

Administration and Enforcement

Introduction

The policies contained within the Monterey County General Plan are intended to provide clear direction to project applicants, the County staff, and members of the public. It is critically important to everyone that the General Plan be well administered. The Goals and Policies contained in this Element of the General Plan have been fashioned to achieve this result, and thus to carry out the requirements of Guiding Objective #12:

Guiding Objective #12

Provide a clear statement of county land use values and policies to provide clarity in the county's permit processing system and to simplify review of projects that are consistent with the General Plan.

The Administration and Enforcement Element also includes an overarching policy to protect private property rights (and outlines a procedure to resolve claims that property rights are being violated by land use actions. This overarching policy is intended to reduce the need for legal actions against the County.

Another important policy contained in the Administration and Enforcement Element is the policy establishing a “living wage” requirement when new projects are developed with County funding. This policy builds into the General Plan critical social equity concerns.

Finally, the policies found within the General Plan are only as good as their “enforcement.” This Administration and Enforcement Element will ensure not only the fair and efficient implementation of the General Plan in the context of the permit process, but will help ensure that the County's land use policies and regulations, including the conditions placed on development permits, are actually carried out in practice.

Administration and Enforcement – Goal #1

UPHOLD AND PROTECT PRIVATE PROPERTY RIGHTS

Administration and Enforcement – Policy #1

Protect Private Property Rights — Neither the implementation of this General Plan, nor any of its Elements, shall constitute an unconstitutional taking of property or property rights, and the General Plan and its Elements shall not deprive any landowner of any vested right to develop his or her property. This General Plan shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations governing the use of real property. Any landowner who believes that the

Administration and Enforcement

application of any policy within the General Plan has resulted in an unconstitutional taking of his or her private property may file a claim with the Clerk of the Monterey County Board of Supervisors, specifying the basis for the claim. The County Board of Supervisors may, based on such claim, amend any of the policies contained within the General Plan, to avoid any unconstitutional taking of private property. When it does so, the Board shall act only pursuant to a finding, based on substantial evidence in the administrative record, and where there is no substantial evidence to the contrary, that the policy complained of does, in fact, constitute an unconstitutional taking of a landowner's property. Any amendment to any provision within the General Plan that is made pursuant to this policy shall be made only to the minimum extent necessary to avoid such an unconstitutional taking.

By including this policy in the General Plan, the Board of Supervisors of Monterey County wishes to assure property owners that their private property rights will be protected, and to assure the public that the Board of Supervisors will enact what it believes are the best available land use policies to govern the future growth and development of Monterey County, without the need to fear that long and costly litigation will be the only way to eliminate policies that may later be demonstrated to go beyond the Board's authority.

Administration and Enforcement – Goal #2

SUPPORT A LIVING WAGE FOR WORKERS ON DEVELOPMENT PROJECTS WHERE COUNTY FUNDS ARE EXPENDED

Administration and Enforcement – Policy #2

Living Wage – The County often provides financial subsidies or assistance to developers for the purpose of promoting local economic development and job growth. Such expenditures of public funds should help set a community economic standard that permits employees to earn an hourly wage that is sufficient to allow them to live with dignity, and to achieve economic self-sufficiency.

The County hereby finds that providing a living wage to **workers on development projects where County funds are expended** will help decrease poverty, increase consumer income, invigorate neighborhoods, enhance the general quality of life within the community, maximize the productive effect of the County's limited resources, and reduce the need for taxpayer-funded social services, thus helping to achieve the goals and objectives of this General Plan.

Accordingly, the Board of Supervisors of Monterey County shall adopt and implement a living wage ordinance applicable to development projects where County funds are expended, and the Chairperson of the Board of Supervisors, or his

Administration and Enforcement

or her designee, shall meet once a year with representatives appointed by any other jurisdiction in Monterey County which has a living wage ordinance, to recommend a uniform living wage index, based on the San Francisco-Oakland-San Jose consumer price index for urban workers.

Administration and Enforcement – Goal #3

STRUCTURE THE GENERAL PLAN AMENDMENT PROCESS AND THE COUNTY’S PERMIT PROCESS TO MAINTAIN THE INTEGRITY OF THE GENERAL PLAN

Administration and Enforcement – Policy #3

General Plan Amendments Separated From Project Applications — The General Plan shall be reviewed on a comprehensive basis every five years, on a schedule consistent with the review and update of the General Plan Housing Element required by state law. Any property owner or other person wishing to suggest a change in the General Plan, including a change affecting a specific property, may submit a request for such General Plan change at any time. All such requests shall be considered in connection with the next scheduled comprehensive General Plan review. If the preparation of an Environmental Impact Report is required in connection with the review of any request submitted by a property owner, for a change affecting his or her own specific property, the property owner shall pay for all costs involved in that environmental review.

Administration and Enforcement – Policy #4

Cumulative Review of Amendments – The County shall conduct a combined review of all amendment applications to assure that the cumulative impact of the proposed amendments may be assessed collectively both with respect to their environmental consequences and their consistency with the General Plan, and to maintain the internal consistency and adequacy of the Monterey County General Plan.

Administration and Enforcement – Policy #5

County Initiated Amendments – General Plan amendments necessary to allow Monterey County to carry out County-sponsored projects may be considered on an as needed basis.

Administration and Enforcement – Policy #6

Project applications To Be Consistent With Current General Plan – Project applications shall not be processed or considered concurrently with proposed

Administration and Enforcement

amendments to the General Plan. Applications for projects that are inconsistent with the General Plan shall be rejected, or summarily denied.

Administration and Enforcement – Goal #4

ENSURE THE EFFECTIVE IMPLEMENTATION OF THE GENERAL PLAN BY ANNUAL AND FIVE YEAR REPORTS ON GENERAL PLAN AND DEVELOPMENT ISSUES

Administration and Enforcement – Policy #7

Annual Review of General Plan – The implementation of the General Plan shall be evaluated and reported to the Board of Supervisors in an annual report. The annual report shall include:

- a. Number of amendment requests received, screened, and found consistent or inconsistent;
- b. Number of new lots created in Community Areas;
- c. Number of housing unit allocations made available and the total number of allocations issued;
- d. Number of total lots developed;
- e. Number of permits by type issued in each Major Land Use Classification;
- f. Status of affordable housing units constructed;
- g. Total fees collected for each project considered;
- h. Gaps in adequate fees and other revenues from new development needed to pay for services, if any;
- i. Summary of work completed and action taken by departments to implement the General Plan (e.g. status of Redevelopment Plans for Community Areas; Park Strategic Plan);
- j. Description of capital improvements;
- k. Annual housing report findings;
- l. A report on GIS updates and improvements undertaken during the past year;
- m. A report on all enforcement actions carried out during the past year, and pending violations; and

Administration and Enforcement

- n. A detailed workplan for General Plan implementing actions for the next year.

Administration and Enforcement – Policy #8

Five Year Report on General Plan – Every five years, in connection with a comprehensive review of the General Plan, the County shall review changes in County land use over the last five years, and shall prepare a report that documents such changes. The report will specifically correlate the land use changes that have occurred to the Goals and Policies contained in the General Plan. All of the following shall be included in the report:

- a. An analysis of both housing production and job creation;
- b. An analysis of whether or not the growth experienced in Monterey County during the previous five years has been consistent with General Plan Goals and Policies;
- c. A report on whether or not General Plan goals for affordable housing have been achieved;
- d. A review of the established service standards as defined in the General Plan to determine whether changes have occurred in the availability of services, and whether such service standards have been achieved and/or whether they should be modified;
- e. Recommended enforcement or implementation actions needed to achieve the Goals and Policies established in the General Plan;
- f. Recommendations for any revisions to General Plan Policies necessary to achieve General Plan Goals; and
- g. Recommendations for any revisions to General Plan Goals that would better strengthen the local economy, protect and preserve the natural environment, and advance social equity.

Administration and Enforcement – Goal #5

STRUCTURE THE PERMIT PROCESS TO MAXIMIZE PUBLIC INVOLVEMENT, MINIMIZE COSTS TO APPLICANTS, AND TO ENSURE THAT THE REVIEW OF DEVELOPMENT PROJECTS IS EFFICIENT, FAIR AND UNDERSTANDABLE, AND CONSISTENT WITH THE PROVISIONS OF THE GENERAL PLAN

Administration and Enforcement

Administration and Enforcement – Policy #9

Permit Review Process –The County shall ensure that the development review process is efficient, fair and understandable, and that permit conditions are uniformly imposed, implemented and enforced.

Administration and Enforcement – Policy #10

Expedited Processing for Exempt Projects in Community Areas - In order to achieve the Goals of the General Plan, and specifically the Twelve Guiding Objectives that are the foundation of the General Plan, exempt projects located within Community Areas shall receive expedited processing.

Administration and Enforcement – Policy #11

Early Public Involvement Encouraged — It is the policy of Monterey County to involve the public in the review of proposed development projects at an early stage, so that concerns and questions can be addressed early in the process. As soon as an application is received for any proposed development project that will require a public hearing (whether the application is deemed complete at that point, or not), a notice of the filing of the application shall immediately be provided to all persons owning property located within 1,000 feet of the property on which the development project is proposed, and to any person who has made a written request to be notified. The notice of the filing of the application shall outline the procedures and timelines that will be followed in connection with the processing of the application, and will inform those receiving the notice of their right to obtain copies of all materials relating to the application, and will provide a telephone number and/or an email address for a staff contact person who can respond to inquiries about the application. In addition, the County shall post, each week, a list on the County’s website, and publish, each week, a display advertisement that provides a description of all such proposed development projects, and that explains how additional information on these proposed projects may be obtained. Such display advertisement shall be published in at least two newspapers of general circulation within the County, in order to provide notice to the different geographic regions of the County.

Whenever a particularly large or significant project is proposed, the County shall encourage the applicant to hold one or more community meetings at the very earliest stages of project review, to discuss the proposed project with neighbors and others concerned. Holding such community meetings shall be in addition to providing early public notice to nearby property owners and other interested persons, as required by this policy.

Administration and Enforcement – Policy #12

General Plan Standards Should Provide Certainty — It is an objective of this General Plan to minimize the need for project applicants to pay for studies by outside experts

Administration and Enforcement

and consultants, in order to provide information by which their project applications may be evaluated. Therefore, to the greatest degree possible, the standards established in the General Plan shall incorporate specific requirements by which development proposals will be judged. Proposals inconsistent with such General Plan standards and requirements shall be denied. When it is not possible properly to evaluate a development application without the information provided through one or more studies prepared by an outside expert or consultant, such studies will only be required after a determination has been made that the project application is apparently consistent with all the standards and requirements in the General Plan for which such a study is not required.

Administration and Enforcement – Policy #13

Legal Lots of Record – Prior to the issuance of a building permit, grading permit, or any other development approval on an existing lot of record, the Planning and Building Inspection Department, in conjunction with County Counsel and other affected agencies, shall determine if the subject lot is, in fact, an existing legal lot. Approval of a building permit, grading permit or other development approval shall be granted only on legal lots of record, and only upon a determination that the activity for which a building permit or development approval is sought will be consistent with the requirements of the General Plan and other applicable laws and ordinances.

Administration and Enforcement – Policy #14

Prerequisites for New Lot Creation – In accordance with the Land Use Element, one of the following criteria must be met prior to the acceptance of an application for a development proposal that would result in the creation of new lots:

- a. The proposed subdivision is located within a Community Area and is an exempt project as described in Housing Element Policy #44; or
- b. The proposed subdivision is located within a Community Area with an approved Redevelopment Plan; or
- c. The proposed subdivision is for purposes consistent with Land Use Policy #9 or
- d. The proposed subdivision is in the Community Area of Chualar and is consistent with an adopted Redevelopment Plan for the Chualar Community Area; and (in all cases)
- e. The proposed subdivision meets all applicable General Plan requirements.

Administration and Enforcement – Policy #15

Notification to Applicants of Service Limitations – The Planning and Building Inspection Department shall determine if new construction or development proposed

Administration and Enforcement

on an existing lot of record is in an area not served by fire, sheriff, or emergency response within 15 minutes. The applicant shall be notified of any such service limitations, so that the applicant can choose whether or not to proceed with building plans in light of the lack of immediately available emergency services.

Administration and Enforcement – Policy #16

Appeals of Project Approvals – In order to allow members of the public to participate fully in planning decisions that will affect them, the Board of Supervisors will limit the fees charged to any person wishing to appeal a planning approval to the Planning Commission or the Board of Supervisors to no more than \$350.

Administration and Enforcement – Goal #6

ENSURE THAT THE FULL COST OF INDIVIDUAL DEVELOPMENT PROPOSALS IS IDENTIFIED AS PART OF THE PERMIT PROCESS, AND THAT NEW DEVELOPMENT PAYS ITS FAIR SHARE OF INFRASTRUCTURE AND SERVICE IMPROVEMENT COSTS.

Administration and Enforcement – Policy #17

Fiscal Impact Report – A fiscal impact report shall be prepared in connection with any proposal to subdivide lands located outside a Community Area, or to carry out any other significant project, wherever located. The fiscal impact report shall examine the short and long term impacts that the project will have on the surrounding area and the county as a whole, and will identify the associated fees necessary to offset the costs of these impacts. The analysis shall include an examination of fiscal and service impacts associated with all facilities, services and infrastructure related to or impacted by the project. If the redevelopment plan for a Community Area has been approved, and contains detailed information to set fees for the proposed project, this Fiscal Impact Report requirement shall be waived by the County.

Administration and Enforcement – Policy #18

Service Costs – The County will evaluate the costs of providing services to new developments, particularly public safety and law enforcement services. To the extent permitted by state law, the County shall adopt a cost allocation system that ensures that all new developments will pay their full share of the costs of the services they require. County fee schedules shall be reviewed annually, and shall be updated as necessary, to keep fees current with actual costs.

Administration and Enforcement – Goal #7

Administration and Enforcement

ENSURE THAT THE COUNTY GENERAL PLAN COMPLIES WITH THE REQUIREMENTS OF THE CALIFORNIA COASTAL ACT.

Administration and Enforcement – Policy #19

Local Coastal Program Amendments - Any changes to the policies in this General Plan that constitute the County's Local Coastal Program (LCP) Land Use Plan, prepared under the California Coastal Act, must be consistent with the Act. Following Board of Supervisors approval, the California Coastal Commission must certify amendments to the County's LCP Land Use Plan, pursuant to Section 30500 et seq. of the Coastal Act.

Administration and Enforcement – Policy #20

Development Permit Review – A coastal development permit or a coastal administrative permit will be required from the County for development proposed on private or public lands in the Coastal Zone, except 1) minor remodels of existing structures, new accessory structures of a minor nature, and routine maintenance and repair (pursuant to Public Resources Code Section 30610) that have minimal to no impact on coastal resource protection, and 2) proposed development on excluded federal lands.

Administration and Enforcement – Policy #21

Development Permit Appeals – An action taken by the County on certain coastal development permits issued pursuant to the County's certified Local Coastal Program (LCP) may be appealed to the California Coastal Commission, as specified in state law.

Administration and Enforcement – Goal #8

MAINTAIN AND UTILIZE A GEOGRAPHIC INFORMATION SYSTEM TO ALLOW FOR BETTER INFORMED DECISION MAKING, TO PROVIDE EASY ACCESS TO KEY PLANNING INFORMATION FOR APPLICANTS AND THE PUBLIC, AND TO AND ALLOW FOR FASTER AND MORE EFFICIENT PERMIT PROCESSING PROCEDURES

Administration and Enforcement – Policy #22

GIS Map Updates – The County shall utilize a Geographic Information system to improve the efficiency of its permit processing procedures. To maintain the usefulness and accuracy of the GIS System, new information shall be added, and the

Administration and Enforcement

system updated, on a continuing basis. A report on the GIS update process shall be provided as part of the annual General Plan report provided to the Board of Supervisors.

Administration and Enforcement – Policy #23

Data Sharing – To maximize the usefulness of the Geographical Information System, the County will coordinate with other agencies outside of the County to obtain data and to share County information. The County shall make GIS data available to members of the public at the cost of preparing and providing the media on or in which such information is contained.

Administration and Enforcement – Policy #24

Overlay Review Based on GIS Maps –The Planning and Building Inspection Department shall utilize the County’s Geographic Information System to review requests for development, including developments proposed on existing legal lots of record, to ensure that structures are sited to limit impacts and hazards for life and property. Overlay policies shall be applied if the parcel is located within a Significant Ecological Area (SEA), viewshed or hazard zone, or other zone, as provided in the General Plan. Maps shall be reviewed to determine potential impacts to or associated with:

- a. SEA resources;
- b. Public viewsheds;
- c. Hazard areas, including flood hazards, landslide hazards, fault hazards and fire hazards.

Administration and Enforcement – Goal #9

PROVIDE FOR EFFECTIVE ENFORCEMENT OF THE LAND USE POLICIES CONTAINED IN THE COUNTY GENERAL PLAN

Administration and Enforcement – Policy #25

The Board of Supervisors will adopt and maintain an ordinance providing for vigorous enforcement of the County’s land use policies and regulations, and will provide an annual report on the status of the County’s enforcement efforts.

Administration and Enforcement – Policy #26

Citizen Attorney General Provision - Any person adversely affected by the violation of one of the County’s land use policies or regulations (including a provision of the County’s Zoning Ordinance, the General Plan, or the violation of any condition of a

Administration and Enforcement

County land use permit) may bring an independent judicial action to enforce the County's land use policies and regulations, or to enforce any condition of a County land use permit, naming as a defendant the person responsible for the violation. Should any such individual enforcement action result in a judgment in favor of the person bringing the action to enforce the County's land use policies or regulations, the County hereby agrees to reimburse the person who was successful in such action for his or her attorney's fees and costs of suit, as determined by the Court. Prior to bringing such an independent judicial action, a person proposing to do so must first provide the County with forty-five (45) days notice of his or her intention to file the action, and if the County files a comparable action within that period, and pursues such action to a judgment, then no such attorney's fees or costs are chargeable to the County.