility and authority to review, approve, conditionally approve, or deny applications for all administrative permits issued by the Agency, including, but not limited to, the review of development projects, in compliance with this code and CEQA.
  3. Perform any other responsibilities assigned by the Board;
  4. Delegate the responsibilities of the Director to Agency staff under the supervision of the Director;
  5. Serve in an advisory capacity, in compliance with State law (Map Act Section 66415), where this responsibility is assigned by Article VI (Subdivisions);
  6. Serve as the Zoning Administrator if appointed by the Board of Supervisors; and

7. Make typographical, technical, or format corrections to the Development Code provided the corrections are not of a substantive nature that would warrant consideration by the Planning Commission and the Board of Supervisors.

### **22.110.040 – Zoning Administrator**

- A. Appointment.** The Zoning Administrator shall be appointed by the Board in compliance with State law (Government Code Sections 65900 et seq).
- B. Duties and authority.** The Zoning Administrator shall:
  1. Perform the duties and functions prescribed in this Development Code, including but not limited to the review of development projects, in compliance with this Development Code and the California Environmental Quality Act (CEQA);
  2. Perform any other responsibilities assigned by the Community Development Director; and
  3. Appoint deputies to carry out the responsibilities of the Zoning Administrator under the supervision of the Zoning Administrator.
- C. Supervision.** When the Zoning Administrator appoints an Agency staff person as Deputy Zoning Administrator, the staff person shall perform any duties assigned by the Zoning Administrator, in addition to those listed in 22.110.030.B (Duties and authority), above, as appropriate to the personnel title of the designee.

The designee shall be subordinate and directly responsible to the Director and/or any intermediate supervisory Agency staff in the performance of all duties other than those of the Zoning Administrator, but shall not be subordinate to, nor under the direction or control of the Director when performing the duties of the Zoning Administrator.

### **22.110.050 – Planning Commission**

- A. Appointment.** The Commission shall consist of seven members appointed by the Board. Five commissioners shall be representative of the five supervisorial districts. Each Board member may nominate one commissioner for appointment by the Board. The remaining two commissioners shall be appointed and serve at-large.

The terms of the five district commissioners shall be four years and the two at large commissioners shall be two years. Commissioners may be removed at any time during their term by a majority vote of the Board. All vacancies shall be filled for the unexpired term in the same manner as the original appointment.

- B. Duties and authority.** The Commission shall perform the duties and functions prescribed in this Development Code, and recommend to the Board for final determinations on Master Plan applications, Development Code Amendments, Zoning Map Amendments, Countywide Plan Amendments, environmental documents, and other applicable policy or ordinance matters related to the County's planning process.

- C. **Meeting Rules.** The Commission shall conduct and operate its meetings in accord with adopted procedures.

### **22.110.055 – Design Review Boards**

- A. **Appointment.** Design Review Board members shall be appointed by the Board of Supervisors in compliance with State law (Government Code Sections 65900 et seq).
- B. **Duties and authority.** The Design Review Boards shall carry out the following functions and duties only in an advisory capacity:
1. Advise the County about project compliance with the Countywide Plan, Community Plans and other specific plans, and the Development Code;
  2. Make recommendations to the Agency regarding the adequacy of an application, the appropriate level of environmental review, and the relative merit of development proposals; and
  3. Perform other appropriate responsibilities assigned by the Board of Supervisors and accepted by the Design Review Board.
- C. **Meeting Rules.** The Design Review Boards shall conduct and operate its meetings in accord with adopted procedures.

### **22.110.060 – Actions Void**

Any action by the Agency that is in conflict with any provision of this Development Code shall be void.



## CHAPTER 22.112 – NONCONFORMING STRUCTURES, USES, AND PARCELS

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### Sections:

- 22.112.010 – Purpose of Chapter
- 22.112.020 – Nonconforming Structures, Uses, and Parcels
- 22.112.030 – Loss of Nonconforming Status
- 22.112.040 – Nonconforming Parcels
- 22.112.050 – Conformity of Uses Requiring Use Permits
- 22.112.060 – Previous Use Permits in Effect

### 22.112.010 – Purpose of Chapter

This Chapter provides uniform provisions for the regulation of legal nonconforming structures, land uses, and parcels.

Within the zoning districts established by this Development Code, there exist structures, land uses, and parcels which were lawful prior to the adoption, or amendment of this Development Code, but which would be prohibited, regulated, or restricted differently under the terms of this Development Code and future amendments, thereof. It is the intent of this Development Code to discourage the long-term continuance of nonconformities, but to permit them to exist under limited conditions.

### 22.112.020 – Nonconforming Structures, Uses, and Parcels

Nonconforming uses and structures may continue, subject to the following provisions:

- A. **Nonconforming uses of land.** A nonconforming use of land may be continued, transferred or sold, provided that the use shall not be enlarged, increased, or intensified (e.g., longer hours of operation, more employees, etc.), nor be extended to occupy a greater area than it lawfully occupied prior to becoming a nonconforming use. The nonconforming use may not be relocated to another location on the parcel, or moved from the inside to an outside location.
- B. **Nonconforming structures.** A nonconforming structure may be allowed to continue being used, as follows:
  - 1. **Maintenance and repair.** A nonconforming structure may undergo normal maintenance and repair, provided that:
    - a. No structural alterations are made (refer to Subsection.B.3 below, for exceptions); and
    - b. In any one-year period, the work shall not exceed 25 percent of the fair market value of the structure for the fiscal year in which the repair is undertaken, as established or verified by the Director. The additional work shall not increase the extent of the nonconformity. Structural alterations to a nonconforming structure which are clearly intended to eliminate or correct hazards to life and safety, and

those required in compliance with the Uniform Housing Code, shall not be subject to the 25 percent limitation.

- c. The reconstruction or repair of a structure damaged or destroyed by a natural disaster or as the result of an emergency is instead subject to the requirements of Subsection D, below.
2. **Conforming additions.** Additions to a nonconforming structure may be made as long as the additions are in conformance with this Development Code.
  3. **Seismic retrofitting/Building Code compliance.** All repairs or alterations otherwise required by law shall be allowed. Reconstruction required to reinforce unreinforced masonry structures or to comply with Building Code requirements shall be permitted without cost limitations, provided the retrofitting/Code compliance is limited exclusively to compliance with earthquake safety standards and all other applicable Building Code requirements.
  4. **Floodplain compliance.** All repairs or alterations to a structure with a legal non-conforming setback in order to raise the structure to an elevation that meets but does not exceed by more than 18 inches the minimum flood elevation standards contained in Marin County Code Chapter 23.09 (Floodplain Management) shall be permitted without cost limitations under Section 22.112.020.B provided the extent of the nonconformity with regard to the required setback is not increased, additional floor area within the required setback is not created, and the maximum height limit for the governing zoning district is not exceeded.
- C. Nonconforming use of a conforming structure.** The nonconforming use of a structure may be continued, transferred, and sold, but not changed, increased, expanded, or intensified (e.g., longer hours of operation, more employees, etc.) Modifications to the nonconforming use of a structure may only occur as follows:
1. **Expansion of use.** The nonconforming use of a portion of a structure may be extended throughout the structure if it does not increase, expand, or intensify the nonconforming use.
  2. **Substitution of use.** The nonconforming use of a structure may be changed to a use of the same or more restricted nature as if the change does not result in an increase, expansion, or intensification of the nonconforming use determined by the Director.
  3. **Relocation of use.** The nonconforming use of a structure may not be relocated to another location on the parcel, or moved from the inside to an outside location, unless such relocation eliminates or substantially reduces the degree of nonconformity as determined by the Director.
- D. Reconstruction after damage or destruction.** The reconstruction of a nonconforming structure damaged or destroyed by natural disaster or as the result of an emergency may be allowed, provided that the following requirements are satisfied:
1. The structure contains a conforming land use.

2. The damage is less than 75 percent of the fair market value of the structure in the fiscal year when the damage occurs, as determined by the Director, in consultation with the Assessor.
3. There is adequate information available regarding the pre-existing placement, height, bulk, and floor area of the structure to be reconstructed.
4. The extent of the nonconformity is not increased.
5. The structure shall be reconstructed on the same location on the parcel (have the same structure footprint).
6. The structure shall be reconstructed with no greater height, bulk, or floor area than the original structure.
7. Reconstruction shall occur within 12 months of the date of the damage, unless extended by the Director to respond to circumstances outside the property owner's control.
8. Reconstruction shall not adversely affect public the health, safety, and welfare.

### **22.112.030 – Loss of Nonconforming Status**

If a nonconforming use of land or a nonconforming use of a conforming structure is discontinued for a continuous period of six months, destroyed to an extent greater than 75 percent of its fair market value, or is moved, the use shall be deemed to have been abandoned, and shall lose its nonconforming status.

Without further action by the County, further use of the site or the structure shall comply with all of the regulations of the applicable zoning district and all other applicable provisions of this Development Code.

### **22.112.040 – Nonconforming Parcels**

A nonconforming parcel of record shall be defined as a parcel which does not comply with the minimum access, or area requirements of the zoning district in which it is located, as established in this Development Code.

A nonconforming parcel shall be considered to contain a legal building site if it meets one of the criteria listed below. It shall be the responsibility of the applicant to provide sufficient evidence to demonstrate that one or more of the following criteria is met:

- A. Recorded subdivision.** The lot or parcel was created through a recorded subdivision map.
- B. Individual parcel legally created by deed.** The lot or parcel was legally created in compliance with the zoning and subdivision requirements that applied at the time of creation.
- C. Partial government acquisition.** The lot or parcel was created in compliance with the provisions of this Development Code, but was made nonconforming when a portion of the parcel was acquired by a governmental entity through condemnation.

**22.112.050 – Conformity of Uses Requiring Use Permits**

Any use that exists and was legally established at the time that changes in the Development Code were adopted that allow the use subject to the granting of a Use Permit, shall be deemed a conforming use, but only to the extent that it previously existed (e.g., maintains the same site area boundaries, location, hours of operation, etc.). If the same use is abandoned for a continuous period of six months, the conforming status of the use shall expire, unless the Director approves a longer time period due to circumstances beyond the property owner's control.

**22.112.060 – Previous Use Permits in Effect**

Any use that exists and was legally established with a Use Permit, issued in compliance with the regulations in effect at the time of application, that is subsequently disallowed by adopted changes in the Development Code may continue, but only in compliance with the provisions and terms of the original Use Permit. If the Use Permit specified a termination date, then the use shall terminate in compliance with the original permit.

## CHAPTER 22.114 – APPEALS

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### Sections:

- 22.114.010 – Purpose of Chapter
- 22.114.020 – Appeal Subjects and Jurisdiction
- 22.114.030 – Filing of Appeals
- 22.114.040 – Processing of Appeals

### 22.114.010 – Purpose of Chapter

This Chapter provides procedures by which an applicant or other concerned party may appeal a determination or action by the Agency staff, Director, Zoning Administrator, or Planning Commission.

### 22.114.020 – Appeal Subjects and Jurisdiction

Determinations and actions that may be appealed, and the authority to act upon an appeal shall be as follows:

- A. **General procedure.** Any determination or action made by the Agency staff, Director, or Zoning Administrator may be appealed to the Planning Commission. Any decision or action taken by the Planning Commission may be appealed to the Board of Supervisors. However, the Director may refer an appeal directly to the Board of Supervisors if the application:
  1. Is consistent with the Countywide Plan, applicable Community Plan and Local Coastal Program, and the Single-family Residential Design Guidelines;
  2. Meets all legally-required findings in the Development Code;
  3. Would not raise substantial policy issues or result in community-wide impacts, including, but no limited to community character and traffic congestion; and
  4. Would not result in potentially-significant environmental impacts that would require preparation of an Environmental Impact Report pursuant to the California Environmental Quality Act.
- B. **Determinations and actions that may be appealed.** The following types of actions may be appealed:
  1. Determinations as to the meaning or applicability of the provisions of this Development Code that are believed to be in error;
  2. Any determination that a permit application or information submitted with the application is incomplete, in compliance with State law (Government Code Section 65943). Please refer to Section 22.40.050.B. (Initial Application Review-Completeness Review) for further information; and

3. Action to approve, approve with conditions, or deny any discretionary zoning or land use permit and/or determinations regarding compliance with the environmental review requirements, pursuant to the California Environmental Quality Act and the County Environmental Impact Review Guidelines, for such permits.

### **22.114.030 – Filing of Appeals**

- A. Eligibility.** An appeal may be filed by any person affected by an administrative determination or action by the Agency staff or Director, as described in Section 22.114.020.B (Determinations and actions that may be appealed).
- B. Timing and form of appeal, fees.** All appeals shall be filed with the Agency, in writing on a County appeal application form, prior to the close of business on the 10th business day after the decision that is the subject of the appeal, and shall specifically state the pertinent facts of the case and the basis for the appeal. Appeals shall be accompanied by the filing fee set by the County Fee Ordinance.

### **22.114.040 – Processing of Appeals**

- A. Report and scheduling of hearing.** When an appeal has been filed, the Director shall prepare a staff report on the matter, and schedule the matter for a public hearing by the appropriate appeal authority identified in Section 22.40.020 (Review Authority for County Land Use and Zoning Decisions) and as modified by Section 22.114.020.A.
- B. Action and findings:**
  - 1. General procedure.** The appeal authority shall conduct a public hearing in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). At the hearing, the appeal authority may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal.
    - a. The appeal authority may affirm, affirm in part, or reverse the action, decision, or determination that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with the provisions of this Development Code.
    - b. When reviewing a decision on a land use permit the appeal authority may adopt additional conditions of approval that may address other issues or concerns than the subject of the appeal.
    - c. A decision by an appeal authority may also be appealed in compliance with Section 22.114.040.B.3 (Appeals to Board), below, provided that the decision of the Board on an appeal shall be final.
  - 2. Appeals to Planning Commission.** The Planning Commission shall determine an appeal of the Director's or Zoning Administrator's action no later than its fourth regular meeting following the date on which the appeal was filed with the Agency. The action from which an appeal is taken may be reversed or modified only by the affirmative vote of a majority of the full membership of the Commission (i.e., four affirmative votes).

- 3. Appeals to Board.** The Board of Supervisors shall determine an appeal of a decision by the Planning Commission, Zoning Administrator, or Director no later than its sixth regular meeting following the date on which the appeal was filed with the Agency. The action or appellate determination from which an appeal is taken may be reversed or modified only by the affirmative vote of a majority of the membership of the Board.
  - 4. Failure to Act.** Failure of the appellate body to act within the time specified shall sustain the action being appealed.
  - 5. Tentative Map Appeals.** The timing for consideration of an appeal of a Tentative Map action shall be governed by the requirements of Section 22.84.040 – Tentative Map Public Hearings.
- C. Appeal of completeness.** Any person affected by a determination by the Agency staff that a permit application together with the submitted materials is not complete, may appeal the determination in compliance with State law (Government Code Section 65943.c (30-day review period)).
- D. Withdrawal of appeal.** After an appeal of a decision has been filed, the appeal shall not be withdrawn except with the consent of the Director.
- E. Judicial challenge.** If the decision is challenged in court, the appellant may be limited to raising only those issues which were raised at the public hearing, or in written correspondence delivered to the Agency, at or prior to the public hearing, in compliance with State law (Government Code Section 65009.b.2).



## **CHAPTER 22.116 – DEVELOPMENT CODE, ZONING MAP, COMMUNITY PLAN, AND COUNTYWIDE PLAN AMENDMENTS**

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- 22.116.010 – Purpose of Chapter
- 22.116.020 – Hearings and Notice
- 22.116.030 – Commission Action on Amendments
- 22.116.040 – Board Action on Amendments
- 22.116.050 – Findings
- 22.116.060 – Adoption of Amendments

### **22.116.010 – Purpose of Chapter**

This Chapter provides procedures for the amendment of this Development Code, the official Zoning Map, the Countywide Plan, or Community Plans whenever required by public necessity and general welfare.

### **22.116.020 – Hearings and Notice**

Public hearings shall be set before the Commission and Board upon receipt of a complete application for an amendment or upon initiation by the Board, Commission, or Director, and following Agency review. Public notice of the hearings shall be given in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). However, typographical, technical, or format corrections may be made by the Director administratively without an amendment to the Development Code provided the corrections are not of a substantive nature that would warrant consideration by the Planning Commission and the Board of Supervisors.

### **22.116.030 – Commission Action on Amendments**

The Commission shall make a written recommendation to the Board whether to approve, approve in modified form, or deny the proposed amendment, based upon the findings contained in 22.116.050 (Findings), below.

### **22.116.040 – Board Action on Amendments**

Upon receipt of the Commission's recommendation, the Board shall approve, approve in modified form or deny the proposed amendment based upon the findings contained in 22.116.050 (Findings), below.

If the Board proposes to adopt any substantial modification to the amendment not previously considered by the Commission during its hearings, the proposed modification shall be first referred back to the Commission for its recommendation. Failure of the Commission to report within 90 days after the referral, or within any longer time set by the Board, shall be deemed a recommendation for approval of the modification.

**22.116.050 – Findings**

- A. Findings for Development Code and Zoning Map amendments.** An amendment to the text of this Development Code or the Official Zoning Map may be approved only if all of the following findings are made, as applicable to the type of amendment.
1. The proposed amendment is consistent with the goals, policies, objectives, and programs of the Countywide Plan.
  2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the County.
- B. Additional finding for Development Code amendments.** The proposed amendment is internally consistent with other applicable provisions of this Development Code.
- C. Additional finding for Zoning Map amendments.** The site is physically and environmentally suitable for the requested zoning designations and anticipated land uses/development, (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints).
- D. Findings for Countywide Plan and Community Plan amendments.** An amendment to the Countywide Plan or a Community Plan may be approved only if all of the following findings are made:
1. The proposed amendment is internally consistent with the Countywide Plan and Community Plan.
  2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the County.
  3. The site is physically and environmentally suitable for the requested/anticipated land use development(s), (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints).

**22.116.060 – Adoption of Amendments**

Amendments to this Development Code, the official Zoning Map, the Countywide Plan, or Community Plans are adopted by the Board, as follows:

- A. This Development Code and the official Zoning Maps are amended by ordinance; and
- B. The Countywide Plan and Community Plans are amended by resolution.

## **CHAPTER 22.118 – NOTICES, PUBLIC HEARINGS, AND ADMINISTRATIVE ACTIONS**

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### **Sections:**

- 22.118.010 – Purpose of Chapter
- 22.118.020 – Notice of Hearing or Administrative Action
- 22.118.030 – Hearing Procedure, Continuances
- 22.118.035 – Notice of Decision-Director
- 22.118.040 – Notice of Decision-Zoning Administrator
- 22.118.050 – Notice of Decision-Commission
- 22.118.060 – Recommendation by Commission
- 22.118.070 – Notice of Decision-Board
- 22.118.080 – Indemnification

### **22.118.010 – Purpose of Chapter**

This Chapter provides procedures for the scheduling and noticing of public hearings before the Zoning Administrator, Commission, and Board. When a public hearing or administrative action is required by this Development Code, public notice shall be given and the hearing shall be conducted in compliance with this Chapter.

### **22.118.020 – Notice of Hearing or Administrative Action**

The public shall be provided notice of public hearings and administrative actions in compliance with State law (the Planning and Zoning Law, Government Code Sections 65000 et seq., Subdivision Map Act, Government Code Sections 66410 et seq., and the California Environmental Quality Act, Public Resources Code 21000 et seq.).

**A. Content of notice.** Notice of a public hearing or administrative action shall include the following:

1. The date, time, and place of the hearing or action (or date before which a hearing or action will not be taken);
2. The name of review authority;
3. A general explanation of the matter to be considered; and
4. A general description, in text or by diagram, of the location of the real property that is the subject of the hearing.

If a proposed negative declaration or final environmental impact report (EIR) has been prepared for the project, in compliance with the County's CEQA Guidelines, the hearing notice shall include a statement that the review authority will also consider approval of the proposed negative declaration or certification of the final environmental impact report (EIR).

**B. Method of notice distribution for public hearing actions.** Notice of a hearing action required by this Title for a permit, permit amendment, appeal, or amendment shall be given as follows, as required by State law (Government Code Sections 65090 and 65091): (The Director shall choose to comply with either 1 or 2, and shall comply with 3.)

1. Notice shall be published at least once in a local newspaper of general circulation in the County at least 10 days prior to the decision; **or**
2. Notice shall be posted in at least three public places in the area of the property which is the subject of the hearing at least 10 days prior to the decision; **and**
3. Written notice shall be mailed or delivered at least 10 days prior to the decision to the following parties:
  - a. The owner(s) or owner's agent of the property being considered, and the applicant;
  - b. Each local agency expected to provide essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected by the proposed project;
  - c. All owners of real property within 300 feet of the property which is the subject of the public hearing action, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of less than 20,000 square feet or a maximum density higher than two units per acre, except notice for a proposed large family daycare home shall be mailed only to all owners of real property within 100 feet of the property which is the subject of the permit; **or**
  - d. All owners of real property within 600 feet of the property which is the subject of the public hearing action, as shown on the County's latest equalized assessment roll, if the zoning for such property requires a minimum lot area of 20,000 square feet or greater, or a maximum density of two units per acre or lower, except notice for a proposed large family daycare home shall be mailed only to all owners of real property within 100 feet of the property which is the subject of the public hearing action.

If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide the alternate notice allowed by State law (Government Code Section 65091.a.3); and

- e. Any person who has filed a written request for notice with the Director and has paid the fee set by the most current County Fee Ordinance for the notice.

**C. Method of notice distribution for administrative actions.** Notice of an administrative action required by this Title for a permit or permit amendment shall be given as follows:

1. Written notice shall be mailed or delivered at least 10 days prior to the decision to the following parties:
  - a. The owner(s) or owner's agent of the property being considered, and the applicant;

- b. Each local agency expected to provide essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected by the proposed project;
- c. All owners of real property within 300 feet of the property which is the subject of the public hearing action, as shown on the County’s latest equalized assessment roll, if the zoning for such property requires a minimum lot area of less than 20,000 square feet or a maximum density higher than two units per acre; or
- d. All owners of real property within 600 feet of the property which is the subject of the public hearing action, as shown on the County’s latest equalized assessment roll, if the zoning for such property requires a minimum lot area of 20,000 square feet or greater, or a maximum density of two units per acre or lower.
- e. If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide the alternate notice allowed by State law (Government Code Section 65091.a.3); and
- f. Any person who has filed a written request for notice with the Director and has paid the fee set by the most current County Fee Ordinance for the notice.

### **22.118.030 – Hearing Procedure, Continuances**

Hearings shall be held at the date, time, and place, for which notice has been given as required in this Chapter.

The Zoning Administrator, Commission, and Board as applicable, may continue any public hearing to a future specific date at the hearing body’s discretion, except that continuances beyond the prescribed final date for action may only be granted with the agreement of the applicant and/or appellant, and that the continuance is clearly announced to all persons attending the hearing prior to the adjournment or recess of the hearing. The public announcement of the continuance shall specify the date, approximate time, and place, to which the hearing will be continued unless public notice of the continued hearing is provided for in accordance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).

### **22.118.035 – Notice of Decision-Director**

The Director may issue a written decision or refer the matter to the Commission for determination. If the decision is to be announced at a later date, the Director shall, at the hearing, specify the date on which the decision will be issued. The decision shall contain applicable findings and any conditions of approval, and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. Following the issuance of the written decision, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application.

### **22.118.040 – Notice of Decision-Zoning Administrator**

The Zoning Administrator may announce and issue the decision at the conclusion of a scheduled public hearing, refer the matter to the Commission for determination, or defer action and take specified items under advisement and announce and issue the decision at a later date. The decision shall contain applicable findings and any conditions of approval, and reporting/monitoring

requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. Following the hearing, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application.

### **22.118.050 – Notice of Decision-Commission**

The Commission may announce and issue the decision at the conclusion of a scheduled public hearing, or defer action and take specified items under advisement and announce and issue the decision at a later date. The decision shall contain applicable findings and any conditions of approval and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. Following the hearing, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown on the application.

### **22.118.060 – Recommendation by Commission**

After a public hearing on a proposed Master Plan, amendment to this Development Code, the Zoning Map or the Countywide Plan, the Commission shall forward a recommendation, including all required findings, to the Board for final action. Following the hearing, a notice of the Commission's recommendation shall be mailed to the applicant at the address shown on the application.

### **22.118.070 – Notice of Decision-Board**

For applications requiring Board approval, the Board shall announce and record its decision after the public hearing. The decision shall contain the findings of the Board and any conditions of approval and reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety, and welfare of the County. The decision of the Board shall be final.

### **22.118.080 – Indemnification**

The review authority may require by condition of approval that the applicant and successors in interest to the project and site indemnify, protect, and hold harmless the County, its Board members, employees, and agents, from and against any and all liability, losses, claims, damages, expenses, and costs (including attorney, expert witness and consultant fees, and litigation expenses) that may at any time arise or be set up because of damages to property or personal injury arising out of or in connection with negligent acts by the applicant, successors in interest, and/or the agents or employees of same, except loss or damage that was caused by the negligence or willful misconduct of the County.

## **CHAPTER 22.120 – USE PERMIT REVOCATIONS**

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### **Sections:**

- 22.120.010 – Purpose
- 22.120.020 – Hearings and Notice
- 22.120.030 – Use Permit Revocation

### **22.120.010 – Purpose of Chapter**

This Chapter outlines requirements for securing revocation or modification of previously approved Use Permits, which were not developed or operated in compliance with the original Use Permit approval.

### **22.120.020 – Hearings and Notice**

The Board of Supervisors shall hold a public hearing in order to revoke or modify any Use Permit granted in compliance with the provisions of this Development Code.

Ten days prior to the public hearing (except for Temporary Use Permits, which require only a 24-hour notice), written notice shall be delivered to the applicant and/or owner of the property for which the Use Permit was granted. Notice shall be mailed, first class postage paid, to the applicant and/or owner, as shown on the County's latest equalized assessment roll.

The notice of the public hearing shall explain the reasons why the review authority has determined that a noncompliance with an approved Use Permit exists, and shall contain information in support of the request to revoke or modify the Use Permit.

### **22.120.030 – Use Permit Revocation**

A Use Permit may be revoked or modified by the Board of Supervisors if any one of the following findings can be made:

- A. The permit was obtained by misrepresentation or fraud.
- B. One or more of the conditions of the permit have not been met.
- C. The improvement/use allowed by the permit is detrimental to the public interest, health, safety, convenience, or welfare of the County or constitutes a nuisance.



## **CHAPTER 22.122 – ENFORCEMENT OF DEVELOPMENT CODE PROVISIONS**

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### **Sections:**

- 22.122.010 – Purpose of Chapter
- 22.122.020 – Sheriff's Duty to Enforce
- 22.122.030 – Violations
- 22.122.040 – Remedies are Cumulative
- 22.122.050 – Legal Remedies
- 22.122.060 – Additional Permit Processing Fees

### **22.122.010 – Purpose of Chapter**

The provisions of this Chapter are intended to ensure compliance with the requirements of this Development Code and any conditions of land use permit or subdivision approval, to promote the County's planning efforts, and for the protection of the public interest, health, safety, convenience, and welfare.

### **22.122.020 – Sheriff's Duty to Enforce**

It is the duty of the Sheriff and the officers of the County herein or otherwise charged by law with the enforcement of this Development Code to enforce the provisions of this Development Code.

### **22.122.030 – Violations**

- A. Any structure or use which is established, operated, erected, moved, altered, enlarged, or maintained, contrary to provisions of this Development Code or any applicable condition of approval, is hereby declared to be unlawful and a public nuisance, and shall be subject to the remedies and penalties specified in this Chapter and Title 1, Chapter 1.05 (Nuisance Abatement) of the County Code.
- B. When County officials have reason to believe that a condition exists on a premise or property that violates this Development Code, they may inspect to determine whether the premise or property is in compliance with this Development Code.
- C. Any construction in violation of this Development Code or any condition(s) imposed on a permit may result in the cessation of some or all work through the issuance of an order or notice requiring such construction to cease ("Stop Work Order"). Any violation of this order or notice shall constitute a misdemeanor.

**22.122.040 – Remedies are Cumulative**

All remedies contained in this Development Code for the handling of violations or enforcement of the provisions of this Development Code shall be cumulative and not exclusive of any other applicable provisions of County or State law. Should a person be found guilty and convicted of a misdemeanor or infraction for the violation of any provision of this Development Code, the conviction shall not prevent the County from pursuing any other available remedy to correct the violation.

**22.122.050 – Legal Remedies**

The County may choose to undertake any of the following legal actions to correct and/or abate nuisances and violations of this Development Code:

- A. Civil actions.** At the request of the Board, the County Counsel may apply to the Superior Court for injunctive relief to terminate a violation of this Development Code.
- B. Abatement.** Where any person, firm, or corporation fails to remove a violation after being provided an opportunity to correct or end the violation, the Director may pursue an enforcement action as provided in Title 1, Chapter 1.05 (Nuisance Abatement) of the County Code.
- C. Citations.** The Director is authorized to enforce the provisions of this Development Code by the issuance of citations.
- D. Citation Penalties.** Any person, partnership, firm, or corporation whether as principal, agent, employee, or otherwise, violating or failing to comply with any provisions(s) of this Development Code or any conditions imposed on any entitlement, development permit, map or license, shall be guilty of a misdemeanor as provided in Title 1, Section 1.04.160 (Violation Declared Misdemeanor) of the County Code.

Any person, partnership, firm, or corporation whether as principal, agent, employee, or otherwise, violating or failing to comply with the sign regulations of this Development Code or any conditions imposed on a Sign Permit or Sign Review, shall be guilty of an infraction.

- E. Infraction Fine Schedule.** The following schedule shall apply:
  - 1. A fine not exceeding \$100.00 for the first violation;
  - 2. A fine not exceeding \$200.00 for a second violation of the same Code provision within one year; and
  - 3. A fine not exceeding \$500.00 for each additional violation in excess of two, of the same Code provision within one year.

- F. Notice of Violation.** Failure to comply with any provision(s) of this Development Code or any conditions imposed on any entitlement, development permit, map, or license constitutes cause for filing for the record, with the County Recorder, a Notice of Violation and Lien for the estimated permit costs and penalties.

Permit costs shall consist of all application fees required for County review and processing of applications necessary to legalize the existing violation(s) and penalties. Where a violation exists which is strictly prohibited by this Development Code or the County Code and no permit process is available to legalize the violation, a lien of \$500.00 shall be recorded, to cover costs of enforcement.

- G. Tentative Notice of Violation.** The Director shall verify the violation exists and shall provide a Tentative Notice of Violation and the proposed Lien to the real property owner by mail. The Tentative Notice of Violation shall order the property owner to take corrective action within 10 days of receipt of the Notice, unless an extension of time is granted by the Director.

If the violation is corrected within 10 days or applications are submitted for permits necessary to bring the violation into conformance with this Development Code, no further action is required.

- H. Notice of Intention to Record a Notice of Violation.** Following verification that the violation has not been corrected, the Director shall mail an Intention to Record a Notice of Violation and the proposed Lien. The Intention to Record a Notice of Violation and the proposed Lien shall be sent Certified Mail to the current property owner of record 30 days prior to recordation of a Notice of Violation and Lien. The Notice shall specify a time, date, and place at which the property owner may present evidence to the advisory agency as to why a Notice of Violation and Lien should not be recorded.

- I. Hearing.** If, after the owner has presented evidence, it is determined that there is no violation, or that the violation has been eliminated and the property has been brought into compliance with Development Code requirements, no further action by the Director shall be required.

If it is determined that the violation exists, the Director shall record the Notice of Violation and Lien of the estimated permit costs and penalties with the County Recorder at the end of the 30-day notice period.

- J. Notice of Violation and Lien.** The Notice of Violation and Lien shall specify the violation, the names of the record owners, shall describe the real property, and provide the required permit fees and penalties. Upon recordation of the Notice of Violation and Lien, it shall be deemed to be constructive notice to all successors in interest in the property that the violation(s) exist and that the property is encumbered by certain permit and penalty costs, as cited in the Notice of Violation and Lien.

**K. Release of Notice of Violation and Lien.**

1. The property owner may request the Director to release the Notice of Violation and Lien if the violation has been eliminated, the property has been brought into compliance with this Development Code, and the Lien is satisfied. If the property is brought into compliance by submission of permit applications, the property owner is responsible for the lien amount and any additional fees required by the County Fee Ordinance at the time of submission of the application(s).

The request for a release shall be accompanied by a recordation fee, as estimated by the County Recorder, and a retainer, at an hourly rate, for the verification inspection.

2. The request shall be reviewed by the Director and compliance with this Development Code verified. Upon verification, the Director shall file a Release of the Notice of Violation and Lien for the property. If the violation has not been eliminated, the request shall be denied by the Director.

**L. Development permits and approvals withheld.** If the Director, Zoning Administrator, Commission, or Board finds that the development of the real property for which a Notice of Violation and Lien have been recorded in compliance with this Chapter, is not contrary to the public health, safety, and general welfare, permits and approvals necessary for development may be issued for the real property.

If the acting authority finds that the development of the real property is contrary to the public health, safety, or general welfare due to the above cited violations on the property, permits may be withheld until the violations causing impacts on public health, safety, and welfare are eliminated, or the acting authority may issue a conditional approval and may impose conditions that are necessary to bring the violations into conformance and eliminate the hazard(s) to public health, safety, and general welfare.

The authority to deny or conditionally approve a permit or approval, based on the above referenced findings, shall apply whether the applicant was the owner of the real property at the time of the violations or whether the applicant is the current owner of the real property with or without actual or constructive knowledge of the violation at the time of the acquisition of the interest in the real property.

**22.122.060 – Additional Permit Processing Fees**

Any person who establishes a land use, or alters, constructs, enlarges, erects, maintains, or moves any structure without first obtaining a permit required by this Development Code, shall pay the additional permit processing fees established by the County Fee Ordinance for the correction of the violations, before being granted any permit for any structure or use on the subject site.