

ORDINANCE NO. 2025-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARINA AMENDING THE MARINA MUNICIPAL CODE (MMC), CHAPTER 17, ARTICLE 6, BY ADDING TWO (2) NEW SECTIONS 17.59 - "COMMUNITY DEVELOPMENT DIRECTOR'S DISCRETION" AND 17.69 - "PERMIT EXPIRATION", AND AMENDING SECTIONS 17.56, 17.58, 17.60, AND 17.70 PERTAINING TO APPEALS. THE PROPOSED ORDINANCE IS EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO SECTION 15061(b)(3) OF THE CEQA GUIDELINES.

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THE CITY COUNCIL OF THE CITY OF MARINA DOES HEREBY ORDAIN AS FOLLOWS:

1. The Community Development Dept. (CDD) of the City of Marina (City), through its regular use and implementation of the Marina Municipal Code (MMC), finds that several standard procedural measures should be amended for greater clarity. The proposed amendments include:

- a. The addition of MMC Sec. 17.59 to give the Community Development Director (Director) the discretion to require a permit to be reviewed by the Planning Commission if this action will increase the transparency and public participation in the review of the permit;
- b. The addition of MMC Sec. 17.69 establishing clear standards on permit effective dates, expiration timeframes, and extensions; and
- c. Modifying MMC Sections 17.56, 17.58, 17.60, and 17.70 providing a standardized appeal process that applies to both the appeal of a Director's Determination as well as to appeals of actions made by the Planning Commission.

2. The adoption of these procedural standards will clarify important processes for both City staff and the general public.

3. Chapter 17, Article 6. Chapter 17, Article 6, entitled "Administration, Enforcement and Penalties" is hereby amended by adding two (2) new Sections, Sec. 17.59 "Community Development Director's Discretion", and Sec. 17.69, entitled "Permit Expiration", and amending Sections 17.56, 17.58, 17.60, and 17.70 relating to appeals procedures, to the Marina Municipal Code to read as set forth on the attached **Exhibit A** and incorporated herein by this reference thereto.

4. Section 17.70 – Appeals. This chapter will become the central location for regulations pertaining to appeals outside of the Coastal zone. The individual chapters pertaining to individual permit types will no longer include sections on appeals. Appeals of projects that are located in the Coastal zone will continue to be governed by MMC 17.40.280.

5. Environmental. The proposed Ordinance amendments are not subject to environmental review pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Article 5, Section 15061(b)(3) because the proposed procedural changes would not result in a direct or a reasonably foreseeable indirect physical change in the environment and the proposed ordinance is covered by the general rule that CEQA applies only to projects which have potential for causing significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA, and no further environmental review is necessary.

6. Effective Date. This Ordinance shall be in full force and effect on thirty (30) days after its final passage and adoption.

7. Severability. If any portion of this Ordinance is found to be unconstitutional or invalid the City Council hereby declares that it would have enacted the remainder of this Ordinance regardless of the absence of any such invalid part.

8. Posting of Ordinance. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause it to be posted in the three (3) public places designated by resolution of the City Council.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on March 4, 2025, and was passed and adopted at a regular meeting duly held on April 1, 2025, by the following vote:

AYES: COUNCIL MEMBERS: McAdams, McCarthy, Biala, Visscher, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

EXHIBIT A

Chapter 17.59

COMMUNITY DEVELOPMENT DIRECTOR'S DISCRETION

Sections:

17.59.010 Purpose.

17.59.020 Directors Discretion.

17.59.030 Director Appeal Authority.

17.59.010 Purpose.

The purpose of this chapter is to clarify the Community Development Director's discretion in the interest of the public; the Director shall be granted the ability to require a review of a permit by the Planning Commission. This discretion is to increase transparency and public participation in the permit review process for items deemed to be in the public interest or having broad effect on the community.

17.59.020 Directors Discretion.

The Director may defer an administrative action and refer the item to the Planning Commission for decision.

17.59.030 Director Appeal Authority.

The Director may defer a request for a determination to the Planning Commission, thus making the City Council the appeal authority.

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Chapter 17.69

PERMIT EXPIRATION

Sections:

17.69.010 Purpose.

17.69.020 Effective date of permits.

17.69.030 Performance guarantees.

17.69.040 Time Limits and extensions.

17.69.050 Permits to run with the land.

17.69.060 Resubmittals.

17.69.010 Purpose.

This chapter provides requirements for the implementation or exercising of the permits required by these regulations, including time limits and procedures for extensions of time.

17.69.020 Effective date of permits.

The approval of community development permits shall become effective on the eleventh day following the date of approval by the appropriate review authority, where no appeal of the review authority's action has been filed in compliance with Chapter 17.70 MMC (Appeals).

17.69.030 Time limits and extensions.

(A) Expiration. Any community development permit granted in compliance with these regulations shall expire within two (2) years from the date of approval if neither a completed building permit application has been issued nor the activity authorized by the community development permit has commenced. Upon expiration or revocation of a building permit, the community development permit shall also expire, unless extended under subsection (B) of this section.

(B) Extensions of Time by Community Development Director (Director) or Designee. The Director is authorized to renew any community development permit that would otherwise expire after two (2) years. Renewals shall be for one (1) year with a maximum of two (2) renewals.

(C) Action on Extension Requests. An application for a time extension shall be made a minimum of thirty (30) business days prior to the permit expiration date.

17.69.040 Permits to run with the land.

A community development permit granted in compliance with this chapter shall continue to be valid upon a change of ownership (e.g., of the site, structure, or use that was the subject of the permit application); provided, that the use remains in compliance with all applicable provisions of these regulations and any conditions of approval.

17.69.050 Resubmittals.

If an application for a community development permit is denied in compliance with this chapter, an application for consideration of an identical or similar request shall not be eligible for reconsideration for six months from the date on which the denial became final, unless the review authority finds that changed circumstances or a material change in the application warrants reconsideration prior to the expiration of six months. This section shall have no effect on applications by the City or on amendments proposed by resolutions of the City Council or the Planning Commission.

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Chapter 17.56

SITE AND ARCHITECTURAL DESIGN REVIEW

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17.56.060 Appeal. [repealed]

~~A. If the applicant or any person who has participated in the process by personal attendance at meetings, testimony at meetings or other reasonable means is not satisfied with the action of the planning commission, said person may file an appeal with the city council in writing within ten days after written notice of the decision of the planning commission has been mailed to the applicant. The appeal shall set forth specifically the points of issue, the reason for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the appropriate authority. The city council shall hold a hearing on said appeal and shall render its decision thereon within thirty days after filing thereof. The city council may reverse or affirm or modify the decision of the planning commission and such action shall be final.~~

~~B. If the applicant or any person who has participated in the process by personal attendance at meetings, testimony at meetings or other reasonable means is not satisfied with the action of the design review board relative to final design review, or the decision of the planning director or the design review board with respect to any proposed plan modification, said individual may file an appeal with the city clerk in writing within ten days after the said action or decision. The appeal shall set forth specifically the points of issue, the reason for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the appropriate authority. The appeal shall be considered by the planning commission unless the city council granted design review approval on appeal, in which case the appeal shall be considered by the city council. Said appeal body shall hold a hearing on said appeal and shall render its decision thereon within thirty days after filing thereof. Said body may reverse or affirm or modify the decision of the design review board or the decision or interpretation of the planning director and such action shall be final.~~

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Chapter 17.58

USE PERMITS

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17.58.050 Appeal. [repealed]

~~A. An appeal to the city council may be filed by any person aggrieved by a decision of the appropriate authority. Such appeal shall be in writing and shall be filed with the city clerk within ten days after written notice of the decision has been mailed to the applicant. At the time of the filing of the appeal, the appellant shall pay a filing fee to be established by resolution of the city council from time to time hereafter enacted. An appeal shall set forth specifically the points at issue, the reasons for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the appropriate authority.~~

~~B. Upon receipt of the notice of appeal, the city council shall set a date for public hearing thereon, giving notice thereof pursuant to Section [17.58.030](#). The city council may reverse or~~

~~affirm, wholly or partly, or may modify the order, make such order, requirements, decision, or determination as should be made, and such action shall be final.~~

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Chapter 17.60

VARIANCES

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17.60.060 Appeal. [repealed]

~~A. An appeal to the city council may be filed by any person aggrieved by a decision of the planning commission. Such appeal shall be in writing and shall be filed with the city clerk within ten days after written notice of the decision has been mailed to the applicant. At the time of the filing of the appeal, the appellant other than the applicant shall pay a filing fee to be established by resolution of the city council from time to time hereafter enacted. An appeal shall set forth specifically the points at issue, the reasons for the appeal, and wherein the appellant believes there was an error or abuse of discretion by the planning commission.~~

~~B. Upon receipt of the notice of appeal, the city council shall set a date for public hearing thereon, giving notice thereof pursuant to Section [17.60.040](#). The city council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made, and such action shall be final.~~

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Chapter 17.70

Appeals

17.70.010 – ~~Planning commission authority~~ Purpose.

17.70.020 – ~~Application~~ Appeal subjects and appeal authority.

17.70.030 – ~~Action by planning commission~~ filing of appeals.

17.70.040 – Appeals Time limits.

17.70.050 – Processing of appeals.

17.70.010 Purpose.

Determinations or actions of the Community Development Director or his/her designee, or planning commission may be appealed by this chapter.

17.70.020 Appeal subjects and appeal authority.

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

(A) Staff Determinations. The following determinations and actions of the community development director or his/her designee may be appealed to the planning commission and then to the council.

- (1) Director's Determinations on the meaning or applicability of these regulations that are believed to be in error.

(B) Decisions of Review Authorities. Generally, decisions of the Director and the Tree Committee may be appealed to the Planning Commission, and decisions of the Planning Commission may be appealed to the council. When a single project requires two or more permit applications with different appeal authorities, or where statutory deadlines would interfere with the City's final action on an application if the application were subject to multiple appeals, any appeal of the project shall go directly to the highest appeal authority. The decision of the City Council shall be final. If an appeal is filed for a project that utilized the City's Objective Design Standards for a housing development project as defined by California Government Code 65589.5, the appeal must be based on identifying an inconsistency with an objective standard that is consistent with state law and filed with the City during the standard appeal period for a development project.

17.70.030 Filing of Appeals.

(A) Who May File an Appeal. An appeal may be filed by:

- (1) Any person aggrieved by an administrative determination or action by the department;
or
- (2) Anyone who, in person or through an authorized representative, appeared at a public hearing in connection with the decision being appealed, or who otherwise informed the City in writing of the nature of their concerns before the hearing.

(B) Timing and Form of Appeal. All appeals shall be submitted in writing on a City application and shall specifically state the pertinent facts of the case and the basis for the appeal.

- (1) Appeals shall be filed in the community development department or, in the case of appeals of Planning Commission actions, in the office of the city clerk, within 10 calendar days following the final date of the determination or action being appealed.
- (2) Appeals shall be accompanied by a written report stating specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by substantial evidence in the record. The Council shall only hear the appeal if the notice is filed and all required fees are paid within the ten (10) calendar day appeal period. An appellant may submit a written request to withdraw their appeal any time before the scheduled hearing for the appeal.

(C) Scope of Appeals. An appeal of a decision on a community development permit shall be limited to issues raised at the public hearing, or in writing before the hearing, or, in all other cases, must be based on information that was not generally known at the time of the decision that is being appealed.

17.70.040 Processing of Appeals.

(A) Scheduling of Hearing. After an appeal has been received, the matter shall be placed on the next available agenda of the appeal authority that is within sixty (60) days of the filing of such appeal.

(B) Notification of Applicant. Within three (3) business days of receipt of an appeal, staff shall attempt to notify the applicant.

(C) Joining an Appeal. Only those persons who file an appeal within the time limit established shall be considered appellants. Any person who wishes to join an appeal shall follow the same procedures for an appellant. No person shall be allowed to join an appeal after the expiration of the time limit for appeals.

(D) Action and Findings. The appeal authority shall conduct a *de novo* public hearing. At the hearing, the appeal authority may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds identified in the appeal.

(1) The appeal authority may affirm, affirm in part, or reverse the action, decision, or determination that is the subject of the appeal, based upon findings of fact about the case. The findings shall identify the reasons for the action on the appeal and verify the compliance or non-compliance of the subject of the appeal with these regulations.

(2) When reviewing a decision on a community development permit, the appeal authority may adopt additional conditions of approval that may address other issues or concerns than the subject of the appeal.

(3) Effective Date of Appeal. A decision by any appeal authority other than the City Council is effective on the eleventh day after the decision, if no appeal to the decision has been filed, or before the next regularly scheduled meeting. Because a decision by the City Council is final, it is effective as of the date of the decision, unless the Council specifies an alternative date.