

DEPARTMENT: BUILDING

BY: Fred Lustenberger  
PHONE: 209-966-3934

**RECOMMENDED ACTION AND JUSTIFICATION:**

( ) Waive First Reading and Introduce Ordinance ( ) Waive Second Reading and Adopt Ordinance creating Section 15.10.061 County Code to create a policy for the handling of violations and a standard penalty schedule. Adopt Resolution setting amnesty period. Adopt Resolution setting new expiration date for Building Permits.

Request Board approval to create a standard violation policy in order to ensure uniformity and consistency of all violation inspections and procedures. The policy will specifically address structural, life-safety (escape from fire), and sanitation issues to make certain the basic, minimum requirements are met. The current policy has proven insufficient to deter people from building without obtaining permits, paying fees and taxes, or ensuring the safety and security of the structures. Also adopt Resolutions setting: 1) amnesty period and 2) new Building Permit Expirations.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

Currently, Mariposa County Code Section 15.10.060 refers to Section 1. 20.10 for the prescription of penalties for Building Code Violations (Ord. 467 Sec. A, 1977). The penalty (considering all building code violations to be misdemeanors) is not always appropriate or practical for Building Code enforcement purposes. Further, in 2006 the Board approved amendments to County Code Section 15.28 (Grading & Excavating) establishing prescribed penalties for grading violations.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Alternative: Status Quo: Continue code enforcement operations without effective and coherent policies and procedures.

Consequences: 1. Continue to allow unpermitted buildings to be built which may be unsafe.  
2. Continue to lose tax money and school developer fees on buildings built without permits.

Financial Impact? ( ) Yes (X) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		Exhibit A - Policy & Procedure for Expired Permits
Source:		Ordinance entitled Code Violation Penalties
Internal Transfer		Amnesty Period Resolution
Unanticipated Revenue	_____ 4/5's vote	New Permit Expiration Resolution
Transfer Between Funds	_____ 4/5's vote	
Contingency	_____ 4/5's vote	
( ) General ( ) Other		

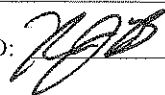
**CLERK'S USE ONLY:**

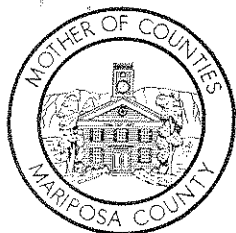
Res. No. 09-137 Ord. No. \_\_\_\_\_  
Vote - Ayes: \_\_\_\_\_ Noes: \_\_\_\_\_  
Absent: \_\_\_\_\_  
( ) Approved  
(X) Minute Order Attached ( ) No Action Necessary

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

**COUNTY ADMINISTRATIVE OFFICER:**

(X) Requested Action Recommended  
( ) No Opinion  
Comments:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CAO: 



# COUNTY of MARIPOSA

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

BRAD ABORN, CHAIR  
JANET BIBBY, VICE CHAIR  
LYLE TURPIN  
KEVIN CANN  
JIM ALLEN

DISTRICT I  
DISTRICT III  
DISTRICT II  
DISTRICT IV  
DISTRICT V



## MARIPOSA COUNTY BOARD OF SUPERVISORS

### MINUTE ORDER

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TO: FRED LUSTENBERGER, Building Director

FROM: MARGIE WILLIAMS, Clerk of the Board *MW*

SUBJECT: PUBLIC HEARING to Waive First Reading and Introduce Ordinance Creating Section 15.10.061 of the County Code to Create a Policy for the Handling of Violations and a Standard Penalty Schedule; Adopt a Resolution Setting Amnesty Period and a Resolution Setting New Expiration Date for Building Permits

RESOLUTION 09-137  
and Ordinance first reading

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on March 24, 2009

#### ACTION AND VOTE:

**12:10 p.m.** Fred Lustenberger, Building Director;  
PUBLIC HEARING to Waive First Reading and Introduce Ordinance Creating Section 15.10.061 of the County Code to Create a Policy for the Handling of Violations and a Standard Penalty Schedule; Adopt a Resolution Setting Amnesty Period and a Resolution Setting New Expiration Date for Building Permits

**BOARD ACTION:** Fred Lustenberger presented the staff report; and he recommended that the language relative to animal control issues be deleted, and that the Appeals Board have the final say relative to the determination of penalties, subject only to judicial review. He responded to questions from the Board relative to the appeal process for this Ordinance. Steve Dahlem, County Counsel, noted that the existing resolution for the Building Department Advisory and Appeals Board provides that a decision by the Appeals Board may be appealed to the Board of Supervisors – this resolution would need to be amended if this Ordinance is adopted as written. Supervisor Bibby stated she feels that members of the Appeals Board should comply with requirements such as filing economic interest statements, taking oaths of office and ethics training, if they have the final determination of penalties versus the Board of Supervisors. She referred to the section relative to the Enforcing Officer and suggested that “or designee” be added. Staff responded to an additional question from the Board relative to being able to criminally prosecute for Health and Safety violations.

The public portion of the hearing was opened and input was provided by the following:

Marvin Wells asked what the process would be for people who buy a home and subsequently find out that the structure was never permitted; whether there would be any remedy through the title company or the realtor that was involved in the transaction. Staff responded that the Ordinance addresses the permit process for these types of situations; and advised that this Ordinance would not

restrict any civil rights in pursuing claims. Supervisor Allen noted that the Department of Consumer Affairs oversees the Real Estate and the Contractors Divisions.

Jim Tucker asked for clarification of the code enforcement provisions and the appeal process and finding of facts process; and he asked about processing criminal violations. Staff responded and advised of the processes. Supervisor Bibby clarified that another agency can report a violation and not just a citizen.

The public portion of the hearing was closed and the Board commenced with deliberations on the Ordinance. (M)Cann, (S)Allen, the first reading was waived and the ordinance was introduced creating Section 15.10.061 of the County Code to create a policy for the handling of violations and a standard penalty schedule, with the changes as discussed to include "or designee," to include that following a decision by the Appeals Board that an appeal can be filed to be heard by the Board of Supervisors, and to delete the reference to unlawful excess number of animals. County Counsel read the language in the resolution that established the Appeals Board relative to filing appeals with the Board of Supervisors and the Board concurred with using the same language in the Ordinance. The Clerk of the Board read the title of the Ordinance into the record. Ayes: Unanimous.

The Board commenced with deliberations on the amnesty period resolution. Staff responded to questions from the Board relative to handling the existing violation cases and relative to the recommended amnesty time period. County Counsel provided suggested changes and corrections to the resolution. Supervisor Turpin requested that staff review the possibility of increasing the 120 square foot allowance for structures used for agricultural purposes. Motion by Turpin to adopt the amnesty period resolution, with a 90-day time period, was withdrawn by the maker following discussion. The Board concurred that the final resolution should be brought back for action.

The Board commenced with deliberations on the resolution setting a new expiration date for building permits. (M)Cann, (S)Allen, Res. 09-137 was adopted setting a new expiration date for building permits/Ayes: Unanimous.

The hearing was continued to April 7, 2009 at 10:30 a.m. for the amnesty resolution and adoption of the Ordinance.

Cc: Steve Dahlem, County Counsel  
Chris Ebie, Auditor  
Mary Hodson, Deputy CAO  
File

## MARIPOSA COUNTY BUILDING PERMIT EXPIRATION

### RESOLUTION NO. 09-137

**WHEREAS**, the Board of Supervisors has the authority to establish permit timeframe; and

**WHEREAS**, the Board of Supervisors wishes to exercise this authority by adopting this permit expiration timeframe; and

**WHEREAS**, it is necessary for the continued smooth operation of the Mariposa County Building Department to allow building permits to expire after three years rather than one; and

**WHEREAS**, the Board of Supervisors finds that the methodologies employed by staff in determining expiration timeframes are appropriate and are designed to ensure that the majority of permits will be able to be completed without cost of renewal; and

**WHEREAS**, the Board of Supervisors finds that the timeframe set by this resolution does not exceed the reasonable timeframe for which the existing fees are charged; and

**WHEREAS**, the Board of Supervisors adopts this resolution, a resolution amending Appendix Chapter 1, 2007 California Building Code (CBC) Section 105.5 as follows: Unless otherwise authorized, every permit issued by the Mariposa County Building Department under the provisions of this code shall expire by limitation (3) three years from the date of permit issuance. The Chief Building Official may limit a permit to a lesser time when necessary to abate dangerous or substandard conditions.

**WHEREAS**, the Clerk of the Board has caused notice of a public hearing to be duly given in accordance with the provisions of Government Code Section 66016; and

**WHEREAS**, for at least 10 days prior to the date for the said hearing, there has been on file with the Clerk of the Board, data indicating the amount of the cost, or estimated cost, required to provide the product or service of the cost of enforcing any regulations for which the new or revised fees or charges are proposed to be levied, and the revenue sources anticipated to provide the product or service or cost of enforcing any regulation.

**WHEREAS**, said public hearing has been duly and timely conducted and all persons desiring to be heard in this matter have been duly heard and this Board has considered all of the testimony presented during the hearing and the recommendation aforementioned, and said public hearing having been conducted.

**NOW, THEREFORE, IT IS RESOLVED** by the Board of Supervisors of Mariposa County, State of California, as follows:

1. The Board finds all the facts mentioned to be true, and that it has jurisdiction to act on the subject of this Resolution.
2. This Board does hereby approve and adopt the resolution amending Appendix Chapter 1, Section 105.5, extending the expiration date of each permit issued by the Building Department (with certain discretionary limitations) to (3) three years with no renewals.
3. That when permits issued under this policy expire, a new permit will be required to complete any outstanding work, with new permit fees assessed according to a proration schedule as set forth on Exhibit A.
4. The purpose of the fees is to meet operational expenses and, therefore pursuant to the Public Resources Code Section 21080(b) (8), it is proposed to dispense with the preparation or consideration of any documents otherwise required by the California Environmental Quality Act (CEQA).
5. The Clerk of this Board shall cause a Notice of Exemption to be filed with the County Clerk.

**PASSED** and **ADOPTED** by the Board of Supervisors of the County of Mariposa, State of California, this 24<sup>th</sup> day of March, 2009 by the following vote:

AYES: ABORN, TURPIN, BIBBY, CANN, ALLEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

  
\_\_\_\_\_  
BRAD ABORN, Chairperson  
Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
MARGIE WILLIAMS  
Clerk of the Board

  
\_\_\_\_\_  
STEVEN W. DAHLEM  
County Counsel

Exhibit A



**Mariposa County Building Department**  
**Fred Lustenberger, Building Director**

Policy and Procedure:

*Expired Building and Grading Permits*

**PURPOSE**

To provide a policy that will enable Building Department staff to assist customers with expired building and grading permits.

**PROCEDURE**

Unless otherwise authorized, any building or grading permit issued after May 1, 2009, shall not be extended beyond the (3) three year limitation. When a building or grading permit expires, a new permit is required to complete work started under the expired permit.

When a building or grading permit is issued in connection with a code violation, Building Department staff may require that work be completed in less than (3) three years. In this situation, if the permit expires in less time than the usual (3) three year time period, staff will determine if conditions warrant extending the time duration of the permit incrementally up to the (3) three year limit.

Building and grading permit fees are prorated using a percentage of current fees as shown below. The percentages are based on the amount of work completed and approved by the Building Department.

<u>Work Completed and Approved</u>	<u>Percentage of Permit Fees</u>
▪ Foundation	85%
▪ Underfloor	75%
▪ Shear, siding, roof nailing	65%
▪ Rough Frame	45%
▪ Wallboard	15%
▪ Final with Corrections	05%
▪ Rough grading	50%
▪ Final grading with corrections	05%

Any applicable minimum electrical, plumbing and mechanical fees to be assessed. Additional fees may also be charged for plan check services on a case-by-case, as needed basis.

*Exceptions:*

1. The minimum building permit fee shall be based on two hours of inspection time or 100% of the current building permit fee, whichever is lower.
2. The maximum building permit fee shall be based on 20 hours of inspection time or the table above, whichever is lower.

**FILED**

**MARIPOSA COUNTY  
NOTICE OF EXEMPTION**

APR 10 2009  
**KEITH M. WILLIAMS  
MARIPOSA COUNTY CLERK**

**TO:** County Clerk, County of Mariposa  
P.O. Box 247  
Mariposa, CA 95338

**FROM:** Mariposa County  
Building Department  
P.O. Box 1268  
Mariposa, CA 95338

*Courtney Progne*  
**COURTNEY PROGNE**

**Project Title:** Resolution approving Building Department Amnesty Timeframe

**Project Address:** Countywide

**Description  
of Project:**

A proposed resolution to allow amnesty dates for violations of the Building Code for which permits are sought in Mariposa County. The proposed amnesty dates of violations would apply for time shown on resolution after receiving Board approval.

**Name of Public Agency Approving Project:** Mariposa County Building Department

**Name of Person (Applicant) Carrying Out Project:** Mariposa County Building Department pursuant to Section 15.10.040 of the Mariposa County Code.

**Exempt Status:** Categorical Exemption, Section 21080(b)(8) (b)3, CEQA Guidelines

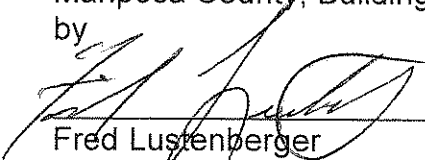
**Reason Why**

**Project Is Exempt:** The proposed resolution is to approve the amnesty period for violations of the California Building Code. The proposal does not have the potential to significantly affect biological or cultural resources, public roads, land uses, public services or other environmental values. The proposal is therefore categorically exempt from the requirements of CEQA.

**Lead Agency Contact Person:** Fred Lustenberger, Building Director

**Phone Number:** (209) 966 - 3934

Mariposa County, Building Department  
by

  
Fred Lustenberger  
Building Director

3-18-09  
Date





State of California—The Resources Agency  
 DEPARTMENT OF FISH AND GAME  
**2009 ENVIRONMENTAL FILING FEE CASH RECEIPT**

RECEIPT#	374684
STATE CLEARING HOUSE # (if applicable)	

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

LEAD AGENCY Mariposa Co. Building Dept		DATE 4/10/09
COUNTY/STATE AGENCY OF FILING Mariposa		DOCUMENT NUMBER
PROJECT TITLE Resolution approving Building Dept. Amnesty Timefram		
PROJECT APPLICANT NAME Mariposa Co. Building Dept		PHONE NUMBER 209 9166 3934
PROJECT APPLICANT ADDRESS P.O. BOX 1268	CITY Mariposa	STATE CA
		ZIP CODE 95338

PROJECT APPLICANT (Check appropriate box):

Local Public Agency     School District     Other Special District     State Agency     Private Entity

**CHECK APPLICABLE FEES:**

<input type="checkbox"/> Environmental Impact Report	\$2,768.25	\$ _____
<input type="checkbox"/> Negative Declaration	\$1,993.00	\$ _____
<input type="checkbox"/> Application Fee Water Diversion (State Water Resources Control Board Only)	\$850.00	\$ _____
<input type="checkbox"/> Projects Subject to Certified Regulatory Programs	\$941.25	\$ _____