

7-23-02 Adopt
7-9-02 Intro
#6 HA

**MARIPOSA COUNTY
BOARD OF SUPERVISORS**

**AGENDA
ACTION FORM**

DATE: June 18, 2002
AGENDA ITEM NO.: #6

DEPARTMENT: County Counsel

BY: Jeffrey G. Green

PHONE: 966-3222

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

7/6 Waive first reading and introduce Ordinance 7/6 Waive second reading and adopt Ordinance creating Chapter 16.36 entitled "Indemnification Agreements" to the County Code.

Staff recommends a process whereby the Board of Supervisors can require indemnity agreements from land use applicants in order to prevent the taxpayers of the county from paying legal fees in the event a land use decision of the county is challenged.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None on this action.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

- Adopt Ordinance as drafted.
- Revise Ordinance as the Board desires and adopt.

COSTS: (X) Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

SOURCE: () 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:

Ordinance. _____

Memo to Board _____

CLERK'S USE ONLY:

Res. No.: _____ Ord. No. 976

Vote - Ayes: 4 Noes: _____

Absent: Rosen Abstained: _____

() Approved () Denied

7/6 () 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
County of Mariposa, State of California

By: _____
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: WJ

MARIPOSA COUNTY ORDINANCE NO. 976

**AN ORDINANCE CREATING CHAPTER 16.36
ENTITLED "INDEMNIFICATION AGREEMENTS"
OF THE MARIPOSA COUNTY CODE**

WHEREAS, the Board of Supervisors of the County of Mariposa desire to create a new Chapter 16.36 entitled "Indemnification Agreements" to the Mariposa County Code; and

WHEREAS, the creation of Chapter 16.36 will allow the Board of Supervisors the ability to require indemnity agreements from land use applicants in order to prevent the taxpayers of the county from paying legal fees in the event a land use decision of the county is challenged;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, a political subdivision of the State of California, does ordain as follows:

SECTION I:

16.36.010 Purpose.

This chapter is enacted to ensure the taxpayers of the County of Mariposa do not pay legal costs associated with private projects.

16.36.020 Citation and authority.

This section is adopted pursuant to California Government Code Sections 66474.9 and 66499.37.

16.36.030 Authority.

The Mariposa County Board of Supervisors, or Planning Commission may require, as a condition for a land use entitlement, including a tentative, parcel, or final map application or approval, that the applicant defend, indemnify, and hold harmless Mariposa County or its agents, officers, and employees from any claim, action, or proceeding against Mariposa County or its agents, officers, or employees to attack, set aside, void, or annul an approval, or any proceedings, acts or determinations taken, done or made prior to the approval by Mariposa County, any advisory agency, appeal board, legislative body or Planning Director. Any requirement by the Planning Commission for an indemnity agreement pursuant to this Chapter shall have an automatic review for approval by the Board of Supervisors.

16.36.040 Notification.

In the event of any claim, action, or proceeding against Mariposa County as described in Section 16.36.030, Mariposa County shall promptly notify the applicant or permit holder of such claim, action, or proceeding and Mariposa County shall fully cooperate with the applicant in the defense of the action.

16.36.050 County Participation.

Nothing contained in this Chapter shall prohibit Mariposa County from participating in the defense of any claim, action, or proceeding if Mariposa County bears its own attorney's fees and costs and Mariposa County defends the action in good faith.

SECTION II: This Ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

PASSED AND ADOPTED by the Board of Supervisors of Mariposa County this 23rd day of July 2002 by the following vote:

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



ROBERT C. STEWART, Chairman
Mariposa County Board of Supervisors

ATTEST:

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**



MARGIE WILLIAMS
Clerk of the Board



JEFFREY G. GREEN
County Counsel



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

ROBERT C. STEWART, CHAIRMAN
PATTI A. REILLY, VICE-CHAIRMAN
DOUG BALMAIN
GARRY R. PARKER
BOB PICKARD

DISTRICT III
DISTRICT I
DISTRICT II
DISTRICT IV
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: JEFF GREEN, County Counsel
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: Ordinance Entitled "Indemnification Agreements"

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on July 9, 2002

ACTION AND VOTE:

A) Waive First Reading and Introduce Ordinance Creating Chapter 16.36 Entitled "Indemnification Agreements" to the County Code (Continued from June 18, 2002)
BOARD ACTION: Discussion was held with Jeff Green, and he advised of a requested revision from Supervisor Balmain to add language to Section 16.36.030 to state that any requirement by the Planning Commission for an indemnity agreement shall have an automatic review for approval by the Board of Supervisors. Eric Toll, Planning Director, provided input relative to the request. (M)Pickard, (S)Parker, first reading was waived and the Ordinance was introduced with the additional language as requested/Ayes: Unanimous.

cc: File