MARIPOSA COUNTY ORDINANCE NO. 911

AN ORDINANCE AMENDING TITLE 16
ENTITLED "SUBDIVISION ORDINANCE"
of the Mariposa County Code

WHEREAS, the Board of Supervisors initiated a comprehensive Permit Streamlining Program, including the public review and hearing process to amend the Mariposa County Code; and

WHEREAS, these include amendments to Title 16 of County Code, entitled "Subdivision Ordinance"; and

WHEREAS, the Planning Commission and Board of Supervisors have held duly noticed public hearings on the amendments to Title 16 in accordance with State Law and County Code, and have considered all input, written and verbal; and

WHEREAS, the Planning Commission and Board of Supervisors made many modifications to the amendments in response to concerns expressed through the public process; and

WHEREAS, the amendments are not intended to change the public's referendum rights with respect to the projects which will be acted upon in accordance with this ordinance;

NOW THEREFORE, The Board of Supervisors of Mariposa County, a political subdivision of the State of California, does ordain as follows:

SECTION I: The Board of Supervisors makes the following findings:

1. These amendments to Title 16 are exempt from the provisions of the California Environmental Quality Act (CEQA) in accordance with Sections 15061, 15305 and 15308 of the CEQA Guidelines. A portion of the amendments to Title 16 are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. There is no possibility that portions of the amendments to Title 16 may have a significant effect on the environment. Remaining portions of the amendments to Title 16 include minor alterations in land use limitations, and actions taken by a regulatory agency to maintain, restore, and enhance the environment.

2. The amendments are in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace and
welfare. The amendments clarify the existing county code and eliminate conflicting and duplicative information. The amendments remove technical requirements for public notice, hearings, appeals and other matters from Title 16 (these requirements are located in Title 17 of County Code or in State Government Code); and remove references to committees and procedures which no longer exist.

3. The amendments change review and approval authority for Lot Line Adjustment Applications and Certificate of Compliance Applications, but add findings and notice for these applications. The additional findings and notice increases the opportunity for, and the level of public participation in these applications. The additional findings and notice represent regulations to maintain, restore, or enhance the environment.

4. The amendments rectify contradictory and conflicting language and do not make changes in current practices which would result in any impact on the environment.

5. The amendments do not change any application procedure from discretionary to ministerial.

6. The amendments promote fairness in implementation by clarifying conflicting ordinance language.

7. The amendments allow additional time to complete public and private improvements on approved subdivision applications as allowed by the State Subdivision Map Act, but do not allow any additional impacts not previously considered.

8. The amendments are desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for County development and a short term basis for day-to-day decision making. The amendments clarify and consolidate findings, add findings and notice, and rectify contradictory and conflicting language within code to aid in the day-to-day operations and processing of applications.

9. The amendments conform with the requirements of State law and county policy and are consistent with other guiding policies, goals, policies, and standards of the Mariposa County General Plan. One purpose of the amendments is to provide consistency with State law and County ordinances and policies. Findings are added for certain applications. State mandated findings and procedures are incorporated into these amendments for consistency purposes. This action is supported by the General Plan Governing Policy Section 2.202. This section establishes policy regarding the administration of the Mariposa County General Plan as follows: “To
provide a practical and legally adequate framework to include... implementation programs and measures which can effectively guide the development and growth of Mariposa, yet reserve adequate flexibility in the day-to-day decision process to be responsive to changing needs and circumstances."

SECTION II: Title 16 of the Mariposa County Code is hereby amended in accordance with “Exhibit A” (Amendments are noted as follows: Additions with double underline and italics, and deletions with strikethrough).

SECTION III: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

SECTION IV: PASSED AND ADOPTED by the Board of Supervisors of Mariposa County on this 7th day of January, 1997 by the following vote:

AYES: Reilly, Balmain, Stewart, and Pickard
NOES: None
ABSTAINED: None
EXCUSED: Parker

ROBERT C. STEWART, Chairman
Mariposa County Board of Supervisors

ATTEST:

MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

JEFFREY Q. GREEN, County Counsel
Chapter 16.12
MINOR SUBDIVISIONS

Sections:

16.12.030 Tentative parcel map required.
16.12.034 Completeness of application.
16.12.036 Procedure for processing tentative parcel and parcel maps.
16.12.050 Front yard.
16.12.060 Side yard.
16.12.070 Rear yard.
16.12.080 Fences and walls.
16.12.090 Copies of tentative parcel map--Information required.
16.12.100 Planning commission requirements.
16.12.110 Road standards--Generally.
16.12.120 Road standards--Grade.
16.12.130 Road standards--Relationship to other roads.
16.12.140 Road standards--Staking margins.
16.12.160 Road standards--Nonexclusive easement.
16.12.170 Road standards--Easement to conform to county standards.
16.12.175 Road standards--Identification signs.
16.12.190 Excavation and grading.
16.12.220 Parcel map--Drafting.
16.12.230 Parcel map--Title block.
16.12.240 Parcel map--North arrow.
16.12.250 Parcel map--Certificates.
16.12.280 Parcel map--References.
16.12.290 Parcel map--Miscellaneous data.
16.12.300 Parcel map--Survey data.
16.12.310 (Repealed).
16.12.315 Approval of parcel maps.
16.12.320 Sanitary disposal requirements--Stockton Creek Watershed and Mariposa Creek Watershed.
16.12.330 Percolation tests--Required when.
16.12.360 (Repealed).
16.12.390 Additional requirements.
16.12.400 Waiver of parcel map.
16.12.420 Reversion to acreage.
16.12.430 Expiration of tentative maps.

No person shall create a minor subdivision except in accordance with a parcel map approved pursuant to this title, resolutions passed in furtherance of this title and the Subdivision Map Act and filed in the office of the county recorder unless such requirement for a parcel map is otherwise waived pursuant to this title. (Ord. 429 Sec.4.0(part), 1976).

The provisions of this chapter shall not apply to:
A. The conveyance, transfer, creation, or establishment of an easement for sewer, water, or gas pipelines and appurtenances or electrical or telephone poles and lines or conduit and appurtenances;
B. The conveyance or transfer of land or any interest therein by or to the United States, state, county, city, school district, special district, or public utility. (Ord. 429 Sec.4.0(part), 1976).

16.12.030 Tentative parcel map required.
A. Any person proposing to create a minor subdivision pursuant to this chapter shall file with the planning department a tentative parcel map application pursuant to the provisions of this title and resolutions passed in implementation of it. The planning department shall review and process the application pursuant to the provisions of this title and implementing resolutions. The county engineer shall not certify a parcel map pursuant to Section 66450 of the Subdivision Map Act unless prior thereto a tentative parcel map of the minor subdivision shown thereon has been approved by the planning commission. (Ord.711 Sec.1, 1988).
B. Based on a report by the planning department the planning commission will take action on the application and environmental determination and adopt findings of fact on any division of land. The planning commission shall make its findings of fact within thirty-five (35) days following completion of a preliminary negative declaration or final environmental impact report. The findings and conditions shall be entered into the planning commission minutes filed in the planning department. The commission may also hold for further study if the initial study is insufficient; or, refer the application to the environmental review technical advisory committee (ER-TAC) for its recommendation. (Ord. 711 Sec.1, 1988).
C. A preliminary map will be required for a lot line adjustment between two (2) or more adjacent parcels, where the land taken from one (1) parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, and this preliminary map may be approved by
the planning commission director. Ord. 711 Sec.1, 1988). Notice of an approved lot line adjustment shall be the same as specified by Section 17.08.120.D. of County Code.

16.12.036 Procedure for processing tentative parcel and parcel maps.
Procedure for processing of tentative parcel and parcel maps described in Section 16.12.090 through 16.12.300 of this chapter shall be as follows:
A. Each application for a land division permit shall be submitted to the planning department.
B. Each application shall be accompanied by the following:
   1. Application fee;
   2. Copies of the tentative map
   3. Topographical map
   4. The amount of the fee, other information, and the number of copies of such maps shall be set out by resolution.
C. Upon acceptance of the application for processing, the planning department will complete a preliminary staff report and initial study. After consultation with the applicant and affected agencies, staff will finalize recommendations on the project and determine whether a negative declaration should be issued or an environmental impact report be prepared. This would include any agreements to revise project plans or proposals in order to avoid or mitigate potential significant impacts.
D. If the staff determines a negative declaration should be issued, appropriate findings, and recommendations regarding the approval or denial of the application will be prepared. Staff will complete appropriate forms, and prepare a final report to the planning commission. A hearing will then be scheduled and public notice given for planning commission consideration of the environmental determination and the proposed subdivision.
E. If the staff determines an environmental impact report should be prepared, the matter shall be scheduled for consideration by the environmental review technical advisory committee (ER-TAC) and planning commission to confirm the requirements. A notice of preparation shall be prepared and distributed to establish the scope for the document. Upon completion of the environmental impact report in accordance with the county's environmental guidelines, staff will prepare a final report and schedule a noticed public hearing before the planning commission for certification of the environmental impact report and final action on the project.
F. With completion of all reports and environmental review procedures, a hearing will be scheduled before the planning commission. Public notice will be provided in accordance with the Map Act, the subdivision ordinance, county environmental review policies and procedures, and commission resolution and Section 17.132 of County Code.
G. The public hearing will be conducted in accordance with Section 17.132 of county ordinance and planning commission resolution. Commission considerations will include all reports and recommendations from the staff. Testimony from the applicant and public will also be considered.

Exhibit "A"
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H. The commission will act to adopt a negative declaration, or certify the environmental impact report if one was prepared. The planning commission will take final action on the application by approving, conditionally approving, or denying the tentative map.

I. Action by the planning commission on either the project or the environmental determination is subject to appeal. The filing of appeals and subsequent hearings before the board of supervisors shall be in accordance with county ordinance Section 17.136 and appeals resolution.

J. When approval of the tentative map has been given, the applicant shall have one (1) three (3) years in which to submit the parcel map, pursuant to Section 16.12.430 of this chapter.

K. The county surveyor's office will take action on the map as per Government Code Section 66450.

L. When the map is ready for recording, the county surveyor will request the original map and filing fee from the applicant or person preparing the map. The county surveyor will also inform the planning commission and health department that the map has been recorded. Under no conditions shall the original map and/or filing fee be submitted until they are requested. (Ord. 711 Sec.3, 1988).

16.12.430 Expiration of tentative maps.
An approved or conditionally approved tentative map shall expire at the end of the time period specified in Government Code Section 66452.6 and other provisions of state law, provided however that the planning commission may extend the expiration day up to the time limit for extensions specified in state law after notice is given in the same manner as the original approval. (Ord. 576 Sec.6, 1982).
Chapter 16.16
MAJOR SUBDIVISIONS

Sections:

16.16.010 Tentative map--Required.
16.16.020 Tentative map--Conformance to rules.
16.16.030 Grading plan.
16.16.040 Planning department and planning commission duties.
16.16.050 Assignment of certain responsibilities to planning commission.
16.16.060 Modification of regulations.
16.16.070 Appeal to board of supervisors.
16.16.080 Revised tentative map.
16.16.090 Expiration of tentative maps.

16.16.040 Planning department and planning commission duties.

A. The planning department is authorized and directed to carry out the following actions:

1. Accept and review applications for completeness in accordance with provisions of this title and implementing resolutions.

2. Upon acceptance of the application for processing, the planning department will complete a preliminary staff report and initial study. After consultation with the applicant and affected agencies, staff will finalize recommendations on the project and determine whether a negative declaration should be issued or an environmental impact report be prepared. This would include any agreements to revise project plans or proposals in order to avoid or mitigate potential significant impacts.

3. If the staff determines a negative declaration should be issued, appropriate findings, and recommendations regarding the approval or denial of the application will be prepared. Staff will complete appropriate forms, and prepare a final report to the planning commission. A hearing will then be scheduled and public notice given for planning commission consideration of the environmental determination and the proposed subdivision.

4. If the staff determines an environmental impact report should be prepared, the matter shall be scheduled for consideration by the environmental review technical advisory committee (ER-TAC) and planning commission to confirm the requirements. A notice of preparation shall be prepared and distributed to establish the scope for the document. Upon completion of the environmental impact report in accordance with the county's environmental guidelines, staff will prepare a final report and schedule a noticed public hearing before the planning commission for certification of the environmental impact report and final action on the project.
5. With completion of all reports and environmental review procedures, a hearing will be scheduled before the planning commission. Public notice will be provided in accordance with the Map Act, and Section 17.132 of County Code the subdivision ordinance, county environmental review policies and procedures, and commission resolution.

6. Provide notice as follows:
   a. Publish notice of the time and place of any public hearing once in a newspaper of general circulation published and circulated within the county at least ten (10) days before the hearing.
   b. Notify by mail the owners of property within a radius of three hundred (300) feet of the exterior boundaries of the property covered by any tentative map. The names and addresses of such owners shall be determined according to Section 65905 of the Government Code, and the notices shall be deposited in the United States mails with postage prepaid not less than five (5) days prior to the date of such consideration; provided, however, notice as specified in this subsection shall not be required in cases where the question before the commission is a request for an extension of time for filing a final map or a modification to a previously approved resolution of approval not affecting any design or improvement.

6.7. The public hearing will be conducted in accordance with Section 17.132 of county ordinance and planning commission resolution. Commission considerations will include all reports and recommendations from the staff. Testimony from the applicant and public will also be considered.

7.8. The commission will act to adopt a negative declaration, or certify the environmental impact report if one was prepared. The planning commission will take final action on the application by approving, conditionally approving, or denying the tentative map.

8.9. Action by the planning commission on either the project or the environmental determination is subject to appeal. The filing of appeals and subsequent hearings before the board of supervisors shall be in accordance with county ordinance Section 17.136 and appeals resolution.

B. The planning commission is authorized and directed to carry out the following actions:

1. Investigate each tentative map filed with it pursuant to this title or the Subdivision Map Act and the improvements proposed to be constructed and installed in or to serve the subdivision and adopt its report with respect to the design and improvements of the subdivision and the kind, nature, and extent of the proposed improvements;

2. Obtain the recommendations of the planning department with respect to the design of the proposed subdivision;

3. Approve, disapprove, or return for corrections tentative maps filed with it pursuant to this chapter or the Subdivision Map act; provided, however, that with respect to the following described tentative maps, the planning commission shall not approve any tentative map with respect to which the planning commission has found that one of the following conditions exists:
a. The site is not physically suitable for the type of development,
b. The site is not physically suitable for the proposed density of development,
c. The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat,
d. The design of the subdivision or the proposed improvements are not likely to cause serious public health problems.

e. The proposed map is not consistent with applicable general and specific plans as specified in Government Code Section 65451.

f. The design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

g. The design of the subdivision or type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

4. In any event, the report of the planning commission, together with a copy of any approved tentative map, shall be filed by said commission with the clerk of the board of supervisors. If the report concerns a tentative map with respect to which the planning commission reported its recommendations to the board of supervisors, the board of supervisors shall act upon the report within the time prescribed by the Subdivision Map Act.

5. Where the planning commission approves a tentative map, it shall prescribe, pursuant to the provisions of this chapter the kind, nature, and extent of the improvements to be constructed or installed in or to serve the subdivisions for which such tentative map is filed; provided, however, where the planning commission does not prescribe the kind, nature, or extent of the improvements to be constructed or installed, improvements shall be constructed and installed pursuant to the Mariposa County standards.

6. Except when a tentative map is one as to which final approval can be given only by the board of supervisors as hereinbefore provided, the actions of the planning commission specified in this section shall fulfill the requirements for approval of tentative maps by the board of supervisors pursuant to the provisions of Sections 66426 and 66428 of the Subdivision Map Act; provided, however, no final map shall be filed in the office of the county recorder until such map has been approved by the board of supervisors. (Ord. 711 Sec.4, 1988).

16.16.080 Revised tentative map.

A. Where a subdivider desires to revise or alter a proposed subdivision for which a tentative map has been approved by the planning commission or the board of supervisors, the subdivider may file with the planning commission a revised tentative map on payment of the fees set out pursuant to resolution.
B. A revised tentative map shall conform to the following requirements:

1. The proposed subdivision shown on such map shall generally conform to the street and lot pattern shown on the approved tentative map.

2. The proposed subdivision shown on such map shall include only one contiguous area consisting of all or a portion of the subdivision shown on the approved tentative map together with such additional land, if any, as the subdivider desires to include.

3. The map shall contain all of the information required on tentative maps and shall be accompanied by such data as is required to be filed with tentative maps.

C. A revised tentative map may be filed prior to the expiration of the tentative map by the planning commission or board of supervisors or, if an extension of time is granted, within the period specified.

D. Upon the filing of a revised tentative map and payment of the prescribed fee, such revised tentative map shall be treated in all respects as an original tentative map and shall be reported on approved, or disapproved in the same manner as a tentative map.

E. Nothing in this section shall be construed as a limitation on the power of the board of supervisors or planning commission to approve alteration of a tentative map approved by such board or commission. (Ord. 576 Sec.5, 1982; Ord. 429 Sec.5.7, 1976).

16.16.090 Expiration of tentative maps.

When approval of the tentative map has been given, the applicant shall have three (3) years in which to submit the tract map. An approved or conditionally approved tentative map shall expire at the end of the time period specified in Government Code Section 66452.6 and other provisions of state law, provided however that the planning commission may extend the expiration day up to the time limit for extensions specified in state law after notice is given in the same manner as the original approval. (Ord. 576 Sec.7, 1982).

16.20.030 Lots.

A. Lots shall have a minimum area of ten nine thousand square feet and a minimum width at the front building line of sixty-five feet, where the slope does not exceed fifteen percent and where neither the domestic drinking water system or the sewage disposal system is developed on the lot.

The planning commission may require lot sizes in excess of the minimum lot size should it find that the slope exceeds fifteen percent.

1. Parcels shall have a minimum size of one acre (exclusive of easement) if either the domestic water system or the sewage disposal system is to be developed on the lot where the slope does not exceed fifteen percent. The minimum dimension of any lot shall be one hundred feet without a variance from the planning commission pursuant to Sections
2.52.180 through 2.52.340 17.120 of County Code. The burden is upon the applicant to show that such system meets the laws and standards of the state and county.

2. If both the sewage disposal system and the domestic drinking water system are developed on the same lot, then the minimum lot size shall be two and one-half acres (exclusive of easement) where the slope does not exceed fifteen percent. (refer to Sections 16.12.350 through 16.12.370.) The minimum dimensions of any lot shall be one hundred feet without a variance from the planning commission pursuant to Sections 2.52.180 through 2.52.340 17.120 of County Code.

3. In either subsections 1, 2, or 3, approval of the sewage and water system shall first be obtained from the Mariposa County health department. There shall be a minimum of one percolation test performed on each lot as described in Section 16.12.380.

B. No lot shall be divided by a county, city, or school district boundary line.

C. The side line of lots shall be approximately at right angles to the street line or straight streets or to the tangent on curved streets. (Ord. 462(part), 1977; Ord. 429 Sec.6.3, 1976).
Chapter 16.32

ENFORCEMENT AND PENALTIES

Sections:

16.32.010 Reporting of violation.
16.32.020 Notice of violation.
16.32.030 Unauthorized development, permits and approvals withheld for illegal subdivisions.
16.32.040 Building permit applications to be referred to planning commission director.
16.32.050 Inspection of building permit for subdivision violation--Certificate of compliance.
16.32.060 (Repealed).
16.32.070 Appeal to planning commission and board of supervisors.
16.32.080 Violation--Penalty.

16.32.010 Reporting of violation.
Whenever the county assessor or the head of any other county department finds that the provisions of this title or the Subdivision Map Act have been violated, he shall report such violation to the planning commission director. It shall be the duty of the planning commission to investigate such report and enforce the provision of this title and the Subdivision Map Act. (Ord. 429 Sec.9.0, 1976).

16.32.020 Notice of violation.
Whenever the planning commission has knowledge that real property has been divided, or has resulted from division, in violation of the provisions of the Subdivision Map Act or county ordinances enacted pursuant thereto applicable at the time such violation occurred, it shall cause to be filed for record with the county recorder a notice of violation, subsequent to complying with Government Code Section 66499.36 and rendering its decision by formal resolution. Such notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such real property. (Ord. 429 Sec.9.1, 1976).

16.32.030 Unauthorized development, permits and approvals withheld for illegal subdivisions.
No person shall convey any parcel or parcels of real property nor shall any permits be issued nor any construction commenced upon property for which a subdivision map is required by this title or the Subdivision Map Act, until such map thereof in full compliance with the provisions of this title and the Subdivision Map Act has been filed for record by the county recorder. (Ord. 429 Sec.9.2, 1976).
16.32.040 Building permit applications to be referred to planning commission director.
Whenever any person submits an application to the building inspector and/or county sanitary for a building permit, grading permit or permit to install a septic tank or well, the building inspector and/or county sanitary shall refer such application together with the plot plan to the planning commission director for their determination as to whether such proposed construction would create a subdivision. The building inspector shall not issue any building permit or permit to install for such proposed construction unless the planning commission director has approved the plot plan and determined that the proposed construction would not constitute a violation of the Subdivision Map Act or this title. (Ord. 429 Sec.9.3, 1976).

16.32.050 Inspection of building permit for subdivision violation--Certificate of compliance.
Upon receipt of a written notification from the permit-issuing authority, or the body authorized to grant approval, that a permit or approval is being sought to develop real property which has been subdivided or which has resulted from a division in violation of the Subdivision Map Act or the Subdivision Map Ordinance, or upon receipt of a written request for a determination from the owner of such real property, the planning commission director, or on appeal the board of supervisors, shall determine whether such real property is or is not approved for development, and shall so inform the owner thereof and the authority or body which has originated said notification. If it is determined that such real property is otherwise approved for development, but for the apparent violation of the Subdivision Map Act and/or Subdivision Ordinance, the planning commission director, or on appeal the board of supervisors, shall impose such conditions as specified in Section 66499.35 of the Subdivision Map Act including dedication requirements as would have been applicable to the division of the property at the time the current owner of record acquired the property and that are appropriate to satisfy the requirements of the Subdivision Map Act, the Subdivision Ordinance, public health and safety considerations and other considerations as are hereinafter specified; and upon the completion of all such conditions, the planning commission director shall cause a certificate of compliance relative to the subject real property and reflecting such conditions to be filed with the county recorder. (Ord. 429 Sec.9.4, 1976). Notice of an approved certificate of compliance shall be the same as specified by Section 17.08.120.D. of County Code.

16.32.060 (Repealed).
16.32.070 Appeal to planning commission and board of supervisors.
Any interested person may likewise appeal a Planning Director's determination to the planning commission and may appeal to the board of supervisors from any decision of the planning commission made relative to the provisions of Government Code Sections 66473.5, 66474, 66474.1 and 66452.5. (Ord. 429 Sec.9.6, 1976). Appeal procedures shall be the same as those in Section 17.136 of County Code and the adopted County Appeals Procedures, as amended from time to time.

16.32.080 Violation--Penalty.
Any person violating any provision of this title shall be guilty of a misdemeanor and shall be punishable under Chapter 1.20, the general penalty provisions, of this code. (Ord. 469 Sec.B(2), 1977; Ord. 429 Sec.9.7, 1976).