



# Mendocino County

## Legislation Text

---

**File #:** 17-1173, **Version:** 1

---

**To:** Board of Supervisors

**From:** County Counsel

**Meeting Date:** December 19, 2017

**Department Contact:** Katharine L. Elliott

**Phone:** 234-6885

**Item Type:** Consent Agenda

**Time Allocated for Item:** N/A

**Agenda Title:**

Authorization to Release a County Counsel Opinion, Pursuant to the Request of the Public Health, Safety and Resources Standing Committee, on the Ability of Mendocino County to Exempt Limited Density Rural Dwellings (Class K) from Otherwise Required California Building Code Wildland-Urban Interface (WUI) and Fire Sprinkler Standards

**Recommended Action/Motion:**

Authorize the release of the County Counsel opinion on the ability of Mendocino County to exempt Limited Density Rural Dwellings (Class K) from otherwise required California Building Code Wildland-Urban Interface (WUI) and Fire Sprinkler Standards.

**Previous Board/Board Committee Actions:**

The Board has previously authorized the release of specified County Counsel opinions.

**Summary of Request:**

The opinions of County Counsel are subject to Attorney/Client Privilege and are therefore confidential. The Public Health, Safety, and Resources Standing Committee has been considering revisions to the Limited Density Rural Dwelling (Class K) Ordinance which was adopted in 1981. Subsequent to the adoption of the Class K Ordinance, the State legislature required the identification of Moderate, High, and Very-High Fire Hazard Severity Zones and also mandated compliance with Wildland-Urban Interface (WUI) Fire Area standards for construction and re-construction of buildings in specified zones. The State has also adopted interior sprinkler standards for new construction.

The Committee has directed that a revised ordinance be presented to the Board of Supervisors as a separate agenda item, currently projected for early February. The Committee also recognizes that it is essential to determine the limits of local authority to exempt construction from State requirements. Accordingly, the Committee has requested a County Counsel opinion on the ability of a local jurisdiction to partially or fully exempt new construction from the requirements of the Wildland-Urban Interface Fire Area and/or sprinkler standards that would otherwise be required.

The Committee has also requested that County Counsel include a discussion of the ability of the County to waive the otherwise required standards for currently un-permitted structures if the owners apply for permits under the current Class K ordinance. Permitted structures constructed under earlier, less stringent standards,

as distinguished from those that are un-permitted, are considered to be legal non-conforming (informally referred to as “grandfathered in”) and are not required to retroactively comply with revised building standards. In contrast, un-permitted structures are typically required to comply with the building standards in effect at the time an application is submitted.

The Board, as the client holding the privilege of confidentiality, has the authority to approve the release of the opinion, as requested by the Committee. Alternatively, the Board could decline to authorize release of the opinion, in which case Planning and Building Services staff would be able to cite relevant portions of law in their staff report. If this agenda item is approved as requested, County Counsel will have the authority to release the opinion to the Board and the public once it is completed, currently projected to be early in January.

**Alternative Action/Motion:**

Do not approve the Committee request and/or give further direction as deemed appropriate.

**Supplemental Information Available Online at:** N/A

**Fiscal Impact:**

**Source of Funding:** NA

**Current F/Y Cost:** NA

**Budgeted in Current F/Y:** N/A

**Annual Recurring Cost:** NA

**Supervisory District:** All

**Vote Requirement:** Majority

**Agreement/Resolution/Ordinance Approved by County Counsel:** Yes

---

**CEO Liaison:** Carmel J. Angelo, CEO

**CEO Review:** Yes

**Comments:**



**FOR COB USE ONLY**

---

Executed By: Nadia Tipton

Final Status: **Approved**

Date: December 20, 2017

Executed Item No.: N/A

Note to Department:

Executed Documents Returned to

Department: Originals \_\_\_\_\_ Copies

\_\_\_\_\_ Hand Delivered \_\_\_\_\_ Interoffice

Mail \_\_\_\_\_ Executed Agreement Sent to

Auditor? Y/N