



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building



Date: November 20, 2012
Board Meeting Date: December 11, 2012
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Jim Eggemeyer, Community Development Director

Subject: Introduction of amendments to the San Mateo County Ordinance Code that add Chapter 1.40 (Administrative Remedies), revise 2.60 (Planning and Building Department), revise Chapter 31 (Enforcement, Legal Procedures, Penalties) of the San Mateo County Zoning Regulations, and delete Chapter 31.5 (Administrative Fines) from the San Mateo County Zoning Regulations.

RECOMMENDATION:

Introduction of an ordinance adding Chapter 1.40 Administrative Remedies to the San Mateo County Ordinance Code, amending Chapter 2.60 Planning and Building Department of the San Mateo County Ordinance Code, amending Chapter 31 Enforcement, Legal Procedure, Penalties of the San Mateo Zoning Regulations, and deleting Chapter 31.5 Administrative Fines from the San Mateo County Zoning Regulations and waiver of reading the ordinance in its entirety.

BACKGROUND:

Government Code Sections 53069.4 and 25132 authorize counties to set forth by ordinance the administrative procedures that govern the imposition, enforcement, collection, and review of fines and penalties issued in response to violations of local codes and ordinances. The Planning and Building Department has been directed by the Board of Supervisors to review and update the County's administrative fines provisions in order to establish greater deterrent to violations and to recover the cost of administering its code compliance program.

In the early 1990s, San Jose was one of the first cities to establish an administrative process as an interim step before filing formal legal action in order to resolve violations of the City code. Shortly thereafter, the legislature enacted Government Code Section 53069.4 to provide statutory authority for such a process. An administrative system emphasizes the use of relatively-small penalties during the early stages of code enforcement efforts that gradually increase if the violation is not abated. Many cities have used San Jose's ordinances as a model to establish their own administrative fine

process including the cities of Monterey, San Rafael, Costa Mesa, Santa Maria, Palo Alto and, more recently, the cities of Mountain View, Santa Clara, Merced, and Salinas. The administrative process is far more efficient and effective than other legal options in resolving outstanding code violations and maintaining ongoing compliance because fines and penalties can be issued and collected by Code Compliance staff, independent of the court system, in instances where violators are uncooperative in resolving the violation. The penalty imposed is relatively small compared to the potential penalties for civil or criminal legal action, but it is significant enough to serve as a deterrent against future violations.

DISCUSSION:

A. KEY ISSUES

1. Existing Enforcement Provisions

The County of San Mateo currently has a variety of enforcement provisions throughout the San Mateo County Ordinance Codes, some of which are confusing and may be contradictory.

The County currently enforces most violations of the Ordinance Code using criminal procedures. While the threat of a criminal action is often very effective in motivating violators to resolve code violations, it does not work as an adequate deterrent in all situations and is a slow- and labor-intensive process for both the County Counsel's office and Code Compliance staff. In addition, the County may eliminate a code violation that threatens the public health and safety through nuisance abatement proceedings. The advantage of nuisance abatement is that the hazardous conditions are eliminated within a very short period of time. The disadvantage is that the County must pay the costs of the abatement upfront, and it can take years to recover the costs of such abatement.

2. Proposed Amendments

The Planning and Building Department proposes the adoption of the Administrative Remedies Ordinance as an alternative tool that will allow the enforcement of all County ordinance violations through a County administrative citation or a County administrative order. These administrative remedies would be in addition to all other remedies that are currently available through court proceedings. Based on the experience of other municipalities using this approach, staff anticipates the time required to resolve most cases, especially minor violations, will be reduced to weeks or days, as opposed to months or years. The proposed new ordinance would improve the overall effectiveness of the code compliance program and would serve as a deterrent for repeat violators.

The adoption of the Administrative Remedies Ordinance and amendments of the San Mateo County Ordinance Code will help make the County's code compliance program more effective and enable the County to achieve our mission by regulating land use and development, thus, protecting life and property.

As proposed by staff, the Administrative Remedies Ordinance consists of changes and additions to the County Code that include but are not limited to revisions to the County's Zoning Regulations. On November 14, 2012, the Planning Commission reviewed the amendments to the Zoning Regulations, suggested certain clarifications to the Ordinance, and recommended that it be approved by the Board of Supervisors. In addition, because the Zoning Regulations are an element of the County's Local Coastal Program Implementation Plan, they will need to be submitted for certification by the California Coastal Commission, after adoption by the Board of Supervisors, in order to take effect in the Coastal Zone.

B. COMPLIANCE WITH THE GENERAL PLAN

The proposed amendments to the San Mateo County Ordinance Code and Zoning Regulations will enhance the ability of the County to carry out the provisions of the General Plan by improving staff's ability to enforce the codes and regulations that implement the General Plan, among other ways, by ensuring that the continued growth of the community will occur in a manner that is orderly and harmonious.

C. ENVIRONMENTAL REVIEW

Adoption of the Administrative Remedies Ordinance was determined to be exempt from review under the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of Title 14 of the California Code of Regulations (the so called "General Rule") because there is no possibility that these regulations, which refine procedures for responding to violations of the County Code, will have the potential to cause a significant effect on the environment.

County Counsel has reviewed and approved the Ordinance as to form.

The approval of the Administrative Fines Ordinance contributes to the 2025 Shared Vision outcome of a Livable Community by enhancing the County's ability to avoid and address code violations that can adversely affect the public's health, safety, and welfare.

FISCAL IMPACT:

The collection of administrative penalties will help the County recover some of the costs required to implement its code compliance programs. The County may also save some costs associated with processing criminal citations. However, by no means shall the administrative penalties be a source of revenue.

ATTACHMENTS

- A. Recommended Findings
- B. Example Citations