

ADVOCATES FOR CODE COMPLIANCE
P.O. BOX 157
CARMEL VALLEY, CA 93924

August 3, 2006

Wayne Tanda, Director
County of Monterey
Resource Management Agency
168 West Alisal Street 2nd Floor
Salinas, CA 93901

Dear Mr. Tanda,

Thank you for the opportunity to review the latest version of the draft Code Enforcement Ordinance. We have begun our review of the new ordinance but we wanted to let you know as soon as possible that we have concerns with the draft. Our biggest concern is the repeal of the current Chapters that relate to enforcement of the Monterey County Code. Since there are many “Chapters” that are being repealed it will take time to review all of them so that we can see the real impacts of the draft ordinance and to be assured that the deletions are not weakening enforcement instead of improving it.

We simply cannot allow this new draft Code Enforcement ordinance to take us backwards. We have participated over the course of several years and our objective was a new ordinance that is firm and can be implemented with the teeth necessary to deter violations from continuing. We are concerned that this ordinance does not meet our objectives.

Other concerns that we have are:

- 1.20.07 Restoration: this section allows violators to avoid restoring the land they have illegally graded, etc. We strongly objected to this as we have examples of violators who are currently reaping economic benefit from their violations, such as selling wine from grapes grown on extremely steep slopes they illegally cleared of all native vegetation. This clearly sends a message that someone can violate the law and benefit from it. There is absolutely no incentive to follow the law and every incentive to violate it.
- 1.20.12 Fines and Penalties: This new draft ordinance has removed language about doubling fees for violations, and the penalties actually are less than they have been in the past. In fact, they are absurdly low and will not in any way deter violators. As we noted at our meeting, the county is rightfully expected to protect the public and the environment from violations of codes and ordinances: inconsequential penalties encourage, rather than discourage, violations and would also simply be considered a “cost of doing business” for anyone who can benefit from flouting these laws. We received the flow chart and will try to determine how that impacts fines and penalties.

- 1.20.16 A. Appointment and authority of the Hearing Officer: in addition to being independent from the county, the Hearing Officer must be independent from special interests that deal with and benefit from how codes are (or are not) enforced. Examples would be: building contractors, planning or agricultural consultants, real estate agents, lobbyists for development, agriculture, hospitality, etc.

H. Please add: “The county shall participate by defending its Code Enforcement decisions fully.” (Absent this directive, the county may not ensure participation by the appropriate staff during this process.)

To step back a moment, we want to reiterate that the reason that we have worked over the years with the County to draft a new ordinance is because the current Code Enforcement system is not working, as was pointed out in the 2005 Grand Jury report.

At our meeting we questioned Mr. Ellis about what exactly the “deletions” were that the draft ordinance mentioned in its opening section (“county counsel synopsis”). He said the deletions were minor and indicated that all the deleted items (the “Chapters”) were covered or subsumed within the new draft ordinance. Unfortunately, however, it is not at all clear that is the case.

Another part of the history of this issue is The Open Monterey Project (TOMP) lawsuit that was filed in 2004, and which resulted from hundreds of code enforcement cases being closed without resolution. Subsequently, the 2005 Grand Jury report stated on page 11: “Tabling unresolved enforcement cases results in unequal enforcement of regulations.” and the Grand Jury report also states that code violations have occurred resulting in nominal penalties where it is less costly to the applicant to pay penalties than to comply with regulations.

Also, we request that versions of these documents be dated on each page, so reviewers will know which is the latest and we can avoid confusion.

Obviously, it will take time to review all the deleted Chapters and to see how the protections afforded there are carried over into the draft ordinance and ensure that the entire process would be functional. Instead of another meeting during the week of August 14th, we would like to meet during the second week of September.

Finally, can you tell us if a code enforcement staff person (not just management) with direct knowledge of county enforcement processes is involved in reviewing this since staff will be responsible for implementing the ordinance and has “hands-on” experience that would be useful?

Thank you,

Paula Lotz
Chairperson
Advocates for Code Compliance

Gudrun Beck
Ventana Chapter, Sierra Club

Chris Fitz
Executive Director
LandWatch Monterey County

Gillian Taylor
Chairperson
The Open Monterey Project

Glenn Robinson
President
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Carolyn Anderson
Chairperson
North County Citizens' Oversight Coalition

Marit Evans
Hwy. 68 Coalition

Jan Mitchell
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Julie Engell
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David Fried
Friends, Artists, and Neighbors of the Elkhorn Slough

CC: Alana Knaster
Dale Ellis