

## 4 GENERAL PLAN ADMINISTRATION

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**T**his Chapter of the General Plan incorporates goals, policies, and implementation measures related to interpreting the Plan, interim administration until implementing ordinances are adopted, legally existing-nonconforming land uses and structures, and General Plan amendments.

The General Plan is the prevailing document defining County planning policy. The Board of Supervisors' implementation of ordinances, regulations, or policies should be based upon and consistent with the General Plan. Interpreting General Plan policy is, therefore, of paramount importance. Provisions for amending and updating the General Plan will be developed so that as conditions change, the Plan will continue to reflect the vision of the County. Because the General Plan provides for the preparation and adoption of area plans to guide development in the County's communities, there must be interim provisions for administering the General Plan in these areas until area plans are adopted. These issues are defined and addressed in this Chapter as follows:

- interpretation of General Plan provisions,
- review and update of the General Plan,
- amending the General Plan,
- interim administration of the General Plan, and
- General Plan implementation.

### 4.1 INTERPRETATION OF GENERAL PLAN PROVISIONS

The General Plan is based upon the guiding principles of the Board of Supervisors. This means the General Plan and its elements comprise an integrated, consistent, and compatible statement of policies for the County of Mariposa. Every project is subject to review against the measures in the Plan. Variances are permitted from the standards of a zoning code only when specific statutory requirements are satisfied.

There are situations where interpretation may be needed. The General Plan's text and glossary are written to ensure maximum clarity. However, occasional ambiguities are inevitable. Chapter 2.50 of the Mariposa County Code provides a process to resolve any issues.

#### 4.1.01 INTERPRETING MAPS

Parcels which are 40 acres or a legal quarter quarter section in size or less shall be assigned one land use designation. Parcels which are greater than 40 acres or a legal quarter quarter section in size may be assigned more than one land use designation.

## 4.1.02 FINAL ARBITER

The Board of Supervisors is the body hearing appeals for General Plan interpretation issues. While other appeals may go through the Planning Commission before Board hearing, the General Plan is the Board's policy document and therefore the Board is the final arbiter.

## 4.1.03 COMPLIANCE WITH FEDERAL AND STATE LAWS

The County of Mariposa complies with federal and state laws and regulations as amended. Because federal and state laws change, they are not incorporated into the General Plan. A summary of key federal and state regulations that are implemented by the County of Mariposa follow:

### **Air Quality**

- Federal Clean Air Act as amended in 1990 – Establishes the overall national framework and regulation for attainment and maintenance of air quality standards, including the promulgation of federal air quality standards and setting requirements for air quality planning.
- State of California Air Pollution Control Laws (also known as the “Blue Book”) - This publication is updated annually and compiles air pollution control laws from various State of California legal codes. The California Air Resources Board (ARB) also establishes statewide Ambient Air Quality Standards for criteria air pollutants, and requires the preparation of air quality plans under the California Air Quality Act.
- Mariposa County Air Pollution Control District (APCD) Rules and Regulations – The most applicable regulations for General Plan implementation include those for the control of nuisance emissions (Regulation II), open burning (Regulation III), authority to construct stationary sources and permits to operate (Regulations IV and V), and air quality zoning (Regulation VIII).

### **Biological resources**

- Federal Endangered Species Act of 1973 (FESA) – Provides for the protection of federally listed threatened and endangered plant and animal species.
- California Endangered Species Act (CESA) California Fish and Game (CDFG) Code Sections 2050-2098 – Provides for the protection of state-listed threatened and endangered plant and animal species.
- California Native Plant Protection Act (Fish and Game Code Sections 1900-1913) – Also known as the California Native Plant Protection Policy, provides for the protection of rare and endangered plants in the state.
- Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 CFR 10.13), Federal Eagle Protection Act, and California Department of Fish and Game Code Sections 3503, 3503.5, and 3513) – Provides for protection of nongame native birds including raptors, and their active nests. The Eagle Protection Act provides additional protection for Bald Eagles and Golden Eagles.

- California Oak Woodlands Conservation Act – Provides local jurisdictions assistance in protecting and enhancing oak woodland resources through the California Oak Woodlands Conservation Program.

### **Water Quality**

- Federal Clean Water Act (CWA) 40 CFR 404(b)(1) – Provides for protection of wetlands and jurisdictional waters (Waters of the United States).
- Water Quality Order 99-08-DWQ – National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity (General Permit) for projects which disturb 1 or more acres or soil or those that disturb less than 1 acre but are part of a larger plan.
- State Water Resources Control Board, Central Valley Region – This state agency establishes beneficial uses for surface water and water quality standards, including wastewater treatment requirements.

### **History**

- National Register of Historic Places (Authorized under National Resources Preservation Act of 1966) and California Register of Historic Places (Public Resources Code [PRC] Section 5024.1) – Provides for listing and preservation of historic places that meet specific criteria.
- Protection of Archaeological Resources PRC (21083.2) provides for protection of archaeological resources under CEQA.
- Protection of Paleontological Resources (PRC 5097.5) – Prohibits the excavation or removal of any “vertebrate paleontological site or any other archaeological, paleontological or historical feature situated on public lands except with the express permission of the public agency having jurisdiction over such lands.”
- Native American Graves Protection and Repatriation Act (NAGPRA) (43 CFR Part 10) – Provides for the protection of Native American graves and cultural items.

### **Geology**

- Alquist-Priolo Earthquake Fault Zones Act of 1972 – Provides for disclosure of earthquake fault hazards and prohibits new construction in earthquake zones unless a comprehensive geologic study determines that there would be no structural hazard.
- California Division of Mines and Geology Guidelines (1997, Chapter 4) – Provides guidance to local agencies to protect against earth hazards through the publication of geologic hazard maps and guidance for the prevention of earthquake and earthquake-induced hazards such as landslides and soil liquefaction.

## **Agriculture**

- Williamson Land Conservation Act (California Government Code Title 5 Division 1 Part 1 Chapter 7)– Provides for the protection of agricultural lands through a contract mechanism with the County to continue agricultural use of prime lands.

## **Housing and Building**

- California Resources Code Section 65852.1 – zoning variance, special use permit, or conditional use permit for a dwelling unit to be constructed for the sole occupancy of one adult or two adult persons 62 years or older.
- Universal Building Code (1997) with California Amendments (1998) – Sets building code requirements for structures

### **4.1.04 CONFLICTS BETWEEN ADOPTED COUNTY CODES AND THE UPDATED GENERAL PLAN**

Mariposa County codes, policies, regulations, and ordinances were adopted over a quarter century period prior to this General Plan . The General Plan is the written policy of the Board of Supervisors. It is known and understood that inconsistencies exist between prior practice, existing ordinances, and the policies of the General Plan . Under California law, the updated General Plan is the prevailing document.

## **4.2 REVIEW AND UPDATE OF THE GENERAL PLAN**

### **4.2.01 ANNUAL REVIEW**

California law requires a report on the implementation of the General Plan be sent to the Board of Supervisors each year. The first step in this process is for the Planning Director to report to the Planning Commission early in each calendar year; following the Commission's review of the report, their recommendations and comments are sent to the Board of Supervisors. The Board of Supervisors then reviews the report and the Planning Commission's comments and recommendations. This annual review process apprises the Board of implementation measures requiring action during the short-term planning period, keeping on schedule to carry out time-specific Plan requirements. The process may provide opportunities for comments and recommendations from the public during Planning Commission and Board of Supervisors' review.

### **4.2.02 FIVE YEAR UPDATE**

The General Plan is organized into three planning periods: short-, intermediate-, and long-term. At the five-year increment, the Plan is updated by moving intermediate-term implementation measures to the new short-term period and adding new implementation measures where appropriate. Long-term implementation measures are either prioritized into the intermediate-term planning period or remain long-term goals of the County. With regular review to determine if updates are needed and the potential for updates up to four times a year , it is possible that future comprehensive updates of the General Plan may not be required.

### 4.2.03 THE 20-YEAR REWRITE

Although carrying out the process for annual review and five-year updates will maintain the General Plan's function in defining the current policy directions for the County, there is also a need to periodically step back and take a longer view of what the County has achieved and what opportunities and challenges it may face in the future. The 20-year rewrite of the General Plan is a means for the County and its residents to engage in a process of looking ahead to the long-term and validating the County's vision of its future. As indicated in the discussion of the five-year updates above, the 20-year rewrite need not be an extensive process. The focus of the rewrite should be on engaging the County's residents in reviewing what has been accomplished over the previous 20 years and to determine what the overall vision should be for the County's next 20 years.

## 4.3 AMENDING THE GENERAL PLAN

California law permits General Plan amendments four times each calendar year. The Mariposa County General Plan may be amended by private application three times each year. The fourth amendment is held for use by the Board of Supervisors during the Annual Review. The Plan is policy driven. This means that General Plan amendments must conform to policy standards and requirements within the Plan.

Amending the General Plan is a policy-based process, rather than a zoning process. The General Plan, initially adopted in 1981, functioned as a zoning plan. Its map mirrored the zoning map, its policies mirrored Title 17, Mariposa County Code, Zoning. Almost every zoning action required a General Plan Amendment, creating a patchwork of land use classifications without long-range objectives.

The General Plan is policy based. The land use classifications are purposely broad and embrace a menu of zoning districts. Zone changes within the menu of consistent zones for a land use classification are feasible without a General Plan amendment. However, to change into a different land use classification requires a property owner or applicant to demonstrate conditions have changed relative to the subject property substantiating findings necessary to approve an amendment. Also, all land use classifications include "criteria for inclusion" for lands to be added to the classification. This requires a property owner to demonstrate how his or her property meets the requirements for inclusion in the new land use classification. Applications to change from one land use classification to another must be found consistent with both of these policies of the General Plan.

An applicant must demonstrate there is a reason to warrant the proposed change and that the land meets the criteria for inclusion in the new land use classification.

## 4.4 INTERIM ADMINISTRATION OF THE GENERAL PLAN

Under the General Plan certain areas of the County are designated as a "planning area," which identify "towns," "communities," and "special" planning areas. Within these planning areas, the General Plan provides that area plans are to be adopted to meet the needs of each town, community, or uniquely identified special area. For Mariposa, Coulterville, Fish Camp and Wawona, the town planning area (TPA) designation remains the same as existed in the 1981 General Plan. Each of these communities currently has adopted "town planning area

specific plans.” These plans will remain in effect and are incorporated into Volume II of the General Plan, though modifications or updates may be necessary to address new lands added to the communities or new policies. For Mariposa and Coulterville, these area plans change from “specific plan” to “area plan”. For Fish Camp and Wawona, the name of the plan will remain “town planning area specific plan”.

Area plans have not been adopted for the other designated planning areas, these areas are designated Planning Study Areas on the Land Use Diagram. Therefore, the General Plan must provide interim regulations for the Planning Study Areas until area plans are adopted. Section 5.3.01 in the Land Use Element provides interim regulations for these areas.

## 4.5 GENERAL PLAN IMPLEMENTATION

**Goal 4-1: The General Plan is to be the prevailing document defining the Board of Supervisors’ Planning policy for the County of Mariposa.**

*Policy 4-1a:* Interpreting Board of Supervisors’ policy in the General Plan shall follow the direction of the guiding principles.

*Implementation Measure 4-1a(1):* Conformance with guiding principles is to be used as the foundation for interpreting General Plan goals, policies, and implementation measures.

Timing: Ongoing review standard  
Responsibility: Mariposa Planning.  
Fiscal Impact: Ongoing program.  
Consequences: Improved planning processes.

*Implementation Measure 4-1a(2):* When a conflict exists between the General Plan and an enacted ordinance, regulation, or a policy of the Board of Supervisors, the General Plan shall be the prevailing language.

Timing: Ongoing review standard  
Responsibility: All County Departments.  
Fiscal Impact: Ongoing program.  
Consequences: Conflict resolution.

*Policy 4-1b:* Interpretation of the Plan is the responsibility of the Planning Agency of the County of Mariposa.

*Implementation Measure 4-1b(1):* The Planning Agency of Mariposa County is authorized to utilize appropriate judgment in determining the meaning of General Plan policy.

Timing: Ongoing  
Responsibility: Mariposa County Planning Department.  
Fiscal Impact: Ongoing program.  
Consequences: This implements existing provisions of Mariposa County Code Chapter 2.50.

*Implementation Measure 4-1b(2):* The Director of Public Works shall be the County official empowered to define road systems consistent with current and future transportation patterns as needed for implementation of the General Plan.

Timing: Ongoing  
Responsibility: Department of Public Works.  
Fiscal Impact: Ongoing program.  
Consequences: This makes no change in current policy.

**Goal 4-2: The General Plan is to be reviewed and updated on a regularly scheduled basis.**

*Policy 4-2a:* Maintaining a regularly updated Plan ensures its ongoing use in the decision-making process.

*Implementation Measure 4-2a(1):* Mariposa Planning shall review and recommend changes to the General Plan as a part of its annual report on Planning in the County of Mariposa.

Timing: Short-term  
Responsibility: Mariposa County Planning Department.  
Fiscal Impact: None.  
Consequences: The Planning Department becomes the catch-point for amendments to the General Plan and is responsible for reporting the needs for change to the Board of Supervisors.

*Implementation Measure 4-2a(2):* Mariposa County's Capital Improvement Program (CIP) shall be consistent with the General Plan.

Timing: Short-term  
Responsibility: County Administrative Officer.  
Fiscal Impact: Adds time and long-range planning to the capital improvement process.  
Consequences: Capital Improvement Program – General Plan consistency.

**Goal 4-3: General Plan amendments are to be regularly scheduled to better serve constituents.**

*Policy 4-3a:* General Plan amendments shall be scheduled on a regular basis every year.

*Implementation Measure 4-3a(1):* The Mariposa County Planning Department will report to the Board of Supervisors on the need for General Plan amendments at the beginning of each year. The Board of Supervisors will schedule a meeting to consider, as appropriate, General Plan amendments hearing dates for the public and general use. Per state law, the Board of Supervisors can amend the General Plan no more than four times per year.

Timing: Short-term  
Responsibility: Board of Supervisors and Mariposa County Planning Department.  
Fiscal Impact: None.  
Consequences: Enhanced General Plan review.

*Implementation Measure 4-3a(2):* The fourth General Plan amendment hearing shall be held for the use of the Board of Supervisors to adopt updates and modifications to the General Plan as generated by the Annual Review.

Timing: Short-term  
Responsibility: Mariposa County Planning Department.  
Fiscal Impact: None.  
Consequences: Ensures the Board of Supervisors always has an amendment period for its own use to comply with requirements to update and amend the General Plan.

***Goal 4-4:* Mariposa County should not enforce, unless required to do so by law, third party land use conditions and regulations.**

*Policy 4-4a:* In implementing General Plan land use requirements the County may deem the failure to respond by any state or federal agency as “no comment,” unless otherwise required by law or as necessary to protect public health and safety.

*Implementation Measure 4-4a(1):* The Board of Supervisors will develop a resolution to implement the policy regarding third party agency responses.

Timing: Short-term  
Responsibility: Mariposa County Counsel and Mariposa County Planning Department.  
Fiscal Impact: Minimal staff time to develop resolution and schedule for Board of Supervisors’ action.  
Consequences: Creates formal County policy.