

**STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION**

Resolution
No 2020-014

**A Resolution Recommending that the Board of Supervisors
approve the Title 17 *portion* of County Code Amendment No.
2019-218 for Code Compliance Procedures**

WHEREAS, Mariposa County establishes local land use, development and permitting regulations in the Mariposa County Code, including zoning, building and environmental health regulations and marijuana regulations; and

WHEREAS, Mariposa County is responsible for enforcement of these local regulations as well as state law (applicable codes); and

WHEREAS, property owners in the county are responsible for maintaining their properties in compliance with applicable codes; and

WHEREAS, Mariposa County Code establishes code enforcement procedures and requirements. These procedures and requirements are generally effective for cooperative property owners however, they are not effective or efficient or economical for non-cooperative property owners; and

WHEREAS, pursuing code compliance for violations involving non-cooperative property owners can consume significant staff time, including County Counsel staff time. Occasionally, Mariposa County Superior Court action is required, necessitating outside counsel assistance; and

WHEREAS, the costs for staff time and outside counsel assistance for the code compliance program is a County general fund expense, paid for by the county taxpayers and county transient occupancy tax income; and

WHEREAS, there are many unresolved code compliance cases throughout Mariposa County; and

WHEREAS, existing and unresolved code compliance cases can negatively impact off-site property owners and off-site property values, and can result in environmental hazards including water quality hazards, public health and safety hazards, unsafe buildings, unsafe grading, negative impacts to the County's rural character and scenic quality, unfair business advantages, and increased wildland fire hazards; and

WHEREAS, based on limitations of the County's current code compliance enforcement provisions, the County has pursued code amendments to provide more effective, efficient and less costly administrative enforcement procedures; and

WHEREAS, these amendments are known as County Code Amendment No. 2019-218; and

WHEREAS, County Code Amendment No. 2019-218 include amendments to Title 1, Title 3, Title 8 and Title 17 of County Code; and

WHEREAS, the Planning Commission's authority and scope of responsibility are established by County Code Section 2.52.180. The Planning Commission is authorized to review and provide recommendations to the Board of Supervisors on amendments to Title 17, however the Planning Commission does not have authority to review and make recommendations on amendments to Title 1, Title 3 and/or Title 8 of County Code; and

WHEREAS, the Planning Commission reviewed all of County Code Amendment No. 2019-218, including amendments to Title 1, Title 3, Title 8 and Title 17, to understand the context of the portion of the project amending Title 17; and

WHEREAS, the project review also provided the Planning Commission with an understanding of the need for the project, the Board's objectives for the project and the results of the project; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled and noticed for the Title 17 *portion* of the project for the 9th day of October 2020; and

WHEREAS, a Staff Report packet was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and,

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record regarding the Title 17 *portion* of County Code Amendment No. 2019-218, including the Staff Report packet, testimony presented by the public, staff's recommendations and the proposed environmental determination.

NOW BE IT THEREFORE RESOLVED THAT, the Planning Commission does hereby recommend that the Board of Supervisors approve the Title 17 *portion* of County Code Amendment No. 2019-218 for Code Compliance Procedures. The amendment text is included as Exhibit 1 of this resolution.

BE IT FURTHER RESOLVED THAT, the Planning Commission's recommendation for approval of the Title 17 *portion* of the project is based on the following findings supported by substantial evidence in the public record.

1. **Finding:** The amendment is in the general public interest and will not have a significant adverse effect on the general public health, safety, peace, and welfare.

Evidence: The amendment is in the general public interest, as it provides internal consistency between code titles. Amending County Code Title 17 to be consistent with other amendments being processed for Titles 1, 3 and 8 for

alternative code compliance procedures will not have a significant adverse effect (or any effect) on the general public health, safety, peace, and welfare.

2. Finding: The amendment is 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.

Evidence: The State of California requires every county to adopt a legally adequate General Plan, containing mandatory elements. The California Supreme Court calls the General Plan the “constitution” of a County, and it serves as more than a document regulating land use. The General Plan provides the long-range vision and policy direction defining what the County is and wants to become. The General Plan comprises the written adopted policies of the Board of Supervisors with input from County residents. The General Plan establishes policies to guide growth and development in the county. The General Plan’s policies are implemented by regulations, including those established for land use, development and permitting. Amending County Code Title 17 to be consistent with other amendments being processed for Titles 1, 3, and 8 for alternative code compliance procedures will improve the General Plan. It is essential for County Code to be internally consistent, to be implementable on a day to day basis.

3. Finding: That amendment conforms to the requirements of state law and county policy.

Evidence: This project has been processed in accordance with State law and county policy. Pursuant to County Code, Chapter 2.52, the Planning Commission is responsible for reviewing and making recommendations to the Board of Supervisors on amendments to County Code Title 17 only, and not Titles 1, 3 or 8. Consequently, the Planning Commission has made recommendations for the Title 17 *portion* of this project only. The amendment ensures the County’s codes establishing rules and procedures to obtain compliance are internally consistent and consistent with State law.

4. Finding: That the amendment is consistent with other guiding policies, goals, and standards of the Mariposa County General Plan.

Evidence: Amending County Code Title 17 to be consistent with other amendments being processed for Titles 1, 3, and 8 for alternative code compliance procedures is consistent with County General Plan overarching policies and goals to maintain the county’s rural character. If county regulations, which implement General Plan policies, are not uniformly and consistently implemented and applied, the plan policies, goals and standards cannot be achieved.

5. Finding: County Code Amendment Application No. 2019-218 is subject to review pursuant to the California Environmental Quality Act (CEQA). The Planning Commission has considered the draft Notice of Exemption provided by staff for the project (the whole of the project), but does not make a recommendation to the Board for an environmental determination as they do not have authority to review all parts

of County Code Amendment No. 2019-218. Additionally, it is noted that the Planning Commission is not taking any final approval action for the Title 17 portion of County Code Amendment No. 2019-218.

BE IT FINALLY RESOLVED THAT, if any section, subsection, sentence, clause, word, phrase or finding of this resolution is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this resolution. The Planning Commission hereby declares each section, subsection, sentence, clause, word, phrase or finding is severable.

ON MOTION BY Commissioner Sweeney, seconded by Commissioner Walls, this resolution is duly passed and adopted on the 6th day of October 2020 by the following vote:

AYES: Walls, Sweeney, Herman, Harris, McCamman

NOES: None

EXCUSED: None

ABSTAIN: None



Larry Harris, Chair
Mariposa County Planning Commission

Attest:



Carol Suggs, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1

(All text in these two sections is new text to County Code)

Sections 17.144.110 and 17.144.120 are added to Chapter 17.144 Enforcement of Title 17 Zoning as follows (all other existing sections to remain unchanged)

Chapter 17.144 ENFORCEMENT

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17.144.110 Access by Authorized Officers

Whenever it is necessary to make an inspection to enforce any provision of this chapter, or whenever the code official has reasonable cause to believe that there exists in any structure or upon any premises any condition in violation of this chapter, the code official may enter the premises at all reasonable times to perform any duty imposed upon the code official by this chapter, provided the code official receives free and voluntary consent from a responsible party. If entry is denied, except under exigent circumstances, an inspection warrant shall be secured.

17.144.120 General Provisions

A. Severability. If any section, subsection, sentence, clause, phrase, or other part of this chapter is for any reason held to be unconstitutional or otherwise invalid, the decision shall not affect the validity of the remaining portions of this chapter. The board of supervisors declares that it would have enacted this chapter and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases or other parts be declared unconstitutional or otherwise invalid.

B. Liability. No employee of the county charged with the enforcement of this chapter shall be personally liable for any damage that may accrue to any person or subject property as a result of any act or omission in the discharge of his/her duties.

C. Alternative Remedies. Nothing in this chapter shall be interpreted to prevent prosecution under any other civil, penal, building, fire, or related codes or other titles of the Mariposa County Code. The county reserves the right to pursue any one or more remedies simultaneously or concurrently.

D. Denial of Permits, Licenses, or Other Entitlements. Except as otherwise provided by law, the county shall not accept for processing, process, or issue or grant approval of any permit, license, or other entitlements for any subject property for which any notice of violation (as defined in MCC Section 1.40.040, Definitions) has been issued.

1. The county shall withhold processing or accepting for processing any permit, license, or other entitlements for the subject property not necessary to correct violations until a notice of compliance has been issued by the code official.

2. The county may not withhold any permit, license, or other entitlements which are necessary to correct or prevent serious public health and safety conditions.

3. The county shall refuse to issue or grant a permit, license, or other entitlements pursuant to this section whether the applicant(s) was/were the owner(s) of

the real property containing a violation of the applicable code(s) at the time of violation or whether the applicant(s) is/are either the current owner(s) or a vendee of the current owner(s) pursuant to a contract of sale of the real property with or without actual or constructive knowledge of the violation(s) at the time of the acquisition of their/its interest in the subject real property.