DEPARTMENT: Planning  BY: Jay Pawlek  PHONE: (209) 966-5151  S-B

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes  No XX)

Adopt the Right to Agricultural Activity Ordinance and amendment to the General Plan, General Plan/Zoning Amendment 94-3. Introduction, first reading, and public hearing for ordinance and amendment to Title 17 (Zoning Ordinance) and public hearing for General Plan amendments.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

- On December 21, 1993, the Board directed the Planning Department to initiate the process of developing a “right to agricultural activity” ordinance and approved a tentative work program.
- On January 4, 1994, the Farm Bureau made a recommendation to the Board regarding the development of a “right to agricultural activity” ordinance and what they hoped it would contain.
- On March 1, 1994, the Board directed the Planning Department to begin the process of considering a “right to agricultural activity” ordinance as a result of a request from the Mariposa County Farm Bureau.
- On June 8, 1994, The Farm Bureau reviewed the proposed ordinance and determined that it contained what they had hoped.
- On June 28, 1994, the Board adopted Resolution 94-267 initiating the public review and hearing process on a “right to agricultural activity” ordinance.
- On June 16, 1995, the Planning Commission adopted Resolution 95-11 recommending approval of General Plan/Zoning Amendment 94-3 and the “right to agricultural activity” ordinance.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVES:  1) Continue matter. (2) Request additional information.

NEGATIVE ACTION would result in not adopting the right to agricultural activity ordinance.

COSTS:  (X) Not Applicable  $  
A. Budgeted current FY  
B. Total anticipated costs  $  
C. Required additional funding  $  
D. Internal transfers  $  

SOURCE:  (X) 4/5ths Vote Required  
A. Unanticipated revenues  $  
B. Reserve for contingencies  $  
C. Source description:  
Balance in Reserve for Contingencies, if approved:  $  

SPECIAL INSTRUCTIONS:  List the attachments and number the pages consecutively:
Memorandum:
(1) Draft Board Ordinance
(2) Draft Board Resolution
(3) Planning Commission Resolution 95-11
(4) Planning Commission Minutes
(5) Staff Report

CLERK'S USE ONLY:
Res. No. 95-233 (leding):  Ord. No. 229  Per 95-273
Vote - Ayes: Absent: Abstained:  
( ) Approved  ( ) Denied  
Minute Order Attached  ( ) No Action Necessary
The foregoing instrument is a correct copy of the original on file in this office.
Date:  
ATTEST:  MARGIE WILLIAMS, Clerk of the Board  
By:  County of Mariposa, State of California
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:  This item on agenda as:

Recommended  Not Recommended  For Policy Determination  Submitted with Comment  Returned for Further Action
Comment:  
A.O. Initials:  

A.O. Initials:  

7-25-95  85-239  7-29-95  45-349 7-30-95
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: ED JOHNSON, Planning and Building Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING Re Right to Agricultural Activity Ordinance and Amendment to the General Plan, General Plan/Zoning Amendment 94-3, County of Mariposa, Applicant; Res. 95-333

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on July 11, 1995

ACTION AND VOTE:

11:00 a.m. Ed Johnson, Planning and Building Director;
A) PUBLIC HEARING to Consider Right to Agricultural Activity Ordinance and Amendment to the General Plan, General Plan/Zoning Amendment 94-3, County of Mariposa, Applicant

BOARD ACTION: Ed Johnson, Planning and Building Director, and Jay Pawlek, Assistant Planner, presented staff recommendations of modifying General Plan, introducing and waiving first reading of Ordinance and receiving public input. Staff explained proposed Ordinance's background, one year complaint and nuisance criteria, and the anticipated steps to insure public awareness of disclosure statement as well as the County's feelings towards agriculture. Planner Pawlek emphasized Ordinance only protects commercial agricultural activities and not hobby farmers or 4-H like activities. Ordinance will not affect agriculture exclusive zoning, in that it is already protected. Planner Pawlek explained that the adoption of the Resolution Approving General Plan/Zoning Amendment 94-3, is to maintain document consistency between this Ordinance and the General Plan. Planner Pawlek informed Board that the agriculture disclosure statement would be enforced the same as any disclosure information and would be provided to all buyers for all transactions. Disclosure statements would be made available through the building permit process and to the Board of Realtors for outside real estate agents. Planner Pawlek stated that local Realtors were involved during the beginning of the proposed Ordinance. Presentation concluded. Public portion of hearing was opened. Cathie Ragghianti, Farm Bureau Director, expressed support for Ordinance and that the Farm Bureau has worked on this issue for years and feels that agriculture is very important to the County of Mariposa. Mrs. Ragghianti also noted that if this issue is not dealt with now, problems could result later. Diane Crisp, Cattle Rancher, stated that she is in agreement with Mrs. Ragghianti's
feelings. No additional public input received. Public portion was closed and Board commenced deliberations. (M) Reilly to move action and waive introduction and first reading, (S) Balmain, Res. 95-333 adopted, with discussion concerning methods of public notification relative to disclosure statement. Board directed staff to work through steps of implementing disclosure requirement and to report back to the Board, rather than including specifics in motion. Such as agencies responsible for distributing disclosure statement to the public, i.e. Recorder’s Office, through escrow, planning permit process, etc./Ayes: Reilly, Balmain and Stewart; Abstained: Parker, as a member of the Farm Bureau; Excused: Taber. Ed Johnson, Planning Director, informed Board that Resolution Approving General Plan/Zoning Amendment 94-3 will be adopted during second reading and adoption of Ordinance.

cc: Jay Pawlek, Assistant Planner
    Cathie Ragghianti, Farm Bureau Director
    Diane Crisp, Cattle Rancher
    Pile
MEMORANDUM

June 28, 1995

TO:        Board of Supervisors
FROM:      Jay Pawlek, Assistant Planner
           Ed Johnson, Director

RE:        General Plan/Zoning Amendment No. 94-3 - Proposed Text
 Amendments to the General Plan and Zoning Ordinance and the
 adoption of a “right to agricultural activity” Ordinance.

RECOMMENDATION

Staff recommends that the Board introduce the “right to agricultural
activity” ordinance and amendments to Title 17, waive the first
reading, and receive public testimony on the Zoning Ordinance and
General Plan amendments.

PROJECT DESCRIPTION AND SUMMARY

The proposed Right to Agricultural Activity Ordinance is intended to:

• Declare that the policy of the County is to enhance and encourage
  agricultural operations within the County.

• Reduce the loss to the county of its agricultural resources by
  clarifying the circumstances under which agricultural operations may
  be considered a nuisance.

• Promote a good neighbor policy by advising purchasers and users of
  property adjacent to or near agricultural operations of the inherent
  potential effects associated with such purchase or residence.

The Ordinance achieves these goals through three measures:

• The addition of specific nuisance conditions. Under the “right to
  agricultural activity” ordinance no agricultural activity shall
  become a private or public nuisance after it has been in operation
  for more than one year, if it is not a nuisance at the time it
  began.
• A disclosure statement which must be presented to a buyer of property upon transfer or sale. The ordinance would require that the seller provide information about the County's agricultural practices, priorities, and regulations to a buyer of property at the time of sale.

• The distribution of information about the County's agricultural practices, priorities, and regulations to people during the building permit process.

See Planning Commission staff report for additional details.
See Attachment 2 for text amendments to the General Plan.
See Attachment 1 for text amendments to the Zoning Ordinance and the "right to agricultural activity" ordinance.

HISTORY OF BOARD ACTION

• On December 21, 1993, the Board directed the Planning Department to initiate the process of developing a "right to agricultural activity" ordinance and approved a tentative work program.

• On January 4, 1994, the Farm Bureau made a recommendation to the Board regarding the development of a "right to agricultural activity" ordinance and what they hoped it would contain.

• On March 1, 1994, the Board directed the Planning Department to begin the process of considering a "right to agricultural activity" ordinance as a result of a request from the Mariposa County Farm Bureau.

• On June 8, 1994, The Farm Bureau reviewed the proposed ordinance and determined that it contained what they had hoped.

• On June 28, 1994, the Board adopted Resolution 94-267 initiating the public review and hearing process on a "right to agricultural activity" ordinance.

PLANNING COMMISSION RECOMMENDATION

• On June 16, 1995, the Planning Commission adopted Resolution 95-11 recommending approval of General Plan/Zoning Amendment 94-3 and the "right to agricultural activity" ordinance.

PUBLIC NOTICE AND INPUT

An 1/8 page public notice regarding the proposed actions and the scheduled public hearings was published in the Mariposa Gazette on May 25, 1995. No correspondence has been received in regards to this matter.
MARIPOSA COUNTY BOARD OF SUPERVISORS
RESOLUTION NO. 95-349

A RESOLUTION APPROVING GENERAL PLAN AMENDMENT NO. 94-3;
MARIPOSA COUNTY, APPLICANT

WHEREAS, the Mariposa County Board of Supervisors adopted Resolution No. 94-267 on June 28, 1994 thereby initiating the public review and hearing process to amend the Mariposa County General Plan, Mariposa County Zoning Ordinance, and to adopt a "right to agricultural activity" ordinance; and

WHEREAS, the Board of Supervisors is responsible for reviewing the proposed amendment and the approval or denial of a proposed amendment to the Mariposa County General Plan; and

WHEREAS, the Board of Supervisors has held a duly noticed public hearing in accordance with County Code and State Law; and has considered all input, written and verbal, delivered to the Board.

NOW THEREFORE BE IT RESOLVED, The Mariposa County Board of Supervisors hereby approves General Plan Amendment No. 94-3 as delineated in Exhibits "A" of this resolution, attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the Board of Supervisors adopts the findings for an environmental review exemption as shown in Exhibit "B".

BE IT FINALLY RESOLVED, that the recommendation is based upon the recommendation of the Planning Commission
Resolution 95-11 and the findings for approval of the General Plan Amendment as shown in Exhibit “C”.

PASSED AND ADOPTED by the Mariposa County Board of Supervisors on the 25th day of July 1995, by the following vote:

AYES: REILLY, BALMAIN, STEWART

NOES: NONE

ABSENT: TABER

ABSTAINED: PARKER

[Signature]
Garry R. Parker
Mariposa County Board of Supervisors

ATTEST:

[Signature] MARGIE WILLIAMS
Clerk of the Board

[Signature] JEFFREY B. GREEN
County Counsel

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:
Add Section 3.1025 as follows:

Agricultural activity or operation shall mean any activity or operation which has to do with agriculture and shall include, but not be limited to, the cultivation and tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, timber or apiculture; the raising of livestock, fur-bearing animals, fish or poultry; and any commercial agricultural practices performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

Add Section 3.1075 as follows:

Commercial purposes shall mean an activity or operation that is primarily conducted for commercial use or sale of an agricultural product or commodity on the activity or operation site with financial gain as the primary aim.

Add Section 3.1265 as follows:

Nuisance shall mean anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. Public nuisance shall mean a nuisance which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. Private nuisance shall mean every nuisance which is not a public nuisance.

Amend Section 3.603(E)(2) to read as follows:

2. Agriculture and grazing may be permitted in all districts. Animal husbandry and the production of crops, plus the sale of agricultural products. Notwithstanding anything to the contrary contained herein, it shall be a violation of this Title for any landowner, tenant, or person in possession or control of land in Mariposa County to conduct any agricultural use, horticultural use, viticultural use, silvicultural use, or
agricultural enterprise, including but not limited to, grazing, animal husbandry, production of crops, or sale of agricultural products, on land in Mariposa County, in such a manner as to constitute either a private or public nuisance. Agricultural uses, including but not limited to animal husbandry, livestock grazing, the production of crops, horticulture, viticulture, silviculture, sale of agricultural products, and accessory uses and structures appurtenant to the agricultural use, may be permitted in all districts subject to the following standards:

1. The provisions of this section shall not be applicable in the AE land use classification and in town planning areas with specific land use policies and zoning regulations.

2. The agricultural use shall not be conducted in such a manner as to constitute a nuisance, public or private.

3. Notwithstanding anything to the contrary contained herein, no existing or future agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, in a manner consistent with proper and accepted customs, standards, and practices and with all chapters of the Mariposa County Code as established and followed by similar agricultural uses, shall be or become a nuisance, public or private, after the same has been in operation for more than one year if it was not a nuisance at the time it began. The provisions of this section shall not apply whenever a nuisance results from agricultural operations inconsistent with accepted practices and standards or contrary to local, state, or federal ordinances, laws, and regulations.
Additions are shown in italic type.
Deletions are shown in strikethrough type.

EXHIBIT "B"

FINDINGS FOR ENVIRONMENTAL REVIEW EXEMPTION:

1. Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines states "...CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

2. The ordinance and amendments only address the rights of a commercial agricultural operation to exist in Mariposa County. They do not change the ability of an operation to commence or continue in any particular location. Additionally the ordinance and amendments provide for increased public information and do not change the potential future location of housing units.
EXHIBIT "C"

FINDINGS FOR GENERAL PLAN AMENDMENT:

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

The amendment will modify the County's policy towards the status of commercial agricultural operations particularly those in zoning designations other than Agricultural Exclusive (AE). The amendment does not permit any use in an area in which it previously was restricted. The amendment does not restrict any use in an area in which it previously was permitted. The amendment applies only to the rights of legally operating commercial agricultural operations to continue.

The amendment will serve to increase the level of protection given to established Agricultural uses within the County. In so doing it will help to insure the continued economic and social benefits agricultural lands and industries provide to Mariposa County. Additionally the preservation of agricultural lands helps to insure the benefits of open space and the preservation of rural character for all County residents and visitors.

2. The amendment is desirable for the purpose of improving the 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 amendment serves to more clearly define the County's policies and regulations toward agricultural operations. It develops usable definitions which will improve the ability of County Staff to implement the regulations and Residents to understand what is desired and acceptable in accordance with County Code. The amendment will insure that legally conducted commercial agricultural operations can continue to operate. This will facilitate the goals of the General Plan pertaining to agriculture, commerce, and open space. The amendment clarifies the county's long-term commitment to commercial agriculture.
3. The amendment conforms with the requirements of State Law and County policy.

The amendment has been processed in accordance with California Planning and Zoning Law and the County Zoning Ordinance, including noticing and holding of public hearings. The amendment has been determined to be exempt from environmental review in accordance with the California Environmental Quality Act and the County Environmental Review Policies and Procedures.

4. The amendment is consistent with the policies and standards of the Mariposa County General Plan.

As discussed in Finding #1, the amendment is in the general public interest and will not have a significant adverse effect on the general public health, safety, and welfare. The amendment is not inconsistent with any policies, objectives, and standards of the General Plan. The amendment furthers the goals of the General Plan, specifically those listed below.

Section 3.200 of the Mariposa County General Plan Land Use Element establishes specific concerns upon which the Land Use Element policies, goals, and standards are based. These "concerns" include: "The strengthening of the economic and employment opportunities of Mariposa County through the encouragement of appropriate commercial and light industrial activity, protection and expansion of agriculture and forestry, and local processing of raw materials."

Section 6.300(B) of the Mariposa County General Plan Conservation Element lists as a goal: "To preserve and protect lands which are classified for agricultural and forest production to the extent that agricultural development of such lands is economically viable and is to the long-range economic benefit of the community as a whole, and to promote the preservation and development of such lands through incentives, land use policy and long-range water planning."

Section 7.601(2) of the Mariposa County General Plan Open Space Element lists as a goal: "To establish policies and standards which provide for, and support, the managed production of natural resources in the County."
MARIPOSA COUNTY BOARD OF SUPERVISORS
ORDINANCE NO. 888

AN ORDINANCE APPROVING ZONING AMENDMENT NO. 94-3 AND THE
RIGHT TO AGRICULTURAL ACTIVITY ORDINANCE; MARIPOSA COUNTY,
APPLICANT

WHEREAS, the Mariposa County Board of Supervisors
adopted Resolution No. 94-267 on June 28, 1994 thereby
initiating the public review and hearing process to amend
the Mariposa County Zoning Ordinance, and to adopt a "right
to agricultural activity" ordinance; and

WHEREAS, the Board of Supervisors is responsible
for reviewing the proposed amendment and ordinance and the
approval or denial of a proposed amendment to the Mariposa
County Zoning Ordinance; and

WHEREAS, the Mariposa County Planning Commission
and Board of Supervisors have held duly noticed public
hearings in accordance with County Code and State Law; and
have considered all input, written and verbal, delivered to
them.

NOW THEREFORE BE IT ORDAINED, The Mariposa County
Board of Supervisors hereby adopts Zoning Amendment No. 94-3
and the "Right to Agricultural Activity" ordinance as
delineated in Exhibits "A" and "B" of this ordinance,
attached hereto and incorporated herein by reference.

BE IT FURTHER ORDAINED, that the Board of
Supervisors adopt the following findings for an
environmental review exemption:

1. Section 15061(b)(3) of the California Environmental
Quality Act (CEQA) Guidelines states "...CEQA applies
only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

2. The ordinance and amendments only address the rights of a commercial agricultural operation to exist in Mariposa County. They do not change the ability of an operation to commence or continue in any particular location. Additionally the ordinance and amendments provide for increased public information and do not change the potential future location of housing units.

BE IT FINALLY ORDAINED, that the recommendation is based upon the recommendation of the Planning Commission Resolution 95-11 and the following findings for approval of the Zoning Amendment and “Right to Agricultural Activity” ordinance:

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

The amendment will modify the County's policy towards the status of commercial agricultural operations particularly those in zoning designations other than Agricultural Exclusive (AE). The amendment does not permit any use in an area in which it previously was restricted. The amendment does not restrict any use in an area in which it previously was permitted. The amendment applies only to the rights of legally operating commercial agricultural operations to continue.

The amendment will serve to increase the level of protection given to established Agricultural uses within the County. In so doing it will help to insure the continued economic and social benefits agricultural lands and industries provide to Mariposa County. Additionally the preservation of agricultural lands helps to insure the benefits of open space and the preservation of rural character for all County residents and visitors.

2. The amendment is desirable for the purpose of improving the 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 amendment serves to more clearly define the County's policies and regulations toward agricultural operations. It develops usable definitions which will improve the ability of County Staff to implement the regulations and Residents to understand what is desired and acceptable in accordance with County Code. The amendment will insure that legally conducted commercial agricultural operations can continue to operate. This will facilitate the goals of the General Plan pertaining to agriculture, commerce, and open space. The amendment clarifies the county's long-term commitment to commercial agriculture.

3. The amendment conforms with the requirements of State Law and County policy.

The amendment has been processed in accordance with California Planning and Zoning Law and the County Zoning Ordinance, including noticing and holding of public hearings. The amendment has been determined to be exempt from environmental review in accordance with the California Environmental Quality Act and the County Environmental Review Policies and Procedures.

4. The amendment is consistent with the policies and standards of the Mariposa County General Plan.

As discussed in Finding #1, the amendment is in the general public interest and will not have a significant adverse effect on the general public health, safety, and welfare. The amendment is not inconsistent with any policies, objectives, and standards of the General Plan. The amendment furthers the goals of the General Plan, specifically those listed below.

Section 3.200 of the Mariposa County General Plan Land Use Element establishes specific concerns upon which the Land Use Element policies, goals, and standards are based. These “concerns” include: “The strengthening of the economic and employment opportunities of Mariposa County through the encouragement of appropriate commercial and light industrial activity, protection and expansion of agriculture and forestry, and local processing of raw materials.”

Section 6.300(B) of the Mariposa County General Plan Conservation Element lists as a goal: “To preserve and protect lands which are classified for agricultural and forest production to the extent that agricultural development of such lands is economically viable and is to the long-range economic benefit of the community as
a whole, and to promote the preservation and
development of such lands through incentives, land use
policy and long-range water planning.”

Section 7.601(2) of the Mariposa County General Plan
Open Space Element lists as a goal: “To establish
policies and standards which provide for, and support,
the managed production of natural resources in the
County.”

PASSED AND ADOPTED by the Mariposa County Board of
Supervisors on the 25th day of July 1995, by the following
vote:

AYES: REILLY, BALMAIN, STEWART
NOES: NONE
ABSENT: TABER
ABSTAINED: PARKER

Garry R. Parker
Mariposa County Board of Supervisors

MARGIE WILLIAMS
Clerk of the Board

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

JEFFREY G. GREEN
County Counsel
EXHIBIT "A"

Chapter 18.04

RIGHT TO AGRICULTURAL ACTIVITY

Sections:

18.04.010 Definitions
18.04.020 Findings and Policy
18.04.030 Nuisance
18.04.040 Disclosure
18.04.050 Notice
18.04.060 Penalty for Violation
18.04.070 Separability
18.04.080 Precedence

18.04.010 Definitions.

A. "Agricultural land" shall mean all that real property within the boundaries of Mariposa County currently used for agricultural activities or operations or upon which agricultural activities or operations may in the future be established.

B. "Agricultural activity or operation" shall mean any activity or operation which has to do with agriculture and shall include, but not be limited to, the cultivation and tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, timber or apiculture; the raising of livestock, fur-bearing animals, fish or poultry; and any commercial agricultural practices performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

C. "Commercial purposes" shall mean an activity or operation that is primarily conducted for commercial use or sale of an agricultural product or commodity on the activity or operation site with financial gain as the primary aim.

D. "Nuisance" shall mean anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

E. "Private nuisance" shall mean every nuisance which is not included in the definition of a public nuisance.

F. "Public nuisance" shall mean a nuisance which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
18.04.020 Findings and Policy.

A. It is the declared policy of this County to enhance and encourage agricultural operations within the County. It is the further intent of this County to provide to the residents of this County proper notification of the County's recognition and support through this ordinance of those persons' and/or entities' right to conduct agricultural activity.

B. Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations frequently become the subject of nuisance complaints due to lack of information about such operations. As a result, agricultural operators are forced to cease or curtail their operations. Such actions discourage investment in farm improvements to the detriment of adjacent agricultural uses and the economic viability of the County's agricultural industry as a whole. It is the purpose and intent of this section to reduce the loss to the County of its agricultural resources by clarifying the circumstances under which agricultural operations may be considered a nuisance. This ordinance is not to be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, Division 7 of the Water Code, or any other applicable provision of state law relative to nuisances; rather, it is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.

C. An additional purpose of this ordinance is to promote a good neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential effects associated with such purchase or residence. Such concerns may include, but are not limited to, the noise, odor, dust, chemicals, smoke and hours of operation that may accompany agricultural operations. It is intended that, through mandatory disclosure, purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.

18.04.030 Nuisance.

No existing or future agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs, standards, and practices and with all chapters of the Mariposa County Code, as established and followed by similar agricultural operations, shall be or become a nuisance, public or private, pursuant to the Mariposa County Code, after the same has been in operation for more than one year if it was not a nuisance at the time it began. The provisions of this section shall not apply whenever a nuisance results from agricultural operations inconsistent with accepted customs, standards, and practices or contrary to local, state, or federal ordinances, laws, and regulations.
18.04.040 Disclosure.

A. Pursuant to Section 1102.6a of the California Civil Code, it is intended by this section to require disclosures in addition to those disclosures required by Section 1102.6 of the California Civil Code.

B. Upon any transfer of real property by gift, sale, exchange, installment land sale contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or transfer of residential stock cooperative improved with dwelling units, the transferor shall require that the disclosure statement set forth in Section 18.04.040(C) shall be signed by the grantee, purchaser, or lessee.

C. The disclosure required by Section 18.04.040(B) is set forth herein, and shall contain, and be in the form of, the following:

"REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE COUNTY OF MARIPOSA, STATE OF CALIFORNIA, DESCRIBED AS . THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE-DESCRIBED PROPERTY IN COMPLIANCE WITH MARIPOSA COUNTY CODE SECTION IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTION OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

(I)

SELLER INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in a real estate transaction dealing with the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property. THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AS REQUIRED BY THE COUNTY OF MARIPOSA AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

The County of Mariposa permits properly conducted agricultural operations within the County. You may be subject to inconveniences or discomfort arising from such operations including but not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24-hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. One or more of the inconveniences described may occur as a result of any
agricultural operation which is in conformance with existing laws and regulations and accepted customs and standards. You should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector. Mariposa County has determined that no existing or future agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs, standards, and practices and with all chapters of the Mariposa County Code, as established and followed by similar agricultural operations, shall be or become a nuisance, public or private, pursuant to the Mariposa County Code, after the same has been in operation for more than one year if it was not a nuisance at the time it began. If you have any questions concerning this policy, please contact the Mariposa County Planning and Building Department.

Seller certifies that the information herein is true and correct to the best of Seller's knowledge as of the date signed by the Seller.

Seller ___________________________ Date ___________________________
Seller ___________________________ Date ___________________________

(II)

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTION OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER(S) AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTION/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller __________ Date ________ Buyer __________ Date ________
Seller __________ Date ________ Buyer __________ Date ________
Agent (Broker representing Seller): By __________ Date ________
(Associate licensee or Broker signature)

Agent (Broker obtaining the offer): By __________ Date ________
(Associate licensee or Broker signature)

State of ____________________________ ) ss.
County of ___________________________ }
On this ______ day of __________, 19___, before me, the undersigned Notary Public, personally appeared

[Signature]

Personally known to me. Provided to me on the basis of satisfactory evidence to be the person(s) whose name(s) subscribed to the within instrument and acknowledged that _______ executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

Present Assessors Parcel No. ________________

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY."

D. If a Buyer refuses to sign the disclosure statement set forth in Section 18.04.040(C), the transferor may comply with the requirements of this ordinance by delivering the statement to the Buyer as provided in Section 18.04.040(C) and affixing and signing the following declaration to the statement:

I, (name), have delivered a copy of the foregoing disclosure statement as required by law to (Buyer's name), who has refused to sign.

I declare the foregoing to be true.

Date: ___________________________  Signature

Print Name: ___________________________

E. Forms for the disclosure statement set forth in Section 18.04.040(C) shall be printed and made available to property owners and real estate agents by the Mariposa County Planning and Building Department.

18.04.050 Notice.
A. The Mariposa County Planning and Building Department shall provide all applicants for building permits for new residential construction or mobile home installation with a "Right-to-Agricultural Activity Notice" in substantially the form provided in Section 18.04.050(B).

B. To provide all property owners with constructive notice of Mariposa County's right-to-agricultural activity policy, this chapter of County Code shall be recorded with the Mariposa County Recorder.
"Mariposa County Right-to-Agricultural Activity Ordinance"

The County of Mariposa permits properly conducted agricultural operations within the County and it is the declared policy of this County to enhance and encourage agricultural operations within the County. It is the further intent of this County to provide to the residents of this County proper notification of the County's recognition and support of those persons' and/or entities' right to conduct agricultural activity. Residents of property on or near agricultural land should be prepared to accept the inconveniences or discomfort arising from such operations. Such discomfort or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24-hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. One or more of the inconveniences described may occur as a result of any agricultural operation which is in conformance with existing laws and regulations and accepted customs and standards. You should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector.

Mariposa County has determined that no existing or future agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs, standards, and practices and with all chapters of the Mariposa County Code, as established and followed by similar agricultural operations, shall be or become a nuisance, public or private, pursuant to the Mariposa County Code, after the same has been in operation for more than one year if it was not a nuisance at the time it began. If you have any questions concerning this policy, please contact the Mariposa County Planning and Building Department."

18.04.060 Penalty for Violation.
Noncompliance with any provision of this ordinance shall not affect title to real property, nor prevent the recording of any document. Any person who violates any provision of this ordinance is guilty of an infraction punishable pursuant to County Code Section 1.20.030.

18.04.070 Separability.
If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance.
18.04.080 Precedence.

This ordinance shall take precedence over all ordinances or parts of ordinances, or resolutions or parts of resolutions in conflict herewith and to the extent they do conflict with this ordinance they are hereby repealed with respect to the conflict and no more.
EXHIBIT "B"

AMENDMENTS
TO TITLE 17
MARIPOSA COUNTY ZONING ORDINANCE

Amend Section 17.108.060(A) to read as follows:

A. Agriculture and grazing: Animal husbandry and the production of crops, plus the sale of agricultural products. Notwithstanding anything to the contrary contained herein, it shall be a violation of this Title for any landowner, tenant, or person in possession or control of land in Mariposa County to conduct any agricultural use, horticultural use, viticultural use, silvicultural use, or agricultural enterprise, including but not limited to, grazing, animal husbandry, production of crops, or sale of agricultural products, on land in Mariposa County, in such a manner as to constitute either a private or public nuisance. Agricultural uses, including but not limited to animal husbandry, livestock grazing, the production of crops, horticulture, viticulture, silviculture, sale of agricultural products, and accessory uses and structures appurtenant to the agricultural use, subject to the following standards:

1. The provisions of this section shall not be applicable in the AE zone and in town planning areas with specific land use policies and zoning regulations developed in accordance with Section 17.12.010(a).

2. The agricultural use shall not be conducted in such a manner as to constitute a nuisance, public or private.

3. Notwithstanding anything to the contrary contained herein, no existing or future agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, in a manner consistent with proper and accepted customs, standards, and practices and with all chapters of the Mariposa County Code as established and followed by similar agricultural uses, shall be or become a nuisance, public or private, pursuant to this section or Chapter 18.04 of County Code, after the same has been in operation for more than one year if it was not a nuisance at the time it began. The provisions of this section shall not apply whenever a nuisance results from agricultural operations inconsistent with accepted practices and standards or contrary to local, state, or federal ordinances, laws, and regulations.

4. In any enforcement action to determine if an agricultural use is a nuisance, public or private, the burden shall be upon the landowner, tenant, or person in possession or control of the land upon which the agricultural use is located to provide evidence to the Planning Director of
the date of commencement of the agricultural use and the characteristics of the use at the date of commencement.

Amend definition for "agricultural use" as contained in Chapter 17.148 to read as follows:

**Agricultural use activity or operation:**
"Agricultural Use activity or operation" shall mean any use activity or operation which has to do with agriculture including but not limited to horticultural use, viticultural use, silvicultural use, and agricultural enterprises and shall include, but not be limited to, the cultivation and tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, timber or apiculture; the raising of livestock, fur-bearing animals, fish or poultry; and any commercial agricultural practices performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

Add definition for "commercial purposes" to Chapter 17.148 as follows:

**Commercial purposes:**
"Commercial purposes" shall mean an activity or operation that is primarily conducted for commercial use or sale of an agricultural product or commodity on the activity or operation site with financial gain as the primary aim.

Add definition for "nuisance" to Chapter 17.148 as follows:

**Nuisance:**
"Nuisance" shall mean anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

Add definition for "nuisance, private" to Chapter 17.148 as follows:

Every nuisance which is not a public nuisance.

Add definition for "nuisance, public" to Chapter 17.148 as follows:

A nuisance which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.