

MARIPOSA COUNTY RESOLUTION NO. 98-364

**A RESOLUTION APPROVING AMENDMENTS TO
THE MARIPOSA COUNTY APPEALS PROCEDURE INFORMATION SHEET**

WHEREAS, the Board of Supervisors initiated a comprehensive review of the procedures, policies and standards affecting commercial and industrial properties in Mariposa County, including the public review and hearing process to amend the Mariposa County Code and other county policy documents; and

WHEREAS, these include amendments to the Mariposa County Appeals Procedure; and

WHEREAS, the Planning Commission and Board of Supervisors have held duly noticed public hearings on the amendments to Title 17 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 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 hereby resolves that the Mariposa County Appeals Procedure Information Sheet is amended in accordance with "Exhibit A" (Amendments are noted as follows: Additions in double underline).

NOW THEREFORE, The Board of Supervisors further resolves that approval of these amendments to the Mariposa County Appeals procedure is based upon the following findings:

1. The project is exempt from environmental review, pursuant to Section 15061(b)(3) of the California Environmental Quality Act. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on 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 address the ability of an aggrieved party to appeal a decision directly to the Board of Supervisors. The amendments do not make any changes in current practices which would result in any impact on the environment.

3. 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 insure that County residents have direct access to the elected officials.
4. 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. The amendments insure that County residents have direct access to the elected officials. 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."

NOW THEREFORE, The Board of Supervisors finally resolves that these amendments shall become effective thirty (30) days after final passage.

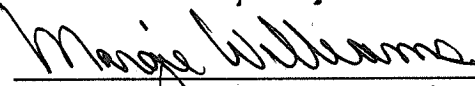
PASSED AND ADOPTED by the Board of Supervisors of Mariposa County on this 22nd day of Sept., 1998 by the following vote:

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



PATTI A. REILLY, Chair
Mariposa County Board of Supervisors

ATTEST:



MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



JEFFREY G. GREEN, County Counsel

EXHIBIT A

(Additions in Double Underline)

MARIPOSA COUNTY

APPEALS PROCEDURE

Information Sheet

What is an Appeal?

An appeal is a request by a person or group of persons to the Board of Supervisors or Planning Commission to review the findings, decisions, or determinations of a subordinate County official or body in which the person or group of persons believe the conclusion reached was inappropriate. Findings, decisions, or determinations of an appointed County official or County body for which there are no other appeal procedures can be appealed in accordance with County Resolution No. 92-525 as amended. These include but are not limited to decisions of the Planning Commission, land use determinations made by the Planning Director, and interpretations of County Code or County policy made by a County official or department head. Appeals for which there are specific appeal procedures are processed and acted upon in accordance with the resolution or ordinance establishing those appeals.

What Issues Can Be Considered in an Appeal?

If a public review period was established or a public hearing was held on the finding, decision, or determination being appealed (e.g. a land division application), only those issues which you or another person raised during the public review period or public hearing can be appealed and considered by the appeal body. New information which was not and could not have been available at the time the finding or decision was made can be raised in an appeal and considered by the appeal body. For those types of findings or decisions in which a public review period was not established or a public hearing was not held, any issue which clearly relates to the finding or decision can be raised in an appeal and considered by the appeal body.

Who Can Appeal a Decision or Determination?

Any interested person may appeal a finding, decision, or determination made by a County body or official including the applicant of the finding, decision, or determination.

When Does an Appeal Need to be Filed?

All appeals must be filed within twenty (20) calendar days of the date of the finding, decision, or determination.

All appeals to the Board of Supervisors must be filed with the Clerk of the Board prior to the end of the appeal period. All appeals to the Planning Commission must be filed with the Planning Commission Secretary prior to the end of the appeal period.

How Much Does It Cost to File an Appeal?

There are no costs associated with filing an appeal with the Board of Supervisors. However, there is a \$25 fee for filing an appeal with the Planning Commission.

What Types of Appeals Does the Planning Commission Consider?

The Planning Commission may consider appeals of any planning-related finding, decision or determination made by the Planning Director. These include decisions on home enterprises, rural home industries, design review applications, and certificates of development and any finding or determination of the Zoning Ordinance and Subdivision Ordinance. These Planning Director decisions and determinations may also be appealed to the Board of Supervisors. All other County body or official findings, decisions, or determinations can only be appealed to the Board of Supervisors.

What is Required to File an Appeal?

All appeals to the Board of Supervisors or Planning Commission must be filed on an official Notice of Appeal form. If an appeal is not filed on the Notice of Appeal form, the appeal will not be accepted by the County for processing and any appeal rights may be lost. These forms are available at the Planning Department and the Board of Supervisors office. The Notice of Appeal form require the names and addresses of the appellants; the name, address, and telephone number of a contact person for a group of appellants; and information on the finding, decision, or determination being appealed. **The form must clearly state those issues or portions of the finding, decision, or determination being appealed since the Board of Supervisors or Planning Commission will consider only those issues or portions of the decision or determination which were raised in the appeal form.** If the written material attached to the Notice of Appeal exceeds ten (10) pages in length, the appellant will be required to submit fourteen (14) copies of that material. If any materials attached to the Notice of Appeal exceed 11" in width or 17" in length, the appellant will be required to submit fourteen (14) copies of the oversized material. All pages shall be three (3) hole punched and numbered consecutively. The appellant may elect to submit one copy of the written material attached to the Notice of Appeal and bear the copying costs of processing the appeal.

If the form does not include sufficient itemization of the issues of the finding, decision, or determination being appealed, the appeal will not be accepted as complete, and the appellant will have seven (7) calendar days to provide additional information which sufficiently itemizes the issues of the finding, decision or determination being appealed. If the additional information is not provided within seven (7) calendar days, the appeal will not be accepted by the County for processing and the person filing the appeal will lose their appeal rights. Once an appeal is accepted for filing, the appellant can raise additional issues on the appeal limited to issues which were raised during the public review period or public hearing or to new information up to twenty-five (25) calendar days prior to the appeal hearing. Additional issues cannot be raised after this time or at the public hearing.

What is a "Statement of Grounds"?

The Notice of Appeal form also includes a section entitled "Statement of Grounds". The statement of grounds is the appellant's opportunity to state the reasons why the decision or determination is being appealed and why the appellant believes that the decision or determination of the County commission, body, or official was inappropriately decided. The statement of grounds is also the appropriate section of the appeal form to provide any information or documentation which supports the appeal. The statement of grounds must be included with the Notice of Appeal form and all supporting information and documentation must be filed at least 25 days prior to the appeal hearing. The appellant will have a later opportunity to provide written input on issues or statements raised in the staff report or letters from other interested parties.

What Happens After an Appeal is Filed?

Once a complete appeal is accepted for filing, a public hearing is scheduled and the appeal is forwarded to the responsible County Department for processing. The appeal hearing is noticed in the legal newspaper of general circulation within the County designated by the Board of Supervisors and to affected property owners. Any interested party may submit letters or other written input to the Board or Planning Commission on the appeal. At least five (5) days prior to the hearing, a staff report will be submitted for inclusion in the Board of Supervisors or Planning Commission agenda. The staff report provides information on the appeal and the decision or determination being appealed and may include a recommended action. The staff report will be sent to the appellant and applicant if applicable and will also be available to any interested parties. The public hearing on the appeal is then held.

What Happens During the Appeal Hearing?

At the public hearing on the appeal, the Board of Supervisors or Planning Commission considers the staff report and written and verbal input from the appellant, supporters of the appeal, and opponents of the appeal before deliberating and making a decision on the appeal. The order of the hearing is as follows:

1. Presentation of staff report.
2. Presentation by appellant.
3. Input from speakers in support of appellant's position.
4. Input from speakers in opposition of appellant's position.
5. Rebuttal by appellant to issues raised by opponents.
6. Public portion of hearing is closed and Board or Planning Commission begins deliberation.
7. Board or Planning Commission makes decision or takes other action.

The appellant, supporters, and opponents may submit written materials on the appeal during their period for input, but may not raise issues not previously raised in the appeal. The Board or Planning Commission may ask questions of staff, appellant, or other persons providing input at the appropriate time in the hearing process. Once the deliberation phase begins, the Board or Planning Commission can take action to uphold the appeal thereby modifying or overturning the previous decision or determination, to deny the appeal, or to continue the hearing for further deliberation or information. When the Board or Planning Commission acts to uphold or deny the appeal, the appeal process is finished. However, any decision by the Planning Commission, including a decision on an appeal, may be appealed to the Board of Supervisors.

Further Information

The official appeals procedure adopted by the Board of Supervisors is contained in County Resolution No. 92-525 as amended. This resolution and the official Notice of Appeals form may be obtained from the Mariposa County Board of Supervisors Office, 5100 Bullion, P.O. Box 784, Mariposa CA 95338 [Telephone (209) 966-3222] or the Mariposa County Planning Department, 5100 Bullion, P.O. Box 2039, Mariposa CA 95338 [Telephone (209) 966-5151].

If you have any questions regarding the appeals procedure or appealing a County decision or determination, please contact the County Counsel office (966-3222) or the County department or office which made the decision or determination.