

ARTICLE VI

Subdivisions

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CHAPTER 22.80 – SUBDIVISION MAP APPROVAL REQUIREMENTS

Sections:

- 22.80.010 – Title
- 22.80.020 – Purpose of Article
- 22.80.030 – Applicability
- 22.80.040 – Exemptions from Subdivision Approval Requirements
- 22.80.050 – Review Authority for Subdivision Applications
- 22.80.060 – Exceptions to Subdivision Standards
- 22.80.070 – Notice of Judicial Challenge

22.80.010 – Title

This Article is and may be cited as the Marin County Subdivision Ordinance.

22.80.020 – Purpose of Article

The regulations in this Article are intended to supplement, implement, and work with the Subdivision Map Act, Sections 66410 et seq. of the California Government Code (hereafter referred to as the Map Act). This Article is not intended to replace the Map Act, and must be used in conjunction with the Map Act in the preparation of applications, and the review, approval, and construction of proposed subdivisions.

22.80.030 – Applicability

The Map Act and this Development Code require that the subdivision of an existing parcel into two or more proposed parcels be first approved by the County. In general, the procedure for subdivision first requires the approval of a Tentative Map, and then the approval of a Parcel Map or Final Map to complete the subdivision process. The Tentative Map review process is used to evaluate the compliance of the proposed subdivision with the standards of this Development Code, and the appropriateness of the proposed subdivision design. Parcel and Final Maps are precise engineering documents that detail the location and dimensions of all parcel boundaries in an approved subdivision and, after approval, are recorded in the office of the County Recorder.

A. Tentative Map requirements. Pursuant to Map Act Section 66426, a Tentative and Final Map are required for all subdivisions creating five or more parcels, five or more condominiums, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where any of the following occurs:

1. The original, unsubdivided parcel contains less than five acres, each proposed parcel abuts upon a maintained public street, and no dedications or improvements are required by adopted County Plans or Codes.
2. Each parcel created by the division has a gross area of 20 acres or more and has approved access to a maintained public street.

3. The parcel(s) have approved access to a public street which comprises part of a tract of land zoned for industrial or commercial development, and which has County approval for street alignments and widths.
4. Each parcel has a minimum gross area of 40 acres.
5. The land being subdivided is solely for the creation of an environmental subdivision pursuant to Map Act Section 66418.2

A Parcel Map shall be required instead of a Final Map when a Final Map is not required for the reasons listed in 1 through 5 above.

B. Parcel and Final Map requirements. A Parcel or Final Map shall be required as follows:

1. **Parcel Map.** The filing and approval of a Parcel Map (Chapter 22.86 (Parcel Maps and Final Maps)) shall be required for a subdivision creating four or fewer parcels, with or without a designated remainder in compliance with Chapter 1, Article 2 of the Map Act, except for the following subdivisions:
 - a. **Public agency or utility conveyances.** Any conveyance of land, including a fee interest, an easement, or a license, to a governmental agency, public entity, public utility or a subsidiary of a public utility for rights-of-way, unless the Director determines based on substantial evidence that public policy necessitates a Parcel Map in an individual case; or
 - b. **Rail right-of-way leases.** Subdivisions of a portion of the operating right-of-way of a railroad corporation as defined by Section 230 of the California Public Utilities Code, which are created by short-term leases (terminable by either party on not more than 30 days' notice in writing); or
 - c. **Waived Parcel Map.** A subdivision that has been granted a waiver of Parcel Map requirements in compliance with Section 22.86.030 (Waiver of Parcel Map).
2. **Final Map.** The filing and approval of a Final Map (Chapter 22.86) shall be required for a subdivision of five or more parcels; except where a Parcel Map without a Tentative Map is instead required by Subsection A. above (Tentative Map Requirements).

C. Conflicts with Map Act. In the event of any perceived conflicts between the provisions of this Article and the Map Act, the Map Act shall control.

22.80.040 – Exemptions from Subdivision Approval Requirements

As provided by Article 1, Chapter 1 of the Map Act, the following subdivisions do not require the filing or approval of Tentative, Parcel or Final Maps.

- A. **Agricultural leases.** Leases of agricultural land for the cultivation of food or fiber, or the grazing or pasturing of livestock.
- B. **Boundary line agreements.** Boundary line or exchange agreements to which the State Lands Review Authority or a local agency holding a trust grant of tide and submerged lands is a party.

- C. Wireless telecommunication antenna facilities.** The leasing or licensing of a portion of a parcel, or the granting of an easement, Use Permit, or similar right on a portion of a parcel, to a telephone corporation as defined in Public Utilities Code Section 234, exclusively for the placement and operation of wireless telecommunications transmission facilities, including antenna support structures, microwave dishes, structures to house wireless telecommunications transmission equipment, power sources, and other incidental equipment.
- D. Cemeteries.** Land dedicated for cemetery purposes under the Health and Safety Code.
- E. Commercial/industrial financing or leases.** The financing or leasing of:
1. Offices, stores or similar spaces within commercial or industrial buildings; existing separate commercial or industrial buildings on a single parcel; or
 2. Any parcel or portion of a parcel, in conjunction with the construction of commercial or industrial buildings on the same site, if Article II or Article V of this Development Code (Zoning Districts and Allowable Land Uses) requires a Use Permit for the project, or Chapter 22.42 requires Design Review.
- F. Condominium conversions.** The conversion of:
1. A community apartment project or a stock cooperative to condominiums, if the conversion satisfies the requirements of Map Act Sections 66412.g or 66412.h, respectively; or
 2. The conversion of certain mobile home parks to condominiums as provided by Map Act Section 66428.b.
- G. Lot Line Adjustments.** A Lot Line Adjustment processed in compliance with Chapter 22.90 (Lot Line Adjustments).
- H. Mineral leases.** Mineral, oil or gas leases.
- I. Public agency or utility conveyances.** Any conveyance of land, including a fee interest, an easement, or a license, to a governmental agency, public entity, public utility or a subsidiary of a public utility for rights-of-way.
- J. Rail right-of-way leases.** Short-term leases (terminable by either party on not more than 30 days' notice in writing) of a portion of the operating right-of-way of a railroad corporation as defined by Section 230 of the California Public Utilities Code, unless the Director determines in an individual case, based on substantial evidence, that public policy necessitates the application of the subdivision regulations of this Development Code to the short-term lease.
- K. Small, removable commercial buildings.** Subdivisions of four parcels or less for the construction of removable commercial buildings having a floor area of less than 100 square feet.
- L. Residential financing or leases.** The financing or leasing of: apartments, or similar spaces within apartment buildings, mobile home parks or trailer parks; or "granny" units or residential second units in compliance with Government Code Sections 65852.1 or 65852.2, respectively.
- M. Separate assessments.** Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

- N. Wind energy conversion systems (WECS).** The leasing of, or granting of an easement to a parcel or portion of a parcel in conjunction with the financing, installation, and sale or lease of a WECS.

22.80.050 – Review Authority for Subdivision Applications

The Review Authority is the individual or body identified by this Development Code as having the responsibility and authority to approve or deny land use permit and subdivision applications. The Review Authority for Tentative Maps, Parcel and Final Maps, Lot Line Adjustments, Certificates and Conditional Certificates of Compliance, parcel Mergers and Unmergers, and Reversions to Acreage in compliance with this Article, is determined by Section 22.40.020 (Review Authority for County Land Use and Zoning Decisions), and the provisions of this Article.

22.80.060 – Exceptions to Subdivision Standards

An exception to any provision of this Article may be requested by a subdivider in compliance with this Section. An exception shall not be used to waive or modify provisions of the Map Act.

- A. Application.** An application for an exception shall be submitted on forms provided by the Agency together with the required filing fee. The application shall include a description of each standard and requirement for which an exception is requested, together with the reasons why the subdivider believes the exception is justified.
- B. Filing and processing.** A request for an exception may be filed with the Tentative Map application to which it applies, or after approval of the Tentative Map. An exception shall be processed and acted upon in the same manner as the Tentative Map, concurrently with the Tentative Map if the exception request was filed at the same time. An exception shall not be considered as Tentative Map approval and shall not extend the time limits for expiration of the map established by Section 22.84.130 (Expiration of Approved Tentative Map).
- C. Approval of exception.** The Review Authority shall not grant an exception unless all the following findings are first made:
1. There are exceptional or extraordinary circumstances or conditions applicable to the proposed subdivision, including size, shape, topography, location, or surroundings.
 2. The exception does not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity.
 3. The exception is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity and in the same zoning district and denied to the proposed subdivision.
 4. Granting the exception will not be materially detrimental to the public welfare nor injurious to the property or improvements in the vicinity and zoning district in which the property is located.
 5. The exception is consistent with the Marin Countywide Plan, or any applicable Community Plan or Specific Plan.

In granting an exception, the Review Authority shall secure substantially the same objectives of the regulations for which the exception is requested and shall impose whatever conditions it deems necessary to protect the public health, safety, general welfare and convenience, and to mitigate any environmental impacts.

22.80.070 – Notice of Judicial Challenge

At least 30 days before filing any judicial action or proceeding to attack, review, set aside, void or annul the decision of the Review Authority concerning a Tentative, Parcel or Final Map, or any of the proceedings, acts or determinations taken, done or made before this decision, or to determine the reasonableness, legality or validity of any condition of approval, written notice shall be served upon the Review Authority detailing the nature of the conduct or action intended to be challenged. This Section is not intended to extend the statute of limitations provided in Map Act Section 66499.37.

CHAPTER 22.82 – SUBDIVISION DESIGN STANDARDS

Sections:

- 22.82.010 – Purpose of Chapter
- 22.82.020 – Clustering Required in Planned Districts
- 22.82.025 – Density Range
- 22.82.030 – Drainage Facilities
- 22.82.040 – Energy Conservation
- 22.82.050 – Hillside Subdivision Design
- 22.82.060 – Roadway Landscaping
- 22.82.070 – Lot Configuration and Minimum Area
- 22.82.080 – Roads, Sidewalks, Pathways, Driveways
- 22.82.090 – Utilities

22.82.010 – Purpose of Chapter

This Chapter provides standards for subdivision design, consistent with the policies of the Marin Countywide Plan and the requirements of the Map Act.

22.82.020 – Clustering Required in Planned Districts

Proposed subdivisions within the planned zoning districts should be designed to cluster proposed structures in compliance with Article V and Section 22.08.040 (Agricultural District Development Standards).

22.82.025 – Density Range

As a general rule, the residential density established by the zoning for a property shall be used to calculate the maximum number of residential lots potentially resulting from a subdivision. However, the maximum number of residential lots allowed for proposed subdivisions shall be modified based on a calculation of the net lot area of the original lot, except for proposed lots dedicated to affordable housing. In some cases, this means that properties in zoning districts allowing multiple units per lot will have a higher number of potential residential units than the potential number of residential lots allowable based on the net lot area.

In addition, the maximum number of residential units for any properties or portions of properties with sensitive habitat or within the Ridge and Upland Greenbelt or the Baylands Corridor, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the density range established by the governing Countywide Plan Land Use Designation. This restriction does not apply to lots governed by the Countywide Plan's PD_AERA (Planned Designation – Agricultural and Environmental Reserve Area) land use designation. Densities higher than the lowest end of the applicable density range may be considered on a case-by-case basis for new housing units affordable to very low and low income households that are capable of providing adequate water or sewer services, as long as the development complies with the California Environmental Quality Act, and all other applicable policies in the Countywide Plan including those governing environmental protection.

Residential densities shall be construed as maximums, but not entitlements.

22.82.030 – Drainage Facilities

Subdivision drainage facilities shall be designed and constructed in compliance with Title 24, Sections 24.04.520 (Drainage Facilities) et seq. of the County Code.

22.82.040 – Energy Conservation

The design of a subdivision for which a Tentative and Final Map are required by this Article shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivisions, in compliance with Map Act Section 66473.1.

22.82.050 – Hillside Subdivision Design

- A. Purpose.** The provisions of this Section are intended to ensure the creation of suitably designed and developed parcels in all hillside areas of the County.
- B. Applicability.** All parcels created within zoning districts which establish minimum lot area requirement, shall be related to the natural ground slope as provided by this Section. This section shall also apply in determining minimum lot size requirements for the purposes of compliance with Chapter 22.92 (Merger of Parcels).
- C. General requirements.** Proposed subdivisions shall be designed so that each parcel complies with the minimum lot area requirements of this Chapter, in addition to the minimum lot area requirements of Article II (Zoning Districts and Allowable Land Uses) and Article V established for each zoning district. All parcels created after the effective date of this Development Code shall be related to the natural ground slope as provided by this Section. In the event of conflict between these provisions and applicable minimum lot area standards of Articles II or V, the larger minimum lot area standards shall be required where a minimum lot area applies.
- 1. Measurement of slope.** The average slope of a lot expressed as a percent is calculated as follows:

$$S = (L \times I \times 100) / A$$

Where:

- S = The average slope of natural ground expressed as a percent
 I = The topographic contour interval in feet (i.e., 2-foot contour intervals, 5-foot intervals, etc.)
 L = The sum of the length of the contour lines in feet
 A = The area of the lot in square feet

This definition assumes that slope calculations are based on accurate topographic survey maps drawn to a scale of not less than one inch equals 100 feet, with contour lines at maximum 10-foot intervals for ground slope over 15 percent, and at five-foot intervals for ground slope of 15 percent or less.

- 2. Minimum lot area based on slope.** The minimum lot area requirements established by Table 6-1 (Minimum Lot Area Based on Slope) shall apply to all parcels in the unincorporated area of the County, unless any of the lot-slope requirements of Subsection

D below (Special Area Lot Size/Slope Requirements) apply. The natural ground slope calculation of a site shall be rounded up to the nearest whole number shown on Table 6-1 (Minimum Area Based on Slope).

3. **Lot design.** Unconventional lot design to meet lot-slope requirements shall not be permitted. All lots shall be developable, buildable, and reasonably accessible. Lots shall not be created which are impractical for improvement due to steepness of terrain, location of water courses, inability to handle waste disposal, or other natural or manmade physical conditions.

**TABLE 6-1
MINIMUM LOT AREA BASED ON SLOPE**

Natural Ground Slope (%)	Minimum Lot Area (sq. ft.)
0 - 6	See Zoning Map
7	7,667
8	7,849
9	8,086
10	8,376
11	8,719
12	9,117
13	9,572
14	10,088
15	10,670
16	11,324
17	12,053
18	12,865
19	13,763
20	14,752
21	15,836
22	17,016
23	18,293

Natural Ground Slope (%)	Minimum Lot Area (sq. ft.)
24	19,667
25	21,136
26	22,693
27	24,331
28	26,041
29	27,808
30	29,616
31	31,446
32	33,272
33	35,067
34	36,798
35	38,428
36	39,915
37	41,212
38	42,265
39	43,016
40 or greater	43,560

- D. Special area lot size / slope requirements.** The following slope-based minimum lot area requirements for new subdivisions apply only in the Community Plan areas and other specific areas noted, instead of the requirements of Subsection C.2 above (Minimum Lot Area Based on Slope).

TABLE 6-2
SPECIAL AREA LOT SIZE/SLOPE REQUIREMENTS

Location	Average Natural Lot Slope	Minimum Lot Area
Sleepy Hollow	15% or less	15,000 sq. ft.
	More than 15%	15,000 sq. ft., plus 1,000 sq. ft. for each additional one percent of slope over 15%, to a maximum of 45,000 sq. ft.
Indian Valley	Less than 10%	1.0 acres
	10% to 20%	1.5 acres
	More than 20%	2.0 acres

22.82.060 – Roadway Landscaping

Subdivision landscaping to enhance the natural environment and appearance of the subdivision shall, at a minimum, be designed and constructed in compliance with Title 24, Sections 24.04.750 et seq. (Trees and Landscaping) of the County Code.

22.82.070 – Lot Configuration and Minimum Area

Proposed subdivisions shall be designed so that all lots are in compliance with all applicable minimum lot area requirements of this Development Code, except when the project entails subdivision allowed by Government Code Section 51230.2. Lots should be designed with configurations that ensure each property owner can easily understand parcel boundaries, and to respect environmental and topographic conditions of the site. Irregular lot configurations that are designed solely to meet minimum lot area standards based on the lot-slope requirements contained in Section 22.82.050 (Hillside Subdivision Design) shall not be permitted. Lots shall not be approved unless they are developable, buildable, and reasonably accessible. Lots shall not be created which are impractical for improvement, due to steepness of terrain, location of water courses, inability to handle waste disposal, or other natural or manmade physical conditions. In addition to the provisions of this Chapter, lot design shall comply with those standards established by:

- A.** Article II (Zoning Districts and Allowable Land Uses);
- B.** Article V (Coastal Zones –Development and Resource Management Standards);
- C.** The Zoning Maps (Section 22.06.030 (Zoning Map Adopted)); and
- D.** Title 24, Chapter 24.07 (Lots) of the County Code.

22.82.080 – Roads, Sidewalks, Pathways, Driveways

Subdivision roadways, sidewalks, pedestrian and multipurpose pathways, and individual driveways shall be designed and constructed in compliance with all applicable provisions of the County Code, including:

- A. Title 24, Sections 24.04.020 et seq. (Roads);
- B. Title 24, Sections 24.04.235 et seq. (Driveways);
- C. Title 24, Sections 24.04.430 et seq. (Sidewalks and Pedestrian Paths); and;
- D. Title 24, Sections 24.04.510 (Multipurpose Pathways).

22.82.090 – Utilities

Subdivision utilities shall comply with Title 24, Sections 24.04.840 et seq. (Utilities) of the County Code. 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, or the environmental benefit of allowing utilities to be placed above ground outweighs potential visual impacts.

CHAPTER 22.84 – TENTATIVE MAPS

Sections:

- 22.84.010 – Purpose of Chapter
- 22.84.020 – Tentative Map Preparation, Application Contents
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- 22.84.035 – Tentative Map Waiver
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- 22.84.100 – Completion of Subdivision Process
- 22.84.110 – Vesting Tentative Maps
- 22.84.120 – Tentative Map Time Limits
- 22.84.130 – Expiration of Approved Tentative Map
- 22.84.140 – Extensions of Time for Tentative Maps
- 22.84.150 – Applications Deemed Approved

22.84.010 – Purpose of Chapter

This Chapter provides requirements for the preparation, filing, review, and approval or denial of Tentative Maps and Vesting Tentative Maps, in compliance with the Map Act.

22.84.020 – Tentative Map Preparation, Application Contents

Tentative Map submittals shall include all information required by the Map Act, the information and other materials required by the Tentative Map Preparation and Contents instruction list provided by the Agency, a preliminary soils report if required by Section 22.100.040 (Soils Reports), and all information required by Title 23, Section 23.09.036 (Floodplain Management – Standards for Subdivisions) of the County Code.

22.84.030 – Tentative Map Application Filing and Initial Processing

Tentative Map applications shall be prepared, filed with the Agency, and processed in compliance with this Chapter, and Map Act Sections 66452 et seq.

- A. General filing and processing requirements.** Tentative Map applications shall be submitted to the Agency for processing, be reviewed for completeness and accuracy, referred to affected agencies, reviewed in compliance with the California Environmental Quality Act (CEQA), and evaluated in a staff report as provided by Chapter 22.40 (Application Filing and Processing, Fees).

- B. Transmittal to affected agencies.** In addition to the procedures outlined in Chapter 22.40 (Application Filing and Processing, Fees), a Tentative Map application shall be transmitted to the agencies outlined in this Subsection, as well as any other County department, State or Federal agency, or other individual or group that the Director believes may be affected by the subdivision, or may have useful information about issues raised by the proposed subdivision. The transmittal shall include a copy of the proposed Tentative Map.
1. **Time limits.** As required by Map Act Sections 66453 through 66455.7, transmittal shall occur within five days of the Tentative Map application being determined to be complete in compliance with Section 22.40.050.B.2 (Initial Application Review – Completeness Review). An agency wishing to respond to a transmittal shall provide the Agency with its recommendations within 15 days after receiving the Tentative Map application.
 2. **Required transmittals.** The Director shall transmit Tentative Map applications for review and comment to each of the following agencies which will be expected to provide service to the proposed subdivision.
 - a. **Caltrans.** The California Department of Transportation shall be transmitted:
 - (1) Any Tentative Map located within an area shown on a territorial map filed with the County in compliance with Map Act Section 66455.
 - (2) Any Tentative Map that includes a proposed public school site located within two miles of an airport runway, as described in Section 39005 of the California Education Code. In these cases, the time for receipt of comments by the County shall be 35 days instead of the 15 days specified by this Subsection B.1 above (Time Limits).
 - b. **Environmental Health Services.** Environmental Health Services shall be transmitted any Tentative Map application that proposes sewage disposal or water supply by other than public sewer or water systems.
 - c. **Fire departments.** County fire protection agencies including the County Fire Department, the various county fire protection districts and the California Department of Forestry shall be transmitted any Tentative Map within their respective areas of responsibility.
 - d. **Incorporated cities and other local agencies.** Incorporated cities and other local agencies, including community services districts, shall be transmitted any Tentative Map application that is located within the area shown on a territorial map filed with the County in compliance with Map Act Section 66453, and within any sphere of influence they have established outside of their official boundaries.
 - e. **Public utilities, water and sewer agencies.** Public utility companies and other service agencies which will be expected to provide service to the proposed subdivision, including providers of water, sewer, gas, electrical, telephone, and cable television services, shall be transmitted any Tentative Map within their respective jurisdictions.
 - f. **Public Works Department.** The Public Works Department shall be transmitted all Tentative Maps for review and comment regarding proposed easements, public improvements, streets, and other relevant issues.

- g. School districts.** Tentative Maps shall be transmitted to the governing board of any elementary, high school, or unified school district within which the property to be subdivided is located.
- h. State Department of Education.** The State Department of Education shall be transmitted any Tentative Map that includes a proposed public school site.

Along with the subdivision application transmittal, the Agency shall include notification that if no written response to the transmittal is received within 15 calendar days of receipt by the agency, the Agency shall presume that no recommendations or comments are forthcoming.

22.84.035 – Tentative Map Waiver

- A.** For any subdivision where a parcel map is required, a written application may be made to the Director requesting a waiver of the Tentative Map for all or part of the proposed subdivision. The written application shall state in detail the basis for the waiver requested. Such a waiver may be granted by the Director upon finding that:
 1. The proposed subdivision meets all requirements of the State Subdivision Map Act and any applicable provisions of this title;
 2. The proposed subdivision does not increase the number of lots on the property except in conformance with section 22.84.035.B and meets all requirements of Title 22 of the Marin County Code;
 3. Adequate public notice of the proposed subdivision has been given; and
 4. A Parcel Map or Final Map will be required, except when a Certificate of Correction is filed to modify a map that was previously recorded.
- B.** Tentative Map waivers may also be granted for Environmental Subdivisions that meet all the criteria and requirements of Map Act Section 66418.2. Such a waiver for an Environmental Subdivision may be granted by the Director upon finding that:
 1. The proposed subdivision meets all requirements of the State Subdivision Map Act and any applicable provisions of this title;
 2. Adequate public notice of the proposed subdivision has been given; and
 3. A Parcel Map or Final Map will be required.

22.84.040 – Tentative Map Public Hearings

Public hearings are required by this Development Code for a Tentative Map or an appeal of a Tentative Map decision. The hearing shall be scheduled and conducted in compliance with this Section, in addition to public notice being provided in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).

- A. Scheduling of hearing, decision.** A public hearing on a Tentative Map or appeal shall be scheduled, and a decision shall be reached, within the following time limits.

1. **Tentative Map.** A hearing on a Tentative Map shall be scheduled and action shall be taken on the map within 50 days after an environmental impact report is certified or a negative declaration is approved for the Tentative Map. In the case of a Tentative Map which does not require an environmental impact report or negative declaration, a hearing shall be scheduled and action taken on the map within 50 days after the subdivision application is determined to be complete, in compliance with Section 22.40.050 (Initial Application Review).
2. **Appeals.** A hearing on an appeal (Chapter 22.114 (Appeals)) shall be held within 30 days after the filing of the appeal, or if there is no regular meeting within the next 30 days, the hearing shall be held at the next regular meeting or within 60 days, whichever period is shorter.

B. Distribution of staff report. The staff report on the Tentative Map shall be mailed to the subdivider (and each tenant of the subject property, in the case of a condominium conversion (Section 22.88.030 (Condominium Conversions))) at least 10 days before any hearing or action on the Tentative Map by the Review Authority.

22.84.050 – Tentative Map Review

After completion of a staff report and recommendations on the Tentative Map application, the Director shall refer a Tentative Map to the Review Authority for action.

A. Hearing and review. The Review Authority shall:

1. Conduct a public hearing on a proposed Tentative Map that has been scheduled and provided public notice in compliance with Section 22.84.040 (Tentative Map Public Hearings); and
2. Review and evaluate each Tentative Map with respect to the following information and issues:
 - a. Its compliance and consistency with applicable provisions of this Development Code and other applicable County ordinances, the Marin Countywide Plan, any applicable Community Plan or Specific Plan, and the Map Act;
 - b. The staff report (Section 22.40.070), and recommendations from any agency providing comments on the Tentative Map in compliance with Section 22.84.030.B (Transmittal to Affected Agencies);
 - c. The information provided by an initial study or environmental impact report (Section 22.40.060 (Environmental Review)); and
 - d. Any public testimony received.

B. Approval or denial of Tentative Maps. In the case of a Tentative Map proposing four or fewer parcels, the Review Authority may approve or deny the Tentative Map as follows:

1. Within 50 days after an environmental impact report is certified or a negative declaration is approved for the Tentative Map, the Review Authority shall approve, conditionally approve or deny the Tentative Map.

2. Approval or conditional approval of a Tentative Map shall be granted only after the Review Authority has made all findings required by Section 22.84.060 (Findings for Approval or Denial of Tentative Map). The Review Authority may impose conditions of approval in compliance with Section 22.84.070 (Conditions of Approval).
3. The decision of the Review Authority on a Tentative Map may be appealed in compliance with Chapter 22.114 (Appeals).

22.84.060 – Findings for Approval of Tentative Map

In order to approve a Tentative Map, or a Parcel Map when no Tentative Map is required, the Review Authority shall first make the findings listed below. In determining whether to approve a Tentative Map, the Review Authority shall apply only those ordinances, policies, and standards in effect at the date the Agency determined that the application was complete in compliance with Section 22.40.050 (Initial Application Review), except where the County has initiated Marin Countywide Plan, Community Plan, or Development Code changes, and provided public notice as required by Map Act Section 66474.2.

- A. Required findings for approval.** The Review Authority may approve a Tentative Map, or Parcel Map when no Tentative Map is required, only when it first finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with all of the findings below, as required by Map Act Section 66474. The findings shall apply to each proposed parcel as well as the entire subdivision, including any parcel identified as a designated remainder in compliance with Map Act Section 66424.6.
1. The proposed subdivision including design and improvements is consistent with the Marin Countywide Plan and any applicable Community Plan or Specific Plan.
 2. The site is physically suitable for the type and proposed density of development.
 3. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or injure fish or wildlife or their habitat.
 4. The design of the subdivision and type of improvements is not likely to cause serious public health or safety problems.
 5. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large for access through or use of property within the proposed subdivision. This finding may be made if the Review Authority finds that alternate easements for access or use will be provided, and that they will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record, or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the Review Authority to determine that the public at large has acquired easements of access through or use of property within the proposed subdivision.
 6. The proposed subdivision is consistent with the Subdivision Design Standards contained in Chapter 22.82 of this Development Code, all other applicable provisions of this Development Code, and any other applicable provisions of the County Code, and the Map Act.

B. Supplemental findings. In addition to the findings required for approval of a Tentative Map by Subsection A. above (Required Findings for Approval), the following findings are also required when they are applicable to the specific subdivision proposal.

1. It is in the interest of the public health and safety, and it is necessary as a prerequisite to the orderly development of the surrounding area, to require the construction of road improvements within a specified time after recordation of the Parcel Map, where road improvements are required (see Section 22.82.080 (Roads, Sidewalks, Pathways, Driveways)).
2. Any findings required by Sections 22.88.030 (Condominium Conversions) for condominium conversions.

C. Findings for waiver of Parcel Map. If waiver of a Parcel Map has been requested with the Tentative Map application, the Review Authority shall determine whether the findings required by Section 22.86.030 (Waiver of Parcel Map) can also be made.

22.84.070 – Conditions of Approval

Along with the approval of a Tentative Map, the adoption of conditions of approval shall occur in compliance with this Section, provided that all conditions shall be consistent with the requirements of the Map Act.

A. Mandatory conditions. The Review Authority shall adopt conditions of approval that will:

1. Require that parcels, easements or rights-of-way be provided for streets, water supply and distribution systems, sewage disposal systems, storm drainage facilities, solid waste disposal, and public utilities providing electric, gas and communications services, as may be required to properly serve the subdivision. Easements for public utilities shall be limited to those needed to provide service to present and future development;
2. Mitigate or eliminate environmental problems identified through the environmental review process, or require redesign of the subdivision as a prerequisite to the approval of the Tentative Map;
3. Carry out the specific requirements of Chapters 22.82 (Subdivision Design Standards), 22.98 (Dedications, Reservations, Easements), and 22.100 (Subdivision Improvements and Agreements);
4. Secure compliance with the requirements of this Development Code, the Marin Countywide Plan, any applicable Community Plan and Specific Plan, and public service or utility District; and
5. Require that any designated remainder parcels not be subsequently sold unless (a) a Certificate or Conditional Certificate of Compliance (Chapter 22.96 (Certificates of Compliance)) is obtained before recordation of a Parcel or Final Map, or (b) a development approval as specified by Map Act section 66499.34 is granted for the parcel, or (c) the parcel is further subdivided in compliance with this Development Code.

B. Additional conditions. Additional conditions may be required as follows:

1. The dedication of land or payment of fees in lieu thereof, or a combination of both for park or recreation purposes as provided by Section 22.98.040 (Parkland Dedication and Fees) and the Map Act;
2. The waiver of direct access rights to any existing or proposed streets;
3. The dedication of additional land for bicycle paths, local transit facilities, (e.g., bus turnouts, benches, shelters, etc.), sunlight easements, and school sites, as provided by Map Act Chapter 4, Article 3;
4. The reservation of sites for public facilities (e.g., fire stations, libraries, and other public uses) as provided by Chapter 4, Article 4 of the Map Act;
5. Time limits or phasing schedules for the completion of conditions of approval, when deemed appropriate; or
6. Any other conditions deemed necessary by the Review Authority to achieve compatibility between the proposed subdivision, its immediate surroundings, and the community, or to achieve consistency with the Countywide Plan, an applicable Community Plan or Specific Plan, County ordinances or State law.

22.84.090 – Changes to Approved Tentative Map or Conditions

A subdivider may request changes to an approved Tentative Map or its conditions of approval before recordation of a Parcel or Final Map as provided by this Section. Minor amendments to approved Tentative Maps, including modifications to additional information required to be filed or recorded with the Parcel or Final Map (e.g. changes to building setback lines), may be processed as Tentative Map Waivers, pursuant to Section 22.84.035 of this Development Code. Changes to a Parcel or Final Map after recordation are subject to Section 22.86.080 (Corrections and Amendments to Recorded Maps).

- A. Limitation on allowed changes.** Changes to a Tentative Map that may be requested by a subdivider in compliance with this Section include major adjustments to the location of proposed lot lines and improvements, and reductions in the number of approved lots (but no increase in the number of approved lots), and any changes to the conditions of approval, consistent with the findings required by Subsection D below (Findings for Approval). Other changes shall require the filing and processing of a new Tentative Map.
- B. Application for changes.** The subdivider shall file an application for a Tentative Map Amendment or Waiver and filing fee with the Agency, using the forms furnished by the Agency, together with the following additional information:
 1. A statement identifying the Tentative Map number, the features of the map or particular conditions to be changed and the changes requested, the reasons why the changes are requested, and any facts that justify the changes; and
 2. Any additional information deemed appropriate by the Agency.
- C. Processing.** Proposed changes to a Tentative Map or conditions of approval shall be processed in the same manner as the original Tentative Map, except as otherwise provided by this Section.

- D. Findings for approval.** The Review Authority shall not modify the approved Tentative Map or conditions of approval unless it shall first find that the change is necessary because of one or more of the following circumstances, and that all of the applicable findings for approval required by Subsections 22.84.060.A (Required Findings for Approval) and 22.84.060.B (Supplemental Findings) can still be made:
1. There was a material mistake of fact in the deliberations leading to the original approval.
 2. There has been a change of circumstances related to the original approval.
 3. A serious and unforeseen hardship has occurred, not due to any action of the Applicant.
- E. Effect of changes on time limits.** Approved changes to a Tentative Map or conditions of approval shall not be considered as approval of a new Tentative Map, and shall not extend the time limits provided by Section 22.84.130 (Expiration of Approved Tentative Map).

22.84.100 – Completion of Subdivision Process

- A. Compliance with conditions, improvement plans.** After approval of a Tentative Map in compliance with this Chapter, the subdivider shall proceed to fulfill the conditions of approval within any time limits specified by the conditions and the expiration of the map and, where applicable, shall prepare, file and receive approval of improvement plans in compliance with Chapter 22.100, before constructing any required improvements.
- B. Conforming Tentative Map and condition compliance review.** After approval of a Tentative Map but before filing check prints of a Parcel Map or Final Map with the County Surveyor, the subdivider shall submit a conforming Tentative Map showing any modifications made by the conditions of Tentative Map approval, together with any required supplemental information sheets, draft easements, maintenance agreements, agricultural or other contracts, or other information that is required by the conditions of the Tentative Map approval to the Director for a ministerial conformance review and determination.
- C. Parcel or Final Map preparation, filing and recordation.** Where a Parcel or Final Map is required by this Article or the Map Act, the map shall be filed and recorded as follows.
1. A Parcel Map for a subdivision of four or fewer parcels shall be prepared, filed, processed and recorded in compliance with Chapter 22.86 (Parcel Maps and Final Maps), to complete the subdivision, unless a Parcel Map has been waived in compliance with Section 22.86.030 (Waiver of Parcel Map).
 2. A Final Map for a subdivision of five or more parcels shall be prepared, filed, processed and recorded in compliance with Chapter 22.86 (Parcel Maps and Final Maps), to complete the subdivision.

22.84.110 – Vesting Tentative Maps

This Section establishes procedures to implement the Vesting Tentative Map requirements of State law, Sections 66498.1 et seq. of the Map Act.

- A. Applicability.** Whenever this Development Code requires that a Tentative Map be filed, a Vesting Tentative Map may instead be filed, provided that the Vesting Tentative Map is prepared, filed and processed in compliance with this Section.
1. A Vesting Tentative Map may be filed for residential and non-residential developments.
 2. If a subdivider does not seek the rights conferred by this Section, the filing of a Vesting Tentative Map is not a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction; however, nothing in this Section shall be construed to eliminate the need for a subdivider to obtain land use permit or subdivision approval in compliance with the other applicable provisions of this Development Code, or building, grading or other construction permit approval in compliance with Title 19 (Building Regulations) of the County Code.
- B. Procedures for processing a Vesting Tentative Map.** A Vesting Tentative Map shall be filed in the same form, have the same contents and accompanying data and reports and, shall be processed in the same manner as described by this Chapter for a Tentative Map, except as follows.
1. **Application content.** The Vesting Tentative Map shall be prepared with the words "Vesting Tentative Map" printed conspicuously on its face, and as required by Sections 22.84.020 et seq.
 2. **Findings for approval.** The approval of a Vesting Tentative Map shall not be granted unless the Review Authority first determines that the intended development of the subdivision is consistent with the zoning regulations applicable to the property at the time of filing, in addition to all other findings required for Tentative Map approval by Section 22.84.060 (Findings for Approval of Tentative Map).
 3. At the time a Vesting Tentative Map is filed for any project requiring Design Review pursuant to the provisions of Section 22.42.020 (Applicability), Design Review approval shall be obtained by the subdivider prior to or concurrent with the approval of the Vesting Tentative Map, and no Vesting Tentative Map shall be approved unless and until the Review Authority first finds that the proposed project meets the standards for Design Review approval contained in Section 22.42.060. This requirement may be waived upon application to the Director.
- C. Expiration of Vesting Tentative Map.** An approved Vesting Tentative Map shall be subject to the same time limits for expiration as are established for Tentative Maps by Sections 22.84.120 et seq. (Tentative Map Time Limits).
- D. Changes to approved map or conditions.** The subdivider may apply for an amendment to the Vesting Tentative Map or conditions of approval at any time before the expiration of the Vesting Tentative Map. The amendment request shall be considered and processed as a new application, in compliance with this Section.

E. Development rights vested.

1. The approval of a Vesting Tentative Map shall confer a vested right to proceed with development of the subdivided lots in substantial compliance with the ordinances, policies and standards (excluding fees) in effect at the time a complete Vesting Tentative Map application is filed, as described in Section 66474.2 of the Map Act.
2. If Map Act Section 66474.2 is repealed, approval of a Vesting Tentative Map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies and standards in effect at the time the Vesting Tentative Map is approved.
3. Subsequent land use permits, building permits, extensions of time or other entitlements filed on parcels created by the subdivision may be conditioned or denied if:
 - a. A failure to do so would place the residents of the subdivision or the immediate area in a condition dangerous to health or safety; or
 - b. The condition or denial is required in order to comply with State or Federal law.
4. The fees charged for building or land use permits, filed after the approval of a Vesting Tentative Map shall be those applicable at the time the permit applications are filed, including any related utility or development impact fees (e.g., sewer/water hookup fees, traffic mitigation fees, etc.). Application contents shall be as required by this Development Code at the time the application is filed.

F. Duration of vested rights. The development rights vested by this Section shall expire if a Parcel Map or Final Map is not approved before the expiration of the Vesting Tentative Map as provided by Sections 22.84.120 et seq. (Tentative Map Time Limits). If the Parcel or Final Map is approved and recorded, the development rights shall be vested for the following time periods, in compliance with Map Act Section 66498.

1. An initial time period of no more than two years from the date of recordation of the Parcel or Final Map. Where several Final Maps are recorded on various phases of a project covered by a single Vesting Tentative Map, this initial time period shall begin for each phase when the Final Map for that phase is recorded.
2. The initial two years shall be automatically extended by any time used by the County for processing a complete application for a Grading Permit or for design or architectural review, if said processing exceeds 30 days from the date the complete application is filed.
3. The subdivider may apply for a one-year extension at any time before the initial two years expire. Application for an extension shall be submitted to the Agency and shall be accompanied by the required fee. The Review Authority may approve or deny a request for extension. If the extension is denied, the subdivider may appeal to the Board in compliance with Chapter 22.114 (Appeals).
4. If the subdivider submits a complete application for a Building Permit during the periods of time specified in Subsections F.1 and F.2 above (Duration of Vested Rights), the vested rights shall continue until the expiration of the Building Permit, or any extension of that permit.

22.84.120 – Tentative Map Time Limits

The processing of a Tentative Map shall be completed, and an approved Tentative Map shall be subject to the time limits for expiration and procedures for extension as provided by Sections 22.84.130 through 22.84.150.

22.84.130 – Expiration of Approved Tentative Map

The expiration date of a Tentative Map is determined by Map Act Sections 66452.6, 66452.11, and 66463.5. An approved Tentative Map or Vesting Tentative Map is valid for three years after its effective date. At the end of that time, the approval shall expire and become void unless:

- A. A Parcel or Final Map, and related bonds and improvement agreements, have been filed with the County Surveyor in compliance with Chapter 22.86 (Parcel Maps and Final Maps); or
- B. An extension of time has been granted in compliance with Section 22.84.140 (Extensions of Time for Tentative Maps).

A Tentative Map approval shall be deemed to have expired if a Parcel or Final Map has not been filed within the time limits established by this Section or within an extension of time approved in compliance with Section 22.84.140 (Extensions of Time for Tentative Maps). Expiration of an approved Tentative Map or Vesting Tentative Map shall terminate all proceedings. The application shall not be reactivated unless a new subdivision application is filed.

22.84.140 – Extensions of Time for Tentative Maps

When a Parcel or Final Map has not been filed within the time limits set by Section 22.84.130 (Expiration of Approved Tentative Map), time extensions may be granted in compliance with this Section. Extension requests shall be in writing and shall be filed with the Agency, at least 10 days prior to the expiration of the approval or previous extension, together with the required filing fee.

- A. **Tentative Maps.** The Director may grant a maximum of two, three-year extensions to the initial time limit only after making all of the following findings:
 1. There have been no changes to the provisions of the Marin Countywide Plan, any applicable Community Plan or Specific Plan, the Local Coastal Program, or this Development Code applicable to the project since the approval of the Tentative Map.
 2. There have been no changes in the character of the site or its surroundings that affect how the policies of the Marin Countywide Plan, Community Plan or Specific Plan, or other standards of this Development Code apply to the project.
 3. There have been no changes to the capacities of community resources, including water supply, sewage treatment or disposal facilities, roads or schools so that there is no longer sufficient remaining capacity to serve the project.

Denial of a requested extension by the Review Authority may be appealed in compliance with Chapter 22.114 (Appeals).

- B. Tentative Maps with multiple Final Maps.** Where a subdivider is required to expend more than \$125,000 on improvements as specified in Map Act Section 66452.6 and multiple Final Maps are filed covering portions of a single approved Tentative Map, each filing of a Final Map shall extend the expiration of the Tentative Map by an additional three years from the date of its expiration, or the date of the previously filed Final Map, whichever is later. Provided that the total of all extensions shall not extend the approval of the Tentative Map more than 10 years from its original approval.
- C. Vesting Tentative Maps.** The Review Authority may grant a maximum of six years to the initial time limit in compliance with Subsection A above (Tentative Maps). Any rights conferred by Section 22.84.110 (Vesting Tentative Maps) shall expire if a Final Map is not approved and filed.

22.84.150 – Applications Deemed Approved

Any subdivision application deemed approved in compliance with Section 65956 of the Government Code or Map Act Sections 66452 et seq., shall be subject to all applicable provisions of this Development Code, which shall be satisfied by the subdivider before any Building Permits or other land use entitlements are issued. A Parcel or Final Map filed for record after the automatic approval of its Tentative Map shall remain subject to all the mandatory requirements of this Development Code and the Map Act, including Map Act Sections 66473, 66473.5 and 66474.

CHAPTER 22.86 – PARCEL MAPS AND FINAL MAPS

Sections:

- 22.86.010 – Purpose of Chapter
- 22.86.020 – Parcel and Final Map Application Filing and Processing
- 22.86.030 – Waiver of Parcel Map
- 22.86.040 – Parcel Map Review and Approval
- 22.86.050 – Final Map Review and Approval
- 22.86.060 – Supplemental Information Sheets
- 22.86.070 – Recordation of Maps
- 22.86.080 – Corrections and Amendments to Recorded Maps

22.86.010 – Purpose of Chapter

This Chapter establishes requirements for the preparation, filing, approval and recordation of Parcel and Final Maps, consistent with Map Act Chapter 3, Articles 4 and 5 (commencing with Sections 66456 and 66463, respectively). Parcel and Final Maps are precise engineering documents that detail the location and dimensions of all parcel boundaries in an approved subdivision and, after approval, are recorded in the office of the County Recorder.

22.86.020 – Parcel and Final Map Application Filing and Processing

- A. When required.** When required by Sections 22.80.030 (Applicability) and 22.84.100 (Completion of Subdivision Process), a Parcel or Final Map shall be prepared, filed, and processed in compliance with this Section.
- B. Form and content, fees.** Parcel Maps and Final Maps shall be prepared by or under the direction of a qualified, registered civil engineer or licensed land surveyor, registered or licensed by the State. Parcel and Final Map submittals shall include all information required by the Map Act (Sections 66444 et seq. for Parcel Maps, and 66433 et seq. for Final Maps), the application forms, all information and other materials prepared as required by the Parcel and Final Map Preparation and Contents instruction list, provided by the Agency, and the required filing fee.
- C. Prefiling of check prints.** Before filing a Parcel or Final Map as provided by this Section, the subdivider shall submit to the County Surveyor four check prints of the proposed map, with a preliminary title report no more than six months old, traverse sheets in a form and containing the information required by the County Surveyor, and the Parcel or Final Map filing fee. The check prints and accompanying information shall be processed as follows:
 - 1. Referral.** The County Surveyor shall forward a copy of a Parcel or Final Map check print to the Director, who shall determine whether the Parcel or Final Map check print conforms substantially to the Tentative Map previously approved for the same project.
 - 2. County Surveyor review.** The County Surveyor shall determine whether the Parcel or Final Map check print complies with all applicable provisions of this Development Code and the Map Act, and all applicable Tentative Map conditions of approval imposed by the Department of Public Works.

3. **Director review.** The Director shall examine the check print to determine that it is in substantial conformance with the approved Tentative Map and in compliance with all applicable Tentative Map conditions of approval, and within 10 days from receipt of the check print shall certify to the County Surveyor its conformance, or advise the subdivider and County Surveyor of any errors or omissions.
 4. **Notification of subdivider.** When the County Surveyor has received a confirmation from the Director stating that the Parcel Map is in substantial conformance with the approved Tentative Map and has determined that the map is in compliance with Subsection A.2 above (County Surveyor Review), the County Surveyor shall notify the subdivider.
- D. Filing with County Surveyor.** After notification from the County Surveyor in compliance with Subsection C.4 above (Notification of Subdivider), a Parcel or Final Map, together with all data, information and materials required by Subsection B above (Form and Content, Fees) shall be submitted to the County Surveyor before the expiration of the applicable Tentative Map. The Parcel or Final Map shall be considered submitted when it is complete and complies with all applicable provisions of this Development Code and the Map Act.
- E. Multiple Parcel or Final Maps.** The subdivider may file multiple Parcel or Final Maps on the approved Tentative Map if the subdivider either included a statement of intention with the Tentative Map or, if after the filing of the Tentative Map, the Director approved the request.

22.86.030 – Waiver of Parcel Map

A subdivider may request waiver of a Parcel Map, and the Review Authority may grant the waiver in compliance with this Section and Map Act Section 66428.b.

- A. **When waiver is allowed.** Waiver of a Parcel Map may be requested by a subdivider and granted by the Review Authority for a subdivision that results in the creation of only two parcels, and the boundaries of the original parcel have been previously surveyed and a map recorded, and are certain as to location.
- B. **Application processing and approval.** A request for waiver of a Parcel Map shall be submitted with the Tentative Map application, together with the required filing fee. The waiver request shall be processed and acted upon concurrently with the Tentative Map application. The Review Authority may grant a requested waiver if:
 1. The proposed Tentative Map satisfies all findings required for approval by Section 22.84.060 (Findings for Approval of Tentative Map); and
 2. The proposed subdivision complies with all applicable requirements of this Development Code and the Map Act as to lot area, improvement and design, drainage, flood control, appropriate improved public roads, sanitary disposal facilities, water supply availability, and environmental protection.
- C. **Expiration of waiver.** An approved waiver of a Parcel Map shall be subject to the same time limits and opportunities for extension of time as the accompanying Tentative Map, in compliance with Sections 22.84.130 (Expiration of Approved Tentative Map) and 22.84.140 (Extensions of Time for Tentative Maps), and Subsection D following (Completion of Subdivision).

D. Completion of subdivision. A subdivision for which a Parcel Map has been waived shall be completed by the subdivider satisfying all conditions of approval, and by then filing and obtaining approval of a certificate of completion in compliance with this Section.

1. Preparation and filing of certificate. The subdivider shall submit an application for a certificate of completion to the County Surveyor for review and approval, including the following information:

- a. A diagram or exhibit illustrating the configuration and dimensions of the parcels described in the legal descriptions submitted with the certificate of completion;
- b. A statement signed by the subdivider under penalty of perjury that no change in the ownership of the subject property has occurred since the submittal of the title report with the Tentative Map application. If a change in ownership has occurred, the subdivider shall submit a new title report issued within 60 days before the filing of the certificate of completion application;
- c. A statement by a registered civil engineer, licensed land surveyor, or title company verifying that any required access easements extend to a publicly maintained road;
- d. A certificate of completion in the form required by the County Surveyor, prepared for recording, including:
 - (1) A list of all requirements imposed as conditions of approval of the Tentative Map, including any requirements for the construction of off-site and on-site improvements;
 - (2) A statement signed by the owner under penalty of perjury attesting that all of the conditions of approval of the Tentative Map have been met or provided for under the terms of an acceptable subdivision agreement secured by appropriate surety as prescribed by the Map Act;
 - (3) A legal description of each parcel created in substantial conformance with the approved Tentative Map, prepared by a registered civil engineer or licensed land surveyor; and
- e. Any required recordation fees.

2. Review and approval of certificate. The County Surveyor shall review, approve or deny, and complete the processing of a certificate of completion by examining the materials submitted and performing other investigations as necessary to ensure that the following requirements are satisfied:

- a. All record title owners have consented to the subdivision.
- b. The certificate of completion accurately describes the conditions of approval, and that the conditions of approval have been satisfactorily completed.
- c. The legal descriptions on the certificate are accurate, and are in substantial conformance with the approved Tentative Map.

If the County Surveyor is satisfied that the certificate of completion and materials submitted with it comply with the above requirements, the County Surveyor shall place an endorsed approval upon the face of the certificate and shall forward it to the County Recorder. Upon recording, the subdivision shall be deemed completed, and the parcels created by the subdivision may be conveyed or otherwise transferred.

22.86.040 – Parcel Map Review and Approval

A Parcel Map shall be reviewed and approved as follows, in compliance with Map Act Sections 66463 et seq. A Parcel Map for which no Tentative Map was required by Section 22.80.030 (Applicability) shall also comply with Section 22.84.060 (Findings for Approval or Denial of Tentative Maps).

- A. Transmittal to, and certification by Director.** Within three days of the filing of a Parcel Map in compliance with Section 22.86.020.D (Parcel and Final Map Application Filing and Processing - Filing with County Surveyor) the County Surveyor shall transmit the Parcel Map and accompanying materials to the Director. The Director shall sign the Parcel Map and return it to the County Surveyor, or notify the Surveyor that the map is incorrect.
- B. County Surveyor approval and certification.** Where the Director and County Surveyor have determined that the Parcel Map is correct, the County Surveyor shall sign and seal the Parcel Map and shall forward the map to the County Recorder; provided that the Board has executed any required improvement agreement in compliance with Section 22.100.060 (Improvement Agreements and Security). The recording fee shall be paid to the County Recorder by the subdivider.
- C. Denial of map:**
 - 1. Criteria for denial.** A Parcel Map shall be denied only for failure to meet or perform requirements or conditions that were applicable to the subdivision at the time of approval of the Tentative Map. This Section shall not be construed to require denial of a map when the failure of the map is the result of a technical or inadvertent error which in the opinion of the County Surveyor does not materially affect the validity of the map.
 - 2. Notification of subdivider.** If the map has not been certified as correct by the Director or County Surveyor, the Surveyor shall return the Parcel Map and accompanying materials to the subdivider within three days after a response from the Director. If the Parcel Map does not conform as required above, the subdivider shall be notified, and given the opportunity to make necessary changes and resubmit the Parcel Map, together with all required data.

22.86.050 – Final Map Review and Approval

Final Maps shall be reviewed, and approved or denied in compliance with this Section, and Map Act Sections 66456 et seq.

- A. Certifications.** After determining that the Final Map is technically correct in compliance with Section 22.86.020 (Parcel and Final Map Application Filing and Processing), the Director shall sign the map, and the County Surveyor shall execute the County Surveyor's certificate on the map in compliance with Map Act Section 66442, and shall forward the Final Map to the Board for action.

- B. Review and approval by Board.** The Board shall approve or deny the Final Map at its next regular meeting after the County Clerk receives the map, but in no event longer than 50 days after the County Surveyor receives the Final Map from the subdivider, unless that time limit is extended with the mutual consent of the County Surveyor and the subdivider.
- 1. Criteria for approval.** The Board shall approve the Final Map by resolution if it conforms to all provisions of this Development Code, and all the requirements of the Map Act that were applicable at the time that the Tentative Map was approved, and is in substantial compliance with the approved Tentative Map.
 - 2. Waiver of errors.** The Board may approve a Final Map that fails to meet any of the requirements of this Development Code or the Map Act applicable at the time of approval of the Tentative Map, when the Board finds that the failure of the map is a technical or inadvertent error which, in the determination of the Board does not materially affect the validity of the map.
 - 3. Approval by inaction.** If the Board does not approve or deny the map within the prescribed time or any authorized extension, and the map conforms to all applicable requirements and rulings, it shall be deemed approved, and the County Clerk shall certify its approval on the map.
- C. Map with dedications.** If a dedication or offer of dedication is required on the Final Map, the Board shall accept, accept subject to improvement, or reject with or without prejudice any or all offers of dedication, at the same time as it takes action to approve the Final Map.
- D. Map with incomplete improvements.** If improvements required by this Development Code, conditions of approval or by law have not been completed at the time of approval of the Final Map, the Board shall require the subdivider to enter into an agreement with the County as specified in Map Act Section 66462, and Section 22.100.060 (Improvement Agreements and Security), as a condition precedent to the approval of the Final Map.
- E. Transmittal to Recorder.** After action by the Board, and after the required signatures and seals have been affixed, the County Clerk shall forward the Final Map to County Recorder for filing.

22.86.060 – Supplemental Information Sheets

In addition to the information required to be included in Section 22.86.020 (Parcel and Final Map Application Filing and Processing) additional information may be required to be submitted and recorded simultaneously with a Parcel or Final Map as required by this Section.

- A. Preparation and form.** The additional information required by this Section shall be presented in the form of additional map sheets, unless the Director determines that the type of information required would be more clearly and understandably presented in the form of a report or other document. The additional map sheet or sheets shall be prepared in the same manner and in substantially the same form as required for Parcel Maps by Section 22.86.020 (Parcel Map Filing and Initial Processing).

- B. Content of information sheets.** Supplemental information sheets shall contain the following statements and information:
- 1. Title.** A title, including the number assigned to the accompanying Parcel or Final Map by the County Surveyor, and the words "Supplemental Information Sheet;"
 - 2. Explanatory statement.** A statement following the title that the supplemental information sheet is recorded along with the subject Parcel or Final Map, and that the additional information being recorded with the Parcel or Final Map is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title interest;
 - 3. Location map.** A location map, at a scale not to exceed one inch equals 2,000 feet. The map shall indicate the location of the subdivision within the County;
 - 4. Areas subject to flooding.** Identification of all lands within the subdivision subject to periodic inundation by water;
 - 5. Soils or geologic hazards reports.** When a soils report or geological hazard report has been prepared, the existence of the report shall be noted on the information sheet, together with the date of the report and the name of the engineer making the report; and
 - 6. Information required by conditions of approval.** Any information required by the Review Authority to be included on the supplemental information sheet(s) because of its importance to potential successors in interest to the property.

22.86.070 – Recordation of Maps

- A. Consent of interested parties.** At the time of filing of a Parcel or Final Map with the County Recorder, the subdivider shall present to the County Recorder evidence that, at the time of filing the map, the parties consenting to the filing are all parties having vested fee interest in the property being subdivided and are parties required to sign the certificate described in Map Act Section 66445.e.
- B. County Recorder action.** The County Recorder shall review and act upon Parcel and Final Maps filed with that office in compliance with Article 6, Chapter 3 of the Map Act and other applicable provisions of State law.
- C. Effect of recorded map.** When a properly endorsed Parcel or Final Map has been filed for record, the subdivision or reversion to acreage shall be deemed complete, and the new parcels may be conveyed or otherwise transferred. The recordation of the map shall have the effect of eliminating any lot lines that existed within the boundaries of the subdivision before approval of the Tentative Map.

22.86.080 – Corrections and Amendments to Recorded Maps

A recorded Parcel or Final Map shall be modified to correct errors in the recorded map or to change characteristics of the approved subdivision only in compliance with this Section.

- A. Corrections.** In the event that errors in a Parcel or Final Map are discovered after recordation, or that other corrections are necessary, the corrections may be accomplished by either the filing

of a certificate of correction or an amending map, as provided by Article 7, Chapter 3 of the Map Act. For the purposes of this Section, "errors" include errors in course or distance (but not changes in courses or distances from which an error is not evident from the Parcel or Final Map), omission of any course or distance, errors in legal descriptions, or any other map error or omission as approved by the County Surveyor that does not affect any property right, including lot numbers, acreage, street names, and identification of adjacent record maps. Other corrections may include indicating monuments set by engineers or surveyors other than the one that was responsible for setting monuments, or showing the proper character or location of any monument that was incorrectly shown, or that has been changed.

- B. Changes to approved subdivision.** In the event that a subdivider wishes to change the characteristics of an approved subdivision, including the number or configuration of parcels, location of streets or easements, or the nature of required improvements, the construction of which has been deferred through the approval of an agreement in compliance with Section 22.100.060 (Improvement Agreements and Security), a new Tentative and Parcel or Final Map shall be filed and approved as required by Section 22.80.030 (Applicability). Changes to additional information required to be filed or recorded with the Parcel or Final Map, such as building setback lines, may be processed through the Tentative Map Waiver procedure in Section 22.84.035 (Tentative Map Waiver).

CHAPTER 22.88 – CONDOMINIUMS AND CONDOMINIUM CONVERSIONS

Sections:

- 22.88.010 – Purpose of Chapter
- 22.88.020 – Condominiums
- 22.88.030 – Condominium Conversions

22.88.010 – Purpose of Chapter

This Chapter provides procedures for the creation of condominium subdivisions and the conversion of existing development to condominium, consistent with the policies of the Marin Countywide Plan and the requirements of the Map Act.

22.88.020 – Condominiums

When a residential structure is proposed at the time of construction as a condominium or other common interest development (including a community apartment project, planned development or stock cooperative, as provided by California Civil Code Section 1351), a Tentative Map for the project shall be filed in the same form, have the same contents and accompanying data and reports and shall be processed, approved or denied in the same manner in compliance with Chapter 22.84 (Tentative Maps). Chapter 22.86 (Parcel Maps and Final Maps) determines whether a Parcel or Final Map shall also be filed.

22.88.030 – Condominium Conversions

A condominium conversion is the conversion of real property to a common interest development as defined by Section 1351 of the California Civil Code. A conversion shall require the approval of a Tentative Map, and Parcel or Final Map, except where a Parcel Map, or Tentative and Final Map are waived in compliance with Map Act Sections 66428.b or 66428.1. If a Parcel Map is waived, a Tentative Map shall still be required.

A Tentative Map for a condominium conversion shall be filed in the same form, have the same contents and accompanying data and reports and shall be processed, approved or denied in the same manner in compliance with Chapter 22.84 (Tentative Maps), with the following exceptions.

- A. Application contents.** Condominium conversion applications shall include the same information and materials as Tentative Map applications, and the additional information and other materials prepared as required by the Condominium Conversion Application Contents instruction list, provided by the Agency.
- B. Staff report.** The staff report on the Tentative Map for the condominium conversion (Section 22.40.070 (Staff Report and Recommendations)) shall be provided to the subdivider and each tenant of the subject property at least three days before any hearing or action on the Tentative Map by the review authority.

C. Public notice. The following notice shall be provided in addition to that required by Chapter 22.118 (Notices, Public Hearings, and Administrative Actions):

- 1. Tenant notice.** The subdivider shall give notice to all existing or prospective tenants in compliance with Map Act Sections 66452.8 and 66452.9, and shall provide the Agency satisfactory proof that notice was given; and
- 2. Public hearing notice.** Notice of the public hearing(s) on the Tentative Map shall be provided to all tenants of the subject property, as required by Map Act Section 66451.3.

D. Approval of conversion, required findings:

- 1. Time limit, stock cooperatives.** The approval or denial of the conversion of an existing building to a stock cooperative shall occur within 120 days of the application being found complete in compliance with Section 22.40.050 (Initial Application Review). The 120-day time limit may be extended by mutual consent of the subdivider and the County.
- 2. Conversion findings, residential projects.** Approval of a Tentative or Final Map for a subdivision to be created from the conversion of residential real property into a condominium project, community apartment project or stock cooperative shall not be granted unless the findings set forth in Map Act Section 66427.1 are first made, and unless the review authority also finds that the proposed conversion will not:
 - a. Reduce the countywide rental vacancy rate below five percent based on the most recent American Communities Survey data for Marin County; and
 - b. Reduce the ratio of multi-family rental units to less than 25% of the total number of dwelling units in the County, with no replacement rental housing being provided.

In addition to the findings required for approval of a Tentative Map as set forth in this Title, the following findings shall be required for the approval of a Tentative Map for the conversion of residential property:

- c. The review authority shall determine whether the proposed conversion is consistent with the following adopted housing goals:
 - (1) To encourage continuation of social and economic diversity in Marin County communities through a variety of housing types;
 - (2) To expand the supply of decent housing for low and moderate income families;
 - (3) To achieve greater economic balance for Marin by increasing the number of jobs and the supply of housing for people who will hold them.
- d. The review authority may establish reasonable requirements to insure that a percentage of the converted units will be reserved for persons of moderate income. The percentage shall conform to that normally required in new developments.
- e. The review authority shall determine whether the staff report, if any, for a proposed Tentative Map for a condominium conversion has been served on each tenant of the

subject property at least three days prior to any hearing or action on such map by the Commission or Director.

- f. The review authority shall deny the Tentative Map upon finding that:
 - (1) The proposed conversion would reduce the countywide rental vacancy rate below five percent based on the most recent U.S. government postal vacancy survey or county local survey; or
 - (2) The proposed conversion would reduce the ratio of multiple-family units to less than 25 percent of the total number of dwelling units in the county, with no replacement rental housing being provided.

E. Completion of conversion. The filing, approval and recordation of a Parcel Map or Final Map in compliance with Chapter 22.86 (Parcel Maps and Final Maps) shall be required to complete the subdivision process, except where a Parcel Map, or Tentative and Final Map are waived for the conversion of a mobile home park in compliance with Map Act Section 66428.b.

CHAPTER 22.90 – LOT LINE ADJUSTMENTS

Sections:

- 22.90.010 – Purpose of Chapter
- 22.90.020 – Applicability
- 22.90.030 – Adjustment Application and Processing
- 22.90.040 – Decision and Findings
- 22.90.050 – Completion of Adjustment

22.90.010 – Purpose of Chapter

This Chapter provides procedures for the preparation, filing, processing, and approval or denial of Lot Line Adjustment applications, consistent with the policies of the Marin Countywide Plan and the requirements of Map Act Section 66412.d.

22.90.020 – Applicability

As provided by Map Act Section 66412(d), the Lot Line Adjustment procedure is for the purpose of adjusting lot lines between two to four existing adjacent parcels, where land taken from one parcel is added to an adjacent parcel and where no more parcels are created than originally existed. For the purposes of this Chapter, an "adjacent parcel" is one that directly touches at least one of the other parcels involved in the adjustment. Lot line adjustments involving five or more adjacent parcels shall be subject to the requirements of Chapter 22.84 (Tentative Maps).

22.90.030 – Adjustment Application and Processing

A Lot Line Adjustment application shall be prepared, filed and processed as provided by this Section.

- A. Application content.** A Lot Line Adjustment application shall include all information and other materials prepared as required by the Application Submittal Guide provided by the Agency. If a lot was created prior to current subdivision map requirements, a Certificate of Compliance (Chapter 22.96 (Certificates of Compliance)) may be required to document that the parcel is a legal lot of record.
- B. Processing.** Lot Line Adjustment applications shall be submitted to the Agency and shall be processed in compliance with the procedures specified by Chapter 22.40 (Application Filing and Processing). No environmental review (Section 22.40.060, Environmental Review) shall be required, in compliance with Section 15305 of the CEQA Guidelines.

22.90.040 – Decisions and Findings

The Review Authority shall determine whether the parcels resulting from the adjustment will conform with the applicable provisions of this Development Code. The Review Authority may approve, conditionally approve, or deny the Lot Line Adjustment in compliance with this Section. Decisions may be appealed in compliance with Chapter 22.114 (Appeals).

- A. Required findings.** The Review Authority shall approve the Lot Line Adjustment only if all of the following findings are made:
1. The proposed lot line adjustment is limited to four or fewer existing adjoining lots.
 2. Each of the affected lots is a separate legal lot of record because it was created in compliance with the applicable subdivision regulations in effect at the time of its creation.
 3. The proposed lot line adjustment would not result in the creation of additional parcels or additional potential building sites.
 4. The proposed lot line adjustment would comply with policies of the Countywide Plan, and any applicable community plan, and the Local Coastal Program (if applicable).
 5. The proposed lot line adjustment would comply with zoning, development, and relevant subdivision provisions of Titles 18, 20, 22 and 24 of the Marin County Code, including those which address minimum lot size, lot design and configuration, street frontage and building setbacks from all property lines.

An adjustment for which any of the above findings cannot be made may instead be resubmitted as a subdivision in compliance with Section 22.80.030 (applicability).

- B. Conditions of approval.** In approving a Lot Line Adjustment, the Review Authority shall adopt conditions only as necessary to conform the adjustment and proposed parcels to the requirements of this Development Code and Title 19 (Building Regulations) of the County Code, or to facilitate the relocation of existing utilities, infrastructure, or easements.

22.90.050 – Completion of Adjustment

Within three years after approval of a Lot Line Adjustment, the adjustment process shall be completed in compliance with this Section through the recordation of a deed or record of survey, after all conditions of approval have been satisfied.

- A. Completion by deed.** A Lot Line Adjustment shall not be considered legally completed until either a grant deed or a quit claim deed signed by the record owners has been recorded. The Applicant shall submit deeds to the County Surveyor for review and approval in compliance with Subsection C below (Review and Approval by County Surveyor), before recordation of the grant deed or quit claim deed. The legal descriptions provided in the deeds shall be prepared by a qualified registered civil engineer, or a licensed land surveyor licensed or registered in the State. The Director may record a Certificate of Compliance to confirm the legality of the lot concurrent with, or following the recordation of, the grant deed or quit claim deed.
- B. Completion by record of survey.** If required by Section 8762 et seq. of the Business and Professions Code, a Lot Line Adjustment shall not be considered legally completed until a record of survey has been checked by the County Surveyor and sent to the County Recorder for recordation. Where not required, a Lot Line Adjustment may also be completed by record of survey in compliance with this Subsection at the option of the Applicant.

- C. Review and approval by County Surveyor.** The County Surveyor shall:
1. Examine the deeds to ensure that all record title owners have consented to the adjustment;
 2. Verify that all conditions of approval have been satisfactorily completed and that the deeds are in substantial compliance with the Lot Line Adjustment as approved by the Review Authority;
 3. If satisfied that the deeds comply with the above requirements, place an endorsed approval upon the deeds; and
 4. After approval of the legal descriptions, assemble the deeds and return them to the Applicant for recordation.
- D. Expiration.** The approval of a Lot Line Adjustment shall expire and become void if the adjustment has not been completed as required by this Section within three years of approval. An extension of up to three additional years may be granted by the Review Authority in compliance with the requirements of Sections 22.84.140.A..

Lot Line Adjustments

MARIN COUNTY CODE – TITLE 22, DEVELOPMENT CODE

22.90.050

CHAPTER 22.92 – MERGER OF PARCELS

Sections:

- 22.92.010 – Purpose of Chapter
- 22.92.020 – Requirements for Merger
- 22.92.030 – Effective Date of Merger
- 22.92.040 – Notice of Intent to Determine Status
- 22.92.050 – Criteria for Unmerger
- 22.92.060 – Determination of Unmerger

22.92.010 – Purpose of Chapter

This Chapter provides procedures for the merger of parcels in compliance with Map Act Sections 66451.11 et seq. The County had a merger ordinance in existence before January 1, 1984.

Where applicable, merger is required to consolidate contiguous parcels in common ownership which were created prior to modern subdivision requirements, and are substandard with respect to current County subdivision standards, including lot area, size, configuration, slope, and/or infrastructure.

22.92.020 – Requirements for Merger

On or after January 1, 1984, when any one of two or more contiguous parcels or units of land, which are held by the same owner or owners, does not conform to the minimum lot area requirements of the applicable zoning district or the minimum lot area requirements based on lot slope (Section 22.82.050 – Hillside Subdivision Design), the contiguous parcels shall merge if required by Subsection A of this Section (Merger Required), except where otherwise provided by Subsection B of this Section (Exemptions from Merger Requirements). Such mergers may be initiated either by the County or by the property owner.

- A. Merger required.** Contiguous, nonconforming parcels held by the same owner or owners shall merge if both of the following requirements are satisfied:
1. At least one of the affected parcels is undeveloped by any structure for which a Building Permit was issued or for which a Building Permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit of land; and
 2. With respect to any affected parcel, one or more of the following conditions exist:
 - a. Comprises less than 5,000 square feet in area at the time of the determination of merger;
 - b. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation;
 - c. Does not meet current standards for sewage disposal in Title 18 (Sewers) of the County Code;

- d. Does not meet current standards for domestic water supply in Title 7 (Health and Sanitation) of the County Code;
- e. Does not meet slope stability standards. A parcel will be deemed to not meet slope stability standards if more than 50 percent of its gross area is located within slope stability zone 3 or 4 as shown on the latest slope stability maps on file with the Agency;
- f. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability. The standards of access shall be those contained in Title 24 (Improvement and Construction Standards) of the County Code;
- g. Its development would create health or safety hazards; or
- h. Is inconsistent with the Marin Countywide Plan, the Local Coastal Plan or any applicable Community Plan or Specific Plan, other than minimum lot size or density standards.

For purposes of determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that the Notice of Intent to Determine Status is recorded in compliance with Section 22.92.040 (Notice of Intent to Determine Status).

B. Exemptions from merger requirements. Except as provided in Subsection A above, contiguous nonconforming parcels shall not be required to merge if on or before July 1, 1981, one or more of the contiguous parcels or units of land was:

- 1. Enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code;
- 2. Timberland as defined in Government Code Section 51100.f, or is land devoted to an agricultural use as defined in Government Code Section 51201.b;
- 3. Located within 2,000 feet of the site of an existing commercial mineral resource extraction use, whether or not the extraction was in compliance with a Use Permit issued by the County;
- 4. Located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a Use Permit or other permit authorizing commercial mineral resource extraction had been issued by the County.
- 5. Within the Coastal Zone, and had been identified or designated as being of insufficient size to support residential development and where the identification or designation had either:
 - (a) Been included in the Land Use Plan portion of the County's Local Coastal Program; or
 - (b) Before adoption of the Land Use Plan by formal action of the California Coastal Commission has been made in compliance with the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan in compliance with the provisions of the California Coastal Act is based.

- C. Owner-Requested Merger.** Upon written request from the property owner, the Director shall merge two or more contiguous parcels or units of land that do not meet the requirements contained in Section 22.92.020 (Requirements for Merger). The County does not have the authority to unilaterally merge parcels unless they meet the requirements contained in Section 22.92.020 (Requirements for Mergers). Notwithstanding the criteria for non-merger or unmerger, units of real property that are merged through application of this subsection shall not be subsequently unmerged.
- D. Merger due to cessation of agricultural housing.** The conditions of approval for a subdivision as allowed by Government Code Section 51230.2 shall require that all conditions of that Section be implemented.

22.92.030 – Effective Date of Merger

A merger of units of real property becomes effective on the date the Director files a Notice of Merger for record with the County Recorder. A Notice of Merger shall specify the names of the record owners and describe the real property that has merged.

22.92.040 – Notice of Intent to Determine Status

The filing of a Notice of Intent to Determine Status, and a hearing and decision on the status of contiguous parcels with respect to merger shall occur as follows.

- A. Timing and content of notice.** Before recording a Notice of Merger, the Director shall cause to be mailed by certified mail to then current record owners of the property a Notice of Intention to Determine Status, notifying the owners that the affected parcels may be merged in compliance with the requirements of this Chapter, and advising the owners of the opportunity to request a hearing on determination of status and to present evidence at the hearing that the property does not meet the criteria for merger. The notice shall also inform the owners that the Commission, Zoning Administrator, or Director is authorized to make a determination of merger or non-merger in compliance with Section 22.92.020 (Requirements for Merger) based on the information available from County records, in the event that a request for hearing is not filed within 30 days of the date of the notice. The Notice of Intention to Determine Status shall be filed for record with the County Recorder on the date that the notice is mailed to the property owner.
- B. Request for hearing.** At any time within 30 days after recording of the Notice of Intention to Determine Status, the owner of the affected property may file a request for a hearing on determination of status with the Director.
- C. Determination of review authority.** When a property owner files a request for a hearing on determination of status, the Zoning Administrator shall conduct the hearing, except that when the Director determines that significant policy questions are at issue, the Director may refer the determination of merger to the Commission for action.
- D. Procedure for hearing:**
1. Upon receiving a request for a hearing on determination of status, the Director shall set a time, date, and place for a hearing to be conducted by the applicable review authority and shall notify the property owner by certified mail.

2. The hearing shall be conducted no less than 60 days after the Director's receipt of the request for hearing, but may be postponed or continued with the mutual consent of the Director and the property owner. At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the standards for merger specified in this Chapter. At the conclusion of the hearing, the review authority shall make a determination that the affected parcels are to be merged or are not to be merged and shall so notify the owner of its determination. A determination of merger shall be recorded within 30 days after conclusion of the hearing, in compliance with Section 22.92.030 (Effective Date of Merger).

E. Determination when no hearing is requested. If the owner does not file a request for hearing on determination of status within 30 days of the recording of the Notice of Intent to Determine Status, the Director may make a determination that the affected parcels are to be merged or are not to be merged. A determination of merger shall be recorded in compliance with Section 22.92.030 no later than 90 days after the recording of the Notice of Intent to Determine Status.

F. Non-merger. A determination of non-merger shall occur as follows:

1. **Action and findings.** The review authority may make a determination of non-merger whether or not the affected property meets the standards of Sections 22.92.020 (Requirements for Merger) or 22.92.050 (Criteria for Unmerger), provided the following findings are made:
 - a. The parcels were created by a record of survey or Parcel or Final Map in accordance with the provisions of the County Code in effect at the time of their creation.
 - b. The unmerger and subsequent development of the individual parcels would not be contrary to the public health, safety or welfare. In making this finding, the review authority shall consider the factors in Section 22.122.050 (Legal Remedies - Development Permits and Approvals Withheld).
2. **Notice of non-merger.** If the review authority determines that the subject property shall not be merged in compliance with Subsections D, E, or F above (Procedure for Hearing, Determination When No Hearing is Requested, and Non-merger, respectively), it shall cause a Release of the Notice of Intention to Determine Status to be recorded in the manner specified in Section 22.92.040 (Notice of Intent to Determine Status), and shall mail a clearance letter to the current record owner.

22.92.050 – Criteria for Unmerger

Any parcels or units of land for which a Notice of Merger had not been recorded on or before January 1, 1984, shall be deemed not to have merged if on January 1, 1984:

A. The parcel met each of the following criteria:

1. Comprised at least 5,000 square feet in area;
2. Was created in compliance with applicable laws and ordinances in effect at the time of its creation;
3. Met current standards for sewage disposal under Title 18 (Sewers) of the County Code;

4. Met current standards for domestic water supply under Title 7 (Health and Sanitation) of the County Code;
5. Met the lot slope density standards of Section 22.82.050 (Hillside Subdivision Design);
6. Had legal access adequate for vehicular and safety equipment access and maneuverability, in compliance with Title 24 of the County Code;
7. Development of parcel would create no health or safety hazards;
8. The parcel would be consistent with the Marin Countywide Plan, the Local Coastal Plan or any applicable Community Plan or Specific Plan, other than a minimum lot size or density standards; and

B. None of the contiguous parcels or units of land on or before July 1, 1981 were:

1. Enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code;
2. Timberland as defined in Section 51100.f of the Government Code, or was land devoted to an agricultural use as defined in Section 51201.b of the Government Code;
3. Located within 2,000 feet of the site of an existing commercial mineral resource extraction use, whether or not the extraction was occurring in compliance with a Use Permit issued by the County;
4. Located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a Use Permit or other permit authorizing commercial mineral resource extraction had been issued by the County; and
5. Within the Coastal Zone, and had been identified or designated as being of insufficient size to support residential development and where the identification or designation had either:
 - a. Been included in the Land Use Plan portion of the County's Local Coastal Program; or
 - b. Before the adoption of the Land Use Plan, been made by formal action of the California Coastal Commission in compliance with the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan in compliance with the provisions of the California Coastal Act is based.

22.92.060 – Determination of Unmerger

A property owner may request, and the review authority shall make a determination whether affected parcels have merged, as follows:

- A. Application.** An application for Determination of Unmerger shall include the forms, other application materials, and fees required by the Agency.
- B. Review authority.** When a property owner files an application for determination of an unmerger, the Zoning Administrator shall conduct the public hearing, except when the Director determines that significant policy questions are at issue, the Director may refer the determination of unmerger to the Commission for action. The Zoning Administrator shall provide 30 days written notice to the owner of the affected parcels of the date and place of the hearing or decision on the determination of merger.
- C. Decision.** The review authority shall make a determination that the affected parcels have merged or, if meeting the criteria of Section 22.92.050 (Criteria for Unmerger), are deemed not to have merged.
- D. Notification to owner.** The owner of the affected parcels shall be notified as follows:
 - 1. Upon a determination that the parcels meet the standards specified in Section 22.92.050 (Criteria for Unmerger), the Director shall issue to the owner and record with the County Recorder a Notice of the Status of the Parcels, which shall identify each parcel and declare that the parcels are unmerged in compliance with this Chapter.
 - 2. Upon a determination that the parcels have merged and do not meet the criteria specified in Section 22.92.050 (Criteria for Unmerger), the Director shall issue to the owner and record with the County Recorder, a Notice of Merger, in compliance with Section 22.92.030 (Effective Date of Merger) unless a prior notice of merger has been recorded.

CHAPTER 22.94 – REVERSIONS TO ACREAGE

Sections:

- 22.94.010 – Purpose of Chapter
- 22.94.020 – Applicability
- 22.94.030 – Application Filing and Processing
- 22.94.040 – Findings for Approval of Reversions
- 22.94.050 – Conditions of Approval for Reversions
- 22.94.060 – Parcel or Final Map Contents

22.94.010 – Purpose of Chapter

This Chapter provides procedures for the process of reversion to acreage, where subdivided real property may be reverted from multiple parcels to a single parcel, consistent with the policies of the Marin Countywide Plan and the requirements of the Map Act. Reversion to acreage may be used to combine subdivision lots which do not meet the requirements for merger.

22.94.020 – Applicability

Subdivided real property may be reverted to acreage as provided by this Chapter and by Map Act Chapter 6, Article 1.

22.94.030 – Application Filing and Processing

Applications for reversion to acreage shall be filed and processed as follows:

- A. Application information – Streets and easements.** The application for reversion shall include evidence of non-use of or lack of necessity for any streets or easements that are to be vacated or abandoned, in addition to the information required by Section 22.40.030 (Application Submittal and Filing).
- B. Filing and processing.** The application shall be prepared, filed, and initially processed as provided by Chapter 22.40 (Application Filing and Processing, Fees), except that no environmental review of a reversion to acreage shall be required, as provided by Section 15305 of the CEQA Guidelines.
- C. Transmittal.** In addition to the procedures outlined in Chapter 22.40 (Application Filing and Processing, Fees), a reversion to acreage shall be referred to the agencies outlined in Section 22.84.030.B (Transmittal to affected agencies).
- D. Completion of process.** A reversion to acreage shall require approval of a Parcel or Final Map, with the procedure the same as that required by Chapter 22.86 (Parcel Maps and Final Maps), except that a public hearing shall be held by the Board on the reversion to acreage before approval or denial of the Final Map.

22.94.040 – Findings for Approval of Reversions

Subdivided property may be reverted to acreage only if the following findings, in addition to determining compliance with Section 22.86.050.B.1 (Criteria for Approval) can be satisfied:

- A. Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes; and either,
- B. All owners of an interest in the real property within the subdivision have consented to reversion; or
- C. None of the improvements required to be made have been made within two years from the date the Parcel or Final Map was filed for record, or within the time allowed by an agreement for completion of the improvements, whichever is the later; or
- D. No lots shown on the Parcel or Final Map have been sold within five years from the date the map was filed for record.

22.94.050 – Conditions of Approval for Reversions

As conditions of reversion, the following shall be required:

- A. Dedications or offers of dedication necessary for the purposes specified by Chapters 22.82 (Subdivision Design Standards) and 22.100 (Subdivision Improvements and Agreements).
- B. Retention of all previously paid fees and/or any portion of required improvement security or deposits if necessary to accomplish the purposes of the Map Act or this Development Code.

22.94.060 – Parcel or Final Map Contents

In addition to the information specified by Section 22.86.020 (Parcel and Final Map Application Filing and Processing), the Final or Parcel Map for a reversion to acreage shall also delineate dedications that will not be vacated and dedications that are a condition of reversion.

CHAPTER 22.96 – CERTIFICATES OF COMPLIANCE

Sections:

- 22.96.010 – Purpose of Chapter
- 22.96.020 – Applicability
- 22.96.030 – Application Filing and Processing
- 22.96.040 – Review and Approval

22.96.010 – Purpose of Chapter

This Chapter provides procedures for the filing, processing, and approval or denial of Certificates of Compliance and Conditional Certificates of Compliance, consistent with the policies of the Marin Countywide Plan and the requirements of the Map Act.

22.96.020 – Applicability

A Certificate of Compliance is a document recorded by the County Recorder, which acknowledges that the subject parcel, which was typically created prior to current subdivision map requirements, is considered by the County to be a legal lot of record. A Conditional Certificate of Compliance is used instead of a Certificate of Compliance to validate a parcel that was not legally subdivided.

Section 66499.35 of the Map Act requires the approval of these certificates. Any person owning real property, or a purchaser of the property in a contract of sale of the property, may request a Certificate of Compliance or Conditional Certificate of Compliance. Contiguous parcels that have been granted Certificates of Compliance or Conditional Certificates of Compliance may still be subject to merger (see Chapter 22.92 (Merger of Parcels)).

22.96.030 – Application Filing and Processing

- A. Application information.** A Certificate of Compliance or Conditional Certificate of Compliance application shall include the form provided by the Agency, the required filing fee, and a chain of title, consisting of copies of all deeds beginning before the division and thereafter, unless the parcels were created through a recorded subdivision map.
- B. Processing.** Certificate of Compliance and Conditional Certificate of Compliance applications shall be submitted to the Agency and shall be processed in compliance with the procedures for ministerial planning permits specified by Chapter 22.40 (Application Filing and Processing, Fees). No environmental review (Section 22.40.060 (Environmental Review)) shall be required, in compliance with Section 15268.a of the CEQA Guidelines.

22.96.040 – Review and Approval

The processing, review and approval of the application shall occur as follows.

- A. Decision.** The Agency shall prepare a written analysis that will serve as the basis for action by the Review Authority. A single Certificate of Compliance determination shall be issued for each unit of real property determined to be a single legal lot of record. The analysis will:

1. Describe the history of the land division;
2. Determine whether the property was legally created by the division of real property;
3. Reference provisions of State law and County (or earlier County) ordinances applicable to the subdivision at the time the division in question occurred; and
4. Identify conditions of approval where appropriate.

B. Action by Review Authority. The Review Authority shall review all available information and make a determination whether the real property was divided in compliance with the Map Act, this Development Code, and other applicable provisions of the County Code.

1. Upon making the determination that the real property was divided in compliance with the Map Act, this Development Code or applicable previous Ordinances enacted pursuant to the Map Act, and other applicable provisions of the County Code, and was not subsequently merged with contiguous parcels, then the Review Authority shall issue a Certificate of Compliance Determination and cause a Certificate of Compliance to be filed with the County Recorder.
2. Parcels created by antiquated subdivisions may not be determined to be legal lots of record. Further, a parcel may not be determined to be a legal lot of record if it was merged with a contiguous unit of real property and remained merged pursuant to Map Act Section 66451.301.
3. Upon making a determination that the real property does not comply with the provisions of this Development Code or the Map Act, the Review Authority shall grant a Conditional Certificate of Compliance, imposing conditions as provided by Subsection C below (Conditions of Approval).

C. Conditions of approval. If the owners of the property for which a Conditional Certificate of Compliance is being issued are the original subdividers, the Review Authority may impose any conditions that would be applicable to a current subdivision, as provided by the Map Act and this Development Code, regardless of when the property was divided. If the owners had no responsibility for the subdivision that created the parcel, the Review Authority may only impose conditions that would have been applicable at the time the property was acquired by the current owners.

D. Appeal. The conditions imposed by the Review Authority may be appealed in compliance with Chapter 22.114 (Appeals).

E. Completion of process. The Agency shall file either a Certificate of Compliance or a Conditional Certificate of Compliance with the County Recorder. The certificate shall identify the property, and serve as notice to the property owner or purchaser who applied for the certificate, a grantee of the owner, or any subsequent transferee or assignee of the property that either the division complies with the provisions of the Map Act and this Development Code or the fulfillment and implementation of the conditions shall be required before subsequent issuance of a permit or other approval for the development of the property.

- F. Effective date of certificate.** A Conditional Certificate of Compliance or Conditional Certificate of Compliance shall not become effective until the document has been recorded by the County Recorder.

CHAPTER 22.98 – DEDICATIONS, RESERVATIONS, EASEMENTS

Sections:

- 22.98.010 – Purpose of Chapter
- 22.98.020 – Applicability – Required Dedications
- 22.98.030 – Easement Dedications
- 22.98.040 – Parkland Dedications and Fees
- 22.98.050 – Public Access Dedication and Improvement
- 22.98.060 – Reservations of Land
- 22.98.070 – Right-of-Way Dedications
- 22.98.080 – School Site Dedications

22.98.010 – Purpose of Chapter

This Chapter establishes standards for subdivider dedications of land or payment of fees in lieu thereof, in conjunction with subdivision approval, in compliance with the Map Act. These requirements are intended to preserve and enhance habitat, the natural environment, and scenic values of the County and the excellence of residential, commercial, or industrial development. The requirements of this Chapter are consistent with the policies of the Marin Countywide Plan.

22.98.020 – Applicability – Required Dedications

A proposed subdivision shall comply with the requirements of this Chapter for dedications, reservations, or the payment of in-lieu fees. The requirements of this Chapter shall not be construed to create an obligation for the County to maintain park or playground areas.

22.98.030 – Easement Dedications

Wherever the provisions of this Article result in requirements for the dedication of easements to the County for the purposes of common driveways, drainage, pedestrian walkways, bicycle or equestrian paths, slopes, public utilities, emergency access, limiting access to specific streets, or other purposes, the dedications shall comply with all applicable provisions of Title 24, Chapters 24.05 (Easements) and 24.06 (Reserved Strips) of the County Code.

22.98.040 – Parkland Dedications and Fees

- A. Purpose.** This Section provides for the dedication of land and/or the payment of in-lieu fees for park and recreational facilities, in compliance with Map Act Sections 66477, et seq., also known as the Quimby Act.

The primary intent of this Section is to provide land for functional recreation units of local or neighborhood service, including: tot lots, play lots, playgrounds, neighborhood parks, playfields, community or district parks, and other specialized recreational facilities that may serve families and senior citizen activities.

B. Applicability.

1. **Dedication and/or fee required.** The subdivider shall be required to dedicate land and/or pay fees in compliance with this Section, as a condition of Tentative Map approval.
2. **Exemptions.** The provisions of this Section do not apply to industrial or commercial subdivisions, condominium or stock cooperative projects that propose the subdivision of air space in an existing apartment building that is more than five years old when no new housing units are added, or to any other subdivisions exempted from these requirements by Map Act Section 66477.
3. **Determination of dedication and/or fee for non-County facilities.** Where park and recreational services are provided by a public agency other than the County, the amount and location of land to be dedicated or fees to be paid shall be jointly determined by the County and the public agency.

C. Amount of parkland required. In compliance with Map Act Section 66477.b, three acres of land for each 1,000 persons residing within the County shall be devoted to neighborhood and community park and recreational purposes.

D. Dedication requirement. Dedication shall be required where parks and recreation facilities are designated in the Marin Countywide Plan, Local Coastal Plan, or any Community Plan or Specific Plan, and are to be entirely or partly located within the proposed subdivision. In these cases, the subdivider shall dedicate land for a local park sufficient in size and topography that bears a reasonable relationship to serve the present and future needs of the future residents of the subdivision.

1. **Formula for dedication.** The amount of land to be provided shall be determined by the following formula:

$$\text{Required Acres of Parkland per Dwelling Unit} = 0.003 \text{ Acres per Person} \\ \times \text{Average Number of Persons per Household}$$

Example: A development project proposing 100 dwelling units in an area of the County where the type of dwelling units proposed typically contain an average of 2.4 persons per household, would be required to dedicate 0.0072 acres of land per dwelling (a total of 0.72 acres), or pay an in-lieu fee. (0.003 acres per person x 2.4 persons per dwelling = 0.0072 acres per dwelling) x (100 dwellings in project = 0.72 acres)

2. **Determining average number of persons per household.** The average number of persons per household shall be determined by the Director, using the most recent U.S. Census information regarding household size for Marin County.
3. **Determining number of dwellings.** For the purposes of this Section, the number of dwellings in the subdivision shall be determined as follows, and shall not include dwellings lawfully in place before the date the Tentative Map was approved:
 - a. In areas zoned for one dwelling per parcel, the number of dwellings shall equal the number of parcels shown on the Tentative Map.

- b. When a portion of the subdivision is zoned for multi-family housing, the number of proposed dwellings in the area so zoned shall equal the maximum number of dwellings allowed in that zoning district.
 - c. For residential condominiums, the number of dwellings shall be the number of condominium units shown on the Tentative Map.
- E. Quality requirements for land dedications.** Lands to be dedicated or reserved for park and/or recreational purposes shall, in the opinion of the Director and the Director of Parks and Recreation, be suitable in location, topography, environmental characteristics and development potential for the intended use. Principal consideration shall be given to lands that offer:
1. A variety of recreational opportunities for all age groups;
 2. Recreational opportunities located within walking distance from residents' homes;
 3. Possibility for expansion or connection with school grounds;
 4. Integration with hiking, riding, bicycle trails, waterways, and other open space;
 5. Coordination with other park systems; and
 6. Access to at least one existing or proposed public street.
- F. Improvements required for dedicated lands.** The subdivider shall provide the following improvements on lands to be dedicated in compliance with this Section, which shall not be counted toward the requirement for dedication, unless the Director waives such improvements:
1. Full street improvements and utility connections including curbs, gutters, street paving, traffic-control devices, street trees and sidewalks to the land that is dedicated. These improvements shall be provided in compliance with applicable Community Plans or Specific Plan unless the requirement for such improvements is waived by the Director.
 2. Fencing along the property lines of portions of the subdivision contiguous to the dedicated land;
 3. Improved drainage through the site; and
 4. Other improvements that the County determines to be essential to the acceptance of the land for recreational purposes.
- G. Fees in lieu of dedication.** The subdivider shall pay fees in lieu of dedication where there is no park or recreation facility designated in the Marin Countywide Plan, Local Coastal Plan, or applicable Community or Specific Plan to be located within or partly within the proposed subdivision, or the subdivision proposes 50 or fewer parcels. The required fee shall be as determined by the formula in Subsection G.1 following (Formula for Fees).
- 1. Formula for fees.** The amount of a required in-lieu fee shall be based upon the fair market value of land that would otherwise be required for dedication by Subsection D above (Dedication Requirement), plus 20 percent of the fair market value to be used to partially cover the costs of the off-site improvements that would otherwise have been required with dedication in compliance with Subsection F above (Improvements Required

for Dedicated Lands). The in-lieu fee shall be determined by the following formula as determined by the Director:

$$\text{Fee} = (\text{No. of Dwellings} \times \text{Acres of Parkland per Dwelling} \times \text{FMV per Buildable Acre}) \times 1.20$$

Where:

Acres of Parkland per Dwelling is determined by Subsection D above (Dedication Requirement).

FMV = Fair market value, as determined by Subsection G.2 below (Determination of Fair Market Value).

Buildable Acre = A typical acre of the subdivision, not subject to flooding, easements, excessive slope, or other restrictions.

Example: The development project proposing 100 dwelling units described in the example in Subsection D.1 (Dedication requirement) above, in area where appraisal determined that the fair market value of a buildable acre would be \$150,000, would be required to pay a fee of \$129,600. (100 dwellings x 0.0072 acres of parkland per dwelling x FMV of \$150,000 per acre x 1.20 = \$129,600)

2. **Determination of fair market value.** The County shall determine the fair market value of a buildable acre in the proposed project through a written appraisal prepared and signed by an appraiser acceptable to the County. The cost of the appraisal shall be paid by the subdivider. The appraisal shall be completed immediately before the filing of the Final Map.

The subdivider shall notify the County of the expected filing date at least six weeks before filing of the Final Map. If more than one year elapses before filing the Final Map, the County will prepare a new appraisal and will bill the subdivider for the cost of the reappraisal.

For the purposes of this Chapter, the determination of the fair market value of a buildable acre shall consider, but not necessarily be limited to, the following:

- a. Any conditions of the Tentative Map;
- b. The designations of the site by the Marin Countywide Plan, Local Coastal Plan or applicable Community or Specific Plan;
- c. The zoning district applicable to the site;
- d. Site location and characteristics; and
- e. Off-site improvements facilitating use of the property.

If the subdivider objects to the fair market value determined by the County, the subdivider may appeal the determination to the Board, who shall hear the appeal under the same current rules for local hearings by the California State Board of Equalization hearings, except that the burden of proof shall lie with the subdivider.

3. **Dedication in subdivisions of 50 or fewer parcels.** Nothing in this Section shall prohibit the dedication and acceptance of parkland in subdivisions of 50 or fewer parcels, where the subdivider proposes the dedication voluntarily and the land is acceptable to the County.
4. **Use of fees.** The in-lieu fees collected in compliance with this Section shall be used only for the purpose of acquiring necessary land and developing new parks, or rehabilitating existing park or recreational facilities.

H. Requirement for dedication and fees. In subdivisions of over 50 parcels, the subdivider shall both dedicate land and pay a fee, as follows.

1. When a portion of the land to be subdivided is proposed in the Marin Countywide Plan, Local Coastal Plan or Community Plan or Specific Plan as the site for a park or recreation facility, that portion shall be dedicated for local park purposes. The land to be dedicated shall be subject to the improvement requirements of Subsection F above (Improvements Required for Dedicated Lands). If additional land would have been required for dedication by Subsection D above (Dedication Requirement), a fee, computed in compliance with Subsection G above (Fees In-lieu of Dedication), shall also be paid for the value of any additional land, plus 20 percent toward the costs of off-site improvements.
2. When a major part of the local park or recreation site has already been acquired by the County or other local agency, and only a portion of the land is needed from the subdivision to complete the park site, the remaining portion shall be dedicated for local park purposes.

The subdivider shall also pay a fee in compliance with Subsection G above (Fees In-lieu of Dedication), in an amount equal to the value of the land, plus an additional 20 percent of the value of the land toward the costs of the off-site improvements that would otherwise have been required by Subsection F above (Improvements Required for Dedicated Lands) if the land had been dedicated. The County shall use the fees to improve the existing park and recreation facility, or to improve other local parks and recreation facilities in the area serving the subdivision.

I. Determination of land or fee. In determining whether to accept a land dedication or to require payment of an in-lieu fee, or a combination of both, the Board shall consult with the Commission and the Parks and Recreation Commission, and shall consider the following factors:

1. The natural features, access, and location of land in the subdivision available for dedication;
2. Size and shape of the subdivision and land available for dedication;
3. Feasibility of dedication;
4. Compatibility of dedication with the Marin Countywide Plan, Local Coastal Plan or any applicable Community Plan or Specific Plan.
5. The location of existing and proposed park sites and trailways.

The determination of the Board as to whether land shall be dedicated, or whether a fee shall be paid in lieu thereof, or a combination of both, shall be final.

- J. Credit for private open space.** Where a proposed subdivision will include private open space, the Board may reduce the area of land or the amount of fees required by this Section, provided that the Board finds that it is in the public interest to do so and that all of the following standards are met. The Board shall consult with the Commission and the Parks and Recreation Commission before determining the extent of any reduction in land to be dedicated or fees to be paid.
1. Any yards, court areas, setbacks, and other open areas required by this Development Code and Title 19 (Building Standards) of the County Code shall not be included in the computation of the private open space.
 2. The private park and recreation facilities shall be owned by a homeowners' association that is composed of all property owners in the subdivision. The homeowners' association shall be an incorporated nonprofit organization capable of dissolution only by a 100 percent affirmative vote of the membership, operated under recorded land agreements through which each lot owner is automatically a member, and each lot is subject to a charge or a proportionate share of expenses for maintaining the facilities.
 3. The use of the private open space is restricted for park and recreation purposes by recorded covenants which run with the land in favor of the future owners of the property and which cannot be defeated or eliminated without the consent of the County or its successor.
 4. The proposed private open space is reasonably adaptable for use for park and recreation purposes, taking into consideration factors including size, shape, topography, geology, access, and location.
 5. Facilities proposed for the open space are in substantial compliance with the provisions of the Marin Countywide Plan, the Local Coastal Plan, or any applicable Community or Specific Plan.
 6. Generally, the open space for which credit is given is a minimum of three acres and provides all of the following basic local park elements, or a combination of these and other recreation improvements, that will meet the specific recreation park needs of the future residents of the area:
 - a. Recreational open spaces, generally defined as park areas for active recreational activities (e.g., soccer, golf, baseball, softball, and football) and which have at least one acre of maintained turf with less than five percent slope);
 - b. Court areas, generally defined as tennis courts, badminton courts, shuffleboard courts, or similar hard-surfaced areas especially designed and exclusively used for court games;
 - c. Recreational swimming areas, generally defined as fenced areas devoted primarily to swimming, diving, or both, and which include decks, lawn area, bathhouses, or other facilities, developed and used exclusively for swimming and/or diving. Swimming facilities shall consist of no less than 15 square feet of water surface area for each three percent of the population of the subdivision; and
 - d. Recreation buildings and facilities designed and primarily used for the recreational needs of the residents of the subdivision.

7. The credit for private open space shall not exceed 50 percent of the required land dedication or payment of fees.

The determination of the Board as to whether credit shall be granted and the amount of that credit shall be final.

K. Procedure. At the time of approval of the Tentative Map, the Director and/or Commission shall determine the land required for dedication in compliance with Subsection D above (Dedication Requirement). At the time of the filing of the Parcel or Final Map in compliance with this Article, the subdivider shall:

1. Dedicate the land as required by the Director and/or Commission; and/or
2. Pay the required fees before recordation of the Parcel Map or Final Map.

L. Disposition of land or fees. Land or fees required in compliance with this Section shall be conveyed or paid directly to the local public agency which provides park and recreational services on a community wide level and to the area within which the proposed development will be located, if the agency elects to accept the land or fee. The County or other applicable public agency shall:

1. Deposit the fees into a subdivision park trust fund, or other similar fund. Monies in the fund, including accrued interest, shall be expended solely for the acquisition or development of park land or related improvements. The County Treasurer shall report the income, expenditures and status of the County subdivision park trust fund to the Board on an annual basis;
2. Develop a schedule in compliance with Map Act Section 66477 specifying how, when, and where it will use the land or fees, or both, to develop park or recreation facilities to serve the residents of the subdivision; and
3. Appropriate the collected fees within an annual budget, for a specific project to serve the residents of the subdivision, within five years after receipt of payment, or within five years after Building Permits are issued for one-half of the lots created by the subdivision, whichever occurs later.

If the fees are not so committed, these fees, less an administrative charge, shall be distributed to the then-record owners of the subdivision lots in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

M. Sale of dedicated land. Land dedicated for a local park and/or recreational use may be sold by the Board and the proceeds used to purchase a more suitable site. The land may be sold if circumstances arise in the time between dedication of land for park purposes and the issuance of Building Permits, which indicate that another site would be more suitable for local park or recreational purposes serving the subdivision and the neighborhood (i.e., receipt of a gift of additional parkland or change in school location, etc.), the land may be sold upon the approval of the Board.

22.98.050 – Public Access Dedication and Improvement

The subdivider may be required to dedicate easements to provide public access to or along the shorelines of public resources, including a public waterway, river or stream, coastline or shoreline lake or reservoir, or other public lands, in compliance with Map Act Sections 66478.1 et seq., or the County's Local Coastal Plan.

22.98.060 – Reservations of Land

As a condition of approval of a Tentative Map, the County may require the subdivider to reserve sites appropriate in area and location for parks, recreational facilities, fire stations, libraries or other public uses, in compliance with the standards and formulas in this Chapter.

A. Standards for reservation of land.

- 1. Location of land.** Where a park, recreational facilities, fire station, library, or other public use is shown in the Marin Countywide Plan, Local Coastal Plan, or applicable Community Plan or Specific Plan, the subdivider may be required by the County to reserve sites as determined by the County in compliance with the standards in the applicable plan.
- 2. Configuration.** The reserved area shall be of a size and shape that will permit the balance of the property to develop in an orderly and efficient manner. The amount of land to be reserved shall not make development of the remaining land held by the subdivider economically unfeasible. The land to be reserved shall be in multiples of streets and parcels that will permit an efficient division of the reserved area if it is not acquired within the period determined by Subsection B following (Procedure for Reservation of Land).

B. Procedure for reservation of land. The public agency for whose benefit an area has been reserved shall at the time of approval of the Parcel or Final Map enter into a binding agreement with the subdivider to acquire the reserved area within two years after the completion and acceptance of all improvements, unless a longer time is authorized by mutual agreement.

C. Purchase price of reserved land. The purchase price shall be the market value of the land at the time the Tentative Map is filed, plus the property taxes against the reserved area from the date of the reservation, and any other costs incurred by the subdivider in maintaining the reserved area, including interest costs incurred on any loan covering the reserved area.

D. Termination of reservation. If the public agency for whose benefit an area has been reserved does not enter into a binding agreement as described in Subsection B above (Procedure for Reservation of Land), the reservation shall automatically terminate.

22.98.070 – Right-of-Way Dedications

As a condition of approval of a Parcel or Final Map, the subdivider shall dedicate or make an irrevocable offer of dedication of all parcels of land or easements within the subdivision that are needed for streets or alleys, including access rights and abutters' rights, drainage, public utility easements, and other public easements. These dedications shall comply with all applicable requirements of Title 24, Chapter 24.05 of the County Code (Easements).

22.98.080 – School Site Dedications

- A. Dedication requirement.** In compliance with Map Act Section 66478, a subdivider may be required to dedicate land as the Review Authority determines to be necessary for adequate elementary school facilities for the residents of the subdivision. Dedication may be required only if the subdivider and/or successors in interest to the property:
1. Have owned the land being subdivided for less than 10 years before filing the Tentative Map; and
 2. Develop, or complete the development, of a subdivision of more than 400 dwelling units within a single school district, within a period of three years or less.
- B. Tentative Map approval.** If the affected school district responds to the referral of the Tentative Map application (Section 22.84.020 (Tentative Map Preparation, Application Contents)) with a report to the County describing the land the district deems necessary and suitable to provide adequate elementary school service to residents of the proposed subdivision, the Review Authority shall require the dedication of land as a condition of approval of the Tentative Map. As required by Map Act Section 66478, the dedication requirement shall not make development of the remaining land held by the subdivider economically unfeasible, or exceed the amount of land ordinarily allowed under the procedures of the State Allocation Board.
- C. Timing of dedication.** The required dedication may occur before, concurrently with, or up to 60 days after the filing of a Final Map on any portion of the subdivision. If the school district accepts the dedication, the district shall pay the subdivider the amounts required by Map Act Section 66478, and shall record the certificate required by Map Act Section 66478.
- D. Termination of dedication requirement.** The requirement of dedication shall automatically terminate unless, within 30 days after the requirement is imposed by the Review Authority, the school district makes a binding commitment to the subdivider agreeing to accept the dedication at any time before the construction of the first 400 dwelling units. Upon acceptance of the dedication, the school district shall repay to the subdivider and/or successors the costs specified in Business and Professions Code Section 11525.2.
- E. Judicial review.** Any person who is aggrieved by or fails to agree to the reasonableness of any requirement imposed in compliance with this Section may bring a special proceeding in the Superior Court in compliance with Map Act Section 66499.37.
- F. Reversion of land – Repurchase.** Should the school district find itself unable to accept the dedication for reasons other than specified in the commitment with the subdivider, the dedicated land shall revert to the subdivider. If the dedication is accepted and the school district within 10 years from the date of acceptance offers the property or any substantial part thereof for public sale, the subdivider shall have the first option to repurchase the property for the price paid by the district, plus a sum equal to the amount of property taxes which would have been paid during the period of public ownership.

CHAPTER 22.100 – SUBDIVISION IMPROVEMENTS AND AGREEMENTS

Sections:

- 22.100.010 – Purpose of Chapter
- 22.100.020 – Improvements Required
- 22.100.030 – Subdivision Grading, Erosion and Sediment Control
- 22.100.040 – Soils Reports
- 22.100.050 – Improvement Plans and Inspections
- 22.100.060 – Improvement Agreements and Security
- 22.100.070 – Monuments and Staking

22.100.010 – Purpose of Chapter

This Chapter establishes standards for subdivision improvements, and agreements with the County to guarantee the installation of the improvements.

22.100.020 – Improvements Required

- A. Basic improvement requirements.** The subdivider shall construct all improvements required by this Chapter and Title 24 (Improvement and Construction Standards) of the County Code, any improvements shown on the approved Tentative Map, and any improvements required as a condition of Tentative Map approval.
- 1. Design and construction standards.** The design and construction of subdivision improvements shall comply with all applicable provisions of Chapter 22.82 (Subdivision Design Standards), and Title 24 (Improvements) of the County Code.
 - 2. Conditions of approval.** The improvement requirements of this Chapter and any other improvements determined by the Review Authority to be necessary in compliance with Sections 22.84.050 (Tentative Map Review) and 22.84.060 (Findings for Approval of Tentative Map), shall each be described in conditions of approval adopted for each approved Tentative Map (Section 22.84.070 (Conditions of Approval)).
 - 3. Oversizing of improvements.** The County may require the subdivider to install and dedicate to the public subdivision improvements with additional size, capacity, or number for the benefit of property not within the subdivision, as a Tentative Map condition of approval prerequisite to the approval of a Parcel or Final Map. Where oversizing is required, reimbursement shall be provided as follows:
 - a. Reimbursement agreement.** The County shall enter into an agreement with the subdivider providing for reimbursement of the portion of the cost of the improvements that is equal to the difference between the amount it would have cost the subdivider to install the improvements to serve the subdivision only, and the actual costs of the improvements, in compliance with Map Act Section 66485 et seq.

3. **Wells or other sources.** Where water is to be supplied by wells, springs or other sources, the purchasers of the properties shall be informed of the water supply in writing. The subdivider shall submit sufficient evidence substantiated by adequate tests and/or engineering data to ensure that adequate water can be obtained for each lot and for fire protection as approved by the Health Officer, and the Fire Chief having jurisdiction. The information provided shall be certified by a professional engineer or geologist.

22.100.030 – Subdivision Grading, Erosion and Sediment Control

All subdivision grading and construction operations shall be conducted to provide proper erosion and sediment control, and shall otherwise comply with all applicable provisions of Title 23, Chapter 23.08 (Excavation, Grading, and Filling), and Title 24, Sections 24.04.620 et seq. (Grading) of the County Code.

22.100.040 – Soils Reports

Geotechnical reports shall be provided by the subdivider as required by this Section.

- A. **Preliminary soils report.** A preliminary geotechnical report based upon adequate test borings and prepared by a registered civil engineer shall be required for every subdivision. The preliminary geotechnical report shall be submitted with the Tentative Map application.

1. **Form of report.** A preliminary geotechnical report may be divided into two parts:
 - a. **Soils reconnaissance.** The soil reconnaissance shall include a complete description of the site based on a field investigation of soils matters. The soils matters reviewed shall include stability, erosion, settlement, feasibility of construction of the proposed improvements, description of soils related hazards and problems and proposed methods of eliminating or reducing these hazards and problems.
 - b. **Final soils investigation and report.** This investigation and report shall include field investigation and laboratory tests with detailed information and recommendations relative to all aspects of grading, filling and other earthwork, foundation design, pavement design and subsurface drainage.

The report shall also recommend any required corrective action for the purpose of preventing structural damages to the subdivision improvements and the structures to be constructed on the lots. The report shall also recommend any special precautions required for erosion control, and the prevention of sedimentation or damage to off-site property.

If the preliminary geotechnical report indicates the presence of critically expansive soils or other soils problems which, if not corrected, would lead to structural defects, or environmental impacts, a subsequent soils investigation of each lot in the subdivision may be required and submitted to the Department of Public Works before approval of a Parcel or Final Map.

2. **Preliminary soils report waiver.** The preliminary geotechnical report may be waived if the Director of Public Works determines that, due to information the Agency has as to the qualities of the soils of the subdivision, no preliminary analysis is necessary.

- B. Final soils report.** A final geotechnical report prepared by a registered civil engineer shall be required where a preliminary geotechnical report was required, unless the final report is waived by the Director of Public Works.
1. Two copies of the final geotechnical investigation and report shall be filed with the improvement plans.
 2. The report shall contain sufficient information to ensure compliance with all recommendations of the preliminary geotechnical report and the specifications for the project.
 3. The report shall also contain information relative to soils conditions encountered which differed from that described in the preliminary geotechnical reports, along with any corrections, additions or modifications not shown on the approved plans.

22.100.050 – Improvement Plans and Inspections

The subdivider shall file with the Department of Public works three complete copies of the subdivision improvement plans, after approval of a Tentative Map, before commencement of any construction work, and before filing a Parcel or Final Map, in compliance with Title 24, Chapter 24.10 (Improvement Plans) of the County Code.

A. Action on improvement plans:

1. **Director of Public Works.** The Director of Public Works shall inspect the improvement plans for compliance with the provisions of this chapter of the Development Code, Title 24 (Improvement and Construction Standards) of the County Code, standard engineering practices, and any other requirements of the County, and shall forward one copy of the improvement plans to the Director.
 - a. Before approval of the improvement plans, the Director of Public Works shall secure from the proper authority written approval of plans and specifications for sewer lines and sewage disposal systems. The Director of Public Works shall further determine that no deviation from the conditions of approval of the Tentative Map has been made, and that the final landscaping plan has been approved.
 - b. The Director of Public Works shall approve or deny the improvement plans in conformance with Section 66456.2 of the Subdivision Map Act.
 2. **Community Development Director.** The Director shall approve, with or without conditions, or deny the final landscape plans. The action shall be taken within 10 days after receipt of the improvement plans by the Director of Public Works, and shall be confirmed in writing.
- B. Inspections required.** The Director of Public Works shall make any inspections deemed necessary to ensure that all construction complies with the approved improvement plans.
- C. Notification.** The subdivider shall notify the Director of Public Works upon the completion of each stage of construction as outlined in this Chapter, and shall not proceed with further construction until receipt of authorization from the Director of Public Works.

- D. Inspection fees.** Before recordation of the Final Map, the subdivider shall deposit with the Director of Public Works the inspection fee determined by the Director of Public Works to cover the cost of inspection of required improvements other than utility facilities.
- E. Review and inspection of Sewage facilities.** Where adequate review and inspection is not provided by other agencies, sewage facilities and structures shall be reviewed and inspected by the Health Officer. Costs of review and inspection of sewage facilities incurred by the Health Officer or engineering consultant shall be paid by the subdivider.

22.100.060 – Improvement Agreements and Security

If the County determines that the improvement work required in compliance with this Chapter is not completed satisfactorily prior to the filing of the Parcel or Final Map, the subdivider shall enter into an agreement with the Board, and provide security to guarantee the performance of the terms of the agreement, as follows. The Agreement shall be entered into concurrently with the approval of the map.

- A. Content of Agreement.** The Agreement shall provide for each of the following, where applicable:
1. For the work to be completed within a time specified in the agreement, and shall provide that work not satisfactorily completed within the time limit may be completed by the County or its agent, with all costs paid by the subdivider.
 2. That prior to occupancy of any structure within the subdivision, the required improvements shall be sufficiently completed to render all of the applicable phase of the subdivision safe to occupy, and to complete all applicable mitigations required by a Negative Declaration or Environmental Impact Report, as determined by the Director of Public Works.
 3. At the discretion of the County, for the improvements to be installed in units, for extensions of time under specific conditions, or for the termination of the agreement upon a reversion to acreage of all or part of the subdivision.
 4. That the Agreement shall be secured by a good and sufficient improvement security in an amount determined by the Director of Public Works to be adequate to cover the estimated cost of improvement.
- B. Improvement securities.** Improvement securities shall be provided by the subdivider, as required by this Subsection.
1. **Form of security.** Improvement security shall be provided in one of the following forms:
 - a. Bond or bonds by one or more corporate sureties approved by the Board;
 - b. A deposit, placed with either the County or a responsible escrow agent or trust company, at the option of the County, of money or negotiable bonds of the kind approved for securing deposits of public moneys;
 - c. An instrument of credit from one or more financial institutions, subject to regulation by the State or Federal government, pledging that the funds necessary to carry out the act or Agreement are on deposit and guaranteed for payment, or a letter of credit issued by the financial institution; or

- d. A lien upon the property to be divided, created by contract between the owner and the County, if the County finds that it would not be in the public interest to require the installation of the required improvement sooner than two years after the recordation of the map.

Any written contract or security interest in real property entered into as security for performance in compliance with this Section shall be recorded with the County Recorder. From the time of recordation of the written contract or other document creating a security interest, a lien shall attach to the applicable real property and shall have the priority of a judgment lien in an amount necessary to complete the required improvements. The recorded contract or security document shall be indexed in the Grantor Index to the names of all record owners of the real property as specified on the map and in the Grantee Index to the County.

- 2. **Types of improvement security required.** The following improvement securities may be required as specified in this Chapter.
 - a. **Faithful Performance.** A security in the amount of 100 percent of the total estimated cost of the improvement, or of the act to be performed, conditioned upon the faithful performance of the act or Agreement;
 - b. **Labor and Materials.** A security in the amount of 100 percent of the total estimated cost of the improvements or of the act securing payment, to the contractor, subcontractors, and persons furnishing labor, materials or equipment;
 - c. **Maintenance.** A security in the amount of 10 percent of the total estimated cost of the improvements, or of the act to be performed, or \$1,000, whichever is greater, to serve as a guarantee and warranty of the work for a period of one year following completion thereof against any defective work, labor done, or defective materials furnished;
 - d. **Monuments.** A security in the amount of 100 percent of the total estimated cost of setting monuments guaranteeing the cost of setting the monuments.
- 3. **Improvement security waiver.** For subdivisions of four lots or less, the requirement of a labor and materials bond and a maintenance bond, specified in Subsections B.2.a and B.2.b above, respectively (Faithful Performance, and Labor and Materials), shall not be required where the required improvements will not be accepted for maintenance by the County.
- 4. **Security release.**
 - a. The securities described in Subsections B.2.a and B.2.b (Faithful Performance, and Labor and Materials, respectively) shall be released by the Director of Public Works after acknowledging completion of the improvements and commencement of the one-year maintenance period, provided that security specified in Subsection B.2.c (Maintenance) has been furnished.
 - b. The security described in Subsection B.2.c shall be released by the Director of Public Works following satisfactory completion of the maintenance period and correction of all deficiencies.

- c. The security specified in Subsection B.2.d (Monuments) shall be released by the Director of Public Works following receipt of a letter from the subdivision engineer or surveyor that all monuments have been set and paid for. If the security is a cash deposit, payment to the engineer or surveyor may be made from the deposit, if so requested by the depositor.

No partial release of any security shall be permitted.

22.100.070 – Monuments and Staking

At the time the survey for the Parcel or Final Map is completed, the engineer or surveyor shall set sufficient durable monuments to conform with the standards described in Section 8771 of the Business and Professions Code, so that another engineer or surveyor may readily retrace the survey. This requirement may be waived by the County Surveyor as provided in this Chapter.

A. Permanent monuments. Permanent monuments shall be constructed in compliance with the Standard Specifications, Cities, and County of Marin.

1. At least two permanent monuments shall be set in each block. They shall be within sight of each other and readily accessible in the street area. These monuments may be either on the street centerline or on a line parallel to and offset from the center property shown and dimensioned on the Parcel or Final Map.
2. The requirement for permanent monuments may be waived for subdivisions of four lots or less when, due to the size or configuration of the lots, this requirement would be impractical.

B. Subdivision staking. In making the survey, the engineer or surveyor shall stake all of the following points where a survey stake does not presently exist: all corners and angle points in the exterior boundary of the subdivision, all angle points and curve points in the right-of-way lines of all streets, easements, and/or lands to be dedicated for public use, and all lot corners.

1. **Waivers of staking requirements.** The County may waive the above staking requirements in the following circumstances.
 - a. The County Surveyor may waive the requirement of staking all corner and angle points in the exterior boundary of a Parcel or Final Map if conditions warrant waiver; provided that at least one exterior boundary line of the land being subdivided is adequately monumented or referenced and sufficient monumentation exists to determine the location of the lots.
 - b. The requirement to stake the remainder of the parcel, defined as the largest parcel having a gross area of five acres or more for which a Parcel or Final Map is required, may be waived.
2. **Stake materials.** Stakes at all corners and angle points in the exterior boundary of the subdivision shall be not less substantial than three-fourths-inch iron pipe or one-half-inch rebar 18 inches long, driven flush with the ground. Stakes at all other points shall be not less substantial than two-inch by two-inch redwood hubs eight inches long, driven flush with the ground.

- 3. Stake marking.** All stakes shall be marked with a tag showing the actual point and the registration number of the engineer or surveyor.
- C. Inspection and installation.** All monuments shall be subject to the inspection and approval of the County Surveyor. For a subdivision requiring a Final Map, monuments shall either be installed before Final Map recordation, or shall be included as part of the work to be completed under the Agreement and improvement security required by this Chapter, when so noted on the Final Map. All monuments necessary to establish the exterior boundary of a subdivision shall be set or referenced prior to recordation of the Final Map.