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TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 2. SUBDIVISIONS [66410 - 66499.41] (Division 2 added by Stats. 1974, Ch. 1536.)

CHAPTER 3. Procedure [66451 - 66472.1] (Chapter 3 added by Stats. 1974, Ch. 1536.)

ARTICLE 1.5. Merger of Parcels [66451.10 - 66451.24] (Article 1.5 added by Stats. 1983, Ch. 845, Sec. 2.)

66451.10. (a) Notwithstanding Section 66424, except as is otherwise provided for in this article, two or more contiguous parcels or units of land which have been created under the provisions of this division, or any prior law regulating the division of land, or a local ordinance enacted pursuant thereto, or which were not subject to those provisions at the time of their creation, shall not be deemed merged by virtue of the fact that the contiguous parcels or units are held by the same owner, and no further proceeding under the provisions of this division or a local ordinance enacted pursuant thereto shall be required for the purpose of sale, lease, or financing of the contiguous parcels or units, or any of them.

(b) This article shall provide the sole and exclusive authority for local agency initiated merger of contiguous parcels. On and after January 1, 1984, parcels may be merged by local agencies only in accordance with the authority and procedures prescribed by this article. This exclusive authority does not, however, abrogate or limit the authority of a local agency or a subdivider with respect to the following procedures within this division:

- (1) Lot line adjustments.
- (2) Amendment or correction of a final or parcel map.
- (3) Reversions to acreage.
- (4) Exclusions.
- (5) Tentative, parcel, or final maps which create fewer parcels.

(Amended by Stats. 1986, Ch. 727, Sec. 1. Effective September 15, 1986.)

66451.11. A local agency may, by ordinance which conforms to and implements the procedures prescribed by this article, provide for the merger of a parcel or unit with a contiguous parcel or unit held by the same owner if any one of the contiguous parcels or units held by the same owner does not conform to standards for minimum parcel size, under the zoning ordinance of the local agency applicable to the parcels or units of land and if all of the following requirements are satisfied:

(a) At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.

(b) With respect to any affected parcel, one or more of the following conditions exists:

- (1) Comprises less than 5,000 square feet in area at the time of the determination of merger.
- (2) Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.
- (3) Does not meet current standards for sewage disposal and domestic water supply.
- (4) Does not meet slope stability standards.
- (5) Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.

(6) Its development would create health or safety hazards.

(7) Is inconsistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.

The ordinance may establish the standards specified in paragraphs (3) to (7), inclusive, which shall be applicable to parcels to be merged.

This subdivision shall not apply if one of the following conditions exist:

(A) On or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code.

(B) On July 1, 1981, one or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of Section 51104, or is land devoted to an agricultural use as defined in subdivision (b) of Section 51201.

(C) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency.

(D) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency.

(E) Within the coastal zone, as defined in Section 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either (i) been included in the land use plan portion of a local coastal program prepared and adopted pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (ii) prior to the adoption of a land use plan, been made by formal action of the California Coastal Commission pursuant to the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based.

For purposes of paragraphs (C) and (D) of this subdivision, "mineral resource extraction" means gas, oil, hydrocarbon, gravel, or sand extraction, geothermal wells, or other similar commercial mining activity.

(c) The owner of the affected parcels has been notified of the merger proposal pursuant to Section 66451.13, and is afforded the opportunity for a hearing pursuant to Section 66451.14.

For purposes of this section, when determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that notice of intention to determine status is recorded.

(Amended by Stats. 1995, Ch. 162, Sec. 1. Effective January 1, 1996.)

66451.12. A merger of parcels becomes effective when the local agency causes to be filed for record with the recorder of the county in which the real property is located, a notice of merger specifying the names of the record owners and particularly describing the real property.

(Amended by Stats. 1984, Ch. 102, Sec. 1.2. Effective April 30, 1984.)

66451.13. Prior to recording a notice of merger, the local agency shall cause to be mailed by certified mail to the then current record owner of the property a notice of intention to determine status, notifying the owner that the affected parcels may be merged pursuant to standards specified in the merger ordinance, and advising the owner of the opportunity to request a hearing on determination of status and to present evidence at the hearing that the property does not meet the criteria for merger. The notice of intention to determine status shall be filed for record with the recorder of the county in which the real property is located on the date that notice is mailed to the property owner.

(Amended by Stats. 1995, Ch. 162, Sec. 2. Effective January 1, 1996.)

66451.14. At any time within 30 days after recording of the notice of intention to determine status, the owner of the affected property may file with the local agency a request for a hearing on determination of status.

(Amended by Stats. 1984, Ch. 102, Sec. 1.4. Effective April 30, 1984.)

66451.15. Upon receiving a request for a hearing on determination of status from the owner of the affected property pursuant to Section 66451.14, the local agency shall fix a time, date, and place for a hearing to be conducted by the legislative body or an

advisory agency, and shall notify the property owner of that time, date, and place for the hearing by certified mail. The hearing shall be conducted not more than 60 days following the local agency's receipt of the property owner's request for the hearing, but may be postponed or continued with the mutual consent of the local agency and the property owner.

(Amended by Stats. 1985, Ch. 796, Sec. 2. Effective September 19, 1985.)

66451.16. At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the standards for merger specified in the merger ordinance.

At the conclusion of the hearing, the local agency shall make a determination that the affected parcels are to be merged or are not to be merged and shall so notify the owner of its determination. If the merger ordinance so provides, a determination of nonmerger may be made whether or not the affected property meets the standards for merger specified in Section 66451.11. A determination of merger shall be recorded within 30 days after conclusion of the hearing, as provided for in Section 66451.12.

(Amended by Stats. 1984, Ch. 102, Sec. 1.6. Effective April 30, 1984.)

66451.17. If, within the 30-day period specified in Section 66451.14, the owner does not file a request for a hearing in accordance with Section 66451.16, the local agency may, at any time thereafter, make a determination that the affected parcels are to be merged or are not to be merged. A determination of merger shall be recorded as provided for in Section 66451.12 no later than 90 days following the mailing of notice required by Section 66451.13.

(Amended by Stats. 2000, Ch. 506, Sec. 29. Effective January 1, 2001.)

66451.18. If, in accordance with Section 66451.16 or 66451.17, the local agency determines that the subject property shall not be merged, it shall cause to be recorded in the manner specified in Section 66451.12 a release of the notice of intention to determine status, recorded pursuant to Section 66451.13, and shall mail a clearance letter to the then current owner of record.

(Amended by Stats. 1984, Ch. 102, Sec. 1.8. Effective April 30, 1984.)

66451.19. (a) Except as provided in Sections 66451.195, 66451.301, and 66451.302, a city or county shall no later than January 1, 1986, record a notice of merger for any parcel merged prior to January 1, 1984. After January 1, 1986, no parcel merged prior to January 1, 1984, shall be considered merged unless a notice of merger has been recorded prior to January 1, 1986.

(b) Notwithstanding the provisions of Sections 66451.12 to 66451.18, inclusive, a city or county having a merger ordinance in existence on January 1, 1984, may, until July 1, 1984, continue to effect the merger of parcels pursuant to that ordinance, unless the parcels would be deemed not to have merged pursuant to the criteria specified in Section 66451.30. The local agency shall record a notice of merger for any parcels merged pursuant to that ordinance.

(c) At least 30 days prior to recording a notice of merger pursuant to subdivision (a) or (b), the local agency shall advise the owner of the affected parcels, in writing, of the intention to record the notice and specify a time, date, and place at which the owner may present evidence to the legislative body or advisory agency as to why the notice should not be recorded.

(d) The failure of a local agency to comply with the requirements of this article for the merger of contiguous parcels or units of land held in common ownership shall render void and ineffective any resulting merger or recorded notice of merger and no further proceedings under the provisions of this division or a local ordinance enacted pursuant thereto shall be required for the purpose of sale, lease, or financing of those contiguous parcels or units, or any of them, until such time as the parcels or units of land have been lawfully merged by subsequent proceedings initiated by the local agency which meet the requirements of this article.

(e) The failure of a local agency to comply with the requirements of any prior law establishing requirements for the merger of contiguous parcels or units of land held in common ownership, shall render voidable any resulting merger or recorded notice of merger. From and after the date the local agency determines that its actions did not comply with the prior law, or a court enters a judgment declaring that the actions of the agency did not comply with the prior law, no further proceedings under the provisions of this division or a local ordinance enacted pursuant thereto shall be required for the purpose of sale, lease, or financing of such contiguous parcels or units, or any of them, until such time as the parcels or units of land have been lawfully merged by subsequent proceedings initiated by the local agency which meet the requirements of this article.

(Amended by Stats. 1986, Ch. 727, Sec. 2. Effective September 15, 1986.)

66451.195. (a) Counties more than 20,000 square miles in size shall have until January 1, 1990, to record a notice of merger for parcels of 4,000 square feet or less prior to the time of merger, which were merged prior to January 1, 1984, and for those parcels no parcel merged prior to January 1, 1984, shall be considered merged unless the notice of merger has been recorded prior to January 1, 1990. Counties recording notices of merger pursuant to this subdivision shall comply with the notice requirements of Section 66451.19.

(b) This section shall not be applicable to any parcels or units which meet the criteria of subdivision (a) but which were transferred, or for which the owner has applied for a building permit, during the period between January 1, 1986, and the effective date of this

section.

(Added by Stats. 1986, Ch. 727, Sec. 3. Effective September 15, 1986.)

66451.20. Prior to amending a merger ordinance which was in existence on January 1, 1984, in order to bring it into compliance with Section 66451.11, the legislative body of the local agency shall adopt a resolution of intention and the clerk of the legislative body shall cause notice of the adoption of the resolution to be published in the manner prescribed by Section 6061. The publication shall have been completed not less than 30 days prior to adoption of the amended ordinance.

(Amended by Stats. 1995, Ch. 162, Sec. 3. Effective January 1, 1996.)

66451.21. Prior to the adoption of a merger ordinance in conformance with Section 66451.11, by a city or county not having a merger ordinance on January 1, 1984, the legislative body shall adopt a resolution of intention to adopt a merger ordinance and fix a time and place for a public hearing on the proposed ordinance, which shall be conducted not less than 30 nor more than 60 days after adoption of the resolution. The clerk of the legislative body shall cause a notice of the hearing to be published in the manner prescribed by Section 6061. Publication shall have been completed at least seven days prior to the date of the hearing. The notice shall:

- (a) Contain the text of the resolution.
- (b) State the time and place of the hearing.
- (c) State that at the hearing all interested persons will be heard.

(Amended by Stats. 1995, Ch. 162, Sec. 4. Effective January 1, 1996.)

66451.22. (a) The Legislature hereby finds and declares that:

(1) The agricultural area of Napa County has become extremely important over the last 25 years as a premier winegrape growing region of worldwide importance and should thereby be protected from parcelization.

(2) The county has determined that because of the land's extraordinary agricultural value as a winegrape production area and the fact that the county's tourism industry entrusts its significant economic interests to its agricultural and open-space lands, the highest and best use for the agricultural land in the Napa Valley is for agricultural production.

(3) The full potential build-out of parcels not previously recognized in Napa County's agricultural preserve and watershed areas could devastate the wine industry of California and Napa County.

(4) To adequately protect the value and productivity of the county's agricultural lands, Napa County needs relief from the Subdivision Map Act's implied preemption of local ordinances that may require merger of parcels that do not meet current zoning and design and improvement standards as well as the provisions that recognize parcels created prior to, or before, the current Subdivision Map Act.

(b) Notwithstanding any other provision of law, the County of Napa may adopt ordinances to require, as a condition of the issuance of any permit or the grant of any approval necessary to develop any real property which includes in whole or in part an undeveloped substandard parcel, that the undeveloped substandard parcel be merged into any other parcel or parcels that are contiguous to it and were held in common ownership on or after the effective date of this act, whether or not the contiguous parcels are a part of the development application, except as otherwise provided in subdivisions (d) and (e).

(c) For purposes of this section, "undeveloped substandard parcel" means a parcel or parcels that qualify as undeveloped pursuant to subdivision (a) of Section 66451.11, are located in areas designated as Agricultural Resource (AR) or Agricultural, Watershed, and Open Space (AWOS) on the General Plan Map of Napa County and are inconsistent with the parcel size established by the general plan and any applicable specific plan.

(d) Any ordinance adopted by the County of Napa pursuant to subdivision (b) shall exempt the following:

(1) Undeveloped substandard parcels for which a conditional or unconditional certificate of compliance has been issued pursuant to subdivision (a) or (b) of Section 66499.35, so long as the application for the certificate of compliance, together with the documentation required by the County of Napa on or before August 1, 1997, to commence the processing of an application, is filed on or before the effective date of this act; provided that this exemption shall not be applicable to conditional certificates of compliance, whenever issued, if the parcels involved were created on or after January 1, 1997, in a manner not in compliance with this division or local ordinances enacted pursuant thereto.

(2) Substandard parcels created by the recordation of a final or parcel map approved by the County of Napa on or after December 29, 1955.

(3) Substandard parcels lawfully created by the recordation of a record of survey prior to February 27, 1969.

(4) Notwithstanding Section 1093 of the Civil Code, property that in the most recently recorded deed, mortgage, patent, deed of trust, contract of sale, or other instrument of conveyance or security document, described by means of a consolidated legal description, whether or not such legal description is comprised of one or more previously existing legal descriptions, provided the owner of same prior to filing an application for development records a document merging any underlying parcel lines that may exist.

(e) Notwithstanding the provisions of subdivision (b), the Board of Supervisors of the County of Napa shall not require merger or condition or deny the issuance of any permit or the grant of any approval necessary to develop any real property in a manner that would constitute a taking of the landowner's property in violation of the United States and California Constitutions.

(f) Nothing contained in this section shall be construed as affecting the right of the County of Napa, pursuant to the provisions of Article 1.5 (commencing with Section 66451.10) and Article 1.7 (commencing with Section 66451.30), to merge any parcels of land in the unincorporated area of that county, including, but not limited to, any parcels eligible for the exemption as described in subdivision (d) of Section 66451.22.

(Added by Stats. 1997, Ch. 837, Sec. 1. Effective January 1, 1998.)

66451.23. Prior to adopting any ordinance authorized by Section 66451.22, the legislative body of the County of Napa shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed ordinance in addition to the noticed public hearing at which the legislative body proposes to enact the ordinance.

(Added by Stats. 1997, Ch. 837, Sec. 2. Effective January 1, 1998.)

66451.24. (a) Nothing in this article prohibits a landowner, local agency, or renewable energy corporation authorized to conduct business in this state from seeking financial assistance from eligible state funding sources to defray either of the following costs:

(1) The costs of merging parcels, including, but not limited to, escrow costs, on private or public lands pursuant to this article.

(2) The costs of establishing or administering a joint powers authority established or authorized to merge parcels on private or public lands, including, but not limited to, all eligible costs, for the purpose of siting renewable energy facilities.

(b) This section does not authorize the use of state funds for the acquisition of real property for which a parcel merger will be initiated.

(Added by Stats. 2010, Ch. 492, Sec. 1. (SB 1319) Effective January 1, 2011.)