

**MENDOCINO COUNTY CODE**

**Looseleaf Supplement**

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 4393, enacted September 12, 2017.**

See the Code Comparative Table and Disposition List for further information

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**Ordinance No. 4386, enacted July 11, 2017.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4381, enacted April 4, 2017.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4378, passed January 24, 2017.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4367, passed June 7, 2016.**

See the Code Comparative Table and Disposition List for further information.

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SUPPLEMENT NO. 45  
June 2016

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**Ordinance No. 4356, passed May 17, 2016.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4350, passed February 2, 2016.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4345, passed October 6, 2015.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4341, passed August 4, 2015.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4333, adopted March 17, 2015.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance of 11-4-2014(1), adopted November 4, 2014.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4329, adopted July 22, 2014.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4326, adopted February 25, 2014.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4320, adopted January 7, 2014.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4313, adopted August 27, 2013.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4310, adopted July 30, 2013.**

See the Code Comparative Table and Disposition List for further information.

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**Ordinance No. 4305, adopted February 12, 2013.**

See the Code Comparative Table and Disposition List for further information.

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#### **Ordinance No. 4301, adopted November 6, 2012.**

See the Code Comparative Table and Disposition List for further information.

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#### **Ordinance No. 4299, adopted August 28, 2012.**

See the Code Comparative Table and Disposition List for further information.

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#### **Ordinance No. 4289, adopted January 31, 2012.**

See the Code Comparative Table and Disposition List for further information.

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This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 4285, adopted October 4, 2011.**

See the Code Comparative Table and Disposition List for further information.

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## MENDOCINO COUNTY CODE

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

#### **Ordinance No. 4276, adopted May 17, 2011.**

See the Code Comparative Table and Disposition List for further information.

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**MENDOCINO COUNTY CODE**

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**Ordinance No. 4265, enacted July 13, 2010.**

See the Code Comparative Table and Disposition List for further information.

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#### **Ordinance No. 4237, enacted April 20, 2010.**

See the Code Comparative Table and Disposition List for further information.

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SUPPLEMENT NO. 26  
April 2010

## MENDOCINO COUNTY CODE

### Looseleaf Supplement

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#### **Ordinance No. 4234, enacted February 23, 2010.**

See the Code Comparative Table and Disposition List for further information.

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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

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**MENDOCINO COUNTY CODE**

**Looseleaf Supplement**

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 4230, enacted November 10, 2009.**

See the Code Comparative Table and Disposition List for further information.

*Remove old pages*

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166.1—166.3  
194-4c—194-4i  
243  
  
644.1  
692.1, 692.2  
705, 706  
738-1—740

*Insert new pages*

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644.1, 644.2  
692.1, 692.2  
705—706.1  
739—740.1

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## MENDOCINO COUNTY CODE

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

#### **Ordinance No. 4225, enacted July 20, 2009.**

See the Code Comparative Table and Disposition List for further information.

*Remove old pages*

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528-1—532  
532.36.13  
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473—474.1  
477—480.2  
483—486.2  
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528.1—532  
532.36.13—532.36.14.2  
692.1, 692.2  
707—708.1  
739—742  
749—752.1

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## MENDOCINO COUNTY CODE

### Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 4221, enacted May 5, 2009.**

See the Code Comparative Table and Disposition List for further information.

*Remove old pages*

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532-36.d.1—532-36h  
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# **MENDOCINO COUNTY CODE**

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**A Codification of the General Ordinances of  
the County of Mendocino, California**

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**Published by Order of the Board of Supervisors**

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**Beginning with Supp. No. 22  
Supplemented by Municipal Code Corporation**

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**municode**

Municipal Code Corporation | P.O. Box 2235 Tallahassee, FL 32316  
info@municode.com | 800.262.2633  
www.municode.com



## PREFACE

The Mendocino County Code, has been kept current by regular supplementation by Municipal Code Corporation, its successor in interest.

The code is organized by subject matter under an expandable three-factor decimal numbering system which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the Title, chapter, and section. Thus, Section 2.12.040 is Section .040, located in Chapter 2.12 of Title 2. In most instances, sections are numbered by tens (.010, .020, .030, etc.), leaving nine vacant positions between original sections to accommodate future provisions. Similarly, chapters and titles are numbered to provide for internal expansion.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. This legislative history is complemented by an ordinance disposition table, following the text of the code, listing by number all ordinances, their subjects, and where they appear in the codification; and beginning with Supplement No. 22, legislation can be tracked using the "Code Comparative Table and Disposition List."

A subject-matter index, with complete cross-referencing, locates specific code provisions by individual section numbers.

**This supplement brings the Code up to date through Ordinance No. 4393, passed September 12, 2017.**

Municipal Code Corporation  
1700 Capital Circle SW  
Tallahassee, FL 32310  
800-262-2633



CURRENT OFFICIALS

of the

COUNTY OF MENDOCINO, CALIFORNIA

---

Carre Brown  
*1st District Supervisor*

John McCowen  
*2nd District Supervisor*

Georgianne Croskey  
*3rd District Supervisor*

Dan Gjerde  
*4th District Supervisor*

Dan Hamburg  
*5th District Supervisor*

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## **HOW TO USE YOUR CODE**

This code is organized to make the laws of the county as accessible as possible to county officials, county employees and private citizens. Please take a moment to familiarize yourself with some of the important elements of this code.

### **Numbering System.**

The numbering system is the backbone of a Code of Ordinances; Municipal Code Corporation uses a unique and versatile numbering structure that allows for easy expansion and amendment of this Code. It is based on three tiers, beginning with title, then chapter, and ending with section. Each part is represented in the code section number. For example, Section 2.04.010 is Section .010, in Chapter 2.04 of Title 2.

### **Title.**

A title is a broad category under which ordinances on a related subject are compiled. This code contains about 15 to 20 titles. For example, the first title is Title 1, General Provisions, which may contain ordinances about the general penalty, code adoption and definitions. The titles in this code are separated by tabbed divider pages for quick reference. Some titles are **Reserved** for later use.

### **Chapter.**

Chapters deal with more specific subjects, and are often derived from one ordinance. All of the chapters on a related subject are grouped in one title. The chapters are numbered so that new chapters which should logically be placed near certain existing chapters can be added at a later time without renumbering existing material. For example, Chapter 2.33, Alternative Procedure for Bidding for Public Contracts, can be added between 2.32, Purchasing Agent, and Chapter 2.36, County Auditor.

### **Section.**

Each section of the code contains substantive ordinance material. The sections are numbered by "tens" to allow for expansion of the code without renumbering.

### **Tables of Contents.**

There are many tables of contents in this code to assist in locating specific information. At the beginning of the code is the main table of contents listing each title. In addition, each title and chapter has its own table of contents listing the chapters and sections, respectively.

### **Ordinance History Note.**

At the end of each code section, you will find an "ordinance history note," which lists the underlying ordinances for that section. The ordinances are listed by number, section (if applicable) and year. (Example: (Ord. 272 § 1, 1992).)

Beginning with Supplement No. 22 a secondary ordinance history note will be appended to affected sections. Ordinance history notes will be amended with the most recent ordinance added to the end. These history notes can be cross referenced to the code comparative table and disposition list appearing at the back of the volume preceding the index.

#### **Statutory References.**

The statutory references direct the code user to those portions of the state statutes that are applicable to the laws of the county. As the statutes are revised, these references will be updated.

#### **Cross-Reference Table.**

When a code is based on an earlier codification, the cross-reference table will help users find older or "prior" code references in the new code. The cross-reference table is located near the end of the code, under the tabbed divider "Tables." This table lists the prior code section in the column labeled "Prior Code Section" and the new code section in the column labeled "Herein."

As of Supplement No. 22, this table will no longer be updated.

#### **Ordinance List and Disposition Table.**

To find a specific ordinance in the code, turn to the section called "Tables" for the Ordinance List and Disposition Table. This very useful table tells you the status of every ordinance reviewed for inclusion in the code. The table is organized by ordinance number and provides a brief description and the disposition of the ordinance. If the ordinance is codified, the chapter (or chapters) will be indicated. (Example: (2.04, 6.12, 9.04).) If the ordinance is of a temporary nature or deals with subjects not normally codified, such as budgets, taxes, annexations or rezones, the disposition will be "(Special)." If the ordinance is for some reason omitted from the code, usually at the direction of the county, the disposition will be "(Not codified)." Other dispositions sometimes used are "(Tabled)," "(Pending)," "(Number Not Used)" or "(Missing)."

Beginning with Supplement No. 22 this table will be replaced with the "Code Comparative Table and Disposition List."

#### **Code Comparative Table and Disposition List.**

Beginning with Supplement No. 22, a Code Comparative Table and Disposition List has been added for use in tracking legislative history. Located in the back of this volume, this table is a chronological listing of each ordinance considered for codification. The Code Comparative Table and Disposition List specifies the ordinance number, adoption date, description of the ordinance and the disposition within the code of each ordinance. The abbreviation "Rpld" in the Code Comparative Table and Disposition List indicates that the ordinance listed has repealed a sections(s), a chapter or title of the Code. By use of the Code Comparative Table and Disposition List, the reader can locate any section of the code as supplemented, and any subsequent ordinance included herein.



### **Index.**

If you are not certain where to look for a particular subject in this code, start with the index. This is an alphabetical multi-tier subject index which uses section numbers as the reference, and cross-references where necessary. Look for the main heading of the subject you need, then the appropriate subheadings:

#### **BUSINESS LICENSE**

See also **BUSINESS TAX**

Fee 5.04.030

Required when 5.04.010

The index will be updated as necessary when the code text is amended.

### **Instruction Sheet.**

Each supplement to the new code will be accompanied by an Instruction Sheet. The Instruction Sheet will tell the code user the date of the most recent supplement and the last ordinance contained in that supplement. It will then list the pages that must be pulled from the code and the new pages that must be inserted. Following these instructions carefully will assure that the code is kept accurate and current. Removed pages should be kept for future reference.

### **Page Numbers.**

When originally published, the pages of this code were consecutively numbered. As of Supplement No. 22, when new pages are inserted with amendments, the pages will follow a "Point Numbering System". (Example: 32, 32.1, 32.2, 32.2.1, 32.2.2., 33). Backs of pages that are blank (in codes that are printed double-sided) will be left unnumbered but the number will be "reserved" for later use.

### **Electronic Submission.**

In the interests of accuracy and speed, we encourage you to submit your ordinances electronically if at all possible. We can accept most any file format, including Word, WordPerfect or text files. If you have a choice, we prefer Word, any version. You can send files to us as an e-mail attachment, by FTP, on a diskette or CD-ROM. Electronic files enable us not only to get you your code more quickly but also ensure that it is error-free. Our e-mail address is: **ords@municode.com**.

For hard copy, send two copies of all ordinances passed to:

Municipal Code Corporation

P.O. Box 2235

Tallahassee, FL 32316

**Customer Service.**

If you have any questions about this code or our services, please contact  
Municipal Code Corporation at 1-800-262-2633 or:

Municipal Code Corporation

1700 Capital Circle SW

Tallahassee, FL 32310

## **FOREWORD**

Laws and institutions are constantly tending to gravitate. Like clocks, they must be occasionally cleansed and wound up, and set to true time . . .

Henry Beecher Ward. "Life Thoughts"

The Mendocino County Code represents a compilation of the ordinances adopted by the Mendocino County Board of Supervisors. The Code was initially adopted by Ordinance No. 548 in 1968. Since that time, the Board has continued to regularly adopt new ordinances to promote the public welfare, thus requiring constant updating of the Code.

This new Code book is the first major recodification of the Mendocino County Code. These ordinances were recodified, edited, and indexed by M. Steven Zehner, Law Clerk, under the supervision of Duncan M. James, Mendocino County District Attorney.

## **OBJECTIVES**

Throughout the entire recodification process, two primary objectives were sought. The first objective was to present the users of the Code with a document which is logically arranged and easy to use, thus facilitating the location of county ordinances. The second objective was to present the Board of Supervisors with a document which could be supplemented and expanded with a minimum of revision.

## **NUMBERING**

A new numbering system, an expandable, three-component decimal system, was selected for both its logic and its flexibility. This system will permit new chapters to be added to each title either at the end of the title or between existing chapters. Similarly, new sections may be added at the end of each chapter or between existing sections. Thus, existing chapters and sections should retain their numbers, and future additions to the Code can be readily inserted in the most logical position.

## **TOPICAL ORGANIZATION**

The alphabetical organization of the Code has been discarded in favor of a topical organization. Several of the old organizational units were consolidated, leaving several titles blank, or reserved, for future county needs. The Board of Supervisors will, thus, find ample room to add ordinances which deal with subjects that cannot be readily subsumed under the subject matter of existing titles. Users of the Code should find that the organization of titles by topic will facilitate their locating specific county ordinances.

## **SUPPLEMENTS**

Supplements to this Code will be printed at least quarterly and transmitted to subscribers for insertion into the Code book. Each supplement will contain a

sheet of instructions for inserting the new portions into the Code, and these instructions, together with any pages which are to be removed, should be saved for historical reference. Users who find errors in this Code, either in form or substance, should report such errors to the Clerk of the Board of Supervisors so that they may be corrected. The Clerk may be contacted at the Mendocino County Courthouse.

DUNCAN M. JAMES  
District Attorney  
County of Mendocino

By: M. Steven Zehner  
Law Clerk

October, 1974.

**ORDINANCE NO. 1455**

**AN ORDINANCE ADOPTING THE FIRST RECODIFICATION  
OF THE MENDOCINO COUNTY CODE**

The Board of Supervisors of the County of Mendocino does hereby ordain as follows:

**SECTION 1. TITLE.** This ordinance shall be known as the "Mendocino County First Recodification Ordinance."

**SECTION 2. INTENT.** The intent of the Board of Supervisors in adopting this ordinance is to provide the citizens of the County of Mendocino with an up-to-date, logically organized, and completely indexed ordinance code.

**SECTION 3. AUTHORITY.** The authority for the Board of Supervisors to adopt this ordinance is set forth in Section 25130 of the California Government Code, which reads as follows:

An ordinance code adopted and fully published, or adopted by reference as provided in this article, may be subsequently recompiled, recodified and indexed, including such restatement and substantive change as is necessary in the interest of clarity, in the same manner as prescribed by this article for the original adoption by reference of an ordinance code.

**SECTION 4. HISTORY.** The history of ordinance codification in Mendocino County is as follows:

(A) Ordinance Books. Prior to December 19, 1968, all Mendocino County ordinances were uncodified, had been duly published at length, and existed in published form in Ordinance Books filed with the Mendocino County Clerk.

(B) Codification. On December 19, 1968, there went into effect Ordinance 549, which had been adopted on November 19, 1968. Ordinance 549 'adopted by reference and compiled, consolidated, and indexed' all of the Mendocino County Ordinances above referred to except for the Bond and Franchise ordinances and except for ordinances enacted by means of an initiative procedure. Ordinance 549 is therefore referred to herein as the 'Mendocino County Codification Ordinance.' The ordinance code thus adopted was referred to as the 'Mendocino County Code' and was published in one volume in a looseleaf binder having the color green. All ordinances adopted by the Board of Supervisors subsequent to Ordinance 549 have been published at length and included as amendments to the Mendocino County Code.

(C) First Recodification. By this ordinance, the Mendocino County Code is being 'subsequently recompiled, recodified, and reindexed.' This ordinance is thus appropriately referred to as the Mendocino County First Recodification Ordinance. This recodification of the Mendocino County Code shall also be referred to as the 'Mendocino County Code,' and shall be published in two volumes in looseleaf binders having, in their first publication, the color burgundy.

**SECTION 5. ACT OF RECODIFICATION.** There is hereby adopted as the official ordinance code of the County of Mendocino that certain recodification of the existing Mendocino County Code hereinabove referred to, said recodifica-

tion being published in those two looseleaf volumes which have been accepted for filing by the Board of Supervisors on March 18, 1975, and which are attached hereto and incorporated herein by reference as if fully set forth herein verbatim, to wit: "Mendocino County Code, Volume I" and "Mendocino County Code, Volume II."

**SECTION 6. REPEAL.** There is hereby repealed all Mendocino County Ordinances previously adopted which are not included in the aforesaid recodification with the exception of all Bond and all Franchise ordinances and with the further exception of all ordinances adopted by initiative.

**SECTION 7. BOND AND FRANCHISE ORDINANCES.** All bond and Franchise ordinances adopted prior to this recodification of the 'Mendocino County Code' shall be, respectively, consolidated and set forth in a 'Bond Book' and a 'Franchise Book,' each of which shall be kept on file in the office of the Clerk of the County of Mendocino.

**SECTION 8. PUBLIC EXAMINATION.** At least one copy of the aforesaid two looseleaf volumes, constituting the recodification of the Mendocino County Code, shall be filed for use and examination by the public in the office of the Clerk of the County of Mendocino. The Board hereby finds that at least three (3) copies of said volumes have been so filed for use and examination for at least fifteen (15) days prior to the adoption of this ordinance.

**SECTION 9. PLACEMENT IN ORDINANCE CODE.** This ordinance shall be placed in the 'Mendocino County Code' immediately after the Foreword. The resolution of the Board of Supervisors adopting the procedure for the updating of the Mendocino County Code shall be placed in the Mendocino County Code immediately after this ordinance.

**SECTION 10. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after the date of its adoption and shall be published as required by law.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Mendocino, State of California, in this 8th day of April, 1975, by the following vote on roll call:

<b>AYES:</b>	Supervisors Banker, Eddie, Avila, Galletti, Williams
<b>NOES:</b>	None
<b>ABSENT:</b>	None

**WHEREUPON,** the Chairman declared this ordinance passed and adopted and **SO ORDERED.**

/S/ Burgess Williams Chairman,  
Board of Supervisors

**ATTEST:**

**VIOLA N. RICHARDSON**  
Clerk of Said Board

By: /S/Dorothy V. Starks  
Deputy Clerk





**RESOLUTION NO. 75-175**

**RESOLUTION ADOPTING THE PROCEDURE FOR  
THE UPDATING OF THE MENDOCINO COUNTY CODE**

The Board of Supervisors of the County of Mendocino hereby resolves as follows:

WHEREAS this Board on April 8, 1975, did adopt Ordinance No. 1455, entitled "An Ordinance Adopting the First Recodification of the Mendocino County Code," and

WHEREAS section 9 of said ordinance provides that said ordinance "shall be placed in the 'Mendocino County Code' immediately after the Foreword" and further provides that "The resolution of the Board of Supervisors adopting the procedure for the updating of the Mendocino County Code shall be placed in the Mendocino County Code immediately after this ordinance," and

WHEREAS good cause appears,

NOW, THEREFORE, BE IT RESOLVED AND ORDERED as follows:

1. The Board of Supervisors hereby adopts as its procedure for the updating of the Mendocino County Code the recommendations set forth in that document entitled "PROCEDURE FOR UPDATING THE MENDOCINO COUNTY CODE," said document being attached hereto as "Exhibit I." and incorporated herein by reference. Exhibit I shall be deemed to include "Appendix A," entitled "Code Numbering Sample," and "Appendix B," entitled "Mendocino County Code-Format for Drafting Ordinances."

2. The Board of Supervisors hereby adopts as the procedure to be followed in typing and composing further amendments to the Mendocino County Code the provisions set forth in that document entitled "GUIDELINES FOR MENDOCINO COUNTY CODE BOOK COMPOSITION FORMAT," said document being attached hereto as "Exhibit II," and incorporated herein by reference.

The above and foregoing resolution was introduced by Supervisor Banker, who moved for its adoption, seconded by Supervisor Avila, and passed and adopted this 15th day of April, 1975, by the following vote on roll call:

AYES:	Banker, Williams, Avila, Galletti, Eddie
NOES:	None
ABSENT:	None

WHEREUPON, the Chairman declared said resolution passed and adopted and SO ORDERED.

/S/ Burgess Williams Chairman,  
Board of Supervisors

ATTEST:

VIOLA N. RICHARDSON  
Clerk of Said Board

By: /S/ Dorothy V. Starks  
Deputy Clerk

## EXHIBIT I

### PROCEDURE FOR UPDATING THE MENDOCINO COUNTY CODE

The Mendocino County Code represents a compilation of the ordinances adopted by the Mendocino County Board of Supervisors. These ordinances are an important adjunct to the state and federal laws, since they deal specifically with problems and issues relating to Mendocino County. To accurately and uniformly reflect the decisions of the Board, the Code requires constant supplementation through an orderly and clearly delineated process. Such a procedure will be outlined below, after the Code's organizational framework is detailed.

### ORGANIZATION AND NUMBERING

The Code consists of two volumes, one containing the land-use ordinances and the other containing all nonland-use ordinances. Each volume is broken down into general topical divisions or "titles." Each title has been subdivided into more specific units or "chapters" which logically relate to the title's subject matter. Chapters may be broken down into units called "divisions," but this further subdivision has been used sparingly and only where clarity so required. All chapters are divided into "sections," which set forth the specific enactments of the Board of Supervisors.

The Code was organized and compiled to present existing ordinances and to facilitate future Code expansions. Several titles have been left blank, or reserved, so that future Board enactments may be logically inserted into the Code with a minimum of confusion and/or recodification. Similarly, an expandable, three-component decimal numbering system has been adopted in order to facilitate internal changes and to accommodate additions to the Code. With the exception of the Roman numerals used to designate the infrequently used chapter "divisions," all numbering is done with Arabic numerals.

Each title has been assigned a number which reflects its order of appearance in the Code. Thus, Administration is Title 2, and Land Usage is Title 22. The title number represents the first component of the Code's three component numbering system.

Chapters within each title have been assigned two-digit numbers which reflect chapter position within the title. The numbers have been initially assigned in increments of four so that subsequently adopted chapters may be inserted into the Code without renumbering existing chapters. For example, three new chapters could be inserted between chapters 2.04 and 2.08 without requiring changes to any existing chapters. The chapter number represents the second component of the Code's three-component numbering system.

Each Code section bears a three-component decimal number. The first two components are made up of the title and chapter numbers, respectively. The third component is a three-digit number which reflects the section's position within the chapter. Initial section numbers have been assigned in increments of

ten (for example, 2.04.010 and 2.04.020) so that future adoptions or amendments may be readily inserted between existing sections when necessary. Thus, for example, nine new sections could be inserted between 2.04.010 and 2.04.020. The three-digit figure permits extensive expansion while keeping renumbering and revision at a minimum.

The procedure for initially numbering additions to the Code is very simple. If a new title is being added, chapter numbers should be assigned in increments of four (4), unless there are more than 24 chapters, in which case the chapter numbers should be assigned in increments of two (2). Section numbers should be assigned in increments of ten (10) unless there are more than 99 sections, in which case the numbers should be assigned in increments of five (5).

If new chapters are being added to existing titles, they may be added either at the end of the existing chapters or between existing chapters. In either case, the section numbers should be assigned as prescribed, *supra*.

New sections to an existing chapter may be added either at the end of the chapter or between existing section numbers. (See Appendix A, "Code Numbering Sample.")

#### SUPPLEMENTATION PROCEDURE

After ordinances have been adopted by the Board of Supervisors, they must be added to the Code. Three overlapping problems which must be resolved are the positioning of ordinances within the Code, referencing newly inserted ordinances, and accuracy of the new Code sections. Positioning of new Code Sections is not a major problem, because most ordinances are worded in such a way as to indicate where the ordinance is to be placed. (For example, "Section 2.04.040 is adopted as follows \* \* \*," or "Section 2.04.040 is amended to read as follows \* \* \*.") Referencing of Code additions and the accuracy of printed additions can be of major concern when there is no formalized procedure for updating the Code book. Adhering to the following procedure will ensure that ordinances are placed in the most logical position within the Code and that printed updates are accurate and well-indexed.

Since most ordinances are proposed by County offices or agencies which deal only with selected portions of the Code, it is reasonable for the proponent of an ordinance to bear the initial responsibility for suggesting tentative numbering and positioning of each ordinance proposed. Since proponents are likely to be familiar with, or have expertise in, the subject matter of a proposed ordinance, they should be charged with the initial responsibility for suggesting cross references to be placed in the Code's index. Each title is indexed under its topical listing in the index, but cross references are essential to the ready location of existing County laws. The proponent of an ordinance should submit suggested numbering and indexing, on a separate paper, when the proposed ordinance is submitted.

The Clerk of the Board, who prepares agendas and minutes of each Board meeting and who maintains the ordinance books, should be charged with the

responsibility of updating the Code monthly. Following the adoption of an ordinance by the Board of Supervisors, the Clerk should prepare the ordinance for printing by:

1. Removing all extraneous adopting language and leaving only the language which is to appear in the Code.
2. Assigning proper title, chapter and section numbers and headings.
3. Revising the index so that proper indexing and cross referencing is achieved. (Note that each new title should be completely indexed under its title heading, and all future additions to any title should also include an update of this title heading index.)
4. Revising the first page of the appropriate title when new chapters are adopted.
5. Revising the table of contents when new titles are adopted. (The adoption of entirely new titles should not occur often, because current titles have been given broad, general headings to permit frequent expansion.) The Clerk will also include the legislative history of each section at the conclusion of the text. The Clerk should then forward the updates to the Composer.

The Composer shall perform all composing work necessary to maintain an accurate, current code. The Code will be typed according to directions received from the Clerk of the Board and following the "Guidelines for Mendocino County Code Book Composition Format," copies of which have been delivered to the Clerk of the Board and the Composer. Composing will be done on offset paper masters. The Composer should also be responsible for ensuring that proper headings appear on each page and for pagination. After completion of the composing, the Composer should return the masters to the Clerk of the Board for proof reading.

The Clerk shall proofread the composing work, checking for accuracy of both form and substance. The paper masters shall be returned to the Composer for corrections, and the above process will be followed until the masters are error free. The Clerk will then transmit the masters to the printer who will print the updates on 6¼ × 9 Mustang Offset/Regular/White/Basis 60 paper, or paper of equal quality, and prepare them for distribution. The printed updates will be turned over to the Composer for distribution. The Composer shall maintain a current listing of all Code purchasers and update subscribers.

APPENDIX A  
CODE NUMBERING SAMPLE

Titles

If a new title is being added, one of the "reserved" title numbers may be used, or a new title number may be selected. Titles 4, 11, 12, and 13 have been reserved for nonland-use titles. Numbers greater than 22 can be used for land use titles.

Example: Title 4            Nonland Use  
          Title 23            Land Use

Chapters

Chapters of new titles should be numbered sequentially in increments of four.

Example: Title 30            NEW TITLE  
          Chapter 30.04    NEW CHAPTER  
          Chapter 30.08    NEW CHAPTER  
          Chapter 30.12    NEW CHAPTER  
                              \* \* \*  
          Chapter 30.96    NEW CHAPTER

If a new chapter [title] has more than 24 chapters, the chapters should be sequentially numbered in increments of two.

Example: Title 30            NEW TITLE  
          Chapter 30.02    NEW CHAPTER  
          Chapter 30.04    NEW CHAPTER  
          Chapter 30.06    NEW CHAPTER  
                              \* \* \*  
          Chapter 30.98    NEW CHAPTER

A chapter may be added to an existing title by placing it at the end of the existing chapters within the title.

Example: Title 2            Administration  
          Chapter 2.04    In General  
          Chapter 2.08    Supervisorial Districts  
          Chapter 2.56    Department of Public Works  
          Chapter 2.60    NEW CHAPTER

Or, a new chapter may be inserted between existing chapters.

Example: Title 2            Administration

Chapter 2.04 In General  
Chapter 2.05 NEW CHAPTER  
Chapter 2.06 NEW CHAPTER  
Chapter 2.07 NEW CHAPTER  
Chapter 2.08 Supervisorial Districts

Sections

Sections within new chapters should be numbered in increments of ten.

Example: Chapter 2.56 NEW CHAPTER  
Section 2.56.010 NEW SECTION  
Section 2.56.020 NEW SECTION  
\* \* \*  
Section 2.56.990 NEW SECTION

Sections may be added to existing chapters by placing them at the end of existing chapters.

Example: Chapter 2.04 In General  
Section 2.04.010 Meetings  
Section 2.04.050 Absences  
Section 2.04.060 NEW SECTION

Sections may also be added to existing chapters by inserting them between existing sections.

Example: Chapter 2.04 In General  
Section 2.04.010 Meetings  
Section 2.04.011 NEW SECTION  
Section 2.04.012 NEW SECTION  
\* \* \*  
Section 2.04.019 NEW SECTION  
Section 2.04.020 Hours and Days

## APPENDIX B

### MENDOCINO COUNTY CODE—FORMAT FOR DRAFTING ORDINANCES

To ensure regularity of form, the following skeletal outline should be used when drafting ordinances. When coupled with the three-component decimal numbering system, the outline permits tremendous flexibility and whatever degree of specificity or generality is desired.

Title: Major code units

Chapter: Major units of titles

Division: Chapter subdivisions—used for clarity\*

Section: Chapter divisions

A: Upper case letter divisions of sections

1: Arabic numeral division of subsections

a: Lower case letter subdivisions of numbered subsections

i: Lower case Roman numeral divisions of lower case letter subsections

\*Note: "Divisions" are labeled with Roman numerals. They do not fit easily within the broad code outline and are to be used infrequently, only when organizational clarity so requires. Hence, chapters are most frequently divided into sections only, not divisions. When "divisions" are used, chapter-section numbering remains unaffected.



**EXHIBIT II**  
**GUIDELINES FOR MENDOCINO**  
**COUNTY CODE BOOK COMPOSITION FORMAT**

The following format is described with respect to 8½ × 11 bond paper proofs used in producing metal offset plates; the measurements indicated below should be adjusted accordingly when County Code updates are typed on offset paper masters.

1. **STARTING LINE.** With respect to the first page of each Title in the County Code Book, the first line of copy shall be placed 120 points from the top edge of the paper. For all other pages, the first line of copy shall be placed 60 points from the top edge of the paper.
2. **TEXT WIDTH.** The body of text on each page shall be 26 picas wide.
3. **MARGINS.** The left margin shall be set 6 picas to the right of the paper's left edge; the right margin shall be set 32 picas to the right of the paper's left edge.
4. **CENTERING.** The center setting shall be placed 19 picas to the right of the paper's left edge. All page headings and Chapter headings shall be centered. Section guide numbers at the top of the page shall be flush left and right.
5. **INDENTATIONS.** Paragraph indentation shall be set 8 picas to the right of the paper's left edge. The small Chapter listing which appears at the top of the first page of each Title shall be indented 8 picas as well. The numbers which identify each Section heading shall begin at the left margin, the words of each Section heading shall be indented 13 picas to the right of the paper's left edge for titles 1-9 and 14 picas to the right of the paper's left edge for title 10 and all subsequent titles.

When Sections are subdivided, the indentation shall be as follows:

Capital Letters - the indentation shall be set at "8" and go to the margin;

Arabic numerals - indentation shall be set at "10" and be blocked at "10";

Lower case letters - indentation shall be set at "12" and go out to "10" for lines following;

Lower case Roman numerals - indentation shall be set at "14" and go out to "12" for lines following.

6. **VERTICAL SPACING.**
  - A. **For the First Page of Each Title.**
    - Between Title number and Title description - 18 points
    - Between Title description and small type Chapter listing - 18 points

- Between last line of small type Chapter listing and Chapter heading - 24 points
  - Between Chapter heading and first Section heading - 24 points
  - B. For Other Pages (non "Title" pages).
    - Between page heading and first line of text - 28 points
    - Between Chapter heading and first Section heading - 18 points
  - C. For ALL pages.
    - Between Section heading and first line of text - 18 points
    - Between succeeding lines of regular text - 10 points
    - Between paragraphs within a Section - 14 points
    - Between last line of a Sections's text and succeeding Section heading - 20 points
7. **SIZE AND STYLE OF TYPE.**
- A. **Fonts:**

The IBM Composer: Font to be used for the County Code Book shall be Press Roman 10 point medium (PR-10-M). The only two exceptions to this are: Press Roman 8 point medium (PR-8-M) for the small Chapter listing near the top of each Title page, and Univers 11 point bold (UN-11-B) for all Chapter and Section headings.
  - B. **Capitalization:**

All Chapter headings and Title description (page headings) will be typed in capital characters. Section headings will be typed in capital/lower case (CLC) characters.
  - C. **Interword Spacing:**

For all interword spacing, Space Bar Dial setting is at "5".
8. **LAST LINE OF TEXT.** The final line of text shall be 18 picas above the bottom edge of the paper. Pre-measure this line and mark it on the paper before inserting it into the IBM Composer.
9. **PAGE NUMBER & UPDATE REFERENCE.** All Update References and page numbers shall be situated 15 picas above the bottom edge of the paper. Pre-measure this line and mark it on the paper before inserting it into the IBM Composer. All page numbers shall be typed at zero.
10. **ORDINANCE REFERENCE.** Immediately at the end of each paragraph of text, the source Ordinance and subsequent amending Ordinances which include or refer to that paragraph shall be identified by number and year of adoption.
11. **JUSTIFICATION.** The right margin of all copy shall be justified in accordance with IBM Composer procedures.
12. **FREQUENCY OF UPDATING.** The Mendocino County Code Book shall be updated on a monthly basis. Updates shall be typed on offset paper masters at the end of each month. Upon completion of printing, the updates shall be collated according to numerical order of pages (for

the purpose of convenient insertion into the Code Book). Then the updates shall be distributed to all appropriate County department, agencies, Justice Courts, constables, and the general public.

13. **UPDATES FOR PERSONNEL DEPARTMENT.** Whenever any periodic County Code updates include pages in the Personnel Title section of the Code Book, 130 additional sets of these pages dealing with Personnel Ordinances shall be printed on 8½ × 11, 20 lb. bond paper, drilled in accordance with the standard 3 hold layout in the left margin, collated, stapled, and sent to the Personnel Department.
14. **PAGE SIZE.** The dimensions for each page in the Mendocino County Code Book shall be 6¼ inches wide and 9 inches long.



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## SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code and are considered "Omitted."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

Ord. No.	Date Adopted	Included/ Omitted	Supp. No.
4270	1- 4-2011	Included	29
4271	1-25-2011	Included	29
4272	1-25-2011	Included	29
4274	5- 3-2011	Included	29
4275	5-17-2011	Included	29
4276	5-17-2011	Included	29
4277	6- 7-2011	Included	30
4283	9-13-2011	Included	30
4284	10- 4-2011	Included	30
4285	10- 4-2011	Included	30
4279	7-12-2011	Included	31
4286	12- 6-2011	Included	31
4288	1-24-2012	Included	31
4289	1-31-2012	Included	31
4291	2-14-2012	Included	32
4292	4-10-2012	Included	32
4293	4-10-2012	Included	32
4294	4-10-2012	Included	32
4295	4-10-2012	Included	32
4296	4-10-2012	Omitted	32
4297	6-12-2012	Included	32
4298	7-10-2012	Included	32
4299	8-28-2012	Included	32
4300	9-25-2012	Included	33
4301	11- 6-2012	Included	33
4302	1-22-2013	Included	34
4303	1-22-2013	Included	34
4304	1-22-2013	Included	34
4305	2-12-2013	Included	34
4306	3-26-2013	Included	35
4307	5- 7-2013	Included	35
4308	7-30-2013	Included	35
4309	7-30-2013	Included	35

<b>Ord. No.</b>	<b>Date Adopted</b>	<b>Included/Omitted</b>	<b>Supp. No.</b>
4310	7-30-2013	Included	35
4312	8-13-2013	Included	36
4313	8-27-2013	Included	36
4316	12-10-2013	Included	37
4318	12-16-2013	Omitted	37
4319	1- 7-2014	Included	37
4320	1- 7-2014	Included	37
4206	10-28-2008	Included	38
4321	1-21-2014	Included	38
4323	1-21-2014	Included	38
4324	2-11-2014	Omitted	38
4325	2-25-2014	Included	38
4326	2-25-2014	Omitted	38
4329	7-22-2014	Included	39
4328	7-22-2014	Included	40
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4330	1-20-2015	Included	41
4331	1-20-2015	Included	41
4333	3-17-2015	Included	41
4336	5-19-2015	Included	42
4337	6-16-2015	Omitted	42
4338	6-16-2015	Included	42
4339	6-16-2015	Included	42
4340	7- 7-2015	Included	42
4341	8- 4-2015	Included	42
4342	8-18-2015	Included	43
4344	10- 6-2015	Included	43
4345	10- 6-2015	Included	43
4348	12- 8-2015	Included	44
4349	2- 2-2016	Included	44
4350	2- 2-2016	Included	44
4351	3- 1-2016	Included	45
4352	3- 1-2016	Included	45
4353	4- 5-2016	Included	45
4356	5-17-2016	Included	45
4363	9-13-2016	Omitted	46
4364	9-13-2016	Included	46
4365	9-13-2016	Included	46
4366	10- 4-2016	Included	46
4367	6- 7-2016	Included	46
4361	8- 2-2016	Included	47
4370	12- 6-2016	Included	47
4371	1-10-2017	Included	47
4372	1-10-2017	Included	47
4373	1-10-2017	Included	47
4374	1-10-2017	Included	47
4375	1-10-2017	Included	47



<b>Ord. No.</b>	<b>Date Adopted</b>	<b>Included/ Omitted</b>	<b>Supp. No.</b>
4376	1-10-2017	Included	47
4377	1-10-2017	Included	47
4378	1-24-2017	Included	47
4380	3- 7-2017	Included	48
4381	4- 4-2017	Included	48
4379	3- 7-2017	Included	49
4383	5- 2-2017	Included	49
4384	6- 6-2017	Included	49
4385	6- 6-2017	Included	49
4386	7-11-2017	Included	49
4388	8- 1-2017	Included	50
4389	8- 1-2017	Included	50
4390	8- 1-2017	Included	50
4392	8-29-2017	Included	50
4393	9-12-2017	Included	50



**Title 1**

**GENERAL PROVISIONS**

**Chapter 1.04 In General**

**Chapter 1.08 Administrative Citations and Penalties**



## CHAPTER 1.04

### IN GENERAL

#### Sec. 1.04.010 How Code Designated and Cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Code of Mendocino County, California," and may be so cited. It may also be cited as the "Mendocino County Code." (Ord. No. 548, adopted 1968.)

#### Sec. 1.04.020 Definitions and Rules of Construction.

For the purposes of this Code the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context clearly indicates otherwise:

**BOARD OF SUPERVISORS.** Whenever the words "Board of Supervisors" are used, they shall be construed to mean the Board of Supervisors of Mendocino County.

**CODE.** The words "the Code" or "this Code" shall mean "The Code of Mendocino County, California."

**COMPUTATION OF TIME.** The time in which any act provided by law is to be done is computed by excluding the first day and including the last day unless the last day is a holiday and then it is also excluded.

**COUNTY.** The words "the County" or "this County" shall mean the County of Mendocino.

**DAY.** A "day" is a period of time between any midnight and the midnight following.

**DAYTIME, NIGHTTIME.** "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

**GENDER.** The masculine gender includes the feminine and neuter.

**HIGHWAYS.** "Highways" shall include the whole of all public ways, roads, alleys, courts and streets and sidewalks between the property lines forming the exterior lateral boundaries thereof,

and those parts of public squares and places which form traveled parts of highways.

**IN THE COUNTY.** The words "in the County" shall mean and include all territory over which the County now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

**JOINT AUTHORITY.** All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

**MONTH.** The word "month" shall mean a calendar month.

**NUMBER.** The singular number includes the plural, and the plural, the singular.

**OATH.** "Oath" includes affirmation.

**OFFICERS, DEPARTMENTS, ETC.** Officers, departments, boards, commissions and employees referred to shall mean officers, departments, boards, commissions and employees of the County of Mendocino.

**OFFICIAL TIME.** Whenever certain hours are named herein they shall mean Pacific Standard Time or Daylight Saving Time as may be in current use in the County.

**OWNER.** The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint or tenant by the entirety of the whole or a part of such building or land.

**PERSON.** "Person" includes any person, firm, association, organization, partnership, joint venture, business trust, corporation or company.

**PERSONAL PROPERTY.** "Personal property" includes every species of property, except real property, as herein defined.

**PRECEDING, FOLLOWING.** The words "preceding" and "following" mean next before and next after, respectively.

**PROCESS.** "Process" includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

**PROPERTY.** The word "property" shall include real and personal property.

**REAL PROPERTY.** “Real property” shall include lands, tenements and hereditaments.

**SECTION, SUBSECTION, REFERENCES.** “Section” means a section of this Code unless some other statute is specifically mentioned. “Subsection” means a subdivision of the section in which the term occurs unless some other section is expressly mentioned.

**SHALL, MAY.** “Shall” is mandatory and “may” is permissive.

**SIGNATURE OR SUBSCRIPTION BY MARK.** “Signature” or “subscription” includes a mark when the signer or subscriber cannot write, such signer’s or subscriber’s name being written near the mark by a witness who writes his own name near the signer’s or subscriber’s name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two (2) witnesses so sign their own names thereto.

**STATE.** The words “the State” or “this State” shall be construed to mean the State of California.

**TENANT OR OCCUPANT.** The words “tenant” or “occupant,” applied to a building or land, shall include any person holding a written or an oral lease of or who occupies, the whole or a part of such building or land, either alone or with others.

**TENSES.** The present tense includes the past and future tenses, and the future includes the present.

**WEEK.** A week consists of seven (7) consecutive days.

**WRITING.** Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language unless it is expressly provided otherwise.

**YEAR.** The word “year” shall mean a calendar year, except where otherwise provided. (Ord. No. 548, adopted 1968.)

**Sec. 1.04.030 Effect of Repeal of Ordinances.**

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed. (Ord. No. 548, adopted 1968.)

**Sec. 1.04.040 Catchlines of Sections.**

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such section, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted. (Ord. No. 548, adopted 1968.)

**Sec. 1.04.050 Provisions Considered as Continuations of Existing Ordinances.**

The provisions appearing in this Code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments. (Ord. No. 548, adopted 1968.)

**Sec. 1.04.060 Ordinance—Title—Chapter.**

The reference term “Ordinance” when found in the body of the original ordinance has been changed to “Title” or “Chapter” to fit within the general scheme of organization of this Code. Therefore, in the context of cross referencing, the terms “Title” or “Chapter” when used in the body of this Code shall be deemed synonymous with the term “Ordinance.” (Ord. No. 548, adopted 1968.)

**Sec. 1.04.070 Severability of Parts of Code.**

It is hereby declared to be the intention of the Board of Supervisors that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code. (Ord. No. 548, adopted 1968.)

**Sec. 1.04.080 Ordinance References and Citations; Effect.**

The references to ordinances, sections, subsections and date of adoption contained in parentheses immediately below each section or subsection of this Code are intended for the information and assistance of persons using this Code and do not in any manner affect the scope, meaning or intent of the provisions of this Code. (Ord. No. 548, adopted 1968.)

**Sec. 1.04.090 Editorial Comment; Effect.**

Any editorial comment appearing in this Code is intended for the information and assistance of persons using this Code and does not in any manner affect the scope, meaning or intent of the provisions of this Code. (Ord. No. 548, adopted 1968.)

**Sec. 1.04.100 Officers; Exercise of Power and Duties by Deputies and Others.**

Whenever a power is granted to, or a duty is imposed upon, an officer of the County of Mendocino, the power may be exercised or the duty may be performed by a deputy of the officer or by a person authorized, pursuant to law, by the officer, unless this Code expressly provides otherwise. (Ord. No. 548, adopted 1968.)

**Sec. 1.04.110 General Penalty; Continuing Violations; Enforcement by Office of the County Counsel.**

(A) Whenever in this Code any act is prohibited or made or declared to be unlawful or an offense, or

the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided for, the violation of any such provision of this Code shall be punished as prescribed in Penal Code Section 19.

(B) Where an offense by ordinance is declared to be an infraction, such offense shall be punished as prescribed in Government Code Section 25132.

(C) Every day any violation of this Code or any other ordinance, rule or regulation of this County shall continue, shall constitute a separate offense.

(D) The office of the County Counsel may, or at the direction of the Board of Supervisors shall, commence action or actions, proceeding or proceedings in the court or courts having jurisdiction for the abatement, removal and enjoinder of any activity which constitutes a nuisance under this Code or state law. It is the intent of the Board of Supervisors in enacting this subdivision to provide to the office of the County Counsel the same discretion to abate, remove and enjoin activities constituting a nuisance under this Code or state law to the same extent as that residing in the office of the District Attorney prior to the creation of the office of the County Counsel. It is further the intent of the Board of Supervisors that the authority provided by this subdivision shall be in addition to and shall not supplant the authority provided to the office of the County Counsel by Section 20.552.025 of this Code.

(E) Whenever in this Code any act or activity is prohibited or made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, or an infraction, the office of the County Counsel may, or at the direction of the Board of Supervisors shall, commence proceedings pursuant to subdivision (D) of this section to abate, remove or enjoin such unlawful act or activity.

(F) All remedies provided for in this section shall be cumulative and not exclusive, including with respect to any administrative remedies provided for elsewhere in this Code. (Ord. No. 548, adopted 1968; Ord. No. 3549, adopted 1985; Ord. No. 3820, adopted 1992.)

**Sec. 1.04.115 County Entitled to Its Attorney's Fees.**

If the County prevails in any legal action to enforce the provisions of any locally adopted code, ordinance or regulations, or the provisions of any state or federal statute that it has a duty to enforce, it shall be entitled to recover from the opposing party or parties all of its reasonable attorney's fees incurred in prosecuting the action.

(A) "Prevail" as used in this section means that the filing of the action contributed significantly to securing the opposing party or parties' compliance with such codes, ordinances, regulations or statutes, whether as a result of voluntary compliance after the action is filed, formal settlement or judgment. There shall be a rebuttable presumption that if the opposing party or parties comply after the action is filed, the filing of the action contributed significantly to securing compliance.

(B) Such fees shall be established by the court upon the filing of a cost bill as provided by law or by separate motion. In determining the amount of the fee the court shall multiply the number of hours devoted to preparing and prosecuting the action, commencing when the matter is first referred to the County Counsel for enforcement, by a reasonable hourly rate for the services provided. In determining a reasonable hourly rate, the court shall consider the reasonable market rate in the jurisdiction for the attorney's services, taking into consideration the attorney's experience and skill and shall not be limited to the amounts actually paid by the County.

(C) If there is more than one opposing party, they shall be jointly and severally liable for all of the attorney's fees awarded to the County by the court. (Ord. No. 3745 Sec. 2, adopted 1990.)

**Sec. 1.04.120 Indemnification and Hold Harmless for Land Use Approvals.**

(A) At the time of submitting an application for a discretionary land use approval and as a condition of approval, an applicant requesting a discretionary land use approval, as herein defined, shall agree as a part of the application to defend, indemnify, and hold

harmless the county and its agents, officers, attorneys and employees from any claim, action or proceeding brought against the county or its agents, officers and employees to attack, set aside, void or annul a discretionary land use approval of the county, which action is brought within the applicable statute of limitations. The indemnification shall include damages awarded against the county, if any, costs of suit, attorney's fees and other costs and expenses incurred in connection with such action.

(B) In the event that a claim, action or proceeding referenced in Subsection A of this Section is brought, the County shall promptly notify the applicant of the existence of the claim, action or proceeding and will cooperate fully in the defense of such claim, action or proceeding. Nothing set forth in this section shall prohibit the County from participating in the defense of any claim, action or proceeding if the County elects to bear its own attorney fees and costs and defends the action in good faith.

(C) Definitions. For the purpose of this Section:

(1) "County" refers to the Mendocino County Board of Supervisors, Planning Commission, Historical Review Board, Minor Subdivision Committee, advisory agencies, appeals boards, officers, agents and employees of the County of Mendocino.

(2) "Discretionary land use approval" refers to decisions of the County approving requests of applicants for General Plan amendments, rezonings, tentative maps, vesting tentative maps, tentative parcel maps, final maps, final map modifications or amendments, time extensions, boundary line adjustments, certificates of compliance, conditional certificates of compliance, development agreements, use permits, minor use permits, use permit modification, use permit extension, variance, variance modifications, coastal development permits, reclamation plans, any administrative permit pertaining to a land use approval or any accompanying CEQA (California Environmental Quality Act) determinations pertaining to the type of approval referred to in this section. (Ord. No. 3780, adopted 1991.)



## CHAPTER 1.08

### ADMINISTRATIVE CITATIONS AND PENALTIES

#### Sections:

**Sec. 1.08.010 Findings and Purpose.**

**Sec. 1.08.020 Citation.**

**Sec. 1.08.030 Definitions.**

**Sec. 1.08.040 Scope of Chapter.**

**Sec. 1.08.050 Nonexclusivity and Election  
of Proceedings.**

**Sec. 1.08.060 Administrative Penalty;  
Amounts.**

**Sec. 1.08.070 Citation for Violation of the  
Code.**

**Sec. 1.08.080 Service Procedures.**

**Sec. 1.08.090 Procedure to Appeal an  
Administrative Citation.**

**Sec. 1.08.100 Hardship Waiver.**

**Sec. 1.08.110 Hearing Officer.**

**Sec. 1.08.120 Hearing Procedure.**

**Sec. 1.08.130 Administrative order.**

**Sec. 1.08.140 Right to Judicial Review.**

**Sec. 1.08.150 Failure to Pay Fines.**

**Sec. 1.08.160 Notices.**

**Sec. 1.08.170 Severance.**

#### **Sec. 1.08.010 Findings and Purpose.**

The Board of Supervisors of the County of Mendocino finds and declares all of the following:

A. There is a need to establish various mechanisms for the remediation of violations of county ordinances.

B. Traditional methods of code enforcement through civil litigation and criminal prosecution can be time-consuming and ineffective.

C. Enforcing the Mendocino County Code through administrative citations enhances the county's ability to recover its costs and maintain the integrity of the code enforcement system. It also

improves the county's ability to impose and collect penalties from violators, which helps to deter future violations.

D. Pursuant to Section 53069.4 of the California Government Code, the Board of Supervisors elects to create a system of administrative citations and hearings to ensure prompt and responsive compliance with the Mendocino County Code and state law.  
(Ord. No. 4371, § 1, 1-10-2017)

#### **Sec. 1.08.020 Citation.**

This chapter shall be referred to as the "Mendocino County Administrative Citation Ordinance."  
(Ord. No. 4371, § 1, 1-10-2017)

#### **Sec. 1.08.030 Definitions.**

A. "Board" means the Mendocino County Board of Supervisors.

B. "Citation" or "Administrative Citation" means a civil citation issued pursuant to this chapter stating that there has been a violation of one (1) or more provisions of the code and setting the amount of the administrative penalty to be paid by the Responsible Party.

C. "Code" means the Mendocino County Code.

D. "County" means the county of Mendocino.

E. "Days" means calendar days.

F. "Department" means the County department that issued the Citation.

G. "Enforcement Officer" means any officer or employee authorized by ordinance or by resolution of the Board of Supervisors to enforce the Mendocino County Code, or such officer's or employee's designee.

H. "Responsible Party" means an individual or legal entity, or the agent or legal guardian of such individual or entity, whose action or failure to act caused or contributed to a violation of the Code.

(Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.040 Scope of Chapter.**

A. This chapter may be used by any officer, agent or employee of the County of Mendocino who is authorized to enforce the Mendocino County Code. However, prior to any issuance of a Citation, the Department shall first coordinate with County Counsel to secure the availability of a Hearing Officer.

B. Use of this chapter for the enforcement of code provisions shall be at the sole discretion of the County, its officers, agents and employees.

C. This chapter may be utilized to the extent that the provisions herein do not conflict with due process or any other law.

D. This chapter shall not apply to the extent that other provisions of the Code, or other applicable state or federal law provide an exclusive remedy.

(Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.050 Nonexclusivity and Election of Proceedings.**

This chapter provides for enforcement proceedings that are supplemental to all other enforcement proceedings provided elsewhere in the Code, or by state or federal law, whether administrative, civil or criminal in nature. As such, the provisions of this chapter may be utilized alone or in conjunction with other provisions of the Code to enforce all the provisions of the Code. This chapter shall not apply to the extent that other provisions of the Code state an exclusive remedy within a particular title or chapter. Election to employ one (1) or more proceedings provided in this chapter shall be at the sole discretion of the County, and shall be without prejudice to the County choosing to also proceed simultaneously or subsequently by pursuing different enforcement proceedings with respect to the same violation.

(Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.060 Administrative Penalty; Amounts.**

A. Any Responsible Party violating any provision of the Code may be issued an Administrative Citation by an Enforcement Officer in accordance with the provisions of this chapter.

B. Each and every day a violation of the provisions of the Code exists constitutes a separate and distinct offense and shall be subject to Citation.

C. The Enforcement Officer may issue a Citation for a violation not committed in the official's presence, if the public official has determined through investigation that the Responsible Party did commit or is otherwise responsible for the violation.

D. A civil fine shall be assessed by means of an Administrative Citation issued by the Enforcement Officer and shall be payable directly to the Department which issued the Citation.

E. Unless otherwise provided for in this chapter or elsewhere in the Code, the amount of the fine for each violation shall be:

1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;

2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same Code provision within one (1) year from the date of the first violation;

3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same Code provision within one (1) year from the date of the second violation.

F. A violation of any local building or safety code, the amount of the fine for each violation shall be:

1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;

2. A fine not exceeding five hundred dollars (\$500.00) for a second violation of the same Code provision within one (1) year from the date of the first violation;

3. A fine not exceeding one thousand dollars (\$1,000.00) for each additional violation of the same Code provision within one (1) year from the date of the second violation.

G. If a Responsible Party fails to correct any violation after the Administrative Citation is served, the administrative penalty shall become effective and due immediately.

H. The administrative penalty, or any portion thereof, for a violation which has become effective may be waived by the Enforcement Officer if, in his or her sole discretion, the Responsible Party corrects the violation in accordance with conditions established by the Enforcement Officer.

(Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.070 Citation for Violation of the Code.**

A. Pursuant to Government Code section 53069.4(a)(2), when a Code violation involves a continuing violation pertaining to building, plumbing, electrical, or other similar structural or zoning issues, which also does not create an immediate danger to health or safety, the Enforcement Officer shall first provide the Responsible Party notice of the violation and a reasonable amount of time to correct or otherwise remedy the violation, which shall not be less than thirty (30) days. At minimum, the notice of a violation must provide sufficient notice to the Responsible Party of the violation and the time permitted to correct the violation. If the notice of violation takes the form of and is served in the same manner as an Administrative Citation, the proposed administrative penalty identified in such a form shall not become effective until the expiration of the time provided to correct the violation.

B. Unless otherwise specified, the Enforcement Officer may issue an Administrative Citation without providing notice and time to cure. However, the Enforcement Officer, in his or her sole discretion, has the option to give notice and time to cure, and may choose to delay the effect of the administrative penalty until after such time.

C. The Administrative Citation shall be issued on a form containing:

1. The name and address of the Responsible Party and, if applicable;
2. the date, approximate time, and address or definite description of the location where the violation was observed
3. The Code sections or provisions violated and a description of the violation;

4. Where applicable, the date the notice of violation was served on the Responsible Party and the time specified thereon to correct the violation;

5. When applicable, a statement that the violation has not been corrected within the period of time designated in a notice of violation within which a Responsible Party may correct or abate the violation;

6. The amount of the fine imposed by, or proposed to be imposed by the Citation;

7. A statement explaining how, where, to whom, and within what number of days the penalty shall be paid;

8. In the case of a continuing violation not subject to an immediate administrative penalty, or in any other case when the Enforcement Officer opts to delay the effect of the penalty until after a time to cure, the number of days provided to correct the violation, and a statement that if not corrected by that time then the proposed Administrative Citation and penalty shall become effective immediately with the understanding that any subsequent Administrative Citation would be considered a repeat violation subject to a higher penalty;

9. Identification of appeal rights, including the time within which the administrative Citation may be contested and how to contest the Citation;

10. The signature of the Enforcement Officer issuing the Citation along with the date of issuance of the Citation, and if possible; and

D. The Administrative Citation, and any required notice of violation in the form of an Administrative Citation or in any other form, shall be served upon the Responsible Party pursuant to Section 1.08.080.

E. Upon receipt of a Citation, the Responsible Party shall pay the amount of the fine to the issuing Department within thirty (30) days of the date of service of the Citation, or as otherwise indicated in the Citation. Alternatively, the Responsible Party may file a written request for appeal of the Citation pursuant to the provisions in this Chapter.

F. Payment of the fine shall not excuse or discharge the failure to correct the violation nor shall it bar further enforcement action by the County. If the Responsible Party fails to correct the violation, subsequent Administrative Citations may be issued for maintaining, continuing or repeating the same violation. The amount of the fine for subsequent violations shall increase at a rate specified in this chapter. (Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.080 Service Procedures.**

An Administrative Citation shall be served on the Responsible Party by an Enforcement Officer in one of the following ways:

A. Personal service; or

B. Certified mail, postage prepaid with a return receipt requested. Simultaneously, the Citation may be sent by first class mail, postage prepaid with certificate of mailing requested. If the Citation is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the Citation sent by first class mail is not returned by the United States Postal Service undelivered. In the case of service by certified mail for which a signed receipt is returned, the date of service shall be the date of signing of the receipt. In the case of service by regular first class mail, the date of service shall be the date upon which such mail was deposited in the United States Mail with postage prepaid, plus five (5) days.

C. Posting the Administrative Citation on any real property within the County in which the County has knowledge that the Responsible Party has a legal interest. This method of service is only effective if service by mail fails, but posting may be done at any time. If service by mail fails, service by posting shall be deemed effective service as of the date of actual posting plus five (5) days.

(Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.090 Procedure to Appeal an Administrative Citation.**

A. Within ten (10) days from the date of a properly served Citation, any recipient of the Ci-

tation may contest that he or she was responsible for causing or contributing to the cited Code violation.

B. To appeal the Citation, the recipient must give notice to the Department issuing the Citation within ten (10) days from the date of service of the Citation by either completing and returning a notice of appeal of Citation form, or by providing a document, in writing, bearing the title, "Appeal of Administrative Citation", containing:

1. the name, address and phone number of the appellant;
2. sufficient information to identify the Citation; and
3. the grounds on which the Citation is being contested.

C. The notice of appeal shall be accompanied by either an advance deposit in the amount of the total administrative penalty or a completed hardship waiver application as described in Section 1.08.100.

D. If the Board has established a hearing fee, either the hearing fee or a completed application for a hardship waiver as described in Section 1.08.100 shall also be provided along with the notice of Citation given to the Department.

E. Any notice of appeal filed without providing the advance deposit, and payment of the hearing fee if applicable, or submittal of the hardship waiver application, as described in Section 1.08.100, shall be deemed incomplete.

F. The Department receiving a timely and properly filed appeal, along with the hearing fee, if applicable, shall then cause the matter to be set for hearing by notifying the Hearing Officer directly or by requesting County Counsel to coordinate with the Hearing Officer.

G. A hearing before a Hearing Officer shall be set for a date that is not less than ten (10) and not more than thirty (30) days from the date that the notice of appeal is filed.

H. In accordance with the noticing provisions set forth in Section 1.08.080, either the Hearing Officer, or the County Counsel in cooperation with the Hearing Officer, shall notify the parties in

writing, at least ten (10) days prior to the hearing date, of the date and location of the hearing. It shall be sufficient to provide notice to the appellant by using the address listed in the request for appeal.

(Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.100 Hardship Waiver.**

A. Any Responsible Party who intends to request a hearing to contest an Administrative Citation and who is financially unable to provide the advance deposit, or pay the hearing fee if applicable, as provided in Section 1.08.090, may file a request for a hardship waiver along with the notice of appeal.

B. The requirement of depositing the full amount of the administrative penalty, or hearing fee if applicable, as described in Section 1.08.090 shall be stayed unless and until the director of the Department, or his or her authorized designee, makes a determination not to issue the hardship waiver.

C. The director of the Department, or his or her authorized designee, may waive the requirement of an advance deposit, or hearing fee if applicable, if the Responsible Party receiving the Administrative Citation submits a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the director of the Department, or his or her authorized designee, proof of the Responsible Party's actual financial inability to deposit with the County the full amount of the administrative penalty, or hearing fee if applicable.

D. Financial inability can be established by showing that the applicant has qualified, or would be qualified, for participation in a public or private assistance program available only to persons having low or very low income, such as the programs identified in California Government Code Section 68632(a), or by showing that the applicant's monthly income is one hundred twenty-five percent (125%) or less of the current poverty guidelines, as explained in California Government Code Section 68632(b).

E. If the director of the Department, or his her designee, determines not to issue a hardship waiver, the following shall apply:

1. The director, or his or her designee, shall issue a written determination listing the reasons for the determination not to issue the hardship waiver;

2. The written determination shall be mailed by first class mail, postage prepaid, with certificate of mailing requested, to the Responsible Party at the address identified on the Responsible Party's notice of appeal pursuant to Section 1.08.090, or at the Responsible Party's last known address;

3. The Responsible Party shall remit the advance deposit, or hearing fee if applicable, to the Department within ten (10) days of the date of mailing of the written determination; and

4. Failure by the Responsible Party to timely remit the advance deposit, or hearing fee if applicable, to the Department after mailing of the determination not to issue a hardship waiver shall be deemed a withdrawal of the request for appeal contesting the Administrative Citation pursuant to 1.08.090, and the provisions of the Citation shall be effective immediately, including any associated administrative penalty, which shall be due immediately.

(Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.110 Hearing Officer.**

The Board of Supervisors authorizes the appointment and use of Hearing Officers pursuant to Mendocino County Code Chapter 2.76. The director of the Department shall coordinate with County Counsel, prior to any issuance of Citations, to ensure that a Hearing Officer is appointed for the purpose of presiding at the administrative hearings provided for by this Chapter.

(Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.120 Hearing Procedure.**

A. At the prescribed time and place, the Hearing Officer shall consider relevant evidence from all parties as to whether the violation of the Code

specified in the Citation occurred and whether the appellant caused or contributed to the violation of the Code on the date specified in the Citation.

B. The Administrative Citation and any additional documents submitted by the Enforcement Officer shall constitute prima facie evidence of the respective facts contained in those documents.

C. Personal information about any reporting party related to the violation(s) shall not be disclosed.

D. Parties may choose to be represented by an attorney. However, formal rules of evidence or procedure in any proceeding subject to this Chapter shall not apply. Nonetheless, any failure to make a timely objection to offered evidence constitutes a waiver of the objection. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will cause undue consumption of time.

E. The failure of any appellant of an Administrative Citation to appear at the scheduled hearing shall constitute a failure to exhaust administrative remedies.

F. The Hearing Officer may continue the hearing and request additional information from the parties prior to issuing a written decision. (Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.130 Administrative order.**

A. At the conclusion of the hearing and based on the evidence before it, the Hearing Officer shall determine whether to uphold or deny the Administrative Citation, and shall state the reasons for that decision in a written order. The Hearing Officer's decision shall be final.

B. If the Hearing Officer determines that the Administrative Citation should be upheld, then the fine amount identified in the Citation, or as otherwise adjusted by the Hearing Officer, shall be immediately collectable by the Department.

C. If the Hearing Officer determines that the Administrative Citation should not be upheld, the Hearing Officer shall order the Citation dismissed, and the Department shall return the advance deposit, if such deposit was provided.

D. A copy of the written decision and administrative order shall be served personally or by first class United States mail, postage prepaid, upon each appellant and all other parties to the hearing. (Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.140 Right to Judicial Review.**

Any Responsible Party aggrieved by an administrative decision of a Hearing Officer or by the decision of the Hearing Officer may obtain further review by filing a petition for review with the Mendocino County Superior Court in accordance with the timelines and provisions as set forth in California Government Code Section 53069.4. (Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.150 Failure to Pay Fines.**

The Enforcement Officer, issuing Department, or County may pursue any remedy authorized by law to collect the administrative penalties if such fines are not timely paid pursuant to the provisions of this chapter. (Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.160 Notices.**

A. The Administrative Citation and all notices to be given by this chapter shall be served on the Responsible Party in accordance with the provisions of this chapter.

B. If the Administrative Citations and all required notices are properly given or served pursuant to the provisions of this chapter, the failure to receive the Administrative Citation or any other notice shall not affect the validity of proceedings conducted herein. (Ord. No. 4371, § 1, 1-10-2017)

**Sec. 1.08.170 Severance.**

The provisions of this Ordinance are separate and severable. If any provision of this Ordinance

is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed this Ordinance irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Ordinance, or the validity of its application to other persons or circumstances.  
(Ord. No. 4371, § 1, 1-10-2017)





## **Title 2**

### **ADMINISTRATION**

- Chapter 2.04 In General**
- Chapter 2.08 Supervisorial Districts**
- Chapter 2.14 Compensation and Mileage for Grand Jurors and Petit Jurors**
- Chapter 2.16 County Offices Consolidated**
- Chapter 2.20 County Land Surveyor**
- Chapter 2.24 Board of Building and Housing Appeals**
- Chapter 2.28 County Chief Executive Officer**
- Chapter 2.30 The Clerk of the Board of Supervisors**
- Chapter 2.32 Purchasing Agent**
- Chapter 2.33 Alternative Procedure for Bidding for Public Contracts**
- Chapter 2.36 County Auditor**
- Chapter 2.38 Sheriff's Department**
- Chapter 2.40 Social Services Department**
- Chapter 2.42 Department of Child Support Services**
- Chapter 2.44 Department of Public Health**
- Chapter 2.48 The Planning Commission**
- Chapter 2.50 Mendocino County Fish and Game Commission**
- Chapter 2.52 Planning and Building Services Department**
- Chapter 2.54 Board of Supervisors Original Jurisdiction of Land Use Matters**
- Chapter 2.56 Department of Transportation**
- Chapter 2.62 Industrial Development Authority**
- Chapter 2.65 Fees for Probation Reports**
- Chapter 2.68 Mendocino County Resource Conservation District**
- Chapter 2.70 Probation Officer**
- Chapter 2.72 Human Resources**
- Chapter 2.76 County Hearing Officer**



**CHAPTER 2.04**

**IN GENERAL**

**Sec. 2.04.010 Holding of Regular Meetings of the Board of Supervisors.**

The Board of Supervisors of the County of Mendocino, State of California, shall meet in regular session (provided there is a quorum present) on each and every Tuesday of each month, except as herein provided, at the Board Chambers of said Board of Supervisors located at 501 Low Gap Road, Room 1070, in the City of Ukiah, California, at nine (9:00) a.m. on each of said days.

Provided, further: (1) that the Board of Supervisors shall not be required to hold a regular meeting during the week the California State Association of Counties has its annual convention; (2) that the Board of Supervisors shall not be required to hold a regular meeting on any Tuesday that is the fifth Tuesday of a calendar month; and (3) that the Board of Supervisors shall not be required to hold a regular meeting on any Tuesday which is canceled pursuant to the annual calendar adopted by the Board of Supervisors.

(Ord. No. 378, Sec. 1, adopted 1957; Ord. No. 1146, adopted 1973; Ord. No. 1937, adopted 1977; Ord. No. 3429, adopted 1983; Ord. No. 3731, adopted 1990; Ord. No. 3769, adopted 1991; Ord. No. 3901, adopted 1995; Ord. No. 3941, adopted 1996; Ord. No. 4113, adopted 2003; Ord. No. 4121 Sec. 1, adopted 2004.)

**Sec. 2.04.020 Hours and Days County Offices are Open.**

The hours for which all county offices shall be kept open for the transaction of business shall be set by resolution.

(Ord. No. 366, adopted 1956, as amended by Ord. No. 456, adopted 1963, as amended by Ord. No. 3346, adopted 1981, as amended by Ord. No. 3457, adopted 1983, as amended by Ord. 3866, adopted 1993.)

**Sec. 2.04.040 Standards and Training of Local Law Enforcement Officers.**

(a) **Declaration of Intent to Qualify.** The County of Mendocino declares that it desires to

qualify to receive aid from the State of California under the provisions of Chapter 1 of Title 4, Part 4 of the Penal Code of California.

(Ord. No. 442, Sec. 1, adopted 1962.)

(b) **Agreement to Adhere to the Standards for Recruitment and Training.** Pursuant to Section 13522 of the Penal Code of said Title 4, Chapter 1, the County of Mendocino, while receiving aid from the State of California pursuant to said Chapter 1, will adhere to the standards for recruitment and training established by the California Commission on Peace Officer Standards and Training.

(Ord. No. 442, Sec. 2, adopted 1962.)

**Sec. 2.04.041 Recruitment and Training of Local Corrections Officers and Probation Officers.**

(a) **Declaration of Intent to Qualify.** The County of Mendocino declares that it desires to qualify to receive aid from the State of California under the provisions of Article III of Chapter 5, of Title VII of Part III of the Penal Code.

(Ord. No. 3318, adopted 1980.)

(b) **Agreement to Adhere to the Standards of Recruitment and Training.** Pursuant to the provisions of Penal Code Section 6041, while receiving aid from the State of California pursuant to Article III of Chapter 5 of Title VII of Part III of the Penal Code (commencing with Penal Code Section 6040), the County of Mendocino will adhere to the standards for recruitment and training established by the Board of Corrections.

(Ord. No. 3318, adopted 1980.)

**Sec. 2.04.042 Selection and Training Standards for Public Safety Dispatchers.**

(A) The County of Mendocino declares that it desires to qualify to receive aid from the State of California under the provisions of Section 13522, Chapter 1, of Title 4, Part 4, of the California Penal Code.

(B) Pursuant to Section 13510(c), Chapter 1, the Mendocino County Sheriff's Office will adhere

to standards for recruitment and training established by the California Commission on Peace Officer Standards and Training (POST).

(C) Pursuant to Section 13512, Chapter 1, the Commission and its representatives may make such inquiries as deemed appropriate by the Commission to ascertain that the Mendocino County Sheriff's Office public safety dispatcher personnel adhere to standards for selection and training established by the Commission on Peace Officer Standards and Training.  
(Ord. No. 3704, adopted 1989.)

**Sec. 2.04.043 Recruitment and Training of District Attorneys Investigators.**

(1) The County of Mendocino declares that it desires to qualify to receive aid from the State of California under the provisions of Sections 13510 (as amended by Chapter 710 of the Statutes of 1981) and 13524, Chapter 1, of Title 4, Part 4, of the California Penal Code.  
(Ord. No. 3369, adopted 1982.)

(2) Pursuant to Section 13522, Chapter 1, the County of Mendocino will adhere to the standards for recruitment and training established by the California Commission on Peace Officer Standards and Training (POST).  
(Ord. No. 3369, adopted 1982.)

(3) The County of Mendocino will allow the Commission on POST and its representatives to make such inquiries as deemed appropriate by the Commission, to ascertain that the District Attorney Investigators adhere to the standards for recruitment and training established by the California Commission on POST.  
(Ord. No. 3369, adopted 1982.)

**Sec. 2.04.044 Training Requirements for Peace Officers of the Health and Human Services Agency.**

(1) The County of Mendocino declares that it desires the peace officers employed by the Health and Human Services Department to participate in the Commission of Peace Officer Standards and Training (POST) Non-reimbursable Program.

(2) Pursuant to Section 13510, Chapter 1, of Title 4, Part 4, of the California Penal Code the Health and Human Services Department will adhere to the standards for selection and training of peace officers established by the Commission on Peace Officer Standards and Training.

(3) Pursuant to Section 13512, Chapter 1, the Commission and its representatives may make such inquiries as deemed appropriate by the Commission to ascertain that the Human Services Department peace officer personnel adhere to the standards for selection and training established by the Commission on Peace Officer Standards and Training.  
(Ord. No. 4307, 5-7-2013)

**Sec. 2.04.050 Absences from Meetings of County Boards and Commissions.**

Whenever any person appointed to serve on any county commission or board is absent from three successive regular meetings of the respective commission or board or district governing body on which he serves, or is absent more than thirty-five percent (35%) of the regularly scheduled meetings held thereby during any year subsequent to his appointment, then the term of office held by such appointee shall be automatically deemed to be vacant. This section is intended to be supplementary to and consistent with Section 1770 (g) of the California Government Code.  
(Ord. No. 760, adopted 1971.)

(A) Notwithstanding the foregoing rule, an office shall not be deemed vacant if the appointee is absent for an approved reason and if prior to the meeting at which an absence would result in the vacancy each of the following acts has occurred:  
(Ord. No. 1101, adopted 1973.)

(1) The county commission or board has, pursuant to minute order, filed with the Clerk of the Board of Supervisors a "Request for Approval of Absence" which contains a request to (a) waive the operative effect of this section for a designated appointee, and (b) permit the appointee to be absent for a specific period of time and for an express specific reason; and

(2) The Board of Supervisors, by minute order, has approved the aforesaid "Request for Approval of Absence," including whatever modifications as to the period of time for the absence and the reason for the absence which it deems reasonable.

(Ord. No. 1101, adopted 1973.)

**Sec. 2.04.060 Candidate's Fees.**

(A) Pursuant to Elections Code 13307, each candidate for County office shall pay the actual prorated costs of printing, handling and translating his or her candidate's statement, if any, incurred by the County.

(1) The candidate's statement shall be limited to two hundred (200) words; and

(2) The County Clerk shall accept from the candidate no other material for transmittal to the voters.

(Ord. No. 3052, adopted 1978; Ord No. 4008 § 1, adopted 1998.)

**Sec. 2.04.070 Training and Supervisors-elect.**

(a) Upon approval by the Board of Supervisors, County general fund moneys may be used prior to the assumption of office by that Supervisor-elect for the training and orientation of that Supervisor-elect including the payment of course fees, travel and per diem expenses, course materials, and consultant fees.

(b) Such training and orientation programs, and expenses therefor, shall be those the Board deems proper and beneficial to the exercise of supervisory duties by newly elected Supervisors.

(c) In order to receive training and orientation funds, the Supervisor-elect shall make a formal request to the Board of Supervisors by completing the forms provided by the County Administrator and returning them to the County Administrator for submission to the Board of Supervisors. The Board of Supervisors may, in its sole discretion, grant, deny or modify the request. (Ord. No. 3387, adopted 1982.)

**Sec. 2.04.080 Use of County Seal.**

(A) The official seal of the County of Mendocino, adopted on July 13, 1982 by the Board

of Supervisors in accordance with Section 25004 of the Government Code, is described as follows: "In the center of the seal is an agricultural scene with an ocean wave and redwood trees and around the margin are the words 'Mendocino County'." An impression of the Seal of the County of Mendocino is as follows:



(B) The Mendocino County Executive Office shall have the custody of the official seal of the County of Mendocino. The use of the official seal of the County of Mendocino shall be for purposes directly connected with official business of the County and for use only in those matters approved by the Mendocino County Executive Office or by resolution of the Board of Supervisors.

(C) Every person who maliciously or for commercial purposes, or without the prior approval of the County Executive Office or the Board of Supervisors, uses, or allows to be used, any reproduction or facsimile of the Seal of the County of Mendocino in any manner whatsoever is guilty of a misdemeanor, and shall be punishable by a fine of not more than Five Hundred Dollars (\$500) or by imprisonment in the County jail for not more than six (6) months or both such fine and imprisonment.

(Ord. No. 4166, adopted 2006.)

## CHAPTER 2.08

### SUPERVISORIAL DISTRICTS

#### **Sec. 2.08.010 Principles of Boundary Adjustments.**

Elections Code Section 21500 requires the Board of Supervisors, following each decennial federal census, and after holding the public hearings required by Elections Code Section 21500.1, to adjust the boundaries of any or all of the supervisorial districts of the County to be as nearly equal in population as may be and shall comply with the applicable provisions of Section 1973 of Title 42 of the United States Code, as amended. In establishing the boundaries of the districts, the Board of Supervisors may give consideration to the following factors: (a) topography, (b) geography, (c) cohesiveness, contiguity, integrity, and compactness of territory, and (d) community of interest of the districts.

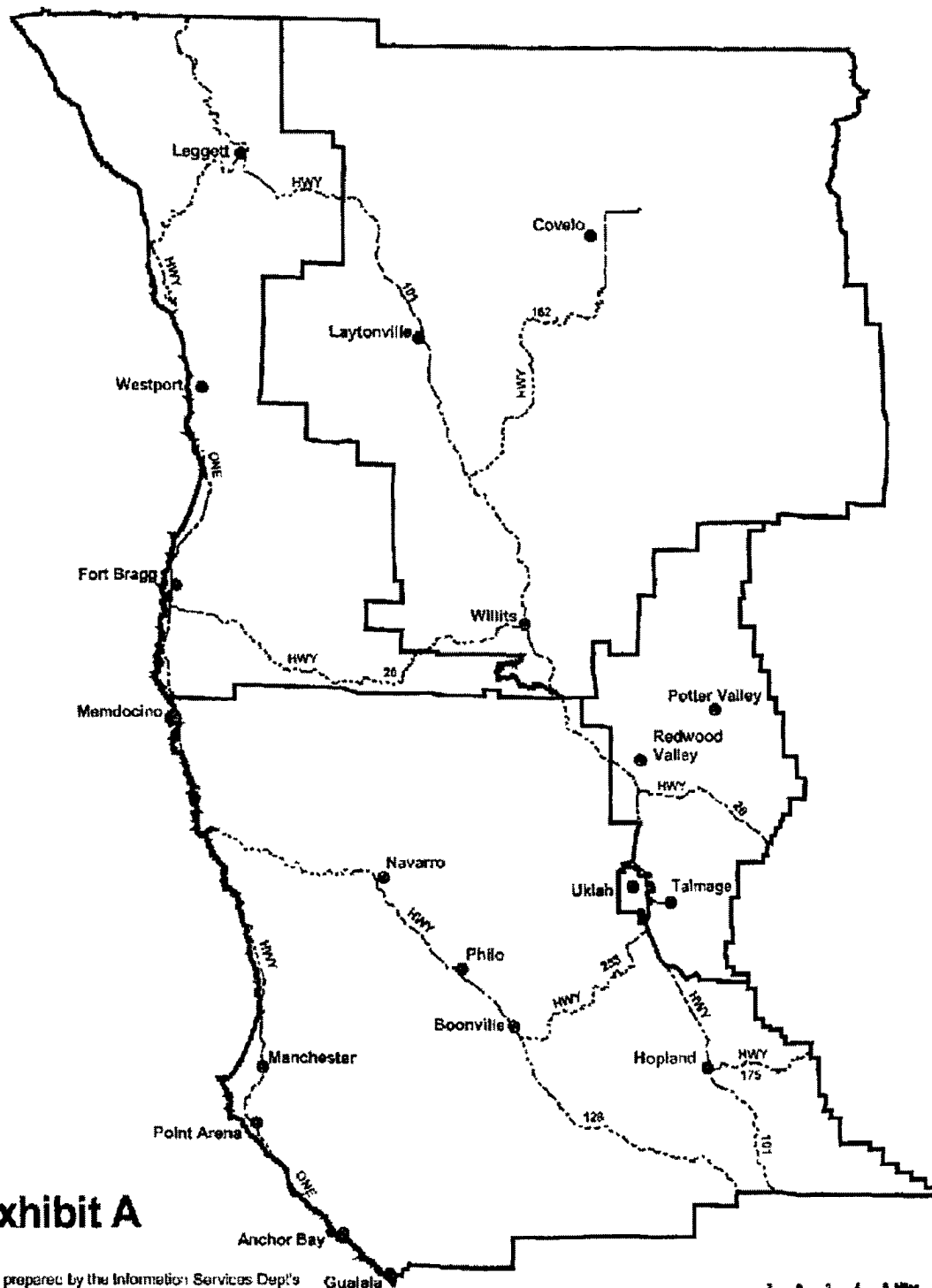
(Ord. No. 3344, adopted 1981; Ord. No. 3797 (part), adopted 1991; Ord. No. 4073, adopted 2001; Ord. No. 4284, § 1, 10-4-2011)

#### **Sec. 2.08.020 Boundary Designation.**

From and after the effective date of this amendment, utilizing the 2010 decennial federal census, the boundaries of each of the five (5) supervisorial districts of the County of Mendocino shall be deemed to be as set forth in the maps on file in the offices of the Clerk of the Board of Supervisors and the County Planning Department, which are attached hereto and made part of this Chapter, and designated as Exhibit "A" and "B."

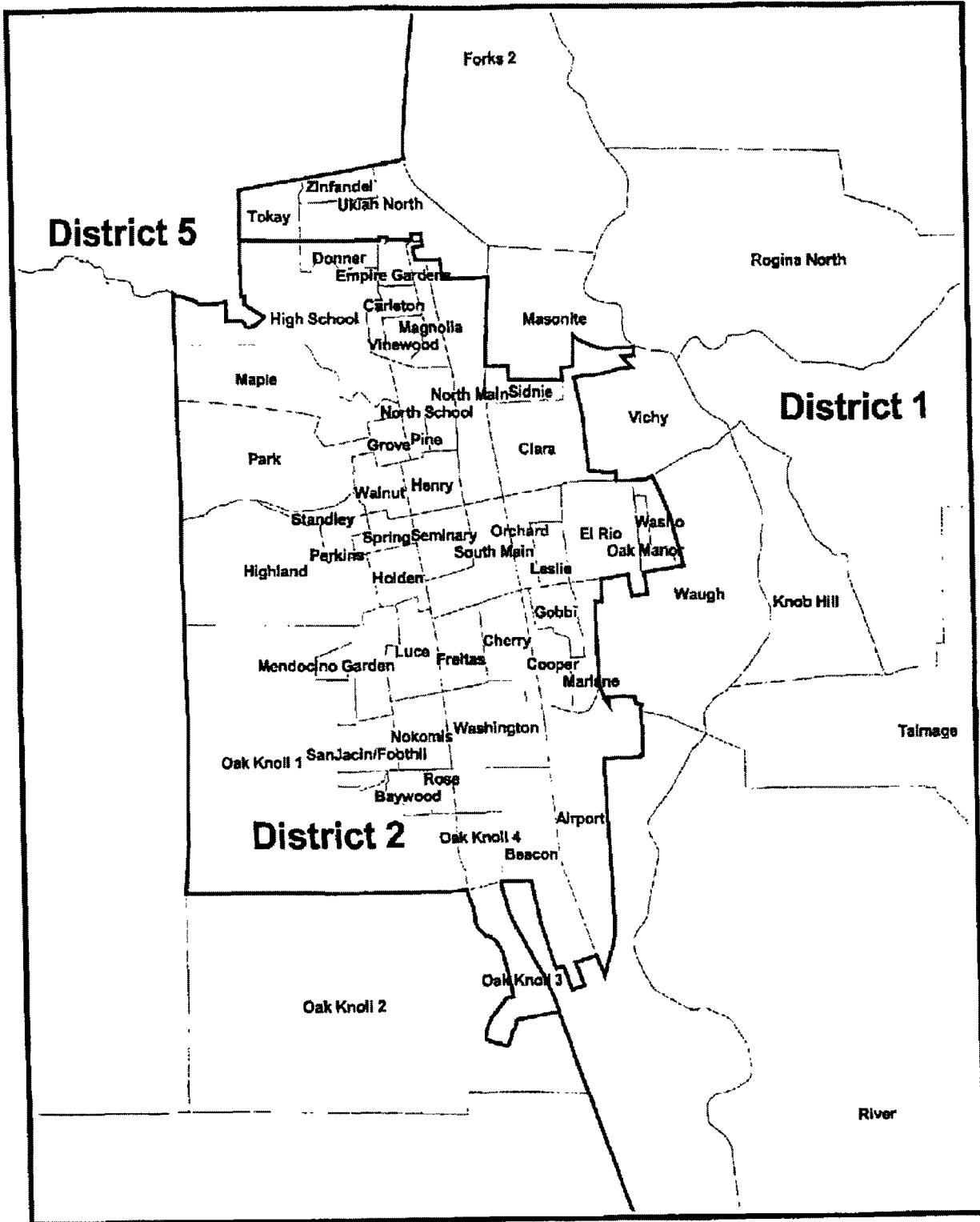
(Ord. No. 3344, adopted 1981; Ord. No. 3797 (part), adopted 1991; Ord. No. 4073, adopted 2001; Ord. No. 4284, § 1, 10-4-2011)

# Mendocino County Supervisorial Districts



## Exhibit A

Map prepared by the Information Services Dept's GIS Lab, August 14, 2001.



**Exhibit B**  
**Ukiah Inset**



Map prepared by the Information Services Dept's GIS Lab August 14, 2001.



## CHAPTER 2.14

### COMPENSATION AND MILEAGE FOR GRAND JURORS AND PETIT JURORS

#### **Sec. 2.14.010 Compensation and Mileage for Grand Jurors and Petit Jurors.**

A. Pursuant to authority contained in Penal Code Section 890, the fees for Grand Jurors are twenty-five dollars (\$25.00) for each full panel meeting and ten dollars (\$10.00) for each committee or investigative meeting not to exceed \$25.00 per day. Mileage shall be reimbursed according to mileage reimbursement rates established for County employees, for each mile actually traveled in attending Grand Jury business. Grand Jurors conducting official business in the County seat and who reside more than thirty (30) miles from the County seat may elect to stay overnight rather than drive back and forth to their residences and will be reimbursed for lodging and dinner costs incurred for no more than two nights per week exclusive of the State Grand Jury Training. Lodging shall not exceed the established local government hotel rate, and dinner shall be reimbursed at rates set for County employees. Grand Jurors will be entitled to reimbursement for lunch at rates set for County employees only after a Grand Juror has attended a minimum of two (2) hours of full panel or committee meetings, investigative sessions or other legitimate activities such as orientation sessions and training sessions. All meal and mileage reimbursement and fees for attendance shall be payable to Grand Jurors for committee meetings, investigative sessions by less than the full Grand Jury or other legitimate activities such as orientation sessions and training sessions, subject to budget limitations imposed by the Board of Supervisors and in accordance with the County Travel Policy. Any expenditure that exceeds the authorized budget must be approved in advance by the Presiding Judge of the Superior Court after the Board of Supervisors has been advised of the request. The Chief Executive Officer shall make a

recommendation to the Board of Supervisors and Presiding Judge prior to consideration by the Presiding Judge.

B. Pursuant to authority contained in Section 215 of the Code of Civil Procedure, fees for petit jurors of the Superior Courts of Mendocino County for each day's attendance as a juror is seven dollars (\$7.00) a day and ten cents (\$.10) a mile for each mile actually traveled in attending as a juror. (Ord. No. 3412, adopted 1983; Ord. No. 3462, adopted 1983; Ord. No. 3528, adopted 1984; Ord. No. 3529, adopted 1984; Ord. No. 3661, adopted 1987; Ord. No. 3796 Sec. 1, adopted 1991; Ord. No. 3887 Sec. 1, adopted 1994; Ord. No. 3900, adopted 1995; Ord. No. 4026, Sec. 1, adopted 1999; Ord. No. 4039, Sec. 1, adopted 1999; Ord. No. 4108, adopted 2003; Ord. No. 4199, adopted 2008.)

(Ord. No. 4217, 2-24-2009)

## CHAPTER 2.16

### COUNTY OFFICES CONSOLIDATED

**Sec. 2.16.010 Offices of County Agricultural Commissioner and County Sealer of Weights and Measures Consolidated.**

(A) The offices of County Agricultural Commissioner and County Sealer of Weights and Measures of the County of Mendocino are hereby consolidated. (Ord. No. 417, Sec. 1, adopted 1961.)

(B) Such consolidated offices shall be known as the Department of Agriculture of the County of Mendocino. (Ord. No. 417, Sec. 2, adopted 1961.)

(C) The Department of Agriculture of the County of Mendocino shall be under the authority of one (1) individual who shall carry out the duties of County Agricultural Commissioner and County Sealer of Weights and Measures of the County of Mendocino. (Ord. No. 417 Sec. 3, adopted 1961.)

**CHAPTER 2.20****COUNTY LAND SURVEYOR****Sec. 2.20.010 County Land Surveyor's  
Position.**

That the elective position of County Surveyor is hereby abolished, and henceforth the position of County Land Surveyor shall be an appointive position in accordance with Government Code Section 27550. Said County Land Surveyor shall serve at the pleasure of the Board of Supervisors of the County of Mendocino. (Ord. No. 427, Sec. 1, adopted 1962.)

## CHAPTER 2.24

### BOARD OF BUILDING AND HOUSING APPEALS.

**Sec. 2.24.010** Repealed by Ord. No. 3401, adopted 1982.

**Sec. 2.24.020** Repealed by Ord. No. 3401, adopted 1982.

**Sec. 2.24.030** **Board of Building and Housing Appeals.**

(A) **Establishment.** There is hereby created in the County of Mendocino the Board of Building and Housing Appeals, hereinafter referred to as the "Board."

(B) **Membership.** The Board shall be composed of seven (7) members who shall be appointed by the Mendocino County Board of Supervisors. These members shall be appointed for a term of four (4) years during which time they may be removed at the discretion of the Board of Supervisors by a four-fifths ( $\frac{4}{5}$ ) vote. Upon the appointment of new members to the Board to fill the vacancies created by the addition of subdivision (C)(5), these members shall draw lots so that one member shall serve for a term of two (2) years prior to reappointment and one shall serve for four (4) years. No person holding other County office or employment shall be appointed to the Board. The Director of Planning and Building Services, or a member of his staff designated by him, shall act as Secretary to the Board, but shall not be an ex officio member thereof.

(C) **Representation.** The composition of the Board shall be five (5) specialist members and two (2) public members as follows:

(1) One (1) person skilled in the building trades of separate disciplines;

(2) One (1) person skilled in fire prevention and control;

(3) One (1) person knowledgeable in health and sanitation matters;

(4) Two (2) members representing the general public, each residing in a different Supervisorial district;

(5) Two (2) disabled members knowledgeable in matters of disabled access standards under the California State Accessibility Standards (Title 24 of the California Code of Regulations.) These members shall participate only in cases arising under subdivision (G)(7) of this section. One (1) of these members shall be a resident of either the First, Second or Third Supervisorial District, and one (1) shall be a resident of the Fourth or Fifth Supervisorial District.

(D) **Compensation.** Each member of the Board shall be reimbursed Twenty Dollars (\$20) per diem and out-of-pocket travel costs at regular County rates.

(E) **Rules.** The Board may adopt reasonable rules and regulations of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the Director of Planning and Building Services. Appeals shall be processed in accordance with the provisions of the particular uniform code governing the matter. Copies of all such rules and regulations adopted by the Board shall be delivered to the Director of Planning and Building Services, who shall make them freely accessible to the public.

(F) **Organization.** The members of the Board shall select a Chairman and a Vice Chairman to serve terms of one (1) year each from January 1st through December 31st of each year. The Chairman shall be authorized to appoint subcommittees, as necessary, for the efficient administration of the duties of the Board.

(G) **Duties and Powers.** The duties and powers of the Board shall be as follows:

(1) To hear appeals as provided for under each of the uniform codes adopted by reference by Title 18 of this code;

(2) To provide for interpretations of the provisions of the uniform codes adopted by Title 18 of this code with respect to the suitability of alternate materials and methods of construction together with the other technical types of decisions provided for in the provisions on boards of appeals in the various uniform codes adopted by reference by Title 18 of this code;

(3) To determine, upon a request duly made pursuant to Section 17925 of the California Health and Safety Code, that because of local conditions or factors, it is not reasonable for a rule or regulation set forth in any of the uniform codes adopted by reference by Title 18 of this code to be applied within a particular local area in the County of Mendocino. Any person, firm, corporation, or governmental agency that opposes the application of any such rule or regulation within a particular local area may request a hearing before the Board regarding the matter;

(4) To study and propose to the Board of Supervisors any ordinances or amendments to the Mendocino County Code;

(5) To promulgate written, substantive rules and regulations pertaining to the enforcement and implementation of the various uniform codes adopted by reference by Title 18 of this code. Said substantive rules and regulations to become effective only upon ratification and adoption by the Board of Supervisors;

(6) To advise appellants, and other members of the public having particular interest in matters before the Board, of their rights to seek review in the courts, including a court order staying the execution of a decision of the Board;

(7) To hear appeals in cases involving disabled access in order to determine whether an unreasonable hardship exists from strict application of the regulation in question, or whether a reasonable portion of all facilities and accommodations found in a multi-storied building are provided on the ground floor or any accessible level of the structure in question.

**(H) Jurisdiction.**

(1) The jurisdiction of the Appeals Board to interpret the provisions of any of the uniform codes shall not extend to any matter not set forth in subdivision (G)(2) of this Section, nor to any question of fact not arising from subdivision (G)(2), including but not limited to the following:

(a) Whether a building permit or similar permit was or was not issued to any person;

(b) Whether construction was commenced, suspended, or abandoned within the provisions of any of the codes;

(c) Whether a particular structure or improvement is exempt from the requirement of a building permit or similar permit;

(d) Whether any fee is required or has been paid for a particular permit;

(e) Whether an inspection has been conducted, or whether any particular construction was approved following an inspection.

(2) The jurisdiction of the Appeals Board to hear appeals pursuant to subdivision (G)(7) of this Section regarding disabled access regulations shall be exclusive, and no other County officer or agency shall have authority to grant an exception to the State requirements for disabled access.

(I) **Finality.** Except when specifically provided to the contrary, all determinations of appeals and all other decision of the Board shall be final except for such action as may be taken by a court as permitted or required by law. (Ord. No. 465 Sec. 103, adopted 1964; Ord. No. 1653, adopted 1976; Ord. No. 3401, adopted 1982; Ord. No. 3555, adopted 1985; Ord. No. 3638, adopted 1987; Ord. No. 3688, adopted 1988; Ord. No. 3767, adopted 1991.)

**CHAPTER 2.28****COUNTY CHIEF EXECUTIVE OFFICER\***

\* Prior ordinance history: Ord. No. 413; Ord. No. 4004.

**Sec. 2.28.010 Statement of Intent.**

(A) There is established the position of Chief Executive Officer (CEO). The duties and responsibilities of the position of CEO are herein specifically defined. The CEO shall act under the supervision of the Board of Supervisors and be subject to its direction. Wherever in Federal or State law reference is made to an administrative officer of a County, the position of CEO shall be deemed to be such officer.

(B) The Board of Supervisors expects the CEO to exercise overall responsibility for sound and effective management of County government, pursuant to Board policy and adopted budget. The Board fully expects the CEO to exercise clear and direct management authority and responsibility, and to hold the CEO specifically accountable. (Ord. No. 4140 (part), adopted 2005; Ord. No. 4182 (part), adopted 2007.)

**Sec. 2.28.020 Qualifications for Office.**

The CEO shall be chosen upon the basis of knowledge and skills in public administration, demonstrated administrative ability, and knowledge of public budgeting, personnel, finance, and organization. The CEO shall also be chosen on the basis of the person's executive and administrative qualifications with special reference to the person's actual experience in, or the person's knowledge of, accepted practices with respect to the duties of the office as herein-after set forth. The CEO shall have demonstrated interpersonal communication skills and ability to work well with supervisors and subordinates. (Ord. No. 4140 (part), adopted 2005; Ord. No. 4182 (part), adopted 2007.)

**Sec. 2.28.030 Position Created.**

The Board of Supervisors has determined the need for a position in Mendocino County, which has the responsibility and authority to manage and administer the affairs of the County, to provide planning

which integrates all County activities, and to serve the Board as its chief of staff in both internal and intergovernmental affairs. (Ord. No. 4140 (part), adopted 2005; Ord. No. 4182 (part), adopted 2007.)

**Sec. 2.28.040 Conditions of Employment.**

(A) The CEO shall be appointed by and serve at the will and pleasure of the Board of Supervisors.

(B) The salary range of the CEO shall be established by the Board of Supervisors. The CEO is granted and entitled to all benefits conferred upon County executive management employees including, but not limited to: merit salary increases, sick leave, vacation and holidays and the County Employees' Retirement Act. (Ord. No. 4140 (part), adopted 2005; Ord. No. 4182 (part), adopted 2007.)

**Sec. 2.28.050 Duties and Responsibilities.**

(A) The CEO is accountable for the effective administration and management of all governmental affairs of the County, which may legally be placed in the CEO's charge and control, by the Board of Supervisors. Nothing in this Section shall preclude or impinge the authority of a majority of the Board of Supervisors from giving direction to the CEO in public session. The primary duties and responsibilities of the CEO shall be to plan, organize, control and direct the overall operation of the County; prepare, present and monitor the County budget; promote County activities and affairs with government and private entities, community organizations, industry and the general public; and serve on various committees and agencies. The CEO shall have authority to require and receive any and all information from any County department that the CEO may deem necessary to fulfill the above-enumerated duties and responsibilities.

(B) Duties and responsibilities of the CEO shall include, but are not limited to, the following:

(1) Policy Formation. The CEO shall develop and recommend policy and policy alternatives to the Board of Supervisors for consideration. It shall be the role of the CEO to advise the Board of Supervisors in the development of policy matters through the analysis, development and presentation of policy alternatives, including the anticipated consequences of such

alternatives and the cost-benefit analysis of such alternatives. Furthermore, the CEO shall attend all Board meetings and advise on matters of policy and administration; unless excused by the Chair.

(2) Policy Implementation. The CEO shall implement the policies adopted by the Board of Supervisors and shall ensure they are properly distributed and explained to all affected personnel.

(3) Departmental Duties and Responsibilities. To the extent permitted by law, the CEO shall:

(a) Be authorized to assign or delegate the administration of duties to any CEO designee within the CEO's office.

(b) Receive projects that the Board of Supervisors has directed to the CEO for action, and refer those projects to the appropriate department.

(c) Monitor and report to the Board regarding the performance of County departments.

(d) Evaluate all proposed departmental programs and recommend those to the Board of Supervisors for approval the CEO feels should be approved or modified; periodically evaluate existing departmental programs and recommend changes to the Board for approval where they are indicated.

(e) Evaluate departmental organizations on a continuous basis, subject to the limitations of state law or the directives of the Board of Supervisors; with prior Board approval, initiate changes in inter-departmental organizations and structure.

(f) Authorize budgeted out-of-County travel and in-County business expense in accordance with rules and regulations based upon policies established by the Board.

(g) There will be an annual review of non-elected department heads in closed session with the CEO, the Board of Supervisors and department head. After Board comment and recommendations, the Chief Executive Officer will prepare the annual performance evaluation based on mutually agreed goals and objectives. The County Counsel, Clerk of the Board and Chief Executive Officer will be reviewed directly by the Board of Supervisors.

(h) Appoint, transfer, discipline, suspend or dismiss, as appropriate, any non-elected department head who is not required to be appointed by the

Board of Supervisors, after meet and confer with the Board of Supervisors. The following departments report directly to the CEO:

(i) Department of Transportation;

(ii) General Services Agency;

(iii) Health and Human Services;

(iv) Human Resources;

(v) Planning and Building Services.

(i) Meet on a regular basis with each department head for the purpose of communicating County policies and issues.

(j) In cases where the Board of Supervisors is the appointing authority of a department head, the CEO shall recommend to the Board of Supervisors for its consideration and appointment, qualified candidate(s) to fill any vacancies.

(k) Promote the development of team management systems within the County organization and strive to develop leadership opportunities among department heads so as to build a management team, which can plan for and respond to future challenges.

(4) Management of the County's Executive Office. The CEO, through its Executive Office, shall coordinate the activities of all County departments, preparing recommendations to the Board and executing the Board directives as they relate to the departmental operations. The Executive Office personnel, under direction of the CEO, shall also provide support, advice and assistance to all County departments. The CEO shall serve as a problem-solver, coordinator, mediator or other role(s) as determined appropriate by the Board of Supervisors in serving the needs of each County department and County government overall.

(5) Staff to the Board of Supervisors. The CEO and Executive Office personnel shall provide staff support to the Board of Supervisors.

(a) The CEO, under the direction of the Board of Supervisors, shall represent the Board of Supervisors and the County generally in public relations, at the local level, regionally, Federal and in County-State matters.

(b) As staff to the Board, the CEO shall ensure that all Board agenda requests are complete and that all relevant information is available for effective de-

cision-making. The CEO furthermore has authority to request and receive justification of an item from a department head, as the CEO deems appropriate to effectively and efficiently conduct County business.

(c) The CEO shall report to the Board of Supervisors, not less than semiannually, the status of the budget expenditures and revenues and recommend adjustments as necessary.

(d) All requests for changes in the annual budget shall first be submitted to the CEO who shall transmit them to the Board of Supervisors together with recommendation.

(6) Legislative Activity. The CEO shall monitor legislative matters as they relate to County and local government, economic development, and other County issues. It is expected that individual Board members should have ready access to legislative matters, including current, pending and proposed matters, through and with assistance of the CEO and Executive Office personnel. Furthermore, the CEO shall perform legislative analysis and coordinate the development of recommendations to the Board concerning legislative activities.

(7) Employee Bargaining. The CEO shall participate as necessary with the designated Board employer-employee representative in the meet-and-confer process with employee representatives.

(8) Emergency Services. The CEO serves as the Director of Emergency Services and exercises control of County government in extreme emergencies when there is not sufficient opportunity for the Board of Supervisors to act, hire necessary extra personnel and purchase necessary supplies and equipment to meet such emergencies.

(9) Administrative Policy Manual. The CEO shall supervise and direct the preparation and maintenance of a County administrative policy manual which sets forth the policies and procedures of the Board of Supervisors regarding the administrative affairs of the County.

(10) Budget. As the County budget officer, the CEO shall supervise and direct the preparation of the annual County budget. In the performance of this duty the CEO shall review and evaluate all departmental request and all items in the proposed

budget including expenditures, revenues and reserves. The CEO shall submit the proposed budget to the Board of Supervisors together with a written report and recommendations which shall be based on Board of Supervisors policy direction, revenue projections, budget targets, and proposed goals, objectives, work programs and projects developed by the various departments. (Ord. No. 4140 (part), adopted 2005; Ord. No. 4182 (part), adopted 2007.)

#### **Sec. 2.28.060 Removal from Office.**

(A) The CEO may be removed from office if the removal occurs in accordance with the following procedures.

(1) Removal without Notice. The Board of Supervisors may remove the CEO from office without notice providing not less than four of the five Supervisors vote in the affirmative for such removal.

(2) Removal with Notice. In all other cases, the CEO shall be entitled to a notice of at least three (3) months if the Board of Supervisors intends to remove said CEO from office. Alternatively, the Board, in its sole discretion and by simple majority vote, may provide written notice immediately relieving the CEO of his/her duties and placing the CEO on a three (3) month paid leave of absence commencing the day following the effective date of removal. Compensation during the above three (3) month leave shall include any salary adjustments and employee benefits that may occur during that period of time.

(B) Notwithstanding subsection (A) of this Section, the CEO may not be removed from office during the first ninety (90) days following the effective date of any change in the membership of the Board of Supervisors unless all five sitting Supervisors vote in the affirmative for such removal.

(C) In the event that this Chapter is, at a future date, modified or repealed, the rights granted in this Section shall be vested to the CEO so appointed or holding office prior to any such modification. (Ord. No. 4140 (part), adopted 2005; Ord. No. 4182 (part), adopted 2007.)



**Sec. 2.28.070 Other Relationships to County  
Officers and Department Heads.**

(A) Information and Cooperation. Each County officer or department head, upon request of the CEO, shall provide any record or other information relating to the administrative operation of such department and shall otherwise cooperate in the review or investigation of the administrative operation of such department. Each County officer or department head shall promptly comply with any written directive by the CEO relating to the use of personnel, equipment or facilities of such office or administrative procedures relating thereto.

(B) Conduit to Board. All requests by department heads for Board action shall be through the CEO. If the CEO makes a recommendation which is adverse to the request, the CEO shall notify the officer or department head of the time when the same will be presented to the Board and the officer or department head may either withdraw the request before its presentation to the Board or he/she may appear before the Board and be heard.

(C) Contact with Board. Except for requests that a time be agendaized for Board consideration and action, nothing contained in this Chapter shall be construed as restricting the ability of the County officers or department heads from contacting Board members directly. (Ord. No. 4140 (part), adopted 2005; Ord. No. 4182 (part), adopted 2007.)

## CHAPTER 2.30

### THE CLERK OF THE BOARD OF SUPERVISORS\*

#### **Sec. 2.30.010 Clerk of the Board of Supervisors—Office Established.**

There is hereby created in the County of Mendocino a County Officer known as the Clerk of the Board of Supervisors. The Clerk of the Board of Supervisors shall be the County Executive Officer and shall be subject to all provisions set forth in Chapter 2.28 of this Code.

(Ord. No. 4237, 4-20-2010)

#### **Sec. 2.30.020 Powers and Duties.**

The Clerk of the Board of Supervisors shall have those powers and duties specifically prescribed to that office by the California Government Code and such additional powers and duties specifically assigned by the Board and set forth herein.

(Ord. No. 4237, 4-20-2010)

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\***Editor's note**—Ord. No. 4237, adopted April 20, 2010, amended former Ch. 2.30 in its entirety to read as herein set out. Former Ch. 2.30 pertained to similar subject matter and derived from Ord. No. 1979, § 2, adopted in 1977.

## CHAPTER 2.32

### PURCHASING AGENT\*

#### **Sec. 2.32.010 Purchasing agent—office established.**

Pursuant to the provisions of Section 25500 et seq. of the Government Code of the State of California, the Office of Purchasing Agent of the County of Mendocino is established.  
(Ord. No. 4338, 6-16-2015)

#### **Sec. 2.32.020 General Duties.**

The Purchasing Agent shall have the duties and powers prescribed by laws of the State of California relating to the County Purchasing Agent, this Chapter and the resolutions of the Board of Supervisors. The Purchasing Agent shall be the Chief Executive Officer of the County or her/his designee. The Purchasing Agent shall furnish the Board of Supervisors with such reports and information as said Board may from time to time require and shall establish methods and procedures necessary for the proper functioning of the County in an efficient and economical manner.  
(Ord. No. 4338, 6-16-2015)

#### **Sec. 2.32.030 Specific Duties.**

The Purchasing Agent shall:

(A) Purchase for the County of Mendocino and its offices all materials, supplies, furnishings, equipment, livestock and other personal property of whatever kind and nature, and no purchasing of personal property by any person other than the Purchasing Agent shall be binding upon the County or constitute a lawful charge against any County funds.

(B) Rent for the County and its offices, furnishings, equipment, and livestock, excepting, however, road equipment, which the Road Commissioner is authorized by law to rent.

\*Editor's note—Ord. No. 4338, adopted June 16, 2015, amended ch. 2.32, §§ 2.32.010—2.32.120, in its entirety. Former ch. 2.32 pertain to similar subject matter, and was derived from Ord. No. 3730, adopted 1990; Ord. No. 3782, adopted 1992; Ord. No. 3920, adopted 1995; Ord. No. 3989, adopted 1997; Ord. 4037, § II, adopted 1999; Ord. 4136, adopted 2005 and Ord. No. 4184 (part), adopted 2007.

(C) Negotiate and execute in the name of the County all equipment service contracts and lease purchase agreements of personal property.

(D) Negotiate and execute in the name of the County as lessee all rentals of real property, which the County may require.

(E) May by direct sale or otherwise sell, lease or dispose of any personal property belonging to the County not required for public use. The proceeds shall be paid into the County treasury for the use of the County. Where the property is exchanged or traded in, she/he shall secure its value on behalf of the County.

(F) Engage independent contractors to perform sundry services for the County and offices thereof with or without the furnishing of material when the aggregate cost does not exceed Fifty Thousand Dollars (\$50,000), pursuant to Section 25502.3 of the Government Code.

(G) Procure, when so authorized by resolution of the Board of Supervisors, construction materials pursuant to Government Code Section 25508 for the construction of facilities to be utilized by a regional opportunity program. Government Code Section 25508.8(b) exempts the County from requirements of Public Contract Code with respect to the construction of a facility if the majority of labor utilized for the construction of the facility described herein is provided by the regional opportunity program or volunteer labor, the facility is to be constructed for use by the regional opportunity program, and the land on which the facility is to be constructed is currently used by a county jail.

(H) When specifically authorized by law, sell or dispose of personal property of any special district and pay the proceeds thereof into the treasury of the district; or if an exchange or trade is made, return the proceeds to the special district.

(I) Perform such other services as the Board of Supervisors may from time to time by resolution require.

(Ord. No. 4338, 6-16-2015)

#### **Sec. 2.32.040 Emergency Purchases.**

Notwithstanding the provisions of Section 25502.3 of the Government Code and Section

2.32.030(F) the Board of Supervisors may, whenever it has proclaimed a local emergency pursuant to Section 8630 of the Government Code, direct the Purchasing Agent to engage independent contractors to perform services related to the local emergency for the County and officers thereof, with or without the furnishing of materials, within the amounts the Board of Supervisors may establish. Informal bidding procedures shall be observed to the extent that such procedures are feasible under emergency circumstances.

(Ord. No. 4338, 6-16-2015)

**Sec. 2.32.050 Purchasing Agent's Stores Inventory Account.**

There is hereby established from the unappropriated funds of the County a Stores Inventory Account in an amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000), such account to be known as the Purchasing Agent's Stores Inventory Account. The Purchasing Agent may purchase supplies, materials and equipment in quantity to be issued to the several offices and departments of the County as needed and shall make payment therefor out of the funds of such Stores Inventory Account. As such supplies, materials and equipments are issued to an office or department, the account shall be reimbursed from the budgeted funds of the requisitioning department. The department shall certify availability of funds in the appropriate budget account of the department before such issues are made.

(Ord. No. 4338, 6-16-2015)

**Sec. 2.32.060 Purchasing Procedures.**

Except as otherwise provided by law, the Purchasing Agent may, without notice, advertisement, or the securing of competitive bids or quotations, make any purchase of personal property or do any other thing which is authorized to do in this Chapter; provided, however, that in the event the Purchasing Agent purchases any individual item (as distinct from the total contract) costing more than Ten Thousand Dollars (\$10,000) without securing competitive bids or quotations

thereon, the Purchasing Agent shall report such action to the Board of Supervisors, with his/her reasons therefor; and provided, further, that if the Purchasing Agent does call for competitive bids or quotations and accepts any bid or quotation other than the lowest upon any individual item costing more than Ten Thousand Dollars (\$10,000), the Purchasing Agent shall likewise report such fact to the Board of Supervisors.

(Ord. No. 4338, 6-16-2015)

**Sec. 2.32.070 Sale and Leaseback/Personal Property.**

The County Purchasing Agent, with the approval of the Board of Supervisors, and after publishing notice of his or her intended action pursuant to Section 6061, may, by direct sale or otherwise, sell to a purchaser any personal property owned by or to be owned by the County, provided the purchaser agrees to lease the equipment back to the County for use by the County following the sale. The approval by the Board of Supervisors of the sale and leaseback shall be given only if the Board of Supervisors finds, by resolution, that the sale and leaseback is the most economical means for providing such personal property to the County.

(Ord. No. 4338, 6-16-2015)

**Sec. 2.32.080 Posting Notices of Sale.**

Notices of sales of surplus personal property shall be posted for not less than five (5) business days preceding the day of sale in the office of the Purchasing Agent and in such other public place within the County as the Purchasing Agent may deem advisable.

(Ord. No. 4338, 6-16-2015)

**Sec. 2.32.090 Advertising Proposed Sale.**

In the disposition of any surplus personal property and upon approval of the Board of Supervisors, the Purchasing Agent may purchase advertising space and may advertise the proposed sale or other disposition of the personal property in such newspapers, magazines and other periodicals

as in the Purchasing Agent's judgment will best publicize the proposed sale or other disposition to those persons most likely to bid for or purchase the personal property. Within the limitation of the order of the Board of Supervisors approving the advertising, the Purchasing Agent shall decide upon the amount, nature, makeup and content of the advertising.

(Ord. No. 4338, 6-16-2015)

**Sec. 2.32.100 Surplus Pool.**

Whenever any item of personal property is no longer needed by the office, department or institution in possession thereof, such fact shall be reported to the Purchasing Agent who may transfer such item to a surplus pool to be maintained under the supervision of the Purchasing Agent; and whenever any office, department or institution is in need of an article, which has been placed in such surplus pool or has requisitioned the purchase of similar article, the Purchasing Agent may upon a properly drawn request transfer the article to such department.

(Ord. No. 4338, 6-16-2015)

**Sec. 2.32.110 Alternative Procedure for Leasing County Realty.**

(A) Pursuant to Government Code Section 25537, a procedure alternative to that required by Government Code Sections 25526 through 25535 for the leasing of any real property belonging to the County is hereby adopted.

(B) The Board of Supervisors shall accept the highest proposal for the proposed lease submitted in response to a call for bids posted in at least three (3) public places for not less than fifteen (15) days and published for not less than two (2) weeks in a newspaper of general circulation, if such newspaper is published in the County, or reject all bids.

(C) Leases of a duration not exceeding ten (10) years and having an estimated monthly rental of not exceeding Five Thousand Dollars (\$5,000) may be excluded from the bidding procedure specified in subsection (A) of this Section, except that

notice shall be given pursuant to Section 6061, posted in the office of the Clerk of the Board of Supervisors, and if the lease involves residential property, notice shall be given to the housing sponsors, as defined by Sections 50074 and 50074.5 of the Health and Safety Code. The notice shall describe the property proposed to be leased, the terms of the lease, the location where offers to lease the property will be accepted, the location where leases will be executed, and any County officer authorized to execute the lease. If a lease is excluded from the bidding procedure, the actual monthly rental in the executed lease shall not exceed Five Thousand Dollars (\$5,000), the term of the executed lease shall not exceed ten (10) years and the lease is not renewable. The Purchasing Agent or Purchasing Agent's designee may execute leases pursuant to this Section.

(D) Notice pursuant to this Section shall also be mailed or delivered at least fifteen (15) days prior to accepting offers to lease pursuant to this Section to any person who has filed a written request for notice with either the Clerk of the Board or with any other person designated by the Board to receive these requests. The County shall charge a fee, which is reasonably related to the costs of providing this service. The County requires each request to be annually renewed. The notice shall describe the property proposed to be leased, the terms of the lease, the location where offers to lease the property will be accepted, the location where leases will be executed, and any County Officer authorized to execute the lease.

(E) This Section shall be subject to Government Code Section 25537 as amended from time to time or any successor statute as amended from time to time.

(Ord. No. 4338, 6-16-2015)

**Sec. 2.32.120 Annual Inventory of All County Property.**

(A) On or before September 1st in each year, each County officer or person in charge of any office, department, service, or institution of the County, and the executive head of each special

district whose affairs and funds are under the supervision and control of the Board of Supervisors or for which the Board is ex officio the governing board shall file with the County Clerk pursuant to Government Code Section 24051 an inventory under oath showing in detail all County property in his or her possession or in his or her charge at the close of business on the preceding June 30th.

(B) To assure orderly and timely completion of inventories and submission of same to the County Clerk by each person required to file an inventory as above described, the Purchasing Agent shall provide in the County's Administrative Manual appropriate information management technology and clear guidelines for use in completing inventory tasks in a timely and efficient manner.

(C) Each person required to file an inventory as described above shall complete his or her inventory task in a timely and efficient manner in compliance with such information management technology and guidelines.

(Ord. No. 4338, 6-16-2015)

## CHAPTER 2.33

### ALTERNATIVE PROCEDURE FOR BIDDING FOR PUBLIC CONTRACTS

#### Sec. 2.33.010 Definition.

"Public project," as defined by Section 22002 of the Public Contract Code, shall mean the construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any County-owned, leased, or operated facility; and the painting or repainting of any County-owned, leased, or operated facility; provided, however, that "public project" shall not include maintenance work as defined in Section 22002 of the Public Contract Code. (Ord. No. 4037, Sec. III, adopted 1999; Ord. No. 4205 (part), adopted 2008.)

#### Sec. 2.33.020 Contracting Procedures—Dollar Amount Limitations.

(A) Public projects, with limits as defined by Section 22032 of the Public Contract Code, may be performed by County employees by force account, by negotiated contract, or by purchase order.

(B) Public projects with limits as defined by Section 22032 of the Public Contract Code, may be let to contract by informal procedures as set forth herein.

(C) Public projects, with limits as defined by Section 22032 of the Public Contract Code, shall, except as otherwise provided in Article 3 of Public Contract Code Section 22000 et seq., be let to contract by formal bidding procedure. (Ord. No. 4037, Sec. III, adopted 1999; Ord. No. 4205 (part), adopted 2008.)

#### Sec. 2.33.030 Informal Bidding Procedure.

Public projects may be let to contract by informal bidding procedures as established pursuant to Section 22032 et seq. of the Public Contract Code. If all bids received are in excess of the limits as set forth in Section 22032 et seq. of the Public Contract Code the Board of Supervisors may, by pas-

sage of a resolution by a four-fifths vote, award the contract, as set forth in Section 22032 et seq. of the Public Contract Code, to the lowest responsible bidder if it determines that the cost estimate of the County was reasonable. (Ord. No. 4037, Sec. III, adopted 1999; Ord. No. 4205 (part), adopted 2008.)

#### Sec. 2.33.031 Contractors List.

A list of qualified contractors, identified according to categories of work, shall be developed and maintained by the Purchasing Agent in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission. (Ord. No. 4037, Sec. III, adopted 1999; Ord. No. 4205 (part), adopted 2008.)

#### Sec. 2.33.032 Notice Inviting Informal Bids.

Where a public project is to be performed pursuant to the provisions of this section, a notice inviting informal bids, as set forth below, shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 2.33.031, or to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code, or both all contractors on the list for the category of work being bid and all construction trade journals specified in Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the agency head soliciting bids; provided, however, that if there is no list of qualified contractors maintained by the County for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the California Uniform Construction Cost Accounting Commission; or if the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclu-

sively to such contractor or contractors. All mailing of notices to contractors and construction trade journals shall be completed not less than ten (10) calendar days before bids are due. The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for the submission of bids. (Ord. No. 4037, Sec. III, adopted 1999; Ord. No. 4205 (part), adopted 2008.)

**Sec. 2.33.033 Award of Bid.**

The County Purchasing Agent is authorized to award contracts for public projects, let by informal bid procedures up to the limits as set forth in Section 22032 et seq. of the Public Contract Code. The contract shall be awarded to the lowest responsible bidder if the Purchasing Agent considers the bid to be reasonable, sufficient funds have been appropriated, and the bid is within the limits prescribed for award. (Ord. No. 4037, Sec. III, adopted 1999; Ord. No. 4205 (part), adopted 2008.)

**Sec. 2.33.040 Formal Bidding Procedures.**

Formal Public projects, as set forth in Section 22032 et seq. of the Public Contract Code, shall, except as otherwise provided herein, be let to contract by formal bidding procedures. Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least fourteen (14) calendar days before the date of opening the bids, in a newspaper of general circulation, printed and published in the county. The notice inviting formal bids shall also be mailed to all construction trade journals specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code. The notice shall be mailed at least thirty (30) calendar days before the date of opening the bids. In addition to notice required by this section, the agency head may also give such other notice as it deems proper. (Ord. No. 4037, Sec. III, adopted 1999; Ord. No. 4205 (part), adopted 2008.)

**Sec. 2.33.050 Public Projects Exempt From Bidding Procedures.**

The limits wherein Public projects may be performed by County employees by force account, by negotiated contract, or by purchase order by the Purchasing Agent are set forth in Section 22032 et seq. of the Public Contract Code. Public projects exceeding the limits as set forth in Section 22032 et seq. of the Public Contract Code shall be let to contract by formal or informal bidding procedures as set forth herein. (Ord. No. 4037, Sec. III, adopted 1999; Ord. No. 4205 (part), adopted 2008.)

**Sec. 2.33.060 Procedures for Maintenance Work.**

Pursuant to provisions of Section 22003 of the Public Contract Code, the Purchasing Agent may also utilize the above procedures when contracting for maintenance work as defined in Section 22002 of the Public Contract Code. (Ord. No. 4037, Sec. III, adopted 1999; Ord. No. 4205 (part), adopted 2008.)

**Sec. 2.33.070 Alternative Procedures.**

Pursuant to the provisions of Section 22031 of the Public Contract Code, nothing in Section 2.33 shall prohibit the Board of Supervisors or the County Road Commissioner from utilizing, as an alternative to the procedures set forth in this section, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1 of the Public Contract Code. (Ord. No. 4037, Sec. III, adopted 1999; Ord. No. 4205 (part), adopted 2008.)

**Sec. 2.33.080 Emergencies.**

(A) In cases of emergency when repair or replacements are necessary, the Board of Supervisors may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the Board of Supervisors, by contractor, or by a combination of the two.



(B) In case of an emergency, if notice for bids to let contracts will not be given, the County shall comply with Chapter 2.5 (commencing with Section 22050) of the Public Contract Code. (Ord. No. 4037, Sec. III, adopted 1999; Ord. No. 4205 (part), adopted 2008.)

## CHAPTER 2.36

### COUNTY AUDITOR

#### **Sec. 2.36.010 Qualifications for the Office of County Auditor.**

No person shall hereafter be elected or appointed to the office of County Auditor of the County of Mendocino unless:

(a) He possesses a valid certificate issued by the California State Board of Accountancy under the provisions of Chapter 1, Division 3 of the Business and Professions Code, showing him to be, and a permit authorizing him to practice as, a certified public accountant or as a public accountant; or

(b) He possesses a valid certificate or diploma of graduation from a school of accountancy; or

(c) He has served as County Auditor or as Deputy County Auditor for a continuous period of not less than three (3) years. (Ord. No. 483, Sec. 1, adopted 1965.)

#### **Sec. 2.36.020 Applicability.**

The qualifications set forth in Section 2.36.010 shall not apply to any person duly elected or appointed as a County Auditor and actually serving as such officer on the effective date of the Chapter (July 1965), and such person shall be deemed to be eligible to hold and to be re-elected to said office, notwithstanding the provisions of said Section 2.36.010 (Ord. No. 483, Sec. 2, adopted 1965.)

**CHAPTER 2.38**

**SHERIFF'S DEPARTMENT**

**Sec. 2.38.010 Duties of Sheriff's Public Safety Officer.**

The Sheriff's Public Safety Officer is hereby authorized to enforce all state statutes and ordinances and is authorized to arrest persons for violations of such statute or ordinance or to issue citations to such violators. (Penal Code Section 836.5). (Ord. No. 3293, adopted 1980.)

**CHAPTER 2.40****SOCIAL SERVICES DEPARTMENT****Sec. 2.40.010 Social Services Department—  
Established.**

A. Department of County Work is hereby created, to be known as the Mendocino County Social Services Department. (Ord. No. 251 § 1, adopted 1936.)

**Sec. 2.40.020 Director of County Social  
Services—Office Established.**

There shall be a Director of County Social Services who shall be the executive officer of the County Social Services Department and who shall administer all work of said department. The Director of Social Services shall be appointed by and serve at the pleasure and will of the County Chief Executive Officer, and shall perform those duties and responsibilities assigned by the County Chief Executive Officer or assigned by the Board of Supervisors acting through the County Chief Executive Officer. The Director shall have the requisite qualifications and experience necessary to enable him properly to discharge the functions of his office and shall hold office at the pleasure of the Board of Supervisors. (Ord. No. 251 § 2, adopted 1936; Ord. No. 4151, adopted 2005.)

**Sec. 2.40.030 General Powers and Duties of  
the County Social Services  
Department.**

The general powers and duties of the County Social Services Department shall be as follows:

(a) To organize and administer adequate relief for the indigent or dependent poor and indigent sick, State and County aid to the needy aged, needy blind, needy orphan, half orphan, abandoned and other dependent children, and all other noninstitutional relief dispensed or provided by the said Mendocino County;

(b) To disburse or distribute such funds or goods as shall be received from private or government sources for the purposes defined in this Chapter and

to administer any trust declared or created for these purposes, in accordance with the terms of such trust;

(c) To cooperate with other departments of County work in the maintenance and supervision of a County work relief program;

(d) To cooperate with other public and social welfare agencies and societies of the County, State and Federal Government;

(e) To maintain a modern system of records on County relief cases and relief expenditures;

(f) To cooperate with the County hospital, the County almshouse and the County jail, and to assist the heads of those institutions in matters of investigation and social service. (Ord. No. 251 § 4, adopted 1936.)

**Sec. 2.40.040 Social Services Department  
Administers Unemployment  
Relief Funds.**

In addition to, and independent of, the powers and duties conferred by any or all of the foregoing sections, the Mendocino County Social Services Department is hereby designated as the County agency to administer unemployment relief funds made available by the State Relief Administrator and the State Relief Commission as provided by Article 16, Section 10 of the Constitution of the State of California, and Chapter 675, California Statutes of 1935, for the relief of hardship and destitution due to and caused by unemployment within Mendocino County. Such funds whether from State or Federal sources, shall be administered as follows:

(a) Any moneys made available by said State Relief Administrator and said State Relief Commission, whether from State or Federal sources, shall be deposited in an unemployment relief trust fund in the County Treasury, which trust fund is hereby created, and said moneys shall be expended in accordance with the laws of the State of California under the rules and regulations established by the State Controller. The conditions of eligibility for relief shall conform to

the requirements fixed by the State Relief Commission and the State Relief Administrator. (Ord. No. 251, Sec. 8, adopted 1936.)

(b) Such personnel of the County Social Services Department as will authorize or in any manner commit the expenditure of moneys in an unemployment relief trust fund shall be approved by the State Relief Administrator and the salaries of all personnel paid out of said trust fund shall be approved by the State Relief Administrator. (Ord. No. 251, Sec. 8, adopted 1936.)

(c) The County Auditor shall pay only such claims against such unemployment relief trust fund as will be authorized in a list of authorized expenditures compiled by the Relief Administrator and furnished said Auditor by the State Controller. (Ord. No. 251, Sec. 8, adopted 1936.)

(d) The County Social Services Department shall furnish such reports and maintain such records with respect to the administration of said unemployment relief trust fund as may be required by the Relief Administrator and the State Controller, and all such records shall be open to the inspection of the Relief Administrator and the State Controller, or their agents or representatives. (Ord. No. 251, Sec. 8, adopted 1936.)

**Sec. 2.40.050 Director of County Social Services Authorized to Appoint and Hire Employees.**

The Director is hereby authorized and empowered to appoint and employ such assistants, trained social workers, clerical and stenographic help as may be necessary for the proper conduct of the affairs of the department, upon the approval of the Board of Supervisors, and to pay salaries authorized by the board. Such assistants, social workers, clerks and stenographers shall hold office at the pleasure of said Director. (Ord. No. 251, Sec. 3, adopted 1936.)

**Sec. 2.40.060 Assistance from Other County Departments.**

The Social Services Department shall avail itself, insofar as possible, of the services of existing County Departments and County employees where the

services of said departments and said employees can be rendered to said Social Services Department without interfering with their ordinary duties. (Ord. No. 251, Sec. 5, adopted 1936.)

**Sec. 2.40.070 Applications for Relief Referred to Social Services Department.**

Application for relief made to the Board of Supervisors or any member thereof shall be referred promptly to the Department for investigation and recommendations. (Ord. No. 251, Sec. 6, adopted 1936.)

**Sec. 2.40.080 Monthly Report of Work Done.**

The department shall file with the Board of Supervisors monthly a report of work done and shall render for the approval of the board a written statement of expenses incurred and relief claims against the County with a list of additions, deductions and changes. (Ord. No. 251, Sec. 7, adopted 1936.)

**Sec. 2.40.090 Social Services Director Appointed Public Guardian.**

The duties of Public Guardian are hereby transferred to the Department of Social Services. The Director of the Department is appointed to the office of Public Guardian. (Ord. No. 3725, Sec. 3, adopted 1990.)

**Sec. 2.40.100 Social Services Director Appointed Public Administrator.**

The duties of the Public Administrator are hereby transferred to the Department of Social Services. The Director of the Department is appointed to the office of Public Administrator. (Ord. No. 3727, Sec. 1 (part), adopted 1990.)

**Sec. 2.40.110 Veterans Service Officer.**

The duties of the Veterans Service Officer are hereby transferred to the Department of Social Services. The Director of the Department shall appoint

the Veterans Service Officer. (Ord. No. 3727, Sec. 1 (part), adopted 1990; Ord. No. 3728, adopted 1990.)

**Sec. 2.40.120 County Counsel Attorney for Public Administrator.**

Pursuant to authority granted by Government Code Section 27643, the County Counsel may act as attorney for the Public Administrator when County Counsel elects to provide such representation. In those matters where County Counsel furnishes representation, the County Council shall collect the attorney's fees allowed by law and pay them into the County Treasury.

The Board of Supervisors hereby ratifies and affirms any payments made to County Counsel when County Council was acting as attorney for the Public Administrator prior to the adoption of this section. (Ord. No. 3907, adopted 1995.)

## Chapter 2.42

### DEPARTMENT OF CHILD SUPPORT SERVICES

#### Sec. 2.42.010 Department Established.

Effective July 1, 2001, there is established the Department of Child Support Services. Any references that appear anywhere in this Code to the "Family Support Division" of the District Attorney's Office shall mean the "Department of Child Support Services." (Ord. No. 4072 (part), adopted 2001.)

#### Sec. 2.42.020 Purpose.

As set forth in Family Code Section 17304, the purpose of the Department of Child Support Services is to establish, modify, and enforce child support obligations, including medical support; to enforce spousal support orders established by a court of competent jurisdiction; to determine the paternity of a child born out of wedlock, as defined in Family Code Section 17400, subdivision (h); and all further responsibilities imposed upon a local child support agency pursuant to Division 17 (commencing with Section 17000) of the Family Code and those responsibilities imposed by Title IV-D of the Federal Social Security Act. No other local agency shall have authority over the Department as to any function relating to its obligations under Title IV-D of the Federal Social Security Act. (Ord. No. 4072 (part), adopted 2001.)

#### Sec. 2.42.030 Administration—General Powers and Authority.

(A) The Department of Child Support Services shall be under the general direction of a Director who shall be appointed by and report to the Board of Supervisors.

(B) The Director shall plan, organize, and direct all activities of the Department. The Director's deputies, and other employees so designated by the Director, shall have the power and authority to enforce the provisions of this Ordinance and State laws relating to child support obligations, spousal support orders, and the determination of the paternity

of children born out of wedlock, and such other powers and duties as provided in Division 17 (commencing with Section 17000) of the Family Code. It is the intent of the Board of Supervisors to vest in the Department of Child Support Services all authority to discharge those duties formerly exercised by the Family Support Division of the District Attorney's Office. (Ord. No. 4072 (part), adopted 2001.)

#### Sec. 2.42.040 Transfer of Functions.

All Mendocino County program employees and other personnel who perform child support collection and enforcement services, and all assets dedicated to those services, shall be transferred from the Family Support Division of the District Attorney's Office to the Department of Child Support Services, as provided in Family Code Sections 17304 and 17305. The transfer of programs, staff, and assets shall be effective upon approval of the Director of the California Department of Child Support Services. (Ord. No. 4072 (part), adopted 2001.)





## CHAPTER 2.44

### DEPARTMENT OF PUBLIC HEALTH

#### **Sec. 2.44.010 County Department of Public Health—Established.**

In compliance with Section 450, California Health and Safety Code, the full-time Mendocino County Department of Public Health is hereby established, and its personnel, services, functions and administration shall conform to the minimum requirements of the State of California Department of Public Health Regulations governing State and Federal Financial assistance to local health departments. In accordance with directives from the State of California Division of Local Health Services, setting forth minimum requirements as to personnel, standards and services and recommending minimum salaries, travel allowances, laboratory services, capital outlay, maintenance and operational expenses, the following sections of this Chapter are herein authorized, ordained and provided for. (Ord. No. 328 § 1, adopted 1951.)

#### **Sec. 2.44.020 Qualifications for the Position of County Health Officer; Tenure.**

There shall be a County Health Officer, who shall hold the degree of Doctor of Medicine, licensed to practice in California; he shall serve full-time as provided for in the California Administrative Code, Section 1250; he shall be responsible to the Board of Supervisors for the over-all administration of the County Health Department, and he shall not engage in the private practice of medicine. The County Health Officer shall make every effort to provide qualified persons to fill all other positions of employment hereinafter provided for. A properly certified and otherwise qualified applicant shall be appointed upon receipt of his or her application whenever a vacancy occurs or exists, in accordance with employment procedures herein set forth. The County Health Officer shall be appointed by the Board of Supervisors and shall serve at its pleasure. (Ord. No. 328 § 2, adopted 1951.)

#### **Sec. 2.44.025 Public Health Director.**

There shall be a County Public Health Director who shall be appointed by and serve at the pleasure and will of the County Chief Executive Officer, and shall perform those duties and responsibilities assigned by the Board of Supervisors acting through the County Chief Executive Officer. (Ord. No. 4152, adopted 2005.)

#### **Sec. 2.44.030 Other Health Department Positions; Qualifications; Powers and Duties.**

All other Health Department positions hereinafter set forth shall be filled or vacated as follows: All recommendations for appointment or dismissal shall be submitted by the County Health Officer to the Board of Supervisors who shall act as a Health Department personnel board; they shall act to confirm or deny said recommendations at their first regular meeting thereafter. All Health Department employees shall have first priority in the filling of vacancies occurring in a higher position, provided said employees meet the State minimum educational, professional and experience requirements for the position. All actions of the board in appointments, promotions or dismissals relative to Health Department positions shall be in writing, and due notice by letter shall be delivered, mailed or handed to those persons or employees concerned. Subject to the aforementioned terms and conditions, the following positions of employment are hereby created and provided for:

(a) Director of Sanitation; who shall be a registered sanitarian meeting the minimum requirements of Section 541, State of California Health and Safety Code; he shall perform duties of supervision over activities relating to food products, food establishments, water supplies, sewage disposal, housing and animal regulations and in the development of departmental food handler training programs; he shall also serve as a field inspector in a regular district in addition to his supervisory duties. (Ord. No. 328, Sec. 3, adopted 1951.)

(b) Director of Public Health Nursing; who shall hold at least a Bachelor of Science degree in Public Health Nursing, plus a certificate of Public Health Nursing from the State of California



Department of Public Health; in addition, she shall have had three (3) years experience as a public health nurse, two (2) of which shall have been in a recognized health department having a generalized nursing program. She shall supervise a generalized State-approved public health nursing program, and in addition, she shall work in a district as a field staff nurse when necessary. (Ord. No. 328, Sec. 3, adopted 1951.)

(c) A Staff Sanitarian; who shall hold a certificate of registration as a sanitarian from the State of California Department of Public Health; he shall reside in or near to the city of Fort Bragg; his duties shall be in the field of environmental sanitation as assigned, but shall be confined to a district set upon the west side of the County. The west side sanitarian shall keep adequate records of his activities on file in the west side office, with carbon copies to the main office in Ukiah. (Ord. No. 328, Sec. 3, adopted 1951.)

(d) Two (2) Public Health Nurses; who shall be registered nurses, and each shall possess a valid certificate of Public Health Nursing from the State of California Department of Public Health; they both shall do general duty field work as assigned; provided, however, that one of these public health nurses shall live in or near the city of Fort Bragg, and she shall be assigned to a generalized public health nursing program under the direction of the Director of Nurses, in a district set upon the west side of the County; she shall keep adequate records on file in the west side office. The other position shall be to assist the Director of Nurses, and she shall reside in or near Ukiah for the purposes of east side duty assignments. (Ord. No. 328, Sec. 3, adopted 1951.)

(e) Senior Clerk; who shall be a qualified stenographer; she shall be responsible for the filing and safekeeping of all office records, and she shall perform other clerical duties as assigned by the health officer or his authorized representative. (Ord. No. 328, Sec. 3, adopted 1951.)

(f) Junior Clerk; whose principal duties shall be to assist the nurses and sanitarians in preparing laboratory specimens for mailing or transportation, and she shall prepare and file all necessary records in

connection therewith, and as time permits shall perform other clerical duties as assigned by the Health Officer or his authorized representative. (Ord. No. 328, Sec. 3, adopted 1951.)

**Sec. 2.44.035 Power of Registered Sanitarians to Issue Citations.**

Any person holding a position in the Mendocino County Department of Public Health, who is also a registered sanitarian under Section 541 of the Health and Safety Code of the State of California, is authorized to issue citations to any person whom he has reasonable cause to believe has committed a misdemeanor in his presence which is a violation of any of the following statutes and ordinances:

(1) Statutes relative to public health.

(2) Such rules and regulations of the State Board of Public Health and any local ordinances of a city, county, or local health district that relate to the inspection of food products, water supplies, sewage disposal, food establishments, general sanitation, or housing.

(3) Orders, rules, and regulations of the Mendocino County Air Pollution Control District. (Ord. No. 1415, adopted 1975.)

**Sec. 2.44.040 Automobile Required.**

The County Health Officer, Director of Nurses, Director of Sanitation, Sanitarian, and the two (2) Public Health Nurses shall each be required to own and have full possession of an automobile in serviceable condition, and each such automobile shall be available at all times for use by its owner in carrying on, or performing necessary County Health Department official business. Each such employee required to own and furnish an automobile for official business shall be paid his or her mileage and expenses incurred by him or her while so traveling as provided for by minute order of the Board of Supervisors. (Ord. No. 32F, Sec. 4, adopted 1951, as amended by Ord. No. 342, adopted 1953.)

**Sec. 2.44.050 Full-Time Work Required.**

All County Health Department employees shall work full-time, and shall not engage in any business

or other enterprise that curtails or interferes with their service to the County of Mendocino. Their conduct while on duty shall be of high standards commensurate with Business and Professional Code requirements for their respective positions or professions. They shall also perform their required tasks in such a manner as to meet all State of California minimum requirements necessary to keep the County Health Department in a state of continuous eligibility for State and Federal financial aid. (Ord. No. 328, Sec. 12, adopted 1951.)

**Sec. 2.44.060      Contracts for Laboratory Services.**

The Board of Supervisors shall negotiate contract agreements annually for full coverage laboratory services necessary in carrying out the duties of the County Health Department. Said contracts for laboratory services shall be at the ratio of Ten Cents (\$.10) per capita as outlined by the California State Department of Public Health and may be negotiated with a State Health Department laboratory, or with a local or privately owned laboratory if such laboratory meets the standards of personnel and equipment required by State Health Department Regulations. If and when the County of Mendocino Public Health Department provides their own laboratory and technician, these contract agreements will no longer be required. (Ord. No. 328, Sec. 5, adopted 1951.)

**Sec. 2.44.070      Contracts with Cities Within Mendocino County.**

In compliance with regulations for State and Federal financial aid to the County Health Department, the Board of Supervisors agrees to negotiate contract agreements with the governing bodies of the incorporated cities within Mendocino County for full-time Public Health Service, free of charge; said contracts to be drawn separately with each city at any time the said governing bodies thereof so request. These contract agreements for health services shall provide that all County Health Department personnel, facilities, or equipment shall be available to the cities in exactly the same manner and to the same extent as are pro-

vided in the unincorporated areas of the County. (Ord. No. 328, Sec. 8, adopted 1951.)

**Sec. 2.44.080      Office Space and Housing in Fort Bragg and Ukiah.**

Provision shall be made for office space in Fort Bragg sufficient to carry on the full-time Health Department activities of one (1) sanitarian and one (1) public health nurse; said office space is to be provided in existing publicly-owned structures if possible. All other office space or housing necessary to carry on the full-time activities of the County Health Department shall be provided within or adjacent to the City of Ukiah, in existing County owned structures until such time as the Board of Supervisors elect to provide other quarters. (Ord. No. 328, Sec. 6, adopted 1951.)

**Sec. 2.44.090      Budget Contingent Upon State and/or Federal Aid.**

All budgetary commitments herein provided for by the Board of Supervisors are contingent upon the receipt of State of California and/or Federal Financial Aid to the County Health Department. If subsequent State or Federal legislation should ever cause the curtailment of, or the complete cessation of financial aid, the Board of Supervisors may, at their pleasure, revise this Chapter to conform to the County's ability to pay for the basic needs as may be indicated at that time. (Ord. No. 328, Sec. 13, adopted 1951.)

**Sec. 2.44.100      Certain Sections of the California Health and Safety Code Incorporated by Reference; Penalties.**

All clauses, sections, sentences or phrases of the State of California Health and Safety Code now in effect, or that may hereinafter be enacted, which places the responsibility for their enforcement upon the County Health Officer, are hereby made a part of this Chapter, and the violations of the provisions thereof, by any person, firm, corporation or partnership, shall, upon conviction, be punishable by not to exceed a fine of Five Hundred Dollars (\$500.00), or by imprisonment in the County jail for a term not to

exceed six (6) months, or by both fine and imprisonment. The Health Officer and his authorized deputies, agents and inspectors are charged with the enforcement of this section, and they shall take whatever steps as are necessary to bring about reasonable and just enforcement of those portions of State statutes that are incorporated herein. (Ord. No. 328, Sec. 9, adopted 1951.)

## CHAPTER 2.48

### THE PLANNING COMMISSION

#### **Sec. 2.48.010 Establishment and Appointment of Planning Commissioners.**

There is hereby created a Planning Commission for the County of Mendocino. Said Commission shall consist of seven (7) members. One (1) member shall be appointed from each supervisorial district. Two (2) additional members shall be appointed from the County at large, one (1) member shall possess a demonstrated knowledge of agriculture and the other member shall possess a demonstrated knowledge of forestry. All members shall be appointed by the Board of Supervisors upon nomination by any member of the Board of Supervisors. Each member representing a supervisorial district shall serve a term co-extensive with the term served by the Supervisor from that district. If a vacancy occurs during a Supervisor's term, a vacancy will be deemed to have occurred in the office of the Planning Commissioner from that Supervisor's district. Planning Commissioners appointed at large shall serve staggered terms. One (1) shall be appointed for an initial term of two (2) years and the other shall be appointed for an initial term of four (4) years. Thereafter, the at-large Commissioners shall serve four (4) year terms. Commissioners serve at the will and pleasure of the Board of Supervisors and may be removed at any time by a four-fifths (4/5) vote of the Board of Supervisors. The members of the Commission shall receive such compensation and expense reimbursement as authorized by law and as established by the Board of Supervisors. (Ord. No. 300, Sec. 1, adopted 1945; Ord. No. 447, adopted 1963; Ord. No. 3816, adopted 1992.)

#### **Sec. 2.48.020 Powers of Planning Commission.**

The Commission shall elect a Chairman from among the appointed members for a term of one (1) year and, subject to other provisions of law, may elect such other officers as it may determine. The

Commission shall hold at least one (1) regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. The Commission may appoint officers and employees and contract for services, subject to the provisions of law, provided that all expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Board of Supervisors. (Ord. No. 300, Sec. 2, adopted 1945.)

#### **Sec. 2.48.030 Function and Duty of the Planning Commission.**

It shall be the function and duty of the Planning Commission to prepare, make and adopt, subject to the provisions of law, a master plan for the physical development of the County and of any land outside the boundaries thereof which in the Commission's judgment bears relation to the planning thereof. (Ord. No. 300, Sec. 3, adopted 1945.)

#### **Sec. 2.48.040 Other Powers and Duties.**

The Planning Commission shall have such other powers and duties as are prescribed by law and shall be governed by the procedure provided by law. (Ord. No. 300, Sec. 4, adopted 1945, as amended by Ord. No. 622, as adopted 1970.)

#### **Sec. 2.48.050 Brooktrails Area Planning Commission.**

The Board of Supervisors hereby establishes the Board of Directors of the Brooktrails Township Community Services District as the Brooktrails Area Planning Commission. Notwithstanding any other provision of this Code, it shall be the function and duty of the Brooktrails Area Planning Commission to:

- (A) Prepare a specific plan for the Brooktrails Area pursuant to Section 65450, et seq., of the Government Code and related general plan amendments.
- (B) Implement those measures in the specific plan that have been delegated by the Board of Supervisors.

The area which shall be known pursuant to this section as the "Brooktrails Area" shall include all lands located within the Brooktrails Community Services District excepting and excluding those lands located within that portion of the District generally referred to as "Spring Creek" (all territory shown on Parcel Map 1-76 recorded in the Office of the Mendocino County Recorder, Map Case 2, Drawer 29, page 87) and "Sylvandale" (all territory shown on Parcel Map 1-73 recorded in the Office of the Mendocino County Recorder, Map Case 2, Drawer 22, page 15). (Ord. No. 3829, adopted 1992.)

**Sec. 2.48.060 Additional One-Year Term for At Large Commissioners.**

(A) Notwithstanding the provisions of Section 2.48.010, the terms of the two Planning Commissioners serving at large shall each be extended by one year from the date on which each term expires. This extension shall affect only the terms of each Commissioner serving at large on the date that this Section takes effect, and thereafter each Commissioner serving at large shall serve a four (4) year term as provided in Section 2.48.010, each term staggered two (2) years as to the other.

(B) This Section shall remain in effect only until March 31, 2001 and is thereafter repealed. (Ord. No. 3962 Sec. 1, adopted 1997.)

## CHAPTER 2.50

### MENDOCINO COUNTY FISH AND GAME COMMISSION

#### **Sec. 2.50.010 Establishment.**

The Mendocino County Fish and Game Commission is established by the Board of Supervisors to insure that renewable natural resources including fish, game and wildlife and their habitats are conserved for this and succeeding generations of Mendocino County residents. Historically, this function resided in the Fish and Game Advisory committee created by resolution in 1947 and designated a Commission by minute order of the Board of Supervisors in 1987. Enactment of this Chapter supersedes all prior actions concerning this Commission. (Ord. No. 3819 (part), adopted 1992.)

#### **Sec. 2.50.020 Responsibility.**

The primary responsibility of the Commission is to advise the Board on fish, game and wildlife matters when those matters are referred to them. The Commission is further charged with keeping informed and from time to time reporting to the Board on the status of fish, game and wildlife in the County and to identify threats to their continued health and well-being. The Commission shall recommend to the Board of Supervisors expenditures from the Fish and Wildlife Propagation Fund. The Commission is also authorized to undertake the management of projects previously approved by the Board of Supervisors subject to ongoing oversight and project monitoring by the County Administrative Officer or that officer's designee. (Ord. No. 3819 (part), adopted 1992.)

#### **Sec. 2.50.030 Membership and Term.**

The Commission shall consist of seven (7) members, each of the five (5) members shall be a resident of one (1) of the five (5) supervisorial districts, nominated by that member's respective Supervisor and two (2) members appointed at large, one (1) to represent the coastal supervisorial districts and one (1) to represent the inland supervisorial districts.

Each member shall serve at the pleasure of the Board.

Each Commissioner representing a supervisorial district shall serve for the same term as the Supervisor from that District.

A vacancy in the office of a Supervisor shall result in a vacancy in the office of the Commissioner appointed to represent that District. The Commissioner shall continue to hold office until a successor is appointed. The two (2) at large Commissioners shall serve for a term of four (4) years or until replaced at the pleasure of the Board of Supervisors. A Commissioner may be reappointed to succeed herself or himself. (Ord. No. 3819 (part), adopted 1992.)

#### **Sec. 2.50.040 Meetings.**

The Commission shall meet regularly every two (2) months at such time and place as agreed upon by the Commission and such other special meetings as shall be required from time to time. However, regular meetings shall rotate between the cities of Ukiah, Willits and Fort Bragg.

Four (4) members of the Commission shall constitute a quorum for the transaction of business. No action or vote of the Commission shall be valid unless approved by four (4) members of the entire Commission. (Ord. No. 3819 (part), adopted 1992.)

#### **Sec. 2.50.050 Powers and Duties.**

The powers and duties of the Commission, as qualified by Section 2.50.020, shall be as follows:

(A) On behalf of the Board of Supervisors, upon a majority vote of the Board, to study and investigate by means of meetings, conferences, public hearings or other appropriate means, conditions impacting on fish, game and wildlife propagation;

(B) To recommend to the Board of Supervisors necessary programs, or legislation to promote fish, game and wildlife propagation;

(C) To render to the Board of Supervisors an annual report of Commission activities, or more frequently if so requested by the Board;

(D) Subject to the approval of the County Administrator, to request of any County department infor-



mation, services, facilities and other assistance in furtherance of the objectives of this Chapter;

(E) To comment upon California Environmental Quality Act referrals in a timely fashion;

(F) With the prior consent of the Board of Supervisors, the Commission may solicit funds from the Federal and State governmental agencies, gifts, donations and bequests from any source for carrying out the purposes of this Chapter;

(G) The Commission shall not possess independent authority to enter into contracts of any kind. All County contracting and purchasing regulations apply to the Commission.

(Ord. No. 3819 (part), adopted 1992.)

**Sec. 2.50.060 Propagation Fund Expenditures.**

Expenditures from the County Fish and Wildlife Propagation Fund shall comply with the requirements of Fish and Game Code Sections 13100, 13101, 13102, 13103 and 13104.

(Ord. No. 3819 (part), adopted 1992.)

**Sec. 2.50.070 Volunteers/Emeritus Directors.**

The Commission may engage the services of volunteer workers and consultants without compensation as it finds necessary. These services shall not be considered as employment by the County for any purpose. The Board of Supervisors may appoint honorary nonvoting directors to the Commission as it may determine from time to time.

(Ord. No. 3819 (part), adopted 1992.)

**Sec. 2.50.080 Bylaws.**

The Commission may adopt and amend bylaws subject to the prior approval of the Board of Supervisors.

(Ord. No. 3819 (part), adopted 1992.)

## CHAPTER 2.52

### PLANNING AND BUILDING SERVICES DEPARTMENT

#### **Sec. 2.52.010 Establishment of the Department of Planning and Building Services.**

Pursuant to Section 65802 of the Government Code, the Subdivision Map Act (Division 2 of the Government Code) the State of California Environmental Quality Act and the provisions of the Uniform Building Code, the Department of Planning and Building Services is hereby created. The Department of Planning and Building Services shall constitute the agency responsible for administering and enforcing the zoning, subdivision and building codes of Mendocino County. (Ord. No. 622, adopted 1970; Ord. No. 3401, adopted 1982.)

#### **Sec. 2.52.020 Planning and Building Services Director.**

There is created a position to be known and designated as Planning and Building Services Director of the County of Mendocino. The Planning and Building Services Director shall be appointed by and serve at the pleasure and will of the County Chief Executive Officer, and shall perform those duties and responsibilities assigned by the County Chief Executive Officer or assigned by the Board of Supervisors acting through the County Chief Executive Officer. The Planning and Building Services Director shall be the Executive Officer of the Planning and Building Services Department and shall administer all work of said department subject to the jurisdiction and control of the Board of Supervisors. The Planning and Building Services Director shall be a person qualified by training, experience, and demonstrated ability to manage the affairs of the Planning and Building Services Department. The Planning and Building Services Director shall also serve as Executive Officer and Secretary of the Planning Commission. Whenever the term "Director of Planning" is used in the

Mendocino County Code, that term shall be deemed to mean the position of Planning and Building Services Director. (Ord. No. 622, adopted 1970; Ord. No. 3397, adopted 1982; Ord. No. 4153, adopted 2005.)

#### **Sec. 2.52.030 Repealed by Ord. No. 3397, adopted 1982.**

#### **Sec. 2.52.035 Division of Permit Processing and the Division of Permit Compliance.**

There is hereby created and established within the Mendocino County Department of Planning and Building Services, the Division of Permit Processing and the Division of Permit Compliance. (Ord. No. 3401, adopted 1982.)

#### **Sec. 2.52.036 Office of Zoning Administrator.**

The Director of Planning and Building Services shall be, ex officio, the Zoning Administrator for the County. The Office of Zoning Administrator shall be exempted from the Civil Service System. The Director of Planning and Building Services may designate a deputy to the Director of Planning and Building Services to act in the name of the Zoning Administrator. (Ord. No. 1364, adopted 1974; Ord. No. 3401, adopted 1982.)

#### **Sec. 2.52.037 Repealed by Ord. No. 3401, adopted 1982.**

#### **Sec. 2.52.038 Office of Coastal Permit Administrator.**

The Director of Planning and Building Services shall be, ex officio, the Coastal Permit Administrator for the unincorporated area of the Coastal Zone within the County. The Director of Planning and Building Services may designate a deputy to the Director of Planning and Building Services to act in the name of the Coastal Permit Administrator. (Ord. No. 3786, adopted 1991.)

**Sec. 2.52.040 Repealed by Ord. No. 3401, adopted 1982.**

**Sec. 2.52.050 Repealed by Ord. No. 3406, adopted 1982.**

**Sec. 2.52.055 Power of Planning and Building Officials to Issue Citations.**

(A) Pursuant to California Penal Code Section 836.5, any person holding a position in the Mendocino County Planning and Building Department as Director, Chief Building Inspector, Chief Planner or Code Enforcement Officer, is authorized to arrest and issue citations for any person whom there is reasonable cause to believe has committed a misdemeanor or infraction in the official's presence, which is a violation of any statute, ordinance or code relating to the enforcement of building or zoning regulations.

(B) Those officials granted arrest and citation authority pursuant to this Section may sign and certify proof of correction on a citation issued for violations of Mendocino County building or zoning codes that have been corrected prior to the court appearance date.

(C) Those officials granted arrest and citation authority pursuant to this Section shall have that authority only in the performance of their duties during their regular work hours or at the direction of the Director of Planning and Building Services Department.

(D) This Section is notwithstanding other Mendocino County Code sections which provide that violations may also be redressed by civil action through the Office of County Counsel.  
(Ord. No. 3784, adopted 1991.)

**Sec. 2.52.060 Availability of Information.**

Upon request, all public officers shall furnish to the Department of Planning and Building Services within a reasonable time such available information as may be required for the work of the department. The Department of Planning and Building Services shall furnish, upon request, to

County officials, within a reasonable time, such available information as may be required for the work of the respected County officials.  
(Ord. No. 622, adopted 1970; Ord. No. 3401, adopted 1982; Ord. No. 3406, adopted 1982.)

**Sec. 2.52.070 Fees.**

The Department of Planning and Building Services shall charge for its services to the public those fees which are specifically authorized by resolution of the Board of Supervisors, provided, however, that whenever the Board of Supervisors reasonably determines that it would be inequitable to charge a fee or to require a fee in the amount designated, such fee may be waived or reduced.  
(Ord. No. 997, adopted 1970; Ord. No. 3401, adopted 1982; Ord. No. 3406, adopted 1982.)

**Sec. 2.52.080 Repealed by Ord. No. 3406, adopted 1982.**

## CHAPTER 2.54

### BOARD OF SUPERVISORS ORIGINAL JURISDICTION OF LAND USE MATTERS

#### Sec. 2.54.010 Board of Supervisors Original Jurisdiction of Land Use Matters.

(A) Notwithstanding any other provision of the Title 17 (Division of Land Regulations), Title 20 (Zoning Ordinance), and Chapter 22.16 (Surface Mining and Reclamation), the Board of Supervisors hereby deems it appropriate and necessary to reserve to itself the functions of the planning agency when time is of the essence with respect to any permit or approval, based on the project's special contribution to the County's general welfare and economic or environmental wellbeing, including, but not limited to, projects that provide substantial employment opportunities, support necessary government services, and involve County-wide infrastructure improvements. This reservation procedure does not apply where State law mandates prior review by the Planning Commission.

(B) The Board of Supervisors may call for direct review of any application, approval or permit, including actions assigned to, or taken by, the Planning Commission, the Coastal Permit Administrator, the Zoning Hearing Officer, and the Planning Director to the Board as follows:

(1) Any member of the Board of Supervisors may request the Board to review a development application.

(2) A request for direct review shall be considered by the Board of Supervisors at a public meeting. Notice of the meeting shall be given, and the meeting shall be conducted, in compliance with applicable law. Any interested party may comment upon the request for direct review.

(3) The request for direct review shall be granted upon majority vote. If the Board of Supervisors approves the request for direct review, the Board shall assume jurisdiction over the matter and take action in compliance with subsection (D) of this section.

(4) Any matter that is the subject of Board direct review, whether the subject of prior planning agency review or not, shall be heard and decided by the Board of Supervisors at a public hearing. Notice of the hearing shall be given, and the hearing shall be conducted in compliance with applicable law, including the California Environmental Quality Act.

(5) Staff shall provide the Board of Supervisors, and the public, with all necessary materials for its review. The Board may approve, modify or deny the subject application. The Board's decision will be based upon findings that identify the reasons for its action or imposition of any conditions. The Board may consider both the request for direct review and the subject of the approval at the same hearing where appropriate and properly noticed.

(C) Any member of the Board of Supervisors who initiates a request for direct review shall have full participation rights in the determining of whether to approve the request and, if the request is approved, in hearing and deciding upon the matter, including the right to vote, unless actual bias or prejudice is otherwise shown.

(D) The decision of the Board of Supervisors is final and effective on the date rendered except where final approval is required from the Coastal Commission pursuant to State law.

(Ord. No. 4320, 1-7-2014)

## CHAPTER 2.56

### DEPARTMENT OF TRANSPORTATION

#### **Sec. 2.56.010 Formation.**

There is hereby created in the County of Mendocino a County Department of Transportation. (Ord. No. 664, adopted 1970; Ord. No. 3980, adopted 1997; Ord. No. 3999, adopted 1998.)

#### **Sec. 2.56.020 Director of Transportation.**

(A) The executive officer of the department shall be the Director of Transportation. The Director of Transportation shall be the ex-officio County Engineer-Surveyor, Road Commissioner, and ex-officio Hydraulics Engineer for the Mendocino County Flood Control and Water Conservation District.

(B) The Director of Transportation, hereinafter referred to as Director:

(1) Shall be appointed by and serve at the pleasure and will of the County Chief Executive Officer, and shall perform those duties and responsibilities assigned by the Board of Supervisors acting through the County Chief Executive Officer;

(2) Shall be registered as a civil engineer in the State and shall have such other qualifications as may be established by the Board of Supervisors;

(3) Shall have sole supervision and jurisdiction over personnel and over the assignments of personnel engaged in department work;

(4) May purchase, lease, or hire such persons and equipment as may be necessary to perform the functions of the department, in conformity with the budget and policies of the County with respect to purchase and rentals and subject to the approval of the Board of Supervisors as to price or rental costs;

(5) Shall report directly to the County Chief Executive Officer in all administrative matters other than those falling under the jurisdiction of the Road Commissioner and the County Surveyor. (Ord. No. 664, adopted 1970; Ord. No. 3980, adopted 1997; Ord. No. 3999, adopted 1998; Ord. No. 4084 § 1, adopted 2002; Ord. No. 4154, adopted 2005.)

#### **Sec. 2.56.030 General Powers and Duties.**

The Director's duties shall include, but are not limited to, the following:

(A) Shall assume all of the duties and responsibilities of the abolished office of Road Commissioner and shall exercise such powers and perform such duties as are prescribed by State law and ordinances and directives of the Board of Supervisors.

(1) Direction and control over all work on construction, maintenance, and repair of roads, their appurtenant structures, highways, tunnels, viaducts, conduits, subways, and the bridges in the County road system, or otherwise in the jurisdiction of the Board of Supervisors;

(2) Control and management of all County-owned or leased vehicles and equipment, purchased or leased from highway users' tax moneys, rock quarries and gravel pits, stores and maintenance shops, and all other materials, property, and instrumentalities necessary for and directly connected with the construction, maintenance, and repair of roads and their appurtenant structures, highways, tunnels, viaducts, conduits, subways, and bridges in the County road system, or otherwise as within the jurisdiction of the Board of Supervisors;

(3) Preparing a tentative road budget covering all proposed expenditures for the ensuing fiscal year for County road purposes pursuant to the provisions of State law;

(4) Make inspections of County highways and report to the Sheriff and the Health Officer any unauthorized dumping or any other violation of the Mendocino County waste disposal ordinance.

(B) May act as the County Surveyor and perform such duties as prescribed by State law and ordinance. Should the Director not have registration as a registered civil engineer or licensed land surveyor, the duties of County Surveyor shall be performed by a licensed land surveyor or registered civil engineer acting under the authority of the Director.

#### **(C) Business Management.**

(1) Providing appropriate, cost revenue, and related accounting services and reports for fiscal control and management purposes for the department;

(2) Compiling and integrating budget requests of the department divisions;

(3) Maintaining and inventorying of capital property of the department;

(4) Providing data for budgetary control for the department;

(5) Making studies and reports pertaining to organization, procedures, and administrative matters of the department;

(6) Keeping payroll and personnel records of all department employees in accordance with the provisions of State law, County civil service, and the personnel ordinances. The Board of Supervisors, upon the recommendation of the County Administrator, may provide for the consolidation, segregation, addition, or deletion of operating divisions. (Ord. No. 664, adopted 1970; Ord. No. 3980, adopted 1997.)

**Sec. 2.56.040 Organization.**

The department shall be organized into such operating divisions as are necessary to carry out the functions of the department. The Director shall have the power to assign and reassign duties and powers to heads of divisions, officers, and employees in accordance with the provisions of State law, the County civil service, and the personnel ordinances. The Board of Supervisors, upon the recommendation of the County Administrator, may provide for the consolidation, segregation, addition, or deletion of operating divisions. (Ord. No. 664, adopted 1970; Ord. No. 3980, adopted 1997.)

**Sec. 2.56.050 Additional Duties and Responsibilities.**

The Director shall also have responsibility for:

(A) Maintenance and operation of all County airports;

(B) Operation of the County Solid Waste Division. (Ord. No. 664, adopted 1970; Ord. No. 3980, adopted 1997; Ord. No. 4084 § 2, adopted 2002.)

**Sec. 2.56.060 Severability.**

If any section, subsection, paragraph, sentence, clause or phrase of this Chapter is held by a court to be invalid or unconstitutional such invalidity or un-

constitutionality shall not affect the validity or constitutionality of the remaining portions of this Chapter, it being herein expressly declared that the Board would have passed the ordinance codified in this Chapter irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Chapter, and to that end the provisions of this Chapter are severable. (Ord. No. 664, adopted 1970; Ord. No. 3980, adopted 1997.)

**Sec. 2.56.080 Repealed by Ord. No. 3980, adopted 1997.**

**CHAPTER 2.62**  
**INDUSTRIAL DEVELOPMENT**  
**AUTHORITY**

**Sec. 2.62.010 Declaration of Need for Industrial  
Development Authority.**

It is hereby found and declared that there is a need for the industrial development authority of the County of Mendocino created by Government Code Section 91520 and that such authority shall function in the County of Mendocino, and said authority is hereby authorized to transact business and to exercise all powers permitted by law. (Ord. No. 3342, adopted 1981.)

## Chapter 2.65

### FEES FOR PROBATION REPORTS

#### **Sec. 2.65.010 Cost of probation, presentence report; order for payment according to ability; modification; enforcement; allocation of sums paid.**

(a) In any case in which a defendant is convicted of an offense and granted probation or receives a term of mandatory supervision, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable cost of probation or mandatory supervision, and of conducting the presentence investigation and preparing the presentence report made pursuant to Penal Code Section 1203. The reasonable cost of such services, and of probation or mandatory supervision, shall not exceed the amount determined to be the actual average cost thereof. The court may, in its discretion, hold additional hearings during the probationary period. The court may, in its discretion, order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of such costs. At a hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, and to confront and cross-examine adverse witnesses, and to disclosure of the evidence against the defendant, and a written statement of the findings of the court. If the court determines that the defendant has the ability to pay all or part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

If practicable, the court shall order payments to be made on a monthly basis as directed by the probation officer. Execution may be issued on the order in the same manner as a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

A payment schedule for reimbursement of the costs of presentence investigation based on income shall be developed by the probation department of each county and approved by the presiding judges of the municipal and superior courts.

(b) The term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of conducting the presentence investigation, preparing the presentence report, and probation or mandatory supervision, and shall include, but shall not be limited to, the defendant's:

(1) Present financial position.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than six (6) months from the date of the hearing for purposes of determining reasonably discernible future financial position.

(3) Likelihood that the defendant shall be able to obtain employment within the six-month period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial capability to reimburse the county for the costs.

(c) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant's ability to pay the judgment. The court shall advise the defendant of this right at the time of rendering of the judgment.

(d) All sums paid by a defendant pursuant to this section shall be allocated for the operating expenses of the county probation department.

(e) This ordinance is enacted pursuant to the provisions of Penal Code Section 1203.1b which provides that its provisions shall be operative in a



county upon the adoption of an ordinance to that effect by the Board of Supervisors. (Ord. No. 3384, 1982; Ord. No. 3386, 1982)  
(Ord. No. 4330, 1-20-2015)

## CHAPTER 2.68

### MENDOCINO COUNTY RESOURCE CONSERVATION DISTRICT

#### **Sec. 2.68.010 Request to Appoint Directors.**

Pursuant to Section 9314 of the Public Resources Code, the Directors of the Mendocino County Resource Conservation District submitted a resolution to the Board of Supervisors requesting that the Directors be appointed in lieu of an election. (Ord. No. 3753 Sec. 1 (part), adopted 1990.)

#### **Sec. 2.68.020 Notice of Vacancy.**

The Board of Supervisors has accepted the resolution from the District, posted notices of vacancy pursuant to Section 54974 of the Government Code and accepted applications from eligible persons residing within the District. (Ord. No. 3753 Sec. 1 (part), adopted 1990.)

#### **Sec. 2.68.030 Appointment of Directors.**

(A) The Board of Supervisors hereby appoints the following persons as Directors of the Mendocino County Resource Conservation District to four-year terms expiring December 1, 2000:

- (1) William T. Johnson; and
- (2) John Thomas.

(B) The appointments of Craig Blencowe, Mike Boer, and Laurie Wayburn appointed March 14, 1995 by Ordinance 3905, expire December 1, 1998. (Ord. No. 3753 Sec. 1 (part), adopted 1990; Ord. No. 3854, adopted 1993; Ord. No. 3905, adopted 1995; Ord. No. 3997, adopted 1998.)

**CHAPTER 2.70****PROBATION OFFICER****Sec. 2.70.010 Establishment of Assistant and  
Deputy Probation Officer Positions.**

In compliance with Government Code Section 69906.5, the offices of Assistant Probation Officer and Deputy Probation Officer are hereby established, and the Probation Officer may appoint one or more Deputy Probation Officers as previously authorized by Resolution No. 93-014. (Ord. No. 3872 Sec. 1, adopted 1993.)

## **CHAPTER 2.72**

### **HUMAN RESOURCES**

#### **Sec. 2.72.010 Human Resources Director.**

The County Human Resources Director shall be appointed by and serve at the pleasure and will of the County Chief Executive Officer, and shall perform those duties and responsibilities assigned by the County Chief Executive Officer or assigned by the Board of Supervisors acting through the County Chief Executive Officer. (Ord. No. 4141, adopted 2005.)

## CHAPTER 2.76

### COUNTY HEARING OFFICER

#### Sections:

**Sec. 2.76.010 Purpose and Authority.**

**Sec. 2.76.020 Establishment of Office.**

**Sec. 2.76.030 Appointment and Use of Hearing Officers.**

**Sec. 2.76.040 Qualifications of a Hearing Officer.**

**Sec. 2.76.050 Powers and Responsibilities of a Hearing Officer.**

**Sec. 2.76.010 Purpose and Authority.**

The purpose of this chapter is to provide an efficient and alternate means of providing due process by utilizing the services of a Hearing Officer when a Mendocino County ordinance otherwise provides for a hearing be held, or findings of fact or conclusions of law be made, by the County or any board, agency, commission, or committee of the County. The authority for this Chapter is provided in Government Code Section 27720 et seq.

(Ord. No. 4372, § 1, 1-10-2017)

**Sec. 2.76.020 Establishment of Office.**

(A) The Board of Supervisors hereby establishes the office of County Hearing Officer.

(B) The Board of Supervisors may authorize the use of a Hearing Officer pursuant to this chapter by referencing this chapter in an ordinance or resolution.

(Ord. No. 4372, § 1, 1-10-2017)

**Sec. 2.76.030 Appointment and Use of Hearing Officers.**

(A) One (1) or more Hearing Officers may be appointed either by County Counsel or by resolution of the Board of Supervisors.

(B) No appointment of any Hearing Officer shall be final until formalized by contract or employment between the Hearing Officer and the County.

(C) No Hearing Officer may be appointed on an ad hoc basis, but rather, the tenure of a Hearing Officer shall be based on a factor or factors such as time or budget, and shall not be dependent on the decisions rendered by the Hearing Officer.

(D) Hearing Officer(s) may be appointed for one (1) or more purposes, or to hear one (1) or more types of issues.

(E) Unless otherwise provided by ordinance or resolution, if the use of a Hearing Officer is authorized, but a Hearing Officer is unavailable to hear a matter as needed, the matter shall be decided by the county board, agency, commission, or committee that would otherwise have had the responsibility and duty to conduct the hearing or make the finding of fact or law.

(Ord. No. 4372, § 1, 1-10-2017)

**Sec. 2.76.040 Qualifications of a Hearing Officer.**

Each Hearing Officer shall be an attorney at law and must have been admitted to practice before the courts of California for at least five (5) years prior to his or her appointment.

(Ord. No. 4372, § 1, 1-10-2017)

**Sec. 2.76.050 Powers and Responsibilities of a Hearing Officer.**

Each Hearing Officer shall have the powers and responsibilities set forth in, but not limited by Government Code Section 27721 and 27722. Such powers include, but are not limited to the power to conduct a hearing, to decide the matters under this section upon which a hearing has been held and to make findings of fact and conclusions of law required for the decision.

(Ord. No. 4372, § 1, 1-10-2017)



**Title 3**

**PERSONNEL**

- Chapter 3.04 Personnel and Salary**
- Chapter 3.08 Retirement**
- Chapter 3.12 County Vehicle Policy**
- Chapter 3.16 Civil Service**
- Chapter 3.20 Transfer of State Mental Health Employees**





## CHAPTER 3.04

### PERSONNEL AND SALARY\*

#### Sec. 3.04.010 Definitions.

The words and terms defined in this Section shall have the following meanings in the Title and in any other Title classifying and fixing the salaries and compensation or authorizing the employment of personnel in any department or office of Mendocino County:

(A) "Allocation" means the official determination of the class in which a position shall be deemed to exist and the assignment of an individual position to an appropriate class.

(B) "Class" or "Class of positions" means a definitely recognized kind of employment in the County service designed to embrace all positions having duties and responsibilities sufficiently similar that the same title may be used, the same requirements for education, experience, knowledge and ability may be demanded of incumbents and the same schedule of compensation may be applied with equity.

(C) "Classified service" means all positions in the County service except those specifically exempted by Mendocino County Code Section 3.16.100.

(D) "Compensation" means the salary, wage, allowance and all other forms of valuable considerations, earned by or paid to any employee by reason of service in any position.

(E) "County service" or "service of the County" means all positions in all departments as herein defined that are subject to control and regulation by the Board of Supervisors of Mendocino County.

(F) "Employee" means those persons legally occupying positions in the County service.

(G) "Exempt service" refers to positions in the County service, as determined and maintained by the Human Resources Director, that meet the

\***Editor's note**—Ord. No. 4342, adopted August 18, 2015, repealed and replaced ch. 3.04, §§ 3.04.010—3.04.220, in its entirety. Former ch. 3.04 pertained to similar subject matter and was derived from Ord. No. 4340, adopted July 7, 2015.

Executive, Administrative and/or Professional standards under the provisions of the Fair Labor Standards Act for exemption from overtime pay including, but not limited to: elective officials; incumbents of classifications represented by the Department Head collective bargaining unit; incumbents of classifications represented by the Management collective bargaining unit; incumbents of classifications represented by the Mendocino County Law Enforcement Management Association collective bargaining unit; incumbents of classifications designated as unrepresented for the purpose of collective bargaining.

(H) The determination as to which positions are allocated to the exempt service in this Section shall be made by the Human Resources Director in accordance with the Fair Labor Standards Act, except that no position that receives time and one-half (½) overtime pay pursuant to Section 3.04.200 or pursuant to any labor agreement shall be designated as part of the exempt service. Exempt service employees shall be paid on a salary basis. Such employees shall regularly receive a predetermined salary each pay period constituting all or part of the employees' compensation, which amount is not subject to work performed. Exempt service employees shall account for a minimum of forty (40) hours per week.

(I) "Position" means a group of current duties and responsibilities assigned or delegated by competent authority, requiring the full- or part-time services of one (1) or more persons.

(J) "Title," "Class Title" or "Title of class" means the designation given to or name applied to a class or to each position allocated to the class and to the legally appointed incumbent of each position allocated to the class. Its meaning is set forth in the corresponding class specification.

(Ord. No. 4342, 8-18-2015)

#### Sec. 3.04.020 Applicability.

The provisions of this Chapter shall apply to all County employees except those in the exempt service.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.030 Classification of Positions.**

(A) The classification of positions for the purpose of this Chapter shall be as contained in the official list of class specifications.

(B) The classification of positions may hereafter be amended by the addition, division, consolidation or abolishment of classes on adoption by the Board of Supervisors.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.040 Allocation of Positions.**

Each position shall be allocated to its appropriate class on the basis of duties and responsibilities.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.050 Use of Class Titles.**

The title of the class to which any position is allocated shall be used in all official personnel records and in all official personnel transactions in Mendocino County.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.060 Qualifications of Employees.**

(A) Officers and employees holding positions upon the taking effect of this Chapter (September 1956) are deemed to be qualified for the position to which they are assigned, subject to the right of the department head or the Board of Supervisors to dismiss any employee in accordance with law.

(B) No person shall be hereafter employed in or appointed to any position requiring full-time or part-time service and which position is included in the classification plan and for which a class specification exists establishing desirable qualifications, unless said person possesses the desirable qualifications of education and experience prescribed for that class; provided, however, that if qualified persons cannot be recruited, the Board of Supervisors may authorize the appointment of persons having less than the desirable qualifications.

(C) In the event any individual offered employment with the County is found to possess extraordinary qualifications for a position through

former training or experience, the appointing authority may request, and the Chief Executive Officer may authorize the employment of such employee at Step "2," or if it is found that extraordinary circumstances exist and the public interest requires, a person possessing extraordinary qualifications may be employed at Step "3," "4," or "5" of the appropriate pay range on the recommendation of the appointing authority and when authorized by the Chief Executive Officer.

(D) No person shall be appointed to any law enforcement position unless at the time of the appointment he has passed his twenty-first birthday.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.061 Exemption from Age Restrictions.**

The maximum age provisions of Section 3.04.060(D), shall not apply to persons appointed in the classifications of corrections deputy, corrections corporal, bailiff, or undersheriff.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.062 Outside Employment County Attorneys.**

County Attorney Outside Employment

This section applies to County Attorneys. For purposes of this section, a County Attorney is a County employee in any of the following positions: District Attorney, Assistant District Attorney, Deputy District Attorney, Public Defender, Assistant Public Defender, Chief Public Defender, Alternate Defender, Deputy Public Defender, County Counsel, Chief Deputy County Counsel, Deputy County Counsel, Chief Child Support Attorney, and Child Support Attorney.

The purpose of this section is to implement the provisions of Government Code section 1126 relating to inconsistent, incompatible, and conflicting employment by County Attorneys. It is not the intent or purpose of this section to unnecessarily restrict, limit, or interfere with employees' outside employment. This section is adopted in order to comply with applicable statutes, and to assure the public of the commitment and service it deserves

from its officers and employees by preventing outside employment that is inconsistent and incompatible with County employment.

A. General. Prior written approval is required for any County Attorney to engage in outside employment. Outside employment must not be inconsistent, incompatible, in conflict with, or harmful or unfavorable to his or her duties as a County employee, or reduce the efficiency of the employee in County employment.

B. Process.

a. Any County Attorney who intends to engage in any outside employment for compensation must notify the Human Resources Director or designee and request a determination on incompatibility. The request should include sufficient description of the proposed duties and work schedule at the desired outside employment to permit the Human Resources Director or designee to reach an informed decision.

b. Outside employment, activity, or enterprise may be considered incompatible and be prohibited for the following non-exclusive list of reasons:

i. If it involves the use, for private gain or advantage, of County time, facilities, equipment or supplies, or the County badge, uniform, prestige or influence of his or her County office or position;

ii. If it involves receipt or acceptance by the employee of any money or other consideration from anyone other than the County for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course of his or her employment with the County or as a part of his or her duties as an employee of the County;

iii. If it involves the performance of an act in other than his or her capacity as an employee of this County, which act may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement of any officer or other employee of the County;

iv. If it involves the performance of work during the employee's regular County work schedule.

v. If it involves work on a project under contract with the County; or

vi. If it involves time demands as would render performance of his or her duties as an employee of the County less efficient.

c. The Human Resources Director or designee shall determine the consistency or inconsistency of outside employment, activities, or enterprises with County employment, and notify the County Attorney in writing of his or her determination.

C. Appeal.

a. A County Attorney may appeal from a determination that the proposed employment, activity, or enterprise is incompatible by filing a written appeal with the Chief Executive Officer within fifteen (15) calendar days of issuance of the written determination. The employee's written appeal should include a copy of the initial request for determination, the Human Resources Director's or designee's response, and any other information the employee believes is relevant.

b. The Chief Executive Officer shall issue a written determination and shall be conclusive, final and binding on both the employee and the Human Resources Director.

D. Revocation. Approval may be rescinded at any time if, in the judgment of the Human Resources Director or Chief Executive Officer, the outside employment is inconsistent with, incompatible with, in conflict with, or harmful or unfavorable to the County Attorney's duties as a County employee.

E. No Outside Employment When on Sick Leave or Workers' Compensation. A County Attorney will not engage in outside employment while on sick leave or workers' compensation leave status with County.

F. Use of County Equipment Prohibited. No County-owned equipment, computer, automobile, truck, instrument, tools, supply, machine, or any other item which is the property of County

will be used by the County Attorney while said employee is engaged in any outside employment. No employee will allow any unauthorized person to rent, borrow, or use any of the items mentioned above.

G. Violation of this policy may result in disciplinary action up to and including termination of employment.

(Ord. No. 4352, 3-1-2016)

**Sec. 3.04.070 Compensation plan.**

(A) A five (5) step schedule of pay ranges as adopted by resolution of the Board of Supervisors shall constitute the compensation plan applicable to all classes of positions included in the classified service.

(B) All salaries are based on hourly rates.

(C) The compensation of officers and employees of the County shall be as set forth in the list of class titles and pay ranges with steps within each range as established by the Board of Supervisors in the Salary Resolution.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.071 Board Compensation.**

(A) For terms of office commencing January 2013 and following, each member of the Board of Supervisors shall receive as compensation for services the yearly base salary of Sixty-One Thousand Two Hundred Dollars (\$61,200), payable bi-weekly.

(B) At the first regularly scheduled meeting in April of every odd-numbered year, the Board of Supervisors shall review their compensation and adjust as determined to be appropriate.

(Ord. No. 4342, 8-18-2015)

(B) At the first regularly scheduled meeting in April of every odd-numbered year, the Board of Supervisors shall review their compensation and adjust as determined to be appropriate.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.075 Expense Reimbursement for Supervisors.**

Members of the Board of Supervisors shall be reimbursed for expenses, made necessary in the performance of their duties as Board members, provided that reimbursement for such expenses, is claimed within ninety (90) days of the incurring of the expense. Any claim not submitted within ninety (90) days shall require specific approval of the Board of Supervisors.

Official business of the Board of Supervisors includes, but is not limited to, attendance at regular Board meetings, special Board meetings, Board Workshops, Board committee meetings, Board of Equalization meetings, fulfillment of Board special committee assignments, serving as the official Board representative at ceremonial and official functions, Board of Supervisors training and orientation, including for supervisors-elect, and conduct of other County business.

In January of each year, the Board of Supervisors shall adopt by resolution, a policy containing an itemized list of reimbursable expenses and said rate of reimbursement.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.080 Application of Compensation Plan to Positions.**

The respective classes of positions and the pay schedules therefor shall be adopted from time to time by the Board of Supervisors by resolution and when so adopted shall have the force and effect and shall be interpreted and applied as follows:

(A) The salaries or rates of compensation prescribed are fixed on the basis of full-time service in full-time positions unless otherwise designated.

(B) The rate of pay prescribed shall be deemed to include pay in every form, except for necessary expenses authorized and incurred incident to employment, or except as herein provided.

(C) Upon progress and productivity, employees may be considered for increase from one (1) step in the pay range to the next step in the pay range according to the following plan:

(1) The Numbers 1, 2, 3, 4 and 5, respectively, denote the various steps in the pay range.

(2) Step "1" shall be paid upon initial employment except when a higher step in a pay range is authorized under Section 3.04.060(C), of this Chapter.

(3) Step "2" may be authorized upon satisfactory completion of twenty-six (26) pay periods (2,080 hours) of employment at Step "1."

(4) At the satisfactory completion of twenty-six (26) pay periods (2,080 hours) in Step "2," employees may be considered for increase to Step "3."

(5) At the satisfactory completion of twenty-six (26) pay periods (2,080 hours) of service in Step "3," employees may be considered for increase to Step "4."

(6) At the satisfactory completion of twenty-six (26) pay periods (2,080 hours) of service at Step "4," employees may be considered for increase to Step "5."

(7) An employee who has been laid off from County service because a position is abolished, or because of a lack of work or lack of funds, and who is re-employed in the same classification within the period provided for restoration or re-employment, shall return at the same step (1, 2, 3, 4 or 5) held as of the date of lay-off. Upon returning from lay-off, the employee shall receive credit for pay periods of service rendered prior to the lay-off in accumulating the total number of pay periods of employment required for advancement to the next step in the salary range. An employee who returns from lay-off to a classification with a pay range lower or higher than the range for the classification from which laid off shall receive a rate of pay as provided in Section 3.04.140.

(8) No advance in pay shall be automatic upon completion of the periods of service outlined hereinabove, and all increases shall be made only upon the written approval of the appointing authority which approval must be submitted to the Human Resources Department not later than ten (10) days after the proposed effective date. If the increase does not become effective on the proposed effective date due to a clerical error in processing the approval, or if the appointing authority due to an oversight, fails to initiate a request for an advance in pay for which an employee may be otherwise eligible, these facts shall be reported to the Human Resources Department within forty-five (45) days thereafter, and the proposed increase shall be made effective as of the proposed effective date upon concurrence of the department head. Increase in pay shall be withheld in cases of inferior work, lack of application, or indifferent attitude, and the employee shall be notified within ten (10) days of the day on which the employee was eligible for a merit increase. The pay of any employee may be reduced to a lower step within the pay range established upon the recommendation of the department head and approval of the Board of Supervisors in cases where the quality and manner of performance of services do not justify the pay being received.

(D) In special cases of extraordinary merit, an appointing authority may recommend for an employee a special increase of one (1) or two (2) steps in the pay range assigned to the classification. To be eligible for a special increase, such employee must have been employed at least sixty (60) days in his or her current classification and in a department that has an on-going performance evaluation program in effect. Such recommendation by the appointing authority shall be expressed in a memorandum addressed to the Chief Executive Officer detailing the justification for the recommended increase and the memorandum shall be accompanied by the standard County "Employee Performance Report" and a "Special Request" form. Effective July 1, 1981, to be eligible employees must have had at least two (2) "stan-

standard" or better evaluations completed on the standard "Employee Performance Report." A special increase approved by the Chief Executive Officer shall become effective on the first day of the pay period following the date on which the Chief Executive Officer grants approval. Extraordinary merit increases approved by the Chief Executive Officer shall be reported to the Board of Supervisors on the Consent Calendar after such approval.

(E) Where a pay range for a given class or for several classes is revised upward or downward, the incumbents of positions in classes affected shall have their existing pay adjusted to the same relative step in the new pay range.

(F) For purposes of calculating anniversary dates to determine eligibility for pay step increases, all persons employed by the County upon the effective date of this Chapter (September, 1956) shall have the anniversary date of July 1st. Employees hired before July 1, 1975, shall retain as their anniversary date the effective date of employment or promotion in the County service if it coincides with the first day of one of the biweekly pay periods. If this anniversary date does not coincide with the start of a biweekly pay period, then the employee shall be given an anniversary date that coincides with the start of a pay period which is closest to the effective date of employment or promotion in the County service. Employees commencing work or being promoted on or after July 1, 1975, shall have as a merit pay step anniversary date the effective date of his employment or promotion if it coincides with the first working day of the biweekly pay period otherwise completion of the required twenty-six (26) pay periods as heretofore stipulated in subsection (C) of this Section, supra, calculated from the first working day of a biweekly pay period occurring next after the effective date of employment or promotion.

(G) Whenever the effect of reclassification is to reduce the pay of an incumbent, the Board of Supervisors may direct that a capital "Y" be set opposite the reclassified position on all payroll and other personnel records. Whenever a capital

"Y" is set opposite a position, the incumbent shall continue to receive his previously authorized pay until termination of his employment in the position or until a higher rate of pay may be authorized whichever first occurs.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.090 Initial Adjustments to Compensation Plan.**

(A) From and after the date this Title becomes effective (September, 1956) each employee in the County service shall be paid the salary or compensation for services rendered on behalf of the County in accordance with the pay range prescribed for the class of positions to which his position is allocated.

(B) Upon the taking effect of this Title (September, 1956), all employees in the classified service shall be assigned to a step in the pay range to which their classification is assigned which is next higher in dollar amount above their current salaries.

(C) Upon the taking effect of this Title (September, 1956), all employees presently receiving a salary or rate of pay in excess of the maximum step of the new pay range for his class shall continue to receive such salary or rate of pay while employed in that class. Each salary paid under this provision shall be identified on the County payroll and on all other personnel and financial records wherein it appears by a capital "Y" following the salary rate. Any employee appointed to the position and class in the future shall be paid with the established rate.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.100 Hours of Work.**

(A) All County employment is based on a forty (40) hour week, or such other number of hours as the Board of Supervisors may designate by resolution. The County work week for all departments shall be computed from 0001 hours Sunday through 2400 hours the following Saturday (i.e., midnight Saturday through midnight Saturday) for pay purposes; provided, however, that

the work week for any department may be changed to a different work week by resolution of the Board of Supervisors.

(B) All employees are allowed fifteen (15) minute rest periods for each period of work of four (4) consecutive hours. This period shall be considered as time worked. This provision shall not apply when the public good mandates that employees must work in emergency situations.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.110 Part-Time or "Extra Help" Positions.**

(A) "Part-time" service shall consist of a daily work schedule of less than eight (8) hours or a weekly work schedule of less than forty (40) hours. If the Board of Supervisors has by resolution designated a standard work day of less than eight (8) hours a day or a standard work week of less than forty (40) hours a week, "part-time" service shall consist of a daily work schedule of less than the standard number of hours per day or weekly work schedule which is less than the standard number of hours per week. "Extra-help" service shall consist of employment in service for a limited period of time. The compensation for "part-time" or "extra-help" service shall be the hourly rate corresponding to step "1" of the salary range for the appropriate class. In cases where the employee has previous experience, the Chief Executive Officer is authorized to approve an hourly rate equal to step "2", "3", "4", or "5" of the appropriate pay range.

(B) Each part-time employee whose position is budgeted and allocated at a fixed percentage of full-time work shall be paid bi-weekly which shall be the same percentage of the regular full-time work. Such employees will be entitled to receive the various steps of the pay range, as provided in Section 3.04.080 of this Chapter.

(C) The Human Resources Director shall submit his or her recommendation to the Chief Executive Officer regarding the appropriate class for part-time or "extra help" positions.

(D) When a part-time or "extra help" employee, as defined in subsection (A) of this Section, has completed service equivalent to the length of service required for each pay step in Section 3.04.080 of this Chapter, the appointing authority may recommend said employee for a pay increase. With his recommendation, the appointing authority shall submit a certificate showing the number of hours of service that the employee has worked to be eligible for the pay increase.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.120 Additional Compensation.**

Appointment as Acting Department Head. When a vacancy as department head exists due to death, resignation, retirement or incapacity, and the Board of Supervisors makes an appointment of an acting department head, the person so appointed shall receive a one (1) step increase or equivalent thereto in his existing salary. If it is known that such an appointment as acting department head will be of six (6) months, or longer duration, then the appointee shall receive an additional one (1) step increase or equivalent thereto in his existing salary. This increase shall continue during the term of his appointment as acting department head. During this appointment if the appointee is eligible for a merit salary increase as provided in Section 3.04.080 of this Title, he may receive such salary increase and additionally shall receive the aforementioned increase or equivalent thereto.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.130 Reimbursable Services.**

(A) **Meals.** Except as provided for kitchen employees, employees shall reimburse the County for meals provided on the basis of a rate schedule; provided, however, counselors at Juvenile Hall who are required to work a straight eight (8) hour shift may be allowed, at their option, a meal when obligated to eat with the juveniles, provided, however, that the allowed meal shall be the same as that of the juveniles.

(1) For employees working in the classification of Communications Dispatcher and employ-

ees working in classifications assigned to the Law Enforcement Unit and who are employed in the County Jail and/or Rehabilitation Center and who are unable to leave their posts for the mid-shift meal, the County shall furnish a meal. In such cases, a meal shall be provided for each eight (8) hour shift and the meal shall be the same as that provided to inmates. The employee shall also be provided with a reasonable time for a meal period.

(B) **Rent.** The housing provided County employees shall be charged for on the basis of reasonable value of such housing in each instance.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.140 Applicable Pay Rates Following Promotion, Demotion or Transfer.**

(A) (1) In the case of the promotion of any employee to a position in a class with a higher pay range, such employee shall be entitled to receive the first step of the new range or a step in the new range or a step in the new range that is equal to one (1) step higher than the salary he was receiving prior to promotion, whichever is greater. If an amount equal to a one (1) step increase in the employee's pay range prior to promotion does not appear in the new range, then the employee will receive the step in the new range next above what would normally be a one (1) step increase in the employee's former range. If an increase equal to one (1) step should exceed the last step of the new range, he shall be promoted to the last step of the new range. In all cases, a new anniversary date shall be established for purposes of eligibility for future step increases as provided in Section 3.04.080(E), supra.

(2) The Chief Executive Officer may authorize placement of a promotional employee to a step higher than allowed by Section 3.04.140 when, in special cases, the employee possesses extraordinary qualifications for the position and is found that extraordinary circumstances exist in filling the position which is required to meet the public interest and need. Such placement shall be allowed up to Step "4."



(B) In the case of the demotion of any employee in the County service to a class with a lower pay range, the following shall apply:

(1) Probationary. An employee who, during his probationary period, is demoted to a class which he formerly occupied in good standing during his current period of continuous employment shall have his salary reduced to the salary (including merit increases) he would have received if he had remained in the lower class throughout his period in the higher class.

(2) Involuntary. An employee who, after his probationary period, is demoted involuntarily to a position in a class which is allocated to a lower salary range than the class from which he is demoted, shall have his salary reduced to the salary in the range for the new class which is next lower than the salary he was receiving before demotion; the anniversary date of such employee after demotion shall remain the same as before demotion.

(3) Voluntary. An employee who, after his probationary period requests and is demoted on a voluntary basis to a position in a class which is allocated to a lower salary range than the class from which he is demoted shall have his salary reduced to the salary in the range for the new class which is next lower than the salary he was receiving before the voluntary demotion; the anniversary date of such employee, after the voluntary demotion, shall remain the same as before the demotion.

(C) In the case of the transfer of any employee from one position to another in the same class, or to another class to which the same pay range is applicable, the employee shall remain at the same pay step and shall retain his original anniversary date.

(Ord. No. 4342, 8-18-2015)

### **Sec. 3.04.150 Vacation Leave with Pay.**

#### **(A) Full-Time Employees.**

(1) Every permanent full-time employee of the County of Mendocino so employed, shall be credited with forty (40) hours of accrued vacation upon the completion of thirteen (13) bi-weekly

pay periods of service. Thereafter, vacation shall accrue at the rate of 3.079 hours per pay period of service until the employee has completed (3) years of service; thereafter, vacation shall accrue at the rate of 4.616 hours every pay period until the employee has completed eight (8) years of service; thereafter, vacation shall accrue at the rate of 6.157 hours per pay period until the employee has completed fifteen (15) years of service; thereafter, vacation shall accrue at the rate of 7.694 hours per pay period.

(B) **Part-Time Employees.** Every part-time employee holding a budgeted position which is compensated at a bi-weekly rate and who is employed a minimum of twenty (20) hours per week, shall receive a portion of the vacation benefits as set forth in subsections (A)(1) and (D)(1) of this Section in direct relation to the fixed percentage of full-time work to which the position is budgeted and allocated.

(C) **Years of Service.** Each year of service shall consist of twenty-six (26) bi-weekly pay periods as calculated from the first day of the pay period following the day on which the employee commenced County service, unless said service commenced on the first working day of the pay period, in which case, years of service shall be calculated from the day that the employee commenced County service. Paid sick leave, paid military leave, or other forms of leave with pay shall be counted in years of service. Any employee absent from his duties without pay for more than two (2) working days in a pay period shall neither accrue vacation leave for that pay period nor have that pay period counted toward a year of service.

#### **(D) Vacation Accrual.**

(1) An employee who has worked three (3) years, or less, may accrue up to two hundred forty (240) hours of vacation; an employee who has worked fifteen (15) years, or less, may accrue up to three hundred twenty (320) hours of vacation; thereafter, an employee may accrue up to four hundred (400) hours.

(2) When an employee who is receiving paid sick leave reaches the maximum number of ac-

crued vacation hours set forth in subsection (D)(1) and this subsection, supra, during the period of such paid sick leave, the accrual limits shall be waived and the employee shall continue to accrue vacation at the normal rate. The waiver of the normal accrual limits, shall not become effective until the employee has filed with the Human Resources Department a valid statement from his or her physician stated that he or she cannot return to work. The waiver of the stated vacation accrual limits shall continue for thirteen (13) periods, if necessary, after the pay period in which the employee returns to work. During the waiver period the employee will use enough vacation so that the balance of accrued vacation will not exceed the limits stated in subsection (D)(1) and this subsection, supra. Any such excess vacation accrual not used shall be forfeit, and removed from the employee's record, with no compensation being made for the employee. After the stated period of thirteen (13) pay periods, the vacation accrual limits will again be effective for that employee.

(3) When an employee terminates, the accrual of vacation shall cease as of the last day of work except when an employee is on paid sick leave. If an employee should be on paid sick leave, the accrual of paid vacation shall continue until paid sick leave has been exhausted.

(4) All former County employees who are re-employed by the County within ninety (90) days of having voluntarily terminated County employment shall be entitled to accrue vacation benefits at the same rate that he or she accrued benefits prior to their voluntary termination.

(5) An employee who has been laid off from County service because a position is abolished, or because of a lack of work or lack of funds, and who is re-employed within the period provided for restoration or re-employment, shall accrue vacation benefits at the same rate that he or she accrued benefits prior to the date of lay-off. Continuous County service immediately prior to the date of lay-off shall be added to future service after re-employment for purposes of calculating years of service, pursuant to this Section.

(E) **Compensation In Lieu of Unused Vacation Leave for Extreme Emergencies.** Except as hereafter provided, every effort shall be made to arrange vacation schedules so that each employee will take as much vacation in each year as accrued to him in that year. In exceptional circumstances, such as cases of extreme emergency, compensation in lieu of unused vacation leave, not to exceed the equivalent of eighty (80) hours, may be paid to an employee upon approval of the Chief Executive Officer provided that the employee consents and the department head submits a request to said Chief Executive Officer. "Extreme Emergency" is defined as severe financial hardship to the employee resulting from a sudden and unexpected illness or accident of the employee or of his or her dependent; loss of the employee's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of the events beyond the control of the employee. The amount of compensation paid to an employee shall be calculated at his current rate.

(F) **Vacation Scheduling.** The scheduling of vacations for employees shall be the responsibility of each department head who shall see that applications for vacation are made far enough in advance so as to achieve the most efficient functioning of his department and of the County service. Vacations may be allowed to a minimum of one (1) hour and to a maximum of the employee's accrual. The taking of split vacations, however, shall be discouraged except in cases where public service may be seriously impaired. Vacation leave accruing during the period of vacation may be taken in that time. No employee shall work for compensation for the County in any capacity during the period of his paid vacation from the County service.

(G) **Vacation Termination Pay.** Any employee after thirteen (13) pay periods of part-time service of twenty (20) hours or more per week in a regular allocated position or after thirteen (13) bi-weekly pay periods of full-time regular service shall be paid upon termination an amount of money equal to his or her accrued vacation. When an employ-

ee's effective date of termination occurs after the completion of one (1) full week in a given pay period, he or she shall be deemed to have accrued vacation leave for that pay period. A terminating employee may not be re-employed by the County for compensation except in an extra-help capacity until the total number of working days of accrued vacation have elapsed. This Section shall not prevent a department head from filling a vacated position immediately following the effective date of the employee's separation from his or her department, provided funds are available.

(Ord. No. 4342, 8-18-2015; Ord. No. 4377, 1-10-2017)

**Sec. 3.04.153 Vacation Leave with Pay in the Event of a Reduced Work Week.**

If the Board of Supervisors, by resolution, designates a standard work week of less than forty (40) hours per week, vacation credits granted pursuant to Section 3.04.150 of the Mendocino County Code shall be computed by reducing the number of vacation leave hours granted according to the percentage of reduction in the work week. (For example, should the standard work week be reduced to thirty (30) hours, then vacation leave granted will be computed seventy-five percent (75%) of those hours set forth in Mendocino County Code Section 3.04.150).

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.160 Sick Leave with Pay.**

(A) Each regular full-time employee of the County of Mendocino shall be entitled to have accrued to his or her credit for future use 4.616 hours of paid sick leave per pay period, and every part-time employee holding a budgeted position who is paid at a bi-weekly rate of pay and who is employed a minimum of twenty (20) hours a week shall have accrued to his or her credit a portion of the sick leave benefits in direct relation to the fixed percentage of full-time work to which the position is budgeted and allocated. Such accrual of paid sick leave may be accumulated without limit. Benefits provided for in this Section are conferred as a

privilege and not as a right of the employee. In no case shall cash settlement be made in lieu of accumulated sick leave nor shall any such leave be granted except during the applicant's employment with the County. Effective July 1, 2015, part-time employees who are employed less than twenty (20) hours per week, and extra-help employees, if otherwise eligible, shall receive paid sick leave in accordance with applicable state or federal regulations.

(B) Each pay period of service shall be calculated from the first day of the pay period following the day on which the employee commenced County service unless such service commenced on the first working day of the pay period, in which case bi-weekly pay period of service shall be calculated from the day that the employee commenced County service. Paid vacation leave, paid military leave, and other forms of leave with pay shall be counted in pay periods of service. A permanent full-time employee who is granted a leave without pay, who is absent without leave, or who is suspended without pay more than sixteen (16) hours in a pay period shall accrue paid vacation, sick leave, service credits, and other benefits during any pay period of such leave, absence, or suspension only for those hours in pay status. This provision shall be applied pro rata for permanent part-time employees.

(C) **Conditions for Allowance.** Sick leave with pay may be granted only for bona fide illness or injury, exposure to contagious disease, or dental, eye or other physical, psychiatric or medical examination or treatment by a licensed practitioner. Leave provided for in this Section is not to be used as a substitute for, or supplement to, vacations, holidays and days off. Such use by an employee shall be a ground for his discharge from County employment. Claims for sick leave shall be allowed only subject to the following conditions:

(1) The applicant must notify his direct superior at the first reasonable opportunity of his illness.

(2) If more than three (3) consecutive days of sick leave are claimed, the applicant must submit a statement from his physician to support his claim.

(3) If claim is made for sick leave for any day of the week, the applicant may be required by his department head to submit a statement from his physician to support his claim. Said requirement must be communicated to said employee within three (3) days after said employee's return to work. If a physician's statement is required and the employee does not submit it to the department head within one (1) week after requested to do so, the department head shall notify the County Auditor and the Human Resources Director for the purpose of having said employee's pay withheld for said day or days. The County Auditor shall withhold said pay accordingly.

(4) Absences from work due to medical, vision, or dental appointments may be charged to sick leave or CTO, at the employee's option. Such usage shall require the prior approval of the department head.

**(D) Denial of Application.** If an application for sick leave is denied, the subject absence shall be deemed to be leave without pay.

**(E) On-the-Job Injury.** An employee who is entitled to any temporary disability indemnity due to an injury or illness arising out of and in the course of his employment, and such injury is covered under the Workmen's Compensation provisions of the Labor Code, shall use as much of his accumulated sick leave as, when added to his disability indemnity, will result in a payment to him of his full salary.

**(F) Sick Leave upon Layoff.** An employee who is laid off because a position is abolished, or because of a lack of work or lack of funds, shall not accrue sick leave during the period of layoff. All accumulated sick leave shall be held for the employee's credit should he or she return to work during the period provided for restoration or layoff re-employment.

**(G) Salary Continuance During Long Term Disability.** Employees working in a classification that is assigned to the Management unit and Department Head unit who are absent from work due to illness or injury and who have exhausted all of their sick leave and vacation benefits shall be

eligible to receive one hundred percent (100%) salary for the first two (2) months after the paid leave has been exhausted; if still unable to work, the employee shall then receive seventy-five percent (75%) of full salary for a two (2) month period; and then if still disabled, shall receive fifty percent (50%) of salary for another two (2) month period. The County shall as a condition for receiving this benefit, require a doctor's certificate that the employee can reasonably be expected to recover sufficiently to return to work.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.163 Reduction in Sick Leave with Pay.**

Should the Mendocino County Board of Supervisors establish a standard work week of less than forty (40) hours, the sick leave granted pursuant to Mendocino County Code Section 3.04.160 shall be reduced according to the ratio of the reduced work week to forty (40) hours. (For example, should the standard work week be reduced to thirty (30) hours, then employees would receive sick leave of seventy-five percent (75%) of the number of hours provided for in Mendocino County Code Section 3.04.160).

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.170 Court Leave.**

**(A) Jury Duty.** Any employee summoned for jury duty shall be entitled to leave of absence with full pay for such period of time as he or she may be required to attend the court in response to such summons. The employee may retain only such payment as may be allowed him for travel, lodging, and meal expenses, but, only where jurors who are not County employees are allowed such expenses. As a condition for entitlement to court leave, he or she shall waive the receipt of any and all fees which he or she may have been entitled to receive as payment for his or her services as a juror other than travel, lodging, and meal expenses as above described.

**(B) Appearance Regarding County Duties.** Whenever a regular employee is subpoenaed to appear in court for any reason pertaining to his or

her regular County duties, he or she shall receive his or her regular County salary for such court appearance. Such court appearance shall be counted as hours worked by him or her and as part of his or her regular work week. Such employee shall make payable to the County any fee which he or she receives for serving as a witness, together with all allowances paid him or her for travel, meals, and lodging.

**(C) Appearance for Non-County Reasons.** Whenever a regular employee is subpoenaed to appear in court for a matter or reason not pertaining to his or her regular County duties, such appearance shall not be considered a part of his or her regular work week, and such employee shall not receive any County pay. Such employee shall, however, be entitled to retain any fee paid to him or her for service as a witness, together with all allowances paid him or her for travel, meals, and lodging.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.180 Bereavement Leave.**

When a regular full-time or regular part-time employee is compelled to be absent from duty by reason of the death of his or her spouse, child, parent, brother, sister, grandparent or spouse's parent, he or she shall be entitled to be absent with pay chargeable to sick leave for not more than five (5) working days for each instance. Should the employee not have sufficient sick leave accrued, this absence may be charged to accrued vacation leave, compensating time off, or be considered leave without pay.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.190 Holidays.**

(A) The following are established as paid holidays within the meaning of this Chapter. All employees occupying a regular full time or regular part-time position shall receive their regular pay for these holidays.

January 1	New Year's Day
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Third Monday in January	Martin Luther King Day
3rd Monday in February	Washington's Birthday
Last Monday in May	Memorial Day
July 4	Independence Day
1st Monday in September	Labor Day
2nd Monday in October	Columbus Day
November 11	Veterans' Day
Last Thursday in November	Thanksgiving Day
Day following Thanksgiving Day	
December 25	Christmas Day

Any additional days designated by the President or the Governor of the State of California and formally recognized by the Board of Supervisors as a holiday, day of Thanksgiving, or of public mourning.

(B) When a holiday listed herein falls on a Sunday, the Monday following shall be designated as a paid holiday in lieu thereof. When a holiday listed herein falls on a Saturday, the preceding Friday shall be designated as a paid holiday in lieu thereof.

(C) **Working on a Holiday.** A regular full-time employee who is required to and does work on a paid holiday or whose regular day off falls on a paid holiday shall, in addition to regular holiday pay, be paid or granted compensatory time off, as specified in Section 3.04.200 of this Chapter. A part-time employee occupying a regularly budgeted part-time position and who is paid at a bi-weekly rate of pay shall continue to receive his or her regular pay for the designated holiday. If required to work on a holiday, the provisions of Section 3.04.200, *infra*, shall be applied in direct relation to the total work week of the regular part-time position. This subsection shall not be applicable to those officers and employees designated in Section 3.04.200(G), *infra*.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.200 Overtime.**

(A) All County employment is based on a forty (40) hour work week. A work week shall be defined as a period of forty (40) hours worked in any calendar week. Paid vacation, sick, court or bereavement leave, and paid holidays, as defined in this Section, shall be computed as time worked.

(B) It is the policy of Mendocino County to avoid the necessity for overtime work whenever possible. When overtime work beyond the forty (40) hour week or normal work day is necessary to provide County service, such overtime calculated to the nearest one-half ( $\frac{1}{2}$ ) hour of time worked, shall be compensated for under one (1) of the following provisions:

(1) **Paid Overtime.** Paid overtime shall be compensated at the rate of one and one-half ( $1\frac{1}{2}$ ) times the hourly equivalent of the employee's regular salary; or

(2) **Compensatory Time Off.** Compensatory time off, computed at the rate of one and one-half ( $1\frac{1}{2}$ ) times the hours worked, may be accumulated to a maximum of forty-eight (48) hours. Any overtime worked in excess of the accumulation shall be paid overtime.

At the time such overtime work is required, the employee shall be advised whether overtime work shall be paid or compensatory time off granted. Accumulated compensatory time off may be taken by an employee as time off with pay upon the request of the employee and approval of the appointing authority. Upon termination of employment for any reason, all accumulated compensatory time off shall be paid. All accumulated compensatory time off earned but not taken as time off with pay in the first six (6) months of a calendar year shall be paid in the last pay period of June or continued as accumulated compensatory time off at the election of the employee. However, all accumulated compensatory time off earned by employees in the Law Enforcement Unit, but not taken as time off with pay in the first six (6) months of a calendar year shall be continued as accumulated compensatory time off.

All accumulated compensatory time off earned but not taken as time off with pay in the last six (6) months of a calendar year, together with any accumulated compensatory time off continued but not taken from the first six (6) months, shall be paid in the last pay period of December of that calendar year. However, such accumulated compensatory time off earned by Law Enforcement Unit employees shall be continued as accumulated time off.

Employees in the Law Enforcement Unit shall have the option to request cash payment for compensatory time off that has accrued in each quarter of a calendar year. If payment is requested it shall be paid in the last pay period of each quarter. If payment is not requested, the compensatory time off shall continue to accumulate.

(3) The maximum of accumulated compensatory time off for employees who are employed in a classification that has been placed in one (1) of the following representative units, Clerical, Fiscal and Administrative, or General Services, or Human Services, shall be forty-eight (48) hours in place of the twenty-four (24) hours shown in Subsection (B)(2), supra.

(C) **Working on a Holiday.** In addition to regular holiday pay, a regular full time or regular part-time employee who is required to work on a holiday shall be paid at a rate of one and one-half ( $1\frac{1}{2}$ ) times his or her normal rate of pay for holiday hours worked or shall be granted compensatory time off at a rate of one and one-half ( $1\frac{1}{2}$ ) hour for every holiday hour worked.

(D) **Working on a Regular Day Off.** A regular full-time employee who is required to work on his regularly scheduled day off shall be paid or granted compensatory time off at a rate of one and one-half ( $1\frac{1}{2}$ ) for all hours worked on such day.

(E) The time one and one-half ( $1\frac{1}{2}$ ) rate is the maximum allowed by this Chapter and not cumulative when the above situations are concurrent.

(F) The following officers and employees shall not receive payment for overtime nor for accumulated compensatory time off.

(1) Elected officials, County officers, and appointed department heads.

(2) Other management or supervisory positions as designated by the Board of Supervisors in an appropriate resolution. Provided, however, that such officers and employees may be granted compensatory time off. Provided, further, in cases of emergency and when the public interest requires, the Board of Supervisors may authorize by a four-fifths (4/5) vote and for a period not to exceed ninety (90) days the payment of overtime to management employees indicated in subsection (B)(2) of this Section.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.210 Personnel Records.**

The Human Resources Director is directed to maintain such employee records as are necessary to the accomplishment of the various provisions of this Title. These records shall include a central roster of employees and positions which is to include the record of employment of each employee in the classified service, including dates of service, positions held, salaries or wages received, vacation, sick leave earned and taken, and other such information as may be deemed appropriate.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.04.220 Annual publication of salary range.**

On or about October 1st of each year, the Human Resources Director shall cause to be published on the County website, the pay range for each classification in the classified service.

(Ord. No. 4342, 8-18-2015)





## CHAPTER 3.08

### RETIREMENT

#### Sec. 3.08.010 State Retirement Act Adopted by Reference.

The Board of Supervisors of the County of Mendocino, State of California, does hereby accept the provisions of an Act of the Legislature of the State of California, entitled, "An Act to provide for the creation, establishment, and adjustment with other systems, of a retirement system for employees of the several counties and districts as defined herein, and attachees of municipal courts, consisting of retirement compensation and death benefits," approved June 30th, 1937, being Chapter 677 of the Statutes of 1937; and said Board of Supervisors does hereby by reference adopt and incorporate all and every one of the provisions of said Act of the Legislature as a part of and applicable to, and make all and every one of said provisions a part of and applicable to, the system and schedules of compensation of all officers, and other persons employed by said County whose compensation is fixed by the Board of Supervisors of said County and whose compensation is paid by said County, and all employees and officers of the County of Mendocino now or hereafter established by ordinance article of the Board of Supervisors who are or may hereafter be eligible to the benefits of any retirement system under the provisions of said Act, said Act to become operative January 1st, 1948. (Ord. No. 310, Sec. 1, adopted 1947.)

#### Sec. 3.08.020 Increase In Benefits Payable to the Retired Members of the Mendocino County Retirement Association.

Every retirement allowance, optional death allowance, or annual death allowance. (including an allowance payable to a survivor of a member), payable to or on account of any member of the Mendocino Retirement Association or to a superceded system who has been or was retired

for service or disability is hereby increased as follows:

Period during which retirement became effective.	Percentage of increase in monthly retirement allowance.
On or prior to June 30, 1962	10%
12 months ended June 30, 1963	8%
12 months ended June 30, 1964	6%
12 months ended June 30, 1965	4%
12 months ended June 30, 1966	2%

(Ord. No. 540, Sec. 1, adopted 1968.)

#### Sec. 3.08.030 Cost of Living Adjustment.

Pursuant to Section 31874 of the Government Code, the Board of Supervisors of the County of Mendocino does hereby adopt, incorporate by reference, and make applicable in Mendocino County Article 16.5 of the County Employees Retirement Law of 1937, including Section 31870.1 of the Government Code, which authorizes a maximum annual increase or decrease of cost of living allowance of 3 per cent. (Ord. No. 747A, adopted 1971.)

#### Sec. 3.08.034 Ordinance Maintaining Cost of Living Base for Retired Members.

Pursuant to the authority granted by Article 16.6 of Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code (commencing with Section 31875), the annual cost of living for retired members is hereby adjusted on a one time basis to provide a cost of living increase which will be equal to the additional percent the retired members would have received had they been receiving five percent (5%) annual cost of living adjustments under Mendocino County Code Section 3.08.030 from April 1, 1975 until March 31, 1981, instead of three percent (3%). The purpose of this ordinance is to provide retired members with a cost of living base for future retirement allowances that will be equal to that which they would have had, had they been

receiving five percent (5%) annual cost of living adjustment instead of a three percent (3%) annual cost of living adjustment under Mendocino County Code Section 3.08.030 from April 1, 1975 until March 31, 1981. (Ord. No. 3308, adopted 1980.)

**Sec. 3.08.040 Reassignment of Disabled Member to Another Position.**

The Board of Supervisors of the County of Mendocino does hereby adopt, incorporate by reference, and make applicable in Mendocino County Section 31725.5 of the County Employers Retirement Law of 1937, which authorizes reassignment of a disabled member to another position. (Ord. No. 806, adopted 1971.)

**Sec. 3.08.050 Maximum Permissible Increase.**

In no event shall any allowance be increased by an amount greater than Fifty Dollars (\$50.00) a month or less than Ten Dollars (\$10.00) a month. (Ord. No. 540, Sec. 2, adopted 1968.)

**Sec. 3.08.060 Taxation of Retirement Contributions.**

(A) Purpose of Section. The purpose of this Section is to implement the provisions contained in Section 414(h)(2) of the Internal Revenue Code concerning the tax treatment of employee contributions paid by the County on behalf of affected employees. Pursuant to Section 414(h)(2), contributions to a pension plan, although designated under the plan as employee contributions, when paid by the employer in lieu of contributions by the employee, under circumstances in which the employee does not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer, may be excluded from the gross income of the employee until these amounts are distributed or made available to the employee.

Implementation of Section 414(h)(2) is accomplished through a reduction in wages pursuant to the provisions of this Section.

(B) Definitions. Unless the context otherwise requires, the definitions in this Section govern the construction of this Section.

(1) "Affected employees" means those employees of the County of Mendocino who make employee contributions to the retirement system.

(2) "Employee contributions" means those contributions to the retirement system which are deducted from the salary of employees and credited to individual employees' accounts, or required as a condition of obtaining benefits under the retirement system, including retirement service credit for public service and prior service.

(3) "Employer" means the County of Mendocino.

(4) "Gross income" means the total compensation paid to affected employees by the County as defined in the Internal Revenue Code and rules and regulations established by the Internal Revenue Service.

(5) "Retirement system" means that retirement system as made applicable in Mendocino County under the provisions of the County Employees' Retirement Law of 1937 as amended, and Ordinance No. 310, Sec. 1, passed and adopted in 1947; effective January 1, 1948.

(6) "Wages" means the compensation prescribed in Chapter 3.04 of this Code.

(C) Pickup of Employee Contributions.

(1) Pursuant to the provisions of Subsection (D) of this Section, the employer shall make employee contributions on behalf of affected employees, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States. Such contributions are being made by the employer in lieu of employee contributions.

(2) Employee contributions made under Paragraph (C)(1) of this Section shall be paid from the same source of funds as used in paying the wages to affected employees.

(3) Employee contributions made by the

employer under Paragraph (C)(1) of this Section shall be treated for all purposes other than taxation in the same manner and to the same extent as employee contributions made prior to the effective date of the ordinance codified in this Section.

(4) No provision in this Section shall be construed so as to permit or extend an option to affected employees to directly receive the contributions made by the employer pursuant to Paragraph (C)(1) of this Section instead of having them paid to the retirement system.

(D) **Wage Adjustment.** Notwithstanding the provisions of Chapter 3.04 of this Code, the wages of affected employees shall be reduced by the amount of employee contribution made by the employer pursuant to the provisions of this Chapter.

(E) **Limitations to Operability.** This Section shall be operative only as long as the County pickup of employee contributions continues to be excludable from gross income of the employee under provisions of the Internal Revenue Code. (Ord. No. 3633, Sec. 1, adopted 1986.)

#### **Sec. 3.08.070 Sick Leave Credit at Retirement.**

(A) **County Employees.** Any County employee who has accrued sick leave at the time of application for retirement is entitled to have credited one hundred percent (100%) of unused sick leave toward the employee's total County service for the purpose of calculating the retirement benefit. The amount of sick leave accrued as of the day of retirement shall in no case be used in calculating the minimum County service required to be eligible for County retirement.

(B) **Elected Officials.** Elected officials who accrued sick leave during County service, as employees, immediately prior to taking office are entitled to have credited one hundred percent (100%) of unused sick leave toward their retirement benefit. The amount of sick leave accrued as of the day of retirement shall in no case be used in calculating the minimum County service required to be eligible for County retirement.

(C) This Section shall be effective December 31, 1986. (Ord. No. 3637, Sec. 2, adopted 1987.)

#### **Sec. 3.08.080 Applicability of State Law.**

The provisions of Section 31641.04 of the Government Code relating to additional retirement service credit for certain members of the County of Mendocino Employees Retirement Association shall be applicable to such members in accordance with any resolution of the Board of Supervisors adopted pursuant to Government Code Section 31641.04. (Ord. No. 3810, adopted 1992.)

#### **Sec. 3.08.085 Applicability of State Law.**

The provisions of section 31641.05 of the Government Code relating to granting up to four (4) years of additional retirement service credit for certain members of the County of Mendocino Employees Retirement Association who already have ten (10) or more years of service shall be applicable to such members in accordance with any resolution of the Board of Supervisors adopted pursuant to Government Code Section 31641.05. (Ord. No. 4022, Sec. 1, adopted 1998.)

## CHAPTER 3.12

### COUNTY VEHICLE POLICY\*

#### Sec. 3.12.010. Purpose and Intent.

The Board of Supervisors has approved the purchase of motor vehicles for the use of County officers and employees whose duties require frequent trips on County business, it being the judgment of the Board that the purchase and use of such vehicles is in the public interest. This Chapter is enacted pursuant to Government Code section 25305 and its purpose is to govern the responsibilities and rules for the use of County-owned and leased vehicles (hereinafter "County vehicles") and privately owned vehicles used for County business. This Chapter applies to County officers and employees, including elected and appointed department heads and volunteers.

(Ord. No. 4349, 2-2-2016)

#### Sec. 3.12.020. Applicability of Article.

Elected and appointed department heads are responsible for enforcing this Ordinance within their departments.

(Ord. No. 4349, 2-2-2016)

#### Sec. 3.12.030. Limitations on Use of County Vehicles.

(A) County vehicles shall be operated in accordance with established State and local laws and the established policies of the Board of Supervisors, in a safe and courteous manner.

(B) Use of County vehicles for any purpose other than County business is prohibited.

(C) Transportation in a County vehicle of members of any driver's family or of any other person not connected with County business is prohibited, except for members of families and/or professional colleagues or members of the community accompanying employees on officially authorized trips, at no expense to the County. A

\*Editor's note—Ord. No. 4349, adopted February 2, 2016, amended ch. 3.12, §§ 3.12.010—3.12.100, in its entirety, to read as set out herein. Former ch. 3.12 pertained to similar subject matter and was derived from Ord. No. 4236, adopted April 20, 2010.

family member may accompany the driver only with the prior written authorization of the department head.

(D) County vehicles may not be used outside an employee's regular working hours or officially assigned duties except as permitted under Section 3.12.050 of this Chapter.

(E) County vehicles may not be used to travel to and from an employee's home except as permitted in Section 3.12.060 of this Chapter.

(F) County vehicles may not be used for transportation to home, restaurants, or stores, except to attend a business meeting or conduct official business, unless the destination is en route while on duty. Incidental use during out-of-town meetings or conferences is allowed within reason.

(G) With the exception of individuals who are employed in the District Attorney and Sheriff's Offices, no individual shall be authorized to operate a County vehicle or a privately owned vehicle on County business without prior approval from the Chief Executive Officer at the signed request of the employee's department head. Employees of the District Attorney and Sheriff offices shall be authorized to operate a County vehicle upon the approval of the Sheriff or District Attorney.

(H) It is the responsibility of each department head to maintain a current and accurate list of authorized County drivers (hereinafter "drivers") with the Chief Executive Office.

(I) It shall be the responsibility of each department to immediately inform the Chief Executive Office of any change in the status of a driver's license that may adversely affect the driver's driving privilege.

(J) During the first week in January of each year, all departments are required to provide the Chief Executive Officer with an annual updated and accurate list of drivers.

1. This list shall include such information deemed necessary and proper by the Chief Executive Officer, including but not limited to the following:

- a. The name of the driver;

b. The driver's California driver's license number; and

c. The driver's office or primary work location, and telephone number.

2. Consistent with subsection (G) above and California Penal Code Sections 832.7 and 832.8, subsection (J)1.b. above shall not apply to drivers occupying peace officer positions in the Sheriff's Office or District Attorney's Office.

(K) Failure to provide the annual updated list may result in denial or delay in approval or authorization for use of County vehicles by the Chief Executive Officer.

1. The annual list of drivers is only valid for the calendar year submitted and must be re-approved by the Chief Executive Officer annually.

2. Updated lists must be submitted by January 7<sup>th</sup> of each year. The County Auditor will deny mileage reimbursement of any claims filed by an unauthorized driver or a driver whose driving privileges have been suspended.

3. If the department head fails to respond and file the required annual updated list by January 7<sup>th</sup>, the Chief Executive Officer shall send a notice granting an additional seven (7) calendar days to respond.

4. Failure to file or respond with the updated list by January 31<sup>st</sup> shall result in denial of driving privileges, or such other course of action as is deemed necessary by the Chief Executive Officer.

(L) New requests for authorization may be submitted by department heads and approved during the year by the Chief Executive Officer. All requests shall be in accordance with the requirements set forth in Section 3.12.030(J).

(M) It is the responsibility of the department head to ensure that written verification of insurance for use of privately owned vehicles on County business is current and on file in the department in advance of such use.

(N) Each department shall follow the procedure established by the Chief Executive Office for tracking and accounting for the daily use of County vehicles assigned to the department.

1. This procedure shall require that drivers note the vehicle identification number, date, miles driven or hours used, destination(s), and driver name for each daily use of a County vehicle.

2. Recognizing the independent and constitutionally and statutorily designated investigative and prosecutorial functions of the Sheriff and District Attorney, the Chief Executive Officer shall establish separate reporting requirements for tracking and accounting for the daily use of County vehicles assigned to these offices.

3. This information shall be compiled by each department and submitted monthly to the Chief Executive Office for the purpose of periodically evaluating the cost-effectiveness, distribution, and overall size of the County vehicle fleet.

(Ord. No. 4349, 2-2-2016)

#### **Sec. 3.12.040. Driver Responsibilities.**

(A) Each driver shall drive responsibly, anticipate emergency situations and make every effort to avoid collisions. All drivers operating a vehicle on County business represent the County of Mendocino and shall always project a professional and responsible image to the public.

(B) Each driver is expected to be knowledgeable of, and follow, all applicable Federal, State, and local traffic laws.

(C) Each driver operating vehicles or equipment on County business must have a valid State of California driver's license.

(D) Each driver shall immediately inform his/her supervisor in the event his/her driver's license is suspended, revoked or is otherwise restricted in a way that impacts the driver's ability to perform his/her job.

(E) Each driver, prior to operating a private vehicle on County business, shall provide proof of insurance for the vehicle to his/her supervisor.

Drivers shall immediately notify their supervisor in the event of a change in the status of said vehicle insurance.

(F) Each driver shall comply with his/her department's procedure for tracking and accounting for the daily use of County vehicles assigned to the department.

(G) Except as provided by subsection (g) of the California Vehicle Code section 27315, seat belts shall be used at all times by the driver and all passengers in a County vehicle. (CVC § 27315(d)(1) & (e))

(H) All children riding in a County vehicle shall be properly seat belted. Child safety seats shall be used as required by the California Vehicle Code. (CVC §§ 27360 through 27364)

(I) Drivers shall be familiar with the manner of operation of vehicles that they operate on County business. If a driver is unsure of the operation of a County vehicle, he/she should check the owner's manual in the glove box of the car or contact the County Garage for assistance.

(J) Drivers shall remain attentive to driving at all times. Eating or drinking, dealing with passengers or other distractions while the vehicle is moving should be avoided. Whenever possible, drivers should pull off the road and stop when having to deal with distractions in the vehicle. Except as permitted by California Vehicle Code section 23123, use of a wireless telephone while driving is prohibited.

(K) Smoking is prohibited in all County vehicles.

(L) Consumption of alcohol, drugs or other intoxicants that may interfere with the safe operation of County vehicles and equipment is strictly prohibited.

(M) No County vehicle shall be operated when in a known dangerous or defective condition.

(N) When a County vehicle is found to be in a dangerous or defective condition, it shall be reported to the County Garage as soon as is practical.

(O) Drivers shall conduct a visual inspection of the County-assigned vehicle or pool vehicle for

damage prior to use. Any damage or safety problems observed shall be reported to the County Garage immediately upon discovery.

(P) All County vehicles shall be legally and safely parked and locked when unattended.

(Q) Any driver who receives a traffic citation other than for illegal parking while operating a County vehicle shall report such citation to his/her department head. All traffic or parking citations are the sole responsibility of the driver.

(Ord. No. 4349, 2-2-2016)

**Sec. 3.12.050. Use of County Vehicles Outside Regular Working Hours Without Prior Authorization.**

(A) A County vehicle may only be used outside an employee's regular working hours without prior authorization when the employee is either returning from an officially authorized trip after regular working hours or leaving before regular working hours.

(B) A County vehicle may be parked at the employee's home for travel to or from a pre-authorized meeting or event when such home garaging is deemed necessary or expedient for such travel.

(Ord. No. 4349, 2-2-2016)

**Sec. 3.12.060. Authorization for Work-to-Home/Home-to-Work Use of a County Vehicle.**

(A) Upon the recommendation of the Chief Executive Officer or his/her designee, the Board of Supervisors as set forth herein shall approve an annual list of employees authorized to use a County vehicle for work-to-home/home-to-work use, when such use is determined to be in the best interests of the County. "In the best interests of the County" is defined as "those vehicle assignments that are cost-effective to the County, enhance service to the public and better provide for public safety, and can stand the test of public scrutiny."

(B) On or before January 7<sup>th</sup> of each year, all department heads must file with the Chief Executive Office a Request for Authorization for each

employee certified by the appointing authority to use a County vehicle for work-to-home/home-to-work. The Request for Authorization shall include the following information:

1. The name of the employee;
2. Verification that the employee is authorized to operate a County vehicle, pursuant to Section 3.12.030 of this Chapter;
3. The location where the vehicle will be parked, if other than at the employee's home address on record with Human Resources;
4. The employee's classification or position; and
5. The estimated frequency, reason, and a complete, detailed justification and/or description for which such use is requested.

(C) Examples of approved reasons or circumstances that the department head may submit to the Chief Executive Officer in the Request for Approval include:

1. The employee is on call for service in emergencies related to loss of life or property, and is required to respond directly to a site other than the employee's normal place of employment, and such response is of an emergency nature.
2. The department head certifies that recurring, daily or continual work-to-home/home-to-work use by the identified employee is necessary for the safe and/or efficient conduct of County business.

(D) The Chief Executive Officer shall transmit the requests to the Board of Supervisors via an updated list of "Personnel Authorized to Use County Vehicles for Work-To-Home/Home-To-Work," with his/her recommendations. The Chief Executive Officer shall ensure that the requests transmitted to the Board have been edited to remove information that might compromise the safety or privacy of County employees. Approved requests shall be valid for one (1) year.

(E) Department heads shall keep the Chief Executive Officer current with employee use of vehicles for work-to-home/home-to-work.

1. During the year, department heads may submit to the Chief Executive Officer new individual requests for authorization as circumstances arise.

2. The information, including justification, reason, and circumstances requiring work-to-home/home-to-work use, as set forth in this section, shall be included in the request for the individual employee.

3. Individual requests that are submitted during the year may be approved only until the following January.

(F) The Chief Executive Officer and Board of Supervisors shall be authorized to approve or disapprove requests for a period not to exceed one (1) year.

(G) No employee who receives a vehicle allowance shall be authorized for work-to-home/home-to-work use of a County vehicle.

(H) Employees permitted to take County vehicles home for work-to-home/home-to-work may be subject to IRS-taxable fringe benefit laws.

(I) Employees who temporarily reside at a location other than their home address of record shall notify their department head of the location where their assigned County vehicle will be parked. (Ord. No. 4349, 2-2-2016)

#### **Sec. 3.12.070. Vehicle Collisions, Incidents or Damage.**

(A) It is the responsibility of the driver of a County vehicle to exercise reasonable care to avoid impediments or obstructions in the path of the vehicle which might cause damage to the vehicle, other vehicles or property, or injury to drivers, passengers and pedestrians.

(B) All collisions or vehicle damage in a County vehicle, or piece of equipment, or a privately owned vehicle being used on County business, regardless of severity, shall be reported immediately to the driver's supervisor, to the appropriate law enforcement agency (request an official collision report from the responding officer), the County Garage, and the County Risk Manager. Vehicle collisions involving extensive property damage, personal injury or loss of life, must also be reported to the DMV within ten (10) days of the incident. It is the driver's responsibility to report the incident to the DMV.

(C) Drivers involved in any collision or incident in a County vehicle, or a privately owned vehicle being used on County business, shall make a complete report of such collision or incident to the County Risk Manager within one (1) business day. If the driver is unable to make the report because of injury or other incapacity, the appropriate supervisor or manager shall submit a report.

(D) Collision/incident reports shall contain information on other vehicles, drivers, property involved, witnesses, weather conditions, road conditions, and any other pertinent information regarding such collision. Collision/incident report forms are located in the glove compartment on all County vehicles or at the County Garage.

(Ord. No. 4349, 2-2-2016)

termination. It is up to the discretion of the department head to take appropriate corrective action.

(Ord. No. 4349, 2-2-2016)

**Sec. 3.12.080. State of Emergency.**

When the County has declared a state of emergency, and an employee, at the determination of his/her department head, is likely to be required to respond directly to a site other than the employee's normal place of employment, and such response is of an emergency nature, the department head may authorize County vehicle use outside regular working hours and/or work-to-home/home-to-work use for the employee without prior approval of the Board of Supervisors.

(Ord. No. 4349, 2-2-2016)

**Sec. 3.12.090. Night and Weekend Storage.**

1. Except as permitted under the preceding sections, all County vehicles shall be stored nights and weekends on County premises, at the County Garage, unless otherwise authorized by the County Garage Manager.

2. All County vehicles shall be locked and keys shall not be left in cars under any circumstances.

(Ord. No. 4349, 2-2-2016)

**Sec. 3.12.100. Penalties.**

Failure to comply with this Chapter may result in disciplinary action, up to and including



**CHAPTER 3.16**  
**CIVIL SERVICE\***

**Sec. 3.16.010 Adoption of Civil Service System.**

Pursuant to 31100—31113, inclusive, of the Government Code of the State of California, there is hereby adopted a Civil Service System for the County of Mendocino, said system to be administered as hereinafter set forth. This Civil Service System shall operate as a merit-based system with governing principles which include recruiting, selecting and promoting employees on the basis of their ability; providing equitable and adequate compensation; training employees as needed; retaining employees on the basis of the adequacy of their performance; ensuring non-discrimination and fair treatment in all personnel operations; and ensuring employees are protected against coercion for partisan political purposes.  
(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.020 Terms of Commissioners.**

There is hereby created a Civil Service Commission consisting of five (5) members, one (1) from each Supervisorial District, who shall be appointed by the Board of Supervisors of the County of Mendocino. Each member appointed by the Board of Supervisors to the Civil Service Commission shall serve for a period of four (4) years and until his successor is appointed and qualified; provided, however, that the terms of office of two (2) members of the first Civil Service Commission shall be for one (1) year and the terms of office of the remaining three (3) members shall be for two (2), and three (3), and four (4) years, respectively; or until their successors are appointed and qualified. The members first appointed shall determine by agreement the relative order of the expiration of their terms of office.  
(Ord. No. 4342, 8-18-2015)

\*Editor's note—Ord. No. 4342, adopted August 18, 2015, repealed and replaced ch. 3.16, §§ 3.16.010—3.16.220, in its entirety. Former ch. 3.16 pertained to similar subject matter and was derived from Ord. No. 4340, adopted July 7, 2015.

**Sec. 3.16.030 Qualifications of Commissioners.**

The members of the Mendocino County Civil Service Commission shall be selected from among the qualified electors of the County of Mendocino and shall not have held any county office or position or shall not have been an officer of any political party within one (1) year prior to their appointment. In the event any vacancies occur during the term of office of any appointee, the Board of Supervisors shall fill such vacancy by appointment and such appointee shall serve for the remainder of the member's unexpired term of office only.  
(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.040 Removal of Commissioners.**

The Board of Supervisors may for good cause after public hearing by a four-fifths (4/5) vote of all its members remove any member of the Mendocino County Civil Service Commission during his term of office. There shall be no less than ten (10) days public notice of such hearing and said notice shall specify the name of the member and the cause of proposed removal.  
(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.050 Duties of the Commission.**

The Mendocino County Civil Service Commission shall perform the duties and exercise the powers provided for in this Chapter and no member of said Commission shall hold any other county office whatsoever during his tenure as a Commissioner.  
(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.060 Duty to Provide Funds.**

Within ninety (90) days after the adoption of the ordinance codified in this Chapter the Board of Supervisors shall appropriate the necessary funds for the administration of the Mendocino County Civil Service System and shall annually provide the necessary funds for such administration in the annual budget of the County of Mendocino for the fiscal years subsequent to such adoption. The Civil Service Commission shall recommend to the Board of Supervisors prior to each fiscal year the

amount of funds, which, in the opinion of the Commission, is reasonably necessary and adequate to administer the Civil Service System for each County department.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.070 Organization and Meetings of Commission.**

The Mendocino County Civil Service Commission shall hold at least one (1) regular meeting each month and shall keep minutes of its meetings and such other records as are necessary to the administration of the Civil Service System. Additional meetings as may be required may be held from time to time upon the call of the President or Vice-President. No such meeting of the Commission shall be held unless at least three (3) of the members of the Commission are in attendance. The Commission shall make an annual report to the Board of Supervisors setting forth the nature of its activities throughout the calendar year and any recommendations it may have with respect to changes or modifications in County employment with respect to personnel matters. At its first meeting after the appointment of the members thereof, the Commission shall elect one (1) of its members President and another Vice-President to serve for each calendar year thereafter, at the first meeting of each calendar year a President and Vice-President shall be elected and shall hold office until successors have been elected and qualified.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.080 Compensation of Commission.**

Members of the Civil Service Commission shall receive compensation at the rate of not more than Twenty Dollars (\$20) per member for each meeting attended, shall receive reasonable traveling expenses from their place of residence to the place of the meetings and return, and such other actual and necessary expenses incurred in the performance of their duties. No payment of traveling expenses shall be made for meetings of the Commission held outside the County unless prior approval is given by the Board of Supervisors.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.090 Secretary of the Civil Service Commission.**

The Board of Supervisors hereby designates the Director of Human Resources to act as the Secretary of the Civil Service Commission to perform the duties prescribed by the Commission.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.100 Designation of Employees Covered.**

The provisions of this Chapter shall apply to and the County Civil Service shall include every officer and employee of the County except that officers and employees within the following categories will be excluded from Sections 3.16.010, 3.16.120, 3.16.130, 3.16.140, 3.16.150, 3.16.160 and 3.16.210:

(A) Elected officers, including but not limited to:

- (1) Assessor/Clerk Recorder,
- (2) Auditor-Controller,
- (3) District Attorney,
- (4) Sheriff-Coroner,
- (5) Treasurer/Tax Collector;

(B) All County officers whose terms and removal from office are governed by State statute specific to that office;

(C) All County officers and employees who are at-will and serve at the pleasure of the Board of Supervisors or the "Appointing Authority" as defined by Section 3.16.110, regardless of the bargaining unit to which their classification may be assigned, including but not limited to, all Branch Managers within the Health and Human Services Agency;

(D) All persons serving without compensation;

(E) County Jail Inmates;

(F) All members of appointed boards and commissions;

(G) All appointed department heads, including but not limited to:

- (1) Agricultural Commissioner/Sealer,
- (2) Chief Probation Officer,
- (3) Clerk of the Board of Supervisors,

- (4) County Counsel,
- (5) Director Child Support Services,
- (6) Director of Museum,
- (7) Farm Advisor,
- (8) General Services Agency Director,
- (9) Health and Human Services Agency Director,

- (10) Human Resources Director,
- (11) Director of Planning and Building,
- (12) Public Defender,
- (13) Director of Transportation;

(H) The following employees, regardless of bargaining unit, whose principal duties involve the practice of law and which classifications require membership in the California Bar Association:

- (1) Chief Deputy County Counsel,
- (2) Alternate Defender,
- (3) Deputy County Counsel I-II-III-IV,
- (4) Assistant District Attorney,
- (5) Assistant Public Defender;

(I) All employees, regardless of bargaining unit, whose principal duties involve the practice of medicine and which classifications require licensure as a Medical Doctor (MD), including but not limited to:

- (1) Psychiatrist,
- (2) Public Health Officer;

(J) All unrepresented management employees including but not limited to:

- (1) Chief Executive Officer,
- (2) Assistant Chief Executive Officer;

(K) Mendocino County Air Pollution Control Officer;

(L) Water Agency General Manager;

(M) All employees covered under the California Administrative Code, (i.e., Merit Systems);

(N) The County Surveyor by reason that this position must report to the Board of Supervisors by law.

(Ord. No. 4342, 8-18-2015)

### **Sec. 3.16.110 Definition of "Appointing Authority."**

The appointing authority as that term is used in this Chapter shall be the appointed or elected head of the department in which the appointment is to be made.

(Ord. No. 4342, 8-18-2015)

### **Sec. 3.16.120 Rules—Contents of.**

The Civil Service Commission shall prescribe rules and regulations for the operation of the Civil Service System in accordance with 31113 of the Government Code of the State of California; and shall provide in such rules for the following:

(A) The classifications of all positions in the Civil Service System and the orderly periodic review of classifications;

(B) Establish minimum standards and qualifications for each classification;

(C) A public announcement of all examinations;

(D) Admittance to examinations of all applications that meet the minimum standards of qualifications;

(E) Open or promotional competitive examinations to test the relative fitness of applicants for positions in the classified service of the County;

(F) Promotional preference to those in the County Civil Service where consistent with the public interest;

(G) The establishment of eligible lists from competitive promotional and open examinations. Such lists shall remain in force for not less than six (6) months nor more than two (2) years to be determined by the Civil Service Commission;

(H) An extra credit of five percent (5%) of the total credits earned in any competitive open examination to all persons who shall have earned the minimum qualifying score and who shall have submitted proof of service in the United States Military Forces and honorable discharge or certificate of honorable act of service therefrom, and an additional five percent (5%) credit shall also be allowed on open examination to honorably discharged veterans with service disabilities;

(I) Certification of the eligible list to the appointing authority and appointment from the list whenever a position in the classified service is to be filled, provided that eligibles on promotional lists for any particular class shall be certified before eligibles on open lists. Each certification shall name the highest ranked standings on the eligible list for the position to be filled. The number of standings certified shall be no less than three (3) and no more than ten (10) as requested by the appointing authority. The appointing authority shall appoint from those so certified provided they are available; if any candidate on a certification waives or fails to respond to a certification to the appointing authority, additional names shall be certified to the extent that there are no less than three (3) available from which to appoint, unless the appointing authority elects to appoint from a certification of less than three (3) available eligible candidates;

(J) A normal probationary period for each class shall be twelve (12) months; subject to further provision that the Civil Service Commission may for good cause provide that the probationary period may be extended; during the probationary period the appointing authority may reject an appointee and the appointee shall have no right to a hearing on the issue of rejection; a rejected appointee shall be reinstated to the eligible list from which the appointment was made providing said list is still in existence; a rejected appointee who had permanent or probationary status in another class shall have the right to be immediately reinstated to his or her former permanent or probationary position held immediately prior to appointment to the class which rejected;

(K) Permanent status after completing of the probationary period subject to dismissal, suspension, or demotion for cause;

(L) Appointment to permanent or temporary positions on a provisional basis of persons who meet the minimum qualifications when there is no eligible list for the class, provided that such provisional appointments shall be terminated at

the end of six (6) calendar months or within thirty (30) calendar days after certification of eligibles, whichever first occurs;

(M) Appointment to temporary or limited term positions or persons who meet the minimum qualifications provided, however, that acceptance or refusal to accept such appointment shall not bar an eligible from certification for permanent appointment; all employees now authorized by law to be employed in any County office for a portion of each year, or during certain seasons each year, who shall have been an employee of the County of Mendocino for two (2) successive seasons immediately prior to the time this Chapter takes effect shall be forthwith certified by the commission and shall be eligible for appointment to such seasonal positions without examination so long as they shall remain upon the certified or eligible list of commission;

(N) Appointments in emergencies or elections administered by the County Clerk without reference to eligible lists for periods not to exceed fifteen (15) calendar days, provided that each such appointment shall be reported in writing promptly to the Civil Service Commission stating specifically the situation that exists;

(O) Transfers, leave of absences, separation, and re-employment privileges;

(P) To establish rules and procedures for lay-off considering seniority and efficiency and for demotion to lower classes and for establishment of re-employment lists for the classes from which demoted or laid-off;

(Q) Open hearing on the adoption of rules and regulations and amendments thereto and other matters;

(R) Establish rules for sick leave and vacation and procedures for appeal from sick leave;

The Commission shall also perform additional powers and duties in relation to the operation of the Mendocino County Civil Service System as the Board of Supervisors may from time to time delegate to it.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.130 Dismissal, Suspension or Reduction.**

Any officer or employee in the classified civil service may be dismissed, suspended or reduced in rank or compensation by the appointing authority of the County after employment or promotion is complete by a written order, executed by such appointing authority, stating specifically the reasons for this action. The order shall be filed with the Director of Human Resources and a copy thereof shall be furnished to the person afflicted thereby. Such dismissal, suspension or reduction in rank or compensation shall be final unless such officer or employee files a reply in writing to such order with the Director of Human Resources and requests an appeal to the Civil Service Commission within ten (10) days after the receipt of the original order; appointing authority in a dismissal, demotion, or suspension may take the action effectively immediately.  
(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.140 Appeals.**

If the employee affected by the order referred to in Section 3.16.130 hereof files a reply and request for appeal to the Civil Service Commission within the specified time, the Director of Human Resources shall transmit the order, reply and request for appeal to the Civil Service Commission for hearing. Within thirty (30) business days from the filing of such appeal, the Commission or its referee shall hold a hearing which may be continued from time to time, and at the conclusion thereof either affirm, modify or revoke the order. The appellant may appear personally, produce evidence, be represented by counsel, and have a public hearing if it is desired. If the Commission appoints a referee, a complete transcript shall be made and presented to the Commission.  
(Ord. No. 4342, 8-18-2015; Ord. No. 4376, 1-10-2017)

**Sec. 3.16.150 Hearing.**

At any hearing or investigation conducted by the Mendocino County Civil Service Commission

or its referee, the Commission or its referee shall have the power of subpoena and may require the attendance of witnesses and the production thereby of books, records and other documents pertinent to the hearing and/or investigation. Each commissioner or referee shall have the power to administer oaths to witnesses. The Commission may employ a hearing officer or referee to act as the presiding officer at hearings and specify the rules of evidence in force. Any decision by the Commission shall specify a finding as to each ground and the finding and decision shall be certified to the appointing authority whose action was the subject of the hearing and be forthwith enforced and followed by him. If an order of suspension, dismissal or reduction in rank or compensation served upon an employee is reversed or modified by the Commission, such employee shall be restored to his previous position with all rights and privileges pertaining thereto except as the decision may affect the employee's status. The employee who is restored to his position shall be entitled to back salary less what he earned.  
(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.160 Status of Current Employees.**

Every person employed by the County of Mendocino at the time of the operative date of the ordinance codified in this Chapter who was or has held an office of employment continuously for a period of six (6) months prior to such operative date shall be deemed to be appointed to such office and confirmed in such position until demoted, suspended, or dismissed in accordance with the terms of the ordinance codified in this Chapter. All persons under the scope and benefit of this Section shall finish out any probationary period previously commenced, subject to the provisions hereof. The provisions of this Section shall not be applicable to those persons designated in Section 3.16.100(A) through (D).  
(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.170 Political Activity.**

(A) County officers and employees may not actively engage in political campaign activity during paid work hours.

(B) County officers and employees may not actively engage in political campaign activity on the premises of County offices.

(C) For purposes of this Section only, working hours mean the following:

(1) For employees, the hours during which the employee is supposed to be at work and not on leave of absence, paid time off or vacation.

(2) For elected officers other than County Supervisors, from 8:00 a.m. to 5:00 p.m. Monday through Friday except if the officer takes time off to engage in political activity.

(3) For County Supervisors, the time during which a Board of Supervisors' meeting is in session.

(D) For purposes of this Section, political campaign activities shall be defined as the following:

(1) Soliciting, receiving, collecting, handling, dispensing, or accounting for assessments, contributions;

(2) Soliciting voters in support of or in opposition to a particular candidate for public office or political party office; or

(3) Addressing, gathering in support of or in opposition to a particular candidate for public office or political party office.

(E) No County employee, elected or appointed, may use, directly or indirectly, any County funds or property in participating in any political campaign.

(F) An employee who seeks election to a County elective office in the County department in which the employee is employed, shall be granted, upon that employee's written request, an unpaid leave of absence for all or any portion of the sixty (60) day period immediately preceding each election in which the employee is a candidate. The employee must submit a written request for unpaid leave pursuant to this Section sixty (60) days prior to the day that said leave is to commence.

(G) No County officer or employee shall participate in political activities while in uniform.

(H) Employees shall be protected from improper political influence or coercion and reprisal

for the lawful disclosure of information in whistleblower situations such as reporting illegal and/or wasteful activities.

(I) If any of the above provisions of this Section are held to be invalid, it shall not affect the remaining sections thereof.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.180 Non-Discrimination.**

No person in the classified service of the County of Mendocino or seeking admission thereto shall be appointed, reduced or removed, or in any way favored or discriminated against because of race, color, religion, ancestry, national origin, age, sex, sexual orientation or identity, marital status, medical condition, disability, or any other consideration made unlawful by federal, State, or local law.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.190 Severability.**

If any section, subsection, clause or phrase of this Chapter is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining sections of this Chapter. It is hereby declared that each section, subsection, clause or phrase of this Chapter would have been passed irrespective of the fact that any other portion of said ordinance might be declared unconstitutional. It is further provided that any other law or ordinances which affect the employees of Mendocino County are specifically maintained as governing law, except insofar as such other law conflicts either directly or indirectly with the ordinance herein.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.200 Amendment.**

This Chapter may be amended in either of the following ways, by:

(A) A vote of the people; or

(B) An ordinance initiated and adopted by the Board of Supervisors of Mendocino County by a favorable vote of not less than four-fifths (4/5) of the members of the Board.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.210 Status of Incumbent Upon  
Reclassification of Position.**

(A) When a person is reclassified from one (1) class to another class, any incumbent in such position shall continue in the position in the new class with the same probationary status as held in the former classification. If the reclassification results in a monetary change, an incumbent shall be placed at the salary step nearest the incumbent's current salary without a monetary loss.

(B) When a position is reclassified from one (1) class to more than one (1) class an alternate position, any incumbent in such position shall continue in the position, in the same class if the position is so classified, or in the classification in which the incumbent is currently performing based on the classification study. If the incumbent is performing at the journey level and is no longer on probation, a new probationary period is not required.

(C) When a position is abolished and replaced with a new position in a different class, any incumbent in such position may qualify for reassignment to the new position in the manner provided by these rules.

(D) Each classification action of the Commission shall be submitted to the Board of Supervisors and shall become effective upon approval by said Board.

(Ord. No. 4342, 8-18-2015)

**Sec. 3.16.220 Validation.**

All resolutions amending this Chapter are hereby validated and confirmed and shall have the full legal effect of ordinances adopted by the Board of Supervisors in the manner required by the law and complying in every respect with laws relating to the adoption and approval of such ordinances, notwithstanding any defect, irregularity, omission or ministerial error in the adoption or approval thereof.

(Ord. No. 4342, 8-18-2015)

## **CHAPTER 3.20**

### **TRANSFER OF STATE MENTAL HEALTH EMPLOYEES**

#### **Sec. 3.20.010 Status of Employee Upon Transfer.**

All persons holding State of California civil service positions in Mental Health Social Services, Department of Mental Health (Ukiah office) preceding the effective date of the assumption of this function by the County of Mendocino shall, on the effective date, be considered permanent employees of the County with waiver of medical examination and probationary period, and shall be allocated to County job classifications comparable to those in State service. (Ord. No. 3354, adopted 1981.)

#### **Sec. 3.20.020 Classification and Compensation of Employees Upon Transfer.**

Employees being transferred from State service who are receiving a salary at the top step of the State salary range for their classification shall be assigned to the top step in the salary range established for the comparable classification in County service. If the transfer to a County classification results in reclassification and assignment to a lower pay range, the Board of Supervisors may direct that the employee be "Y-rated" on payroll and personnel records, and that he/she continue to receive a salary at or nearest the authorized State salary in effect at the time of assumption of the State function. Such employee shall be "Y-rated" until termination of employment in the position or until a higher rate of pay may be authorized for the County classification, whichever occurs first. (Ord. No. 3354, adopted 1981.)

#### **Sec. 3.20.030 Credit for Prior State Service.**

State Mental Health employees brought into County service shall enter with credit for length of service going back to their most recent date of hire with the State. Such employees shall carry into County service their full sick leave balance and,

although entering with no vacation balance, shall accrue vacation at the schedule provided in Section 3.04.150 of this Ordinance. These employees shall be eligible to use vacation upon accrual of a balance. (Ord. No. 3354, adopted 1981.)



**Title 4**  
**(RESERVED)**



## **Title 5**

### **REVENUE AND FINANCE**

- Chapter 5.04 Presentation of Claims**
- Chapter 5.08 County Warrants**
- Chapter 5.12 Calamity Reassessment**
- Chapter 5.14 Damage Reassessment**
- Chapter 5.15 Possessory Interest Reassessment**
- Chapter 5.16 Sales and Use Taxes**
- Chapter 5.20 Tax Imposed on Transients**
- Chapter 5.24 Real Property Transfer Tax**
- Chapter 5.28 Sewer Charges in Meadowbrook Manor**
- Chapter 5.32 Taxes for Capital Outlays**
- Chapter 5.36 Fire Protection Mitigation Fee**
- Chapter 5.52 Workers' Compensation Trust Fund**
- Chapter 5.62 General Liability Trust Fund**
- Chapter 5.63 Outer Continental Shelf Impact  
Mitigation and Emergency Response  
Trust Fund**
- Chapter 5.72 Unemployment Compensation Trust Fund**
- Chapter 5.82 Ordinance Approving and Authorizing the  
Execution of a Facility Lease of Property  
Located at 747 South State Street,  
Ukiah, California**
- Chapter 5.92 Costs of Incarceration**
- Chapter 5.96 Reserved**
- Chapter 5.100 Williamson Act Assessments**
- Chapter 5.110 Property Tax Administration Fees on  
Local Public Agencies**
- Chapter 5.120 Reserved**
- Chapter 5.130 Delegating Authority to Invest to  
Treasurer-Tax Collector**
- Chapter 5.140 Mendocino County Lodging Business  
Improvement District**
- Chapter 5.150 Assessment Appeals Board**
- Chapter 5.170 Library Special Transactions And Use  
Tax**



## CHAPTER 5.04

### PRESENTATION OF CLAIMS\*

\* Prior ordinance history: Ords. 331, 3214 and 3223

#### **Sec. 5.04.005 Claims Procedures in General.**

The provisions of this Chapter recognize that the general claim procedures applicable to local public agencies, including this County, are governed by the provisions of Chapter 1 of Division 3.6 of the Government Code of the State of California (commencing with Government Code Section 900). (Ord. No. 4181 (part), adopted 2007.)

#### **Sec. 5.04.010 Filing Claims.**

All claims for goods or services provided to the County of Mendocino, shall be filed with the Auditor no later than noon on the Monday prior to the Friday they are to be paid. (Ord. No. 4181 (part), adopted 2007.)

#### **Sec. 5.04.020 Special Claims Procedures.**

Under the authority contained in Government Code Section 935, the following claims procedures are established for those claims against the County for money or damages not now governed by State or local laws:

(A) **Employee Claims.** Notwithstanding the exceptions contained in Government Code Section 905, all claims by public officers or employees for fees, salaries, wages, overtime pay, holiday pay, compensating time off, vacation pay, sick leave pay, and any other expenses or allowances claimed due from the County, when a procedure for processing such claims is not otherwise provided by State or local laws, shall be presented within the time limitations and in the manner prescribed by Government Code Sections 910 through 915.2. Such claims shall further be subject to the provisions of Government Code Section 945.4 relating to the prohibition of suits in the absence of the presentation of claims and actions thereon.

(B) **Contract and Other Claims.** In addition to the requirements of subsection (A) of this Section, and notwithstanding the exemptions set forth in Government Code Section 905, all claims against the County for damages or money, when a procedure for processing such claims is not otherwise provided by State or local laws, shall be presented within the time limitations and in the manner prescribed by Government Code Sections 910 through 915.2. Such claims shall further be subject to the provisions of Government Code Section 945.4 relating to the prohibition of suits in the absence of the presentation of claims and action thereon. (Ord. No. 4181 (part), adopted 2007.)

**CHAPTER 5.08**  
**COUNTY WARRANTS**

**Sec. 5.08.010          Honoring of Warrants—  
                                         Time.**

A county warrant legally issued shall be honored if presented to the Treasurer-Tax Collector of Mendocino County for payment within six (6) months after its date. Such warrant is void if not presented to said Treasurer-Tax Collector within six (6) months after its date. (Ord. No. 989, adopted 1972, as amended by Ord. No. 3572, adopted 1985.)

**Sec. 5.08.020          Warrant Deemed Lost—  
                                         Time.**

A county warrant shall be considered lost if it has been mailed and has not been received by the addressee within seven (7) days after the date of mailing. (Ord. No. 1371, adopted 1974.)

## CHAPTER 5.12

### CALAMITY REASSESSMENT

#### **Sec. 5.12.010 Authorization.**

This Chapter is enacted pursuant to California Constitution, Article XIII, Section 2.8, and California Revenue and Taxation Code, Section 155.1. (Ord. No. 1265, adopted 1974.)

#### **Sec. 5.12.020 Right to Apply.**

Every person who at 12:01 a.m. on the immediately preceding March 1 was the owner of, or had in his possession, or under his control, any taxable property, or who acquired such property after such date and is liable for the taxes thereon for the fiscal year commencing immediately following July 1, which property was thereafter damaged or destroyed, without his fault, by a major misfortune or calamity, in an area or region subsequently proclaimed by the Governor to be in a state of disaster, if such property was damaged or destroyed by the major misfortune or calamity which caused the Governor to proclaim the area or region to be in a state of disaster, may, within 180 days after such proclamation, apply for reassessment of such property by delivering to the Mendocino County Assessor a written application showing the condition and value, if any, of the property immediately after the damage or destruction, which damage must be shown therein to be in excess of one thousand dollars (\$1,000.00). The application shall be submitted on forms prepared by the Mendocino County Assessor and shall be executed under penalty of perjury or, if executed outside the State of California, verified by affidavit. (Ord. No. 1265, adopted 1974.)

#### **Sec. 5.12.030 Obligation of Assessor.**

Upon receiving a proper application, the Mendocino County Assessor shall reassess the property according to its full cash value immediately after the damage or destruction. The Assessor shall notify the applicant in writing of

the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the Mendocino County Board of Equalization within fourteen days of the date of mailing the notice. (Ord. No. 1265, adopted 1974.)

#### **Sec. 5.12.040 Board of Equalization.**

If an appeal is requested within the fourteen-day period, the Mendocino County Board of Equalization shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment. The decision of the Board regarding the damaged value of the property shall be final, provided that a decision of the local Board of Equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage. (Ord. No. 1265, adopted 1974.)

(a) If the damaged full cash value of the property as determined above is not at least one thousand dollars (\$1,000.00) less than the full cash value shown on the assessment roll for the year in question, no adjustment shall be made to said roll, and no taxes shall be canceled or refunded. Those reassessed values resulting from reductions in full cash value of at least one thousand dollars (\$1,000.00), as determined above, shall be forwarded to the Mendocino County Auditor by the Assessor or the Clerk of the Board, as the case may be. The Auditor shall enter the reassessed values on the roll. After being entered on the roll, said reassessed values shall not be subject to review except by a court of competent jurisdiction. (Ord. No. 1265, adopted 1974.)

#### **Sec. 5.12.050 Reassessment Without Application.**

If no such application is made, and within the 180 days specified above for filing an application for reassessment the Mendocino County Assessor determines that the full cash value of such property for the assessment year is reduced

5.12.050

from the full cash value of such property for the immediately preceding assessment year by more than one thousand dollars (\$1,000.00) due to the damage or destruction caused by the major misfortune or calamity, the Assessor shall notify the property owner that the property will be reassessed. The Assessor shall assess the property, or reassess it if it has already been assessed, according to the condition and value immediately after the damage or destruction, and the Assessor, if he

reassesses the property, shall transmit to the Mendocino County Board of Equalization a description of the property so reassessed, the name of the person making the application in connection with the property, if any, or the name of the property owner notified and the value of the property as so reassessed. Upon such notice as it may find to be proper, said Board of Equalization shall equalize any such assessment or reassessment. (Ord. No. 1265, adopted 1974.)



**CHAPTER 5.14****DAMAGE REASSESSMENT****Sec. 5.14.010 Authorization.**

This Chapter is enacted pursuant to the California Revenue and Taxation Code Section 155.13. (Ord. No. 2079, adopted 1978. Repealed and amended by Ord. No. 2098, adopted 1978.)

**Sec. 5.14.020 Right to Apply.**

Every person who at 12:01 a.m. on March 1 was the owner of, or had in his possession, or under his control, any taxable property, or who acquired such property after such date and is liable for the taxes thereon for the fiscal year commencing immediately following July 1, which property was thereafter damaged or destroyed, without his fault, by a misfortune or calamity, apply for reassessment of such property by delivering to the assessor a written application showing the condition and value, if any, of the property immediately before and after the damage or destruction, which damage must be shown therein to be in excess of five thousand dollars (\$5,000.00). The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit. (Ord. No. 2079, adopted 1978. Repealed and amended by Ord. No. 2098, adopted 1978.)

**Sec. 5.14.030 Obligation of Assessor.**

Upon receiving a proper application, the assessor shall verify the amount claimed on the application in the before and after condition. The assessor shall then compute a percentage relationship of loss and reduce the current assessed value by that percentage. The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. (Ord. No. 2079, adopted 1978.)

Repealed and amended by Ord. No. 2098, adopted 1978.)

**Sec. 5.14.040 Board of Equalization.**

If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged value of the property shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage. (Ord. No. 2079, adopted 1978. Repealed and amended by Ord. No. 2098, adopted 1978.)

If the amount of damage, as verified by the assessor, is not at least five thousand dollars (\$5,000.00), no adjustment shall be made to said roll and no taxes shall be cancelled or refunded. The reassessments resulting from those reductions, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, said reassessments shall not be subject to review except by a court of competent jurisdiction. (Ord. No. 2079, adopted 1978. Repealed and amended by Ord. No. 2098, adopted 1978.)

**Sec. 5.14.050 Reassessment Without Application.**

If no such application is made and the assessor determines that a property has suffered damage caused by misfortune or calamity, which may qualify the property owner for relief under this section, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of notification by the assessor. Upon receipt of a properly completed, timely filed application, the assessor

5.14.050

shall proceed to reassess property in the same manner as required above. (Ord. No. 2079, adopted 1978. Repealed and amended by Ord. No. 2098, adopted 1978.)

**Sec. 5.14.060 Amount of Tax.**

In the event that any property is reassessed pursuant to this Chapter the tax on such property shall be determined by the method set forth in Revenue and Taxation Code Section 155.13. (Ord. No. 2079, adopted 1978. Repealed and amended by Ord. No. 2098, adopted 1978.)

## CHAPTER 5.15

### POSSESSORY INTEREST REASSESSMENT

#### Sec. 5.15.010 Authorization.

This Chapter is enacted pursuant to the California Revenue and Taxation Code 155.14. (Ord. No. 3053, adopted 1978.)

#### Sec. 5.15.020 Right to Apply.

Every person who at 12:01 a.m. on March 1 had a possessory interest in land owned by the state or federal government or who acquired such interest after such date and is liable for the taxes thereon for the fiscal year commencing immediately following July 1 and the permit or other right to enter upon the land has been suspended without his fault, because of a misfortune or calamity; may apply for reassessment of such property by delivering to the assessor a written application showing the condition and value, if any, of the possessory interest immediately before and after the suspension. The damage to the interest must be shown in the application to be in excess of five thousand dollars (\$5,000). The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit. (Ord. No. 3053, adopted 1978.)

#### Sec. 5.15.030 Obligation of Assessor.

Upon receiving a proper application, the assessor shall verify the amounts claimed on the application in the before and after condition. The assessor shall then compute a percentage relationship of loss and reduce the current assessed value by the percentage. The assessor shall notify the applicant in writing of the

amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. (Ord. No. 3053, adopted 1978.)

#### Sec. 5.15.040 Board of Equalization.

If an appeal is requested within the 14 day period, the Board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the Board regarding the value of the suspended permit shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the suspension. (Ord. No. 3053, adopted 1978.)

If the amount of damage, as verified by the assessor, is not at least five thousand dollars (\$5,000), no adjustment shall be made to said roll and no taxes shall be canceled or refunded. The reassessments resulting from those reductions, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, said reassessments shall not be subject to review except by a court of competent jurisdiction. (Ord. No. 3053, adopted 1978.)

#### Sec. 5.15.050 Amount of Tax.

In the event that any property is reassessed pursuant to this Chapter, the tax on such property shall be determined by the method set forth in the Revenue and Taxation Code 155.13. (Ord. No. 3053, adopted 1978.)

**CHAPTER 5.16**  
**SALES AND USE TAXES**

**Sec. 5.16.010 Title.**

This Chapter shall be known as the Mendocino County Uniform Local Sales and Use Tax Chapter. (Ord. No. 361, Sec. 1, adopted 1956.)

**Sec. 5.16.020 Declaration.**

The Board of Supervisors of the County of Mendocino hereby declares that this Chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(a) To adopt a sales and use tax article which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California. (Ord. No. 361, Sec. 2, adopted 1956.)

(b) To adopt a sales and use tax article which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the said Revenue and Taxation Code. (Ord. No. 361, Sec. 2, adopted 1956.)

(c) To adopt a sales and use tax ordinance which imposes a one and one-quarter per cent (1 ¼%) tax and provide a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State sales and use taxes. (Ord. No. 361, adopted 1956, as amended by Ord. No. 922, adopted 1972.)

(d) To adopt a sales and use tax article which can be administered in a manner that will, to the degree possible, consistent with the provisions of

Part 1.5 of Division 2 of the said Revenue and Taxation Code, minimize the burden of record keeping upon persons subject to taxation under the provisions of this Article. (Ord. No. 361, Sec. 2, adopted 1956.)

**Sec. 5.16.030 Conditional Operation.**

(a)(1) This Chapter is operative and shall remain operative, provided the cities of Ukiah, Willits, Fort Bragg, and Point Arena, prior to April 1, 1969, enact ordinances — articles as listed in Section 5.16.060 of this Chapter which provide for a tax of one percent (1%) or less of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the respective cities, and prior thereto, this County shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this Sales and Use Tax Chapter. (Ord. No. 563, adopted 1967, as amended by Ord. No. 563, adopted 1969.)

(b)(1) This Chapter shall become inoperative on the first day of the first calendar quarter which commences more than sixty (60) days following the date on which any city within the County increases the rate of its sales or use tax above the rate as set forth in Section 5.16.030 (a)(1) of this Chapter as amended. (Ord. No. 361, Sec. 9, adopted 1956, as amended by Ord. No. 517, adopted 1967.)

**Sec. 5.16.040 Tax Upon Retailers—Sales.**

(a)(1) For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the County at the rate of one percent (1%) of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the County of Mendocino on and after April 1, 1972, to and including June 30, 1972, and at the rate of one and one-quarter percent (1 ¼%) thereafter. (Ord. No. 361, adopted 1956, as amended by Ord. No. 922, 1972.)

(2) For the purpose of this Chapter all retail sales are consummated at the place of business of the retailer unless the tangible personal property

sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one (1) place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the Board of Equalization. (Ord. No. 361, Sec. 4, adopted 1956, as amended by Ord. No. 425, adopted 1961, as amended by Ord. No. 3499 and 3502, adopted 1984.)

(b)(1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on the effective date of this Chapter [June, 1956] applicable to sales taxes are hereby adopted and made a part of this section as though fully set forth herein. (Ord. No. 361, Sec. 4, adopted 1956.)

(2) Wherever, and to the extent that, in Part 1 of Division 2 of the Revenue and Taxation Code, the State of California is named or referred to as the taxing agency, the County of Mendocino shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of the County of Mendocino for the word "State" when that word is used as part of the title of the State Controller, State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the County be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the County or any agency thereof, rather than by or

against the State Board of Equalization in performing the functions incident to the administration or operation of this Chapter; and neither shall the substitution be deemed to have been made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the State under the said provisions of Part 1 of Division 2 of the Revenue and Taxation Code, nor to impose this tax with respect to certain gross receipts which would not be subject to tax by the State under the said provisions of that Code; and, in addition, the name of the County shall not be substituted for that of the State in Sections 6701, 6702, except in the last sentence thereof, 6711, 6715, 6737, 6797 and 6828 of the Revenue and Taxation Code, as adopted. (Ord. No. 361, Sec. 4, adopted 1956.)

(3) If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by reason of this section. (Ord. No. 361, adopted 1956, as amended by Ord. No. 922, adopted 1972.)

(4) There shall be excluded from the gross receipts by which the tax is measured:

a. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer. (Ord. No. 361, adopted 1956, as amended by Ord. No. 922, adopted 1972.)

b. Eighty percent (80%) of the gross receipts from the sale of property to operators of common carriers and waterborne vessels to be used or consumed in the operation of such common carriers or waterborne vessels principally outside of this County. (Ord. No. 425, adopted 1961, as amended by Ord. No. 922, adopted 1972.)

(4.5) There shall be excluded from the gross receipts by which the tax is measured: (Ord. No. 1152, adopted 1973.)

a. The amount of any sales or use tax imposed

by the State of California upon a retailer or consumer. (Ord. No. 1152, adopted 1973, as amended by Ord. No. 3478, adopted 1983, as amended by Ord. No. 3499 and 3502, adopted 1984.)

b. Eighty percent (80%) of the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States or any foreign government. (Ord. No. 1152, adopted 1973, as amended by Ord. No. 3478, adopted 1983.)

(5) There shall be excluded from the gross receipts by which the tax is measured:

a. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

b. Eighty percent (80%) of the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

c. Eighty percent (80%) of the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government. (Ord. No. 3478, adopted 1983.)

**Sec. 5.16.050 Use Taxes.**

(a) An excise tax is hereby imposed on the storage, use, or other consumption in the County of Mendocino of tangible personal property purchased from any retailer on or after April 1, 1972, for storage, use, or other consumption in the County at the rate of one percent (1%) of the sales price of the property to and including June 30,

1972, and at the rate of one and one-quarter percent (1 $\frac{1}{4}$ %) thereafter. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. (Ord. No. 361, adopted 1956, as amended by Ord. No. 922, adopted 1972.)

(b)(1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on the effective date of this Chapter, [June, 1956] applicable to use taxes are hereby adopted and made a part of this section as though fully set forth herein.

(2) Wherever, and to the extent that, in Part 1 of Division 2 of said Revenue and Taxation Code, the State of California, is named or referred to as the taxing agency, the name of this County shall be substituted therefor. Nothing in this subsection shall be deemed to require the substitution of the name of the County for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization or the name of the State Treasury or of the Constitution of the State of California; nor shall the name of the County be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the State Board of Equalization in performing the functions incident to the administration or operation of this Chapter; and neither shall the substitution be deemed to have been made those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain storage, use or other consumption which remains subject to tax by the State under the provisions of Part 1 of Division 2 of the said Revenue and Taxation Code, or to impose this

Tax with respect to certain storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provisions of that Code; and, in addition, the name of the County shall not be substituted for that of the State in Sections 6701, 6702, except in the last sentence thereof, 6711, 6715, 6737, 6797 and 6828 of the said Revenue and Taxation Code as adopted; and the name of the County shall not be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 nor in the definition of that phrase in Section 6203. (Ord. No. 361, Sec. 5, adopted 1956, as amended by Ord. No. 425, adopted 1961, as amended by Ord. No. 3478, adopted 1983.)

(3) There shall be exempt from the tax due under this section:

a. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer. (Ord. No. 361, Sec. 5, adopted 1956.)

b. The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this State. (Ord. No. 361, Sec. 5, adopted 1956, as amended by Ord. No. 425, adopted 1961, as amended by Ord. No. 3478, adopted 1983, as amended by Ord. No. 3499 and 3502, adopted 1984.)

c. Provided, however, that the storage or use of tangible personal property in the transportation or transmission of persons, property, or communications, or in the generation, transmission, or distribution of electricity, or in the manufacture, transmission, or distribution of gas intrastate, interstate, or foreign commerce by public utilities which are regulated by the Public Utilities Commission of the State of California shall be exempt from eighty percent (80%) of the tax due under this section. (Ord. No. 425, adopted 1961, as amended by Ord. No. 922, adopted 1972.)

(3.5) There shall be exempt from the tax due under this section: (Ord. No. 1152, adopted 1973.)

a. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer. (Ord. No. 1152, adopted 1973.)

b. The storage, use, or the consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance. (Ord. No. 1152, adopted 1973, as amended by Ord. No. 3478, adopted 1983.)

c. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from eighty percent (80%) of the tax. (Ord. No. 1152, adopted 1973, as amended by Ord. No. 3478, adopted 1983, as amended by Ord. No. 3499 and 3502, adopted 1984.)

(4) There shall be exempt from the tax due under this section:

(a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

(b) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this State, shall be exempt from the tax due under this ordinance.

(c) Provided, however, that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes is exempted from eighty percent (80%) of the tax.

(d) In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from eighty percent (80%) of the tax. (Ord. No. 3478, adopted 1984.)

**Sec. 5.16.060 Credit Against the Payment of Taxes.**

Any person subject to a sales and use tax under this Chapter shall be entitled to credit against the payment of taxes due under this Chapter the amount of sales and use tax due any city in this County; provided that the city sales and use tax is levied under an ordinance — article including provisions substantially conforming to the provisions of subdivisions (1) to (8), inclusive, of subsection (h) of Section 7202 of the Revenue and Taxation Code, and other applicable provisions of Part 1.5 of Division 2 of that Code. (Ord. No. 361, Sec. 6, adopted 1956, as amended by Ord. No. 425, adopted 1961.)

**Sec. 5.16.070 Tax Credit.**

(a) Any person subject to a sales or use tax or required to collect a use tax under this ordinance shall be entitled to credit against the payment of taxes due under this ordinance the amount of sales and use tax due any city in this county, provided that the city sales and use tax is levied

under an ordinance including provisions substantially conforming to the provisions of subdivision (1) to (8), inclusive, of subsection (h) of Section 7202 of the Revenue and Taxation Code, and other applicable provisions of Part 1.5 of Division 2 of that Code. (Ord. No. 1152, adopted 1973, as amended by Ord. No. 3478, adopted 1983.)

(b) Any person subject to a sales or use tax or required to collect a use tax under this ordinance shall be entitled to credit against the payment of taxes due under this ordinance the amount of sales and use tax due any city in this county, provided that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivision (1) to (10), inclusive, of subsection (i) of Section 7202 of the Revenue and Taxation Code, and other applicable provisions of Part 1.5 of Division 2 of that Code. (Ord. No. 3478, adopted 1983.)

**Sec. 5.16.080 No Judicial Relief.**

No injunction or writ or mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or this County or against any officer of the State or this County to prevent or enjoin the collection under this Chapter of Part 1.5 of Division 2 of the Revenue and Taxation Code of any tax or any amount of tax required to be collected. (Ord. No. 361, Sec. 7, adopted 1956.)

**Sec. 5.16.090 Subsequent Amendments—  
Incorporation by Reference.**

All amendments of the Revenue and Taxation Code enacted subsequent to the effective date of this Chapter [June, 1956] which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this Chapter. (Ord. No. 361, Sec. 8, adopted 1956.)



**Sec. 5.16.100 Operativity.**

(A) Sections 5.16.040(b)(4.5), 5.16.050(b)(3.5), and 5.16.070 of this Ordinance shall become operative on January 1st of the year following the year in which the State Board of Equalization adopts an assessment ratio for state-assessed property which is identical to the ratio which is required for local assessments by Section 401 of the Revenue and Taxation Code, at which time Sections 5.16.040(b)(4), 5.16.050(b)(3), and 5.16.060 shall become inoperative. (Ord. No. 1152, adopted 1973.)

(B) In the event that Sections 5.16.040(b)(4.5), 5.16.050(b)(3.5), and 5.16.070 of this Ordinance become operative and the State Board of Equalization subsequently adopts an assessment ratio for state-assessed property which is higher than the ratio which is required for local assessments by Section 401 of the Revenue and Taxation Code, Sections 5.16.040(b)(4), 5.16.050(b)(3), and 5.16.060 shall become operative on the first day of the month next following the month in which such higher ratio is adopted, at which time Sections 5.16.040(b)(4.5), 5.16.050(b)(3.5) and 5.16.070 of this Ordinance shall be inoperative until the first day of the month following the month in which the Board again adopts an assessment ratio for state-assessed property which is identical to the ratio required for local assessments by Section 401 of the Revenue and Taxation Code, at which time Sections 5.16.040(b)(4.5), 5.16.050(b)(3.5) and 5.16.070 shall again become operative and Sections 5.16.040(b)(4), 5.16.050(b)(3), and 5.16.060 shall become inoperative. (Ord. No. 1152, adopted 1973.)

(C) Sections 5.16.040(b)(4.5), 5.16.050(b)(3.5), and 5.16.070(a) of this Ordinance shall be operative January 1, 1984. (Ord. No. 3478, adopted 1983.)

(D) Sections 5.16.040 (b) (5), 5.16.050 (b) (4), and 5.16.070 (b) of this Ordinance shall be operative on the operative date of any act of the Legislature of the State of California, which amended or repeals and reenacts Sections 7202 and 7203 of the Revenue and Taxation Code to provide an exemption for operators of waterborne vessels in the same or substantially the same language as that existing in those sections as they read on October 1, 1983,

at which time Sections 5.16.040 (b) (4.5), 5.16.050 (b) (3.5), and 5.16.070 (a) shall become inoperative. (Ord. No. 3478, adopted 1983.)

**Sec. 5.16.110 Inoperativity.**

This Ordinance may be made inoperative not less than sixty (60) days, but not earlier than the first day of the calendar quarter, following the county's lack of compliance with Article 11. (Ord. No. 922, adopted 1972, as amended by Ord. No. 3478, adopted 1983, as amended by Ord. No. 3499 and 3502, adopted 1984.)

**Sec. 5.16.120 Penalties.**

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for a period of not more than six (6) months in the County jail or by both such fine and imprisonment. (Ord. No. 361, Sec. 10, adopted 1956.)

## CHAPTER 5.20

### TAX IMPOSED ON TRANSIENTS

#### **Sec. 5.20.010 Title.**

This Chapter shall be known as the Uniform Transient Occupancy Tax Chapter of the County of Mendocino. (Ord. No. 478, Sec. 1, adopted 1965; Ord. No. 4024, Sec. 1, adopted 1998.)

#### **Sec. 5.20.020 Definitions.**

Except where the context otherwise requires, the definitions given in this section govern the construction of this Chapter:

(A) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

(B) "Hotel" means any structure or any portion of any structure which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging houses, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.

(C) "Occupancy" means the use or possession or the right to the use or possession of any room or rooms or portion thereof in any hotel for dwelling, lodging or sleeping purposes.

(D) "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until a period of thirty (30) days has expired, unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending

both prior and subsequent to the effective date of this Article [May, 1965] may be considered.

(E) "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

(F) "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity, including but not limited to use of a managing agent.

(G) "Tax Administrator" means the Treasurer-Tax Collector of the County of Mendocino. (Ord. No. 478, Sec. 2, adopted 1965; Ord. No. 40924, Sec. 2, 1998.)

#### **Sec. 5.20.030 Tax imposed.**

For the privilege of occupancy in any hotel, each

transient is subject to and shall pay a tax in the amount of eight percent (8%) of the rent charged by the operator. Said tax constitutes a debt owed by the transient to the County, which is extinguished only by payment to the operator or to the County. The transient shall pay tax to the operator of the hotel at the time the rent is paid. If rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such tax shall be paid directly to the Tax Administrator. (Ord. No. 478 Sec. 3, adopted 1965; Ord. No. 561, adopted 1969; Ord. No. 1549, adopted 1975; Ord. No. 3419, adopted 1983; Ord. No. 3490, adopted 1984; Ord. No. 4024, Sec. 4, adopted 1998.)

#### **Sec. 5.20.031 Additional Two Percent Tax.**

In addition to the eight percent (8%) occupancy tax authorized by Section 5.20.030, this Section authorizes the reinstatement of an additional two percent (2%) of the rent charged by an operator and payable by a transient for the privilege of occupying any hotel.

(A) This Section is adopted pursuant to authority contained in Revenue and Taxation Code Section 7280. This Section was approved by the voters of the County of Mendocino at the election on March 4, 1997.

(B) The revenue raised by this tax shall be used to fund the general governmental services and operations of the County of Mendocino. (Ord. No. 3747, Sec. 2, adopted 1990; Ord. No. 3955 Sec. 1, adopted 1997; Ord. No. 4024 Sec. 5, adopted 1998.)

#### **Sec. 5.20.040 Exemptions.**

No tax shall be imposed upon:

(A) Any person as to whom or any occupancy as to which it is beyond the power of the County to impose the tax herein provided.

(B) Any person whose rent is paid for by the County as part of the Temporary Aid To Needy Families (TANF), Homeless Assistance Program, or

the General Relief Program of the County, or whose rent is paid for through a homeless voucher program conducted by a County-based nonprofit corporation recommended for exemption by the County Department of Social Services and approved for exemption by the Treasurer-Tax Collector.

No exemption shall be granted except upon claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the Tax Administrator. (Ord. No. 478 Sec. 4, adopted 1965; Ord. No. 3809, adopted 1992; Ord. No. 4024, Sec. 6, adopted 1998.)

#### **Sec. 5.20.050 Operator's Duties.**

(A) Each operator shall collect the tax imposed by this Chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent or that, if added, any part will be refunded except in the manner hereinafter provided.

(B) Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

(C) Pursuant to Civil Code Section 2238, a proprietor performing his or her functions under this Chapter by a managing agent is responsible as principal for the negligence of his or her agent in the transaction of the business of the agency.

(D) If the rent is charged as part of a single comprehensive cost or flat rate which includes reasonable charges for meals, food, or other services, the operator shall separately describe for the Tax Administrator or County Auditor-Controller the portion

of the charge or rate applicable to lodging to the same extent as reported to the Board of Equalization of the State of California for meals, food, or other services.

(E) If the operator imposes upon the transient occupant any fee or charge for use of facilities in conjunction with the lodging, which fee or charge is a mandatory fee or charge additional to lodging, the Transient Occupancy Tax shall be applicable to such mandatory fee or charge. (Ord. No. 478, Sec. 5, adopted 1965; Ord. No. 4024, Sec. 7, adopted 1998.)

**Sec. 5.20.060 Registration; Certificate.**

In order that the County will have an accurate record of parties collecting Transient Occupancy Tax, each lodging operator will be required to register as hereinafter provided.

(A) Each hotel owned or operated by the same owner or operator and located upon a separate parcel of property described by its own assessor's parcel number shall require a separate Registration Certificate.

(B) Prior to commencing business each operator, including each managing agent, of any lodging renting occupancy to transients shall register such lodging with the Tax Administrator and obtain from him or her a Registration Certificate to be at all times posted in a conspicuous place on the premises. The Registration Certificate shall, among other things, state the following:

- (1) Name and address of the lodging;
- (2) Name of the operator;
- (3) Name and address of owners;
- (4) Registration certificate number and date issued.

(C) The Registration Certificate shall not be transferable, and shall be returned to the Tax Administrator upon sale of property or cessation of business along with the final remittance of Transient Occupancy Taxes due.

(D) The operator named on the face of the Registration Certificate shall collect from transients the Transient Occupancy Tax and shall remit such tax to the Tax Administrator. The certificate does not

authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a lodging without strictly complying with all local applicable laws, including but not limited to permit requirements from any board, commission, department, or office in this County.

(E) The owner of the lodging shall report all changes of operators or operations to the Tax Administrator immediately including, but not limited to, any change in operations, mailing address, number of rooms, or changes in ownership.

(F) The Registration Certificate may be revoked by the Tax Administrator upon failure to comply with any provision of this Chapter. Revocation by the Tax Administrator may be appealed to the Board of Supervisors as provided in Section 5.20.100. An appeal of revocation as provided herein will stay the revocation until the Board of Supervisors issues its decision.

(G) Operation of a hotel or lodging business subject to this Chapter without a valid Registration Certificate shall be a misdemeanor and shall be punishable as provided by Section 5.20.140. Each day of operation without a valid Registration Certificate shall be deemed to be a separate offense. (Ord. No. 478 Sec. 6, adopted 1965; Ord. No. 4024, Sec. 8, adopted 1998.)

**Sec. 5.20.070 Reporting and Remitting.**

(A) Each operator shall, on or before the last day of the month following the close of each calendar quarter or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by the Tax Administrator, of the total rents charged and received and the amount of tax collected for transient occupancies. Each operator shall describe in such return the rents attributable to each hotel under the operator's control, together with the name of the owner of each hotel, the address and location of each hotel for which rents are reported in the return. Such return form to the Tax Administrator shall be executed by the operator

under penalty of perjury under the laws of the State of California.

(B) The failure to file such return shall be subject to a fine of Five Hundred Dollars (\$500).

(C) Any advance deposit retained by the operator following cancellation of any advance hotel reservation, which represents payment for keeping the room open for the person making the reservation, as opposed to constituting an administrative or a handling fee to recover the administrative cost of processing the room reservation and subsequent cancellation, shall be deemed to be a payment for room occupancy within the contemplation of this Ordinance, and shall be subject to the Transient Occupancy Tax.

(D) At the time the return is filed the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if the Tax Administrator deems it necessary in order to insure collection of the tax and the Tax Administrator may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the County until payment thereof is made to the Tax Administrator. (Ord. No. 478, Sec. 7, adopted 1965; Ord. No. 4024, Sec. 9, adopted 1998.)

#### **Sec. 5.20.080 Penalties, Interest and Cash Security.**

(A) **Original Delinquency.** Any operator who fails to remit any tax imposed by this Chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax.

(B) **Continued Delinquency.** Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of tax in addition to the amount of the tax and the ten percent (10%) penalty first imposed.

(C) **Fraud.** If the Tax Administrator determines that the nonpayment of any remittance due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in Subparagraphs (A) and (B) of this Section.

(D) **Interest.** In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one and one-half percent (1.5%) per month on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(E) **Penalties Merged With Tax.** Every penalty imposed and such interest as accrues under the provisions of this Section shall become a part of the tax herein required to be paid.

(F) **Security Deposit For Noncompliance Or Delinquency.** The Tax Administrator may require any operator of the hotel, including any managing agent of the hotel or hotels who has failed to comply with any provision of this Chapter or who has filed two or more delinquent returns or payments, in any twelve (12) month period, to deliver to said Administrator a cash security equal to three (3) times the anticipated tax for the highest reporting period as determined by the Tax Administrator. A certificate of deposit may be acceptable in place of a cash security upon the approval of the Tax Administrator. Failure to post this cash security when requested to do so shall be grounds for revocation of an operator's certificate of registration as provided in Section 5.20.060. The required security shall not be held longer than forty-eight (48) months from any delinquency. (Ord. No. 478, Sec. 8, adopted 1965; Ord. No. 3747, Sec. 1, adopted 1990; Ord. No. 4024, Sec. 10, adopted 1998; Ord. No. 4035, Sec. 3, adopted 1999.)

#### **Sec. 5.20.085 Audit.**

(A) The County Auditor-Controller may audit the books and records of any operator to determine the adequacy of the Transient Occupancy Taxes due.

(B) All operators shall keep and make available to the Tax Administrator and the County Auditor-

Controller records including but not limited to lodging receipts, room or lodging registration records, sales tax returns, daily maid reports, linen service invoices, and all records described below in Section 5.20.110(A). (Ord. No. 4024, Sec. 11, adopted 1998.)

**Sec. 5.20.090 Determination of Tax by Tax Administrator Upon Default of Operator.**

(A) If any operator fails or refuses to collect said tax and to make, within the time provided in this Chapter, any report and remittance of said tax, or any portion thereof required by this Chapter, the Tax Administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the Tax Administrator shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this Chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this Chapter. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address.

(B) Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the Tax Administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Tax Administrator, shall become final and conclusive and immediately due and payable. If such application is made, the Tax Administrator shall give not less than five (5) days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such

hearing before the Tax Administrator, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed.

(C) After such hearing, the Tax Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The Tax Administrator's determination shall be presumed to be correct. At any appeal, before the Board of Supervisors described below, the operator has the burden of proving that the Tax Administrator's determination is incorrect, and the burden of producing sufficient evidence to establish the correct tax liability. The amount determined to be due shall be payable within fifteen (15) days after such hearing, unless an appeal is taken to the Board of Supervisors as provided in Section 5.20.100. (Ord. No. 478, Sec. 9, adopted 1965; Ord. No. 4024, Sec. 12, adopted 1998.)

**Sec. 5.20.100 Appeal.**

Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of the tax imposed by this Section, including interest and penalties, if any, may appeal to the Board of Supervisors by filing a notice of appeal with the County Clerk within fifteen (15) days of the serving or mailing of the determination of tax due. The Board of Supervisors shall fix a time and place for hearing such appeal, and the County Clerk or Tax Administrator shall give notice in writing to such operator at his last known place of address. The Tax Administrator shall present the matter to the Board and include evidence submitted by the operator. The Tax Administrator shall also include proposed findings and a resolution of the appeal. At the hearing, both the Tax Administrator and the owner or operator shall have an opportunity to explain their case and introduce other statements or evidence. The Board may impose reasonable time limits on each party's presentation. The findings of the Board of Supervisors shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount

found to be due shall be immediately due and payable upon the service of notice. (Ord. No. 478, Sec. 10, adopted 1965; Ord. No. 4024, Sec. 14, 1998.)

**Sec. 5.20.110 Records.**

(A) Every operator shall keep and preserve for a period of five (5) years all records as may be necessary to determine the amount of the Transient Occupancy Tax for which the operator may be liable. The records deemed necessary for this determination shall include but not be limited to general ledgers, income tax returns, a chronological cash journal showing tax and room rate separately, or other comparable means of summarizing the operator's monthly or quarterly revenue, supported by room registrations, which may, with reasonable effort, be identified with the revenue summary. These records shall be available, during regular business hours, for inspection by the County Tax Collector or Auditor-Controller. Performance of an audit does not waive the County's right to any tax or the five (5) year requirement of preserving records.

(B) The Tax Administrator at his or her sole discretion may require that these records shall be brought to the County Auditor's Office for review and examination.

(C) It is unlawful for any County official or any person having an administrative duty under this Chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any operator or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return or to permit any return or copy thereof to be seen or examined by any person. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amount of any unpaid tax or amounts of tax required to be collected, interest and penalties. (Ord. No. 478, Sec. 11, adopted 1965; Ord. No. 4024, Sec. 15, adopted 1998.)

**Sec. 5.20.120 Refunds.**

(A) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the County under this Chapter, it may be refunded as provided in Subparagraphs (B) and (C) of this Section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within three (3) years of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

(B) Any operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the person from whom the tax has been collected was not a transient. However, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

(C) A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the County by filing a claim in the manner provided in Subparagraph (A) of this Section, but only when the tax was paid by the transient directly to the Tax Administrator or when the transient, having paid the tax to the operator, establishes to the satisfaction of the Tax Administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

(D) No refund shall be paid under the provisions of this Section unless the claimant establishes his or her right thereto by written records showing entitlement thereto. (Ord. No. 478, Sec. 12, adopted 1965; Ord. No. 4024, Sec. 16, adopted 1998.)

**Sec. 5.20.130 Actions to Collect.**

(A) Any tax required to be paid by any transient under this Chapter shall be deemed a debt owed by the transient to the County. Any such tax collected by an operator which has not been paid to the

County shall be deemed a debt owed by the operator to the County. Any person owing money to the County under this Chapter shall be liable to an action brought in the name of the County of Mendocino for the recovery of such amount. The County shall be entitled to recover from anyone found liable for the debt, any costs, including attorney's fees, personnel costs, or other expenses incurred by the County because of the failure to timely remit tax proceeds to the County.

(B) If judgment is obtained by the County, such judgment shall be recorded and shall constitute a lien against the subject property wherein the hotel is located.

(C) Whenever a debt owed by the operator to the County under this Chapter has not been paid to the County and the operator's Registration Certificate has been revoked under this Chapter, the County may obtain a court injunction against further operation of the hotel until the debt owed has been paid. (Ord. 478, Sec. 13, adopted 1965; Ord. No. 4024, Sec. 17, adopted 1998.)

**Sec. 5.20.140 Violations—Misdemeanor.**

(A) Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and shall be punishable therefor by a fine of not more than Five Hundred Dollars (\$500) or by imprisonment in the County jail for a period of not more than six (6) months or by both such fine and imprisonment.

(B) Any operator or other person who fails or refuses to register as required herein or to furnish any return required to be made or who fails or refuses to furnish a supplemental return or other data required by the Tax Administrator or who renders a false or fraudulent return or claim is guilty of a misdemeanor and is punishable as aforesaid.

(C) Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this Chapter to be made is guilty of a misdemeanor and is punishable as aforesaid. In addition, the Tax Administrator may pursue on behalf of the

County, any civil or administrative remedy otherwise available for failure to comply with the requirements of this Chapter. If the County prevails, the County shall be entitled to recover any costs, including attorney's fees, personnel costs, or other expenses incurred because of failure to comply with the requirements of this Chapter. Failure to pay such costs upon demand shall be grounds for revocation of an operator's certificate of registration as provided in Section 5.20.060. (Ord. No. 478, Sec. 14, adopted 1965; Ord. No. 4024, Sec. 18, adopted 1998.)

**Sec. 5.20.145 Attorneys Fees.**

If the County prevails in any court litigation to enforce this Ordinance, it shall be entitled to recover from the opposing party or parties all of its reasonable attorneys fees incurred in prosecuting the action, as described in Mendocino County Code Section 1.04.115. (Ord. No. 4024, Sec. 19, adopted 1998.)



## CHAPTER 5.24

### REAL PROPERTY TRANSFER TAX

#### Sec. 5.24.010 General Provisions.

(a) **TITLE.** This Chapter shall be known as the "Real Property Transfer Tax Chapter of the County of Mendocino." It is adopted pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code. (Ord. No. 525, Sec. 1, adopted 1967.)

(b) **DECLARATION; SCOPE OF TAX.** There is hereby imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the County of Mendocino shall be granted, assigned, or otherwise conveyed to or vested in the purchaser or purchasers or any other person or persons by his or their direction when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds One Hundred Dollars (\$100.00), a tax at the rate of Fifty-five Cents (\$.55) for each Five Hundred Dollars (\$500.00) or fractional part thereof. (Ord. No. 525, Sec. 2, adopted 1967.)

(c) **TAX LIABILITY.** The tax imposed by Section 5.24.010 (b) shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued. (Ord. No. 525, Sec. 3, adopted 1967.)

(d) **EFFECTIVE DATE.** This Chapter shall become operative at 12:01 a.m. on January 1, 1968. (Ord. No. 525, Sec. 4, adopted 1967.)

#### Sec. 5.24.020 Exemptions.

(a) **TO SECURE A DEBT.** The tax imposed pursuant to this Chapter shall not apply to any instrument in writing given to secure a debt.

(b) **POLITICAL ENTITY.** Any deed, instrument or writing to which the United States or any agency or instrumentality thereof, any state or territory or political subdivision thereof, is a party shall be exempt from any tax imposed

pursuant to this part when the exempt agency is acquiring title.

(c) **BANKRUPTCY.** The tax imposed pursuant to this Chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan or reorganization or adjustment:

(1) Confirmed under the Federal Bankruptcy Act, as amended;

(2) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title II of the United States Code, as amended;

(3) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or

(4) Whereby a mere change in identity, form or place or organization is effected.

Subsection (c) (1) — (4), inclusive, of this section, shall only apply if the making, delivering or filing of instruments of transfer or conveyances occurs within five (5) years from the date of such confirmation, approval or change.

(d) **SECURITIES AND EXCHANGE COMMISSION.** The tax imposed pursuant to this Chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:

(1) The order of the Securities and Exchange Commission in obedience to which such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;

(2) Such order specifies the property which is ordered to be conveyed;

(3) Each conveyance is made in obedience to such order.

(e) **PARTNERSHIP.** In the case of any realty held by a partnership, no tax shall be imposed

pursuant to this Chapter by reason of any transfer of an interest in the partnership or otherwise, if:

(1) Such partnership (or other partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and

(2) Such continuing partnership continues to hold the realty concerned.

If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954 for purposes of this Chapter, such partnership shall be treated as having executed an instrument whereby there was conveyed for fair market value, (exclusive of the value of any lien or encumbrance remaining thereof), all realty held by such partnership at the time of such termination.

Not more than one (1) tax shall be imposed pursuant to this Chapter by reason of a termination described in subsection (e), paragraph two (2), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

(f) **IN LIEU OF FORECLOSURE.** Any tax imposed pursuant to this Chapter shall not apply with respect to any deed, instrument, or writing to a beneficiary or mortgagee, which is taken from the mortgagor or trustor as a result of or in lieu of foreclosure; provided, that such tax shall apply to the extent that the consideration exceeds the unpaid debt, including accrued interest and cost of foreclosure. Consideration, unpaid debt amount and identification of said deed, instrument or writing or stated in an affidavit or declaration under penalty of perjury for tax purposes.

(g) **DIVISION OF COMMUNITY PROPERTY.**

(1) Any tax imposed pursuant to this Chapter shall not apply with respect to any deed, instrument, or other writing which purports to transfer, divide, or allocate community, quasi-community, or quasi-marital property assets between spouses for the purpose of effecting a division of community, quasi-community, or

quasi-marital property which is required by a judgment decreeing a dissolution of the marriage or legal separation, by a judgment of nullity, or by any other judgment or order rendered pursuant to Part 5 (commencing with Section 4000) of Division 4 of the Civil Code, or by a written agreement between the spouses, executed in contemplation of any such judgment or order, whether or not the written agreement is incorporated as part of any of those judgments or orders.

(2) In order to qualify for the exemption provided in subdivision (1) the deed, instrument, or other writing shall include a written recital, signed by either spouse, stating that the deed, instrument, or other writing is entitled to the exemption. (Ord. No. 525, 10, 11, 12, 13 and 14, adopted 1967, as amended by Ord. No. 3573, adopted 1985.)

**Sec. 5.24.030 Credit.**

(a) **CITY TRANSFER TAX.** If the legislative body of any city in the County imposes a tax pursuant to Part 6.7 of Division 2 of the Revenue and Taxation Code equal to one-half (1/2) the amount specified in Section 5.24.010 (b) of this Chapter, a credit shall be granted against the taxes due under this Chapter in the amount of the City's tax. (Ord. No. 525, Sec. 20, adopted 1967.)

**Sec. 5.24.040 Administration.**

(a) **COUNTY RECORDER.** The County Recorder shall administer this Chapter and shall also administer any ordinance - article adopted by any city in the County pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code imposing a tax for which a credit is allowed by this Chapter. (Ord. No. 525, Sec. 25, adopted 1967.)

On or before the 15th of the month the Recorder shall report to the County Auditor the amounts of taxes collected; during the preceding month pursuant to this Chapter and each such city ordinance - article. (Ord. No. 525, Sec. 25, adopted 1967, as amended by Ord. No. 541, adopted 1968.)

(1) All moneys which relate to transfers of real property located in the unincorporated territory of the County shall be allocated to the County. (Ord. No. 525, Sec. 25, adopted 1967.)

(2) All moneys which relate to transfers of real property located in a city in the County which has imposed a tax pursuant to said Part 6.7 shall be allocated one-half ( $\frac{1}{2}$ ) to such city and one-half ( $\frac{1}{2}$ ) to the County. (Ord. No. 525, Sec. 25, adopted 1967.)

(3) All moneys which relate to transfers of real property located in a city in the County which imposes a tax on transfers of real property not in conformity with said Part 6.7 shall be allocated to the County. (Ord. No. 525, Sec. 25, adopted 1967.)

(4) All moneys which relate to transfers of real property in a city in the County which does not impose a tax on transfers of real property shall be allocated to the County. (Ord. No. 525, Sec. 25, adopted 1967.)

(b) **REQUIRED TRANSFER STAMPS.** The Recorder shall not record any deed, instrument or writing subject to the tax imposed by this Chapter unless the tax has been paid and the amount of tax reflected upon the face of the document. If the party submitting the document so requests, the amount of tax due shall be shown on a separate paper which shall be affixed to the face of the document by the Recorder after the permanent record is made and before the original is returned, as specified in Section 27321 of the Government Code. (Ord. No. 525, Sec. 26, adopted 1967, as amended by Ord. No. 541, adopted 1968.)

Every document subject to tax hereunder which is submitted for recordation shall show on the face of the document or in a separate document the amount of taxes due under this Chapter and the Recorder may rely thereon. (Ord. No. 525, Sec. 26, adopted 1967.)

Every document subject to tax hereunder which is submitted for recordation shall show on the face of the document or in a separate document the location of the lands, tenements or

other realty described in the document. If said lands, tenements or other realty are located within a city in the County, the name of the city shall be set forth. If said lands, tenements or other realty are located in the unincorporated area of the County, that fact shall be set forth. (Ord. No. 525, Sec. 26, adopted 1967.)

Prior to recordation in the Mendocino County Recorder's Office, each deed, instrument, or writing by which lands, tenements, or other realty is sold, granted, assigned, transferred, or otherwise conveyed in Mendocino County, shall have noted upon it the tax roll parcel number. (Ord. No. 3537, adopted 1985.)

(c) **CANCELING TRANSFER STAMPS.** The Recorder shall repurchase any unused documentary tax stamps sold by him prior to July 1, 1968. The Recorder shall accept in payment of the tax any such stamps affixed to a document offered for recordation and shall cancel the stamps so affixed. (Ord. No. 525, Sec. 27, adopted 1967, as amended by Ord. No. 541, adopted 1968.)

(d) **REGULATIONS — INTERPRETATION.** In the administration of this Chapter the Recorder shall interpret its provisions consistently with those Documentary Stamp Tax Regulations adopted by the Internal Revenue Service of the United States Treasury Department which relate to the Tax on Conveyances and identified as Sections 47.4361-1, 47.4361-2 and 47.4362-1 of Part 47 of Title 26 of the Code of Federal Regulations, as the same existed on November 8, 1967, except that for the purposes of this Chapter, the determination of what constitutes "realty" shall be determined by the definition or scope of that term under State law. (Ord. No. 525, Sec. 28, adopted 1967, as amended by Ord. No. 541, adopted 1968.)

(e) **PROOF OF VALUE.** Whenever the County Recorder has reason to believe that the full amount of tax due under this Chapter has not been paid, he may by notice served upon any person liable therefor require him to furnish a true copy of his records relevant to the amount of

the consideration or value of the interest or property conveyed. (Ord. No. 525, Sec. 29, adopted 1967, as amended by Ord. No. 541, adopted 1968.)

(f) REFUNDS. Claims for refunds of taxes imposed pursuant to this Chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code. (Ord. No. 525, Sec. 30, adopted 1967, as amended by Ord. No. 541, adopted 1968.)

**Sec. 5.24.050 Penalties.**

(a) Any person or persons who make, sign, issue, accept or cause to be made, signed, issued

or accepted and who submit or cause to be submitted for recordation any deed, instrument or writing subject to the tax imposed by this Chapter and make any material misrepresentation of fact for the purpose of avoiding all or any part of the tax imposed by this Chapter or who fail to furnish such information as may be requested by the County Recorder shall be guilty of a misdemeanor. (Ord. No. 525, Sec. 40, adopted 1967.)

(b) No person or persons shall be liable, either civilly or criminally, for any unintentional error made in designating the location of the lands, tenements or other realty described in a document subject to the tax imposed by this Chapter. (Ord. No. 525, Sec. 40, adopted 1967.)

**CHAPTER 5.28****SEWER CHARGES IN MEADOWBROOK  
MANOR****Sec. 5.28.010 Declaration.**

Sewer charges for connections to the Meadowbrook Manor County Sanitation District for the 1956-1957 fiscal year shall be collected on the tax roll in the same manner by the same persons and at the same time as, together with and not separately from the general taxes of Mendocino County. (Ord. No. 379, Sec. 1, adopted 1957.)

**Sec. 5.28.020 Amount of Charge.**

Said charges shall be One Dollar and Fifty Cents (\$1.50) per month per connection to said sewer collection system for reimbursement to the City of Willits for the treatment and disposal of sewage from said district collection system. Said charges shall be collected on each parcel receiving benefits from the date of connection to the said collection system. (Ord. No. 379, Sec. 2, adopted 1957.)

## CHAPTER 5.32

### TAXES FOR CAPITAL OUTLAYS

#### **Sec. 5.32.010 Declaration.**

The Board of Supervisors of the County of Mendocino may levy and collect taxes for the creation and accumulation of a fund for capital outlays which said fund shall be designated as the "Accumulative Capital Outlay Fund." (Ord. No. 457, Sec. 1, adopted 1963.)

#### **Sec. 5.32.020 Authority.**

The levy of taxes and establishment of a fund as herein provided is authorized by and subject to the limitations of Title 5, Division 2, Part 1, Chapter 4, Article 4 of the Government Code of the State of California (Section 53730 et seq. of the Government Code). (Ord. No. 457, Sec. 2, adopted 1963.)

## CHAPTER 5.36

### FIRE PROTECTION MITIGATION FEE

#### **Sec. 5.36.005 Title.**

The Ordinance codified in this Chapter shall be known and may be cited as the "Fire Protection Mitigation Fee Ordinance." (Ord. No. 4175 (part), adopted 2006.)

#### **Sec. 5.36.010 Purpose of Chapter.**

The purpose of this Chapter is to establish and implement a procedure for the adoption of fire protection mitigation fees and to ensure the assessment and collection of these fees in connection with the issuance of building permits. The fire mitigation fees are to be allocated to the affected fire district for the acquisition of capital facilities and equipment in order to ensure the provision of the capital facilities and equipment necessary to maintain current levels of fire protection services that are required as the result of new development projects. (Ord. No. 4175 (part), adopted 2006.)

#### **Sec. 5.36.020 Findings.**

The Board of Supervisors finds and declares as follows:

(A) Adequate fire protection facilities and equipment must be available to serve new development projects.

(B) New development projects require the construction or expansion of fire protection facilities and the acquisition of additional equipment.

(C) In certain areas of the County, property taxes and fire protection assessments currently collected by the districts providing fire protection services are insufficient to provide funds for expansion or construction of fire facilities and purchase of equipment required by new development projects, resulting in the potential for inadequate fire protection coverage for the new development projects and the additional population.

(D) The above conditions place Mendocino County's population in a condition where there is risk to its health and safety.

(E) The impacts of new development on the existing fire protection facilities cannot be mitigated without County involvement.

(F) For the above reasons, new methods for financing fire protection facilities and equipment required as a result of new development projects are needed in Mendocino County. (Ord. No. 4175 (part), adopted 2006.)

#### **Sec. 5.36.030 Definitions.**

As used in this Chapter, the following definitions shall apply:

(A) "Board" means the Board of Supervisors of Mendocino County.

(B) "Clerk of the Board" means the Clerk of the Board of Supervisors of Mendocino County.

(C) "Development project" means any construction for which a building permit or other permit is needed from the County.

(D) "Fire district" means any fire protection agency or district, or any other kind of special district, established in accordance with State law and authorized to provide fire protection services within the unincorporated area of Mendocino County. (Ord. No. 4175 (part), adopted 2006.)

#### **Sec. 5.36.040 Required Actions of Affected Districts.**

This Chapter shall be applicable to development within the boundaries of a fire district within the unincorporated area of the County when all of the following events occur:

(A) The governing body of a fire district adopts a resolution making all of the following findings:

(1) The fire district does not have existing fire protection facilities and equipment that could be used to provide an adequate level of services to new development projects within the district's boundaries;

(2) The fire district does not have sufficient funds available to construct additional facilities and purchase equipment from fund balances, capital facility funds, property tax sources, fire suppression assessments, or any other available sources; and

(3) The lack of additional fire protection facilities and equipment to serve new development pro-

jects would create a situation that is dangerous to the public health and safety if fire mitigation fees are not levied within the fire district.

(B) The fire district further resolves as follows:

(1) The fire district requests that the County impose a specified fire mitigation fee on the fire district's behalf on applicants for development projects;

(2) Fire mitigation fees imposed under this Chapter shall only be used to expand the availability of capital facilities and equipment to provide fire services to new development projects;

(3) The fire district shall place all funds collected under this Chapter and all interest subsequently accruing on these funds in a separate budget accounting category only for those purposes of providing capital improvements and equipment to serve new development projects;

(4) The fire district shall spend funds from the "district fire mitigation fee" budget accounting category only for those purposes of providing capital improvements and equipment to serve new development projects;

(5) The fire district shall submit a fire mitigation fee annual report no later than October 31st of each year to the Clerk of the Board of Supervisors. The report shall include, but not be limited to, the balance in the account at the end of the prior fiscal year, the mitigation fee revenue received, the amount and type of expenditures made, and the ending balance in the fund. In addition, the report shall specify the actions the fire district plans to take to mitigate the facility and equipment needs caused by the new development projects in a capital fire facilities and equipment plan adopted at a noticed public hearing. The fire district shall make available, upon request by the Clerk of the Board, a copy of the annual audited report;

(6) The fire district shall make its records that justify the basis for the mitigation fee amount available to the public upon request;

(7) The fire district shall agree to indemnify and defend the County and its officers, agents, and employees from any claim, action, or proceeding that arises from or is in any way related to the mitigation fees; and

(8) For the fifth fiscal year following the first deposit into the fire district's fire district mitigation fee account and every five (5) years thereafter, the fire district shall make all of the following findings with respect to any cash portion of the mitigation fees remaining unexpended or uncommitted in the account:

(a) Identify the purpose to which the fee is to be put,

(b) Demonstrate a reasonable relationship between the fee and the purpose for which it was charged,

(c) Identify all sources and amounts of funding anticipated to complete financing all incomplete improvements, and

(d) Designate the approximate dates on which complete funding is expected to be deposited into the account.

If the findings in subsections (B)(8)(a) through (d) of this Section are not made, the fire district shall refund, on a prorated basis, to the current record owner or owners of the development projects for which the fees were paid the unexpended or uncommitted portion of the fees and any interest accrued for which a need cannot be demonstrated.

(C) The governing body of the fire district shall adopt a capital fire facility and equipment plan in compliance with Government Code Section 66002 at a noticed public hearing.

(D) The governing body of the fire district shall send a certified copy of the resolution and the capital fire facilities and equipment plan to the Clerk of the Board. The Clerk shall place the resolution and capital fire facilities and equipment plan on the Board's regular agenda for the Board's consideration and approval at a public hearing noticed in the manner required by Government Code Section 66002. At the close of the public hearing, the Board may approve the resolution and capital fire facilities and equipment plan if it finds that the documents meet the requirements of this Chapter and Government Code Sections 66000 et seq.

(E) The provisions of this Chapter shall apply to any development project within the boundaries of the fire district thirty (30) days after the Board's ap-



proval. Each fire district shall notify the County building official of the effective date of its mitigation fee. Any judicial action or other proceeding to challenge the legality of the Board's approval and adoption of mitigation fees must be commenced within one hundred twenty (120) days of the Board's action approving the mitigation fees.

(F) By March 31st of each year following the year of the original adoption of a resolution and approval by the Board of fire mitigation fees under this Chapter, the fire district shall submit a copy of a new resolution adopted by the district's governing body making the findings required by Section 5.36.040(A) of this Chapter and identifying the fire mitigation fees requested by the fire district. If the resolution proposes to increase the fire mitigation fees, the resolution shall only become effective if approved by the Board in the manner set forth in Section 5.36.040(D) of this Chapter. A revision of fire mitigation fees shall be effective the following July 1st. (Ord. No. 4175 (part), adopted 2006.)

**Sec. 5.36.050 Fee Payment.**

(A) Before the issuance of any building permit or other permit for a development project, the applicant shall pay to the fire district the fees prescribed by the fire district resolution as approved by the Board and shall present written evidence that the provisions of this Chapter have otherwise been satisfied with respect to the development project for which permits are sought. The district may, in its resolution adopting fire mitigation fees, designate those projects requiring a building permit, such as re-roofing, adding siding, installation of mechanical devices, or construction of an accessory building, that will not require payment of a fee.

(B) The amount of the fees shall be determined by the fire mitigation fee in effect on the date of the payment of fees for an unexpired plan check.

(C) When application is made for a new permit for a development project following the expiration of a previously issued permit for a development project for which fees were previously paid, no new fee payment shall be required.

(D) If a subsequent development project occurs with respect to property for which fees have already been paid, additional fees shall be required only for additional square footage which was not included in computing the prior fee.

(E) For the purpose of payment of fees to the County, the Board delegates to each fire district the responsibility to collect or accept payment of the fees for each respective fire district. The district may contract with the County to collect or accept payment of fees. (Ord. No. 4175 (part), adopted 2006.)

**Sec. 5.36.060 Exemptions.**

Permits for the following types of development projects shall be exempt from the requirements of this Chapter:

(A) Marine construction, including piers, boat lifts, docks, pilings, and floating platforms;

(B) Buildings or other structures constructed for governmental uses;

(C) The replacement of a legally constructed dwelling or other building destroyed by fire or other calamity on the same parcel, provided that:

(1) The application for a building permit to replace the destroyed structure is filed with the County building official within one year after destruction of the dwelling or other building,

(2) There is no change in occupancy, and

(3) The living space is not increased by more than five hundred (500) square feet compared to the destroyed structure. (Ord. No. 4175 (part), adopted 2006.)

**Sec. 5.36.070 Administrative Charges.**

(A) The County may include in an adopted fire mitigation fee a component that reflects the County's reasonable costs of administering the fee and complying with all laws, ordinances, and regulations related to the fee.

(B) The applicable fire district may include in a proposed fire district mitigation fee a component that reflects the district's reasonable costs of administering the fee and complying with all laws, ordinances, and regulations related to the fee, including the re-

quirements imposed by this Chapter. (Ord. No. 4175 (part), adopted 2006.)

tion of fee collection. (Ord. No. 4175 (part), adopted 2006.)

**Sec. 5.36.080 Use of Fees.**

With the exception of the administrative cost component described in Section 5.36.070, all fees collected under this Chapter, including any interest accrued, shall be used by the fire district for the purpose of providing for capital facilities and equipment. (Ord. No. 4175 (part), adopted 2006.)

**Sec. 5.36.090 Mitigation Fee Records and Reports.**

Any fire district that collects fees under this Chapter shall maintain a separate budget accounting category for any fees collected. This category shall be known as the "fire district mitigation fee" account. By October 31st of each year, each fire district receiving funds under this Chapter shall file a report with the Clerk of the Board on the balance in the account at the end of the prior fiscal year, the fee revenue received, the amount and type of expenditures made, and the ending balance of the fund. In addition, the report shall specify the actions the fire district plans to take to mitigate the facility and equipment needs caused by new development projects. (Ord. No. 4175 (part), adopted 2006.)

**Sec. 5.36.100 Termination of Fee Collection.**

Fee collection as to any fire district shall terminate as follows:

(A) If by March 31st of any year following the year of the original adoption of a resolution under this Chapter, which was approved by the Board, the fire district has not submitted a copy of a new resolution under Section 5.36.040(F) of this Chapter, fee collection shall terminate on July 1st of that year.

(B) If, at any time, the governing body of a fire district submits a copy of a resolution requesting termination of fee collection, fee collection shall terminate thirty (30) days from the date of receipt by the Clerk.

(C) Each fire district shall notify the County Building Official of the effective date of its termina-

## CHAPTER 5.52

### WORKERS' COMPENSATION TRUST FUND

#### Sec. 5.52.010 Establishment of Fund.

The Auditor of the County of Mendocino shall establish a separate interest-bearing trust fund entitled: "Workers' Compensation Trust Fund." (Ord. No. 2031 A, adopted 1977.)

#### Sec. 5.52.020 Purpose.

Funds deposited in the Workers' Compensation Trust Fund shall be used solely for proper expenditures and claims related to the County's established program for self-insurance for Workers' Compensation including but not limited to:

(A) Direct and attendant claim costs, including but not limited to:

- (1) Payments for medical treatment;
- (2) Payments for incurred disability;
- (3) Payments for death benefits; and
- (4) Deposits to the Administration Revolving Trust, which is the account from which the above payments shall be made.

(B) Administration costs.

(C) Legal and other allocated expenses.

(D) Internal County support costs.

(E) Educational expenses.

(F) Travel expenses.

(G) Consulting expenses.

(H) Excess insurance coverage expenses.

(Ord. No. 2031 A, adopted 1977.)

#### Sec. 5.52.030 Fund Sources.

The following monies shall be deposited in the Workers' Compensation Trust Fund:

(A) Any amounts formally budgeted by the Board of Supervisors for inclusion into the Fund.

(B) Any funds paid to the County, from whatever source, for the provision of Workers' Compensation.

(C) Any and all interest received from the investment or reinvestment of monies within the Fund.

In addition to such mandatory deposits, the Board of Supervisors may at any time, for any purpose and from any proper and available source, deposit additional monies into the Fund. (Ord. No. 2031 A, adopted 1977.)

#### Sec. 5.52.040 Contributions.

Individuals designated by either the Board of Supervisors or State statute shall participate in the County's Workers' Compensation Fund. These individuals shall include:

- (a) All regular County employees;
- (b) All extra help personnel;
- (c) All CETA personnel;
- (d) All contract janitors (Memorial Buildings and Courts);
- (e) Family Planning Grant personnel;
- (f) 701 Planning personnel;
- (g) Maternal Child Health personnel;
- (h) Child Health and Disability personnel;
- (i) Mental Health Contract personnel;
- (j) Grant-funded personnel, where so noted in the grant contract;
- (k) Welfare Volunteers; and
- (l) Work Relief Volunteers.

The rates of contribution for a period to and including June 30, 1980, shall not be less than those contribution rates established by the California State Workers' Compensation Insurance system for each employee category in force and effect on October 1, 1976. After June 30, 1980, reasonable rates of contribution shall be established by the Board of Supervisors. (Ord. No. 2031, adopted 1977.)

#### Sec. 5.52.050 Balance Limitations.

(A) Effective September 1, 1980, the balance of the Workers' Compensation Trust Fund shall at no time be less than an amount equal to five percent (5%) of the total County budget for salary, retirement, O.A.S.D.I. and group health insurance for the current fiscal year, nor shall it exceed an amount equal to seven and one-half percent (7 1/2%) of that total budget for the current fiscal year, provided that the County maintain an

excess coverage policy. In the absence of excess coverage, the Board of Supervisors shall set the ceiling at a reasonable level. (Ord. No. 2031, adopted 1977.)

(B) The Auditor shall at least quarterly monitor the balance of the Workers' Compensation Fund and shall report in writing to the Board of Supervisors on the fund balance in light of limits set forth in this section. (Ord. No. 2031, adopted 1977.)

(C) Upon receipt of such written report of the Auditor, the Board of Supervisors shall, within a reasonable period of time, order such deposits into or withdrawals from the Fund as are necessary to maintain the balance with the limitations set forth in this section. (Ord. No. 2031, adopted 1977.)

**Sec. 5.52.051 Withdrawal of Funds.**

The Board of Supervisors may transfer monies deposited in the Workers Compensation Trust Fund to the Contingency Fund in order to offset projected deficits for the 1983-84 budget year, provided that the minimum balance of the Workers Compensation Trust Fund shall be no less than that prescribed by Section 5.52.050(A). Any funds withdrawn pursuant to this section

shall be reimbursed to said fund within 90 days of the date of withdrawal unless the Board of Supervisors determines the time for reimbursement should be extended. (Ord. No. 3423, adopted 1983, as amended by Ord. No. 3446, adopted 1983, and Ord. No. 3448, adopted 1983.)

The Mendocino County Board of Supervisors declares that the immediate preservation of the public peace, health and safety necessitates the immediate passage of this ordinance as an urgency measure by reason of the following facts:

(1) Legislative delay in adopting the 1983-84 State budget has resulted in a foreseeable cash flow problem for the County of Mendocino.

(2) The lack of an adequate cash flow to meet Countywide commitments will result in the immediate cessation of essential County services to the detriment of serving the public peace, health and safety. (Ord. No. 3446, adopted 1983.)

**Sec. 5.52.060 Payments and Withdrawals.**

No payments or withdrawals from the Fund shall be made except by specific authorization of the County Administrative Officer, for the purposes set forth in Section 5.52.020, or for the purpose of maintaining a balance within the limitations of Section 5.52.050. (Ord. No. 2031, adopted 1977.)

## CHAPTER 5.62

### GENERAL LIABILITY TRUST FUND

#### **Sec. 5.62.010 Establishment of Fund.**

The Auditor of the County of Mendocino shall establish a separate interest-bearing trust fund entitled: "General Liability Trust Fund." (Ord. No. 3132, adopted 1978.)

#### **Sec. 5.62.020 Purpose.**

Funds deposited in the General Liability Trust Fund shall be used solely for proper expenditures and claims related to the County's established program for General Liability insurance including but not limited to:

(a) Direct and attendant claim costs, including but not limited to:

(1) Payments for incurred personal injury,

(2) Payments for property damage, deductibles and co-payments of all kinds, including property damage caused by fire, water and flooding as well as other causes, except for street or road damage,

(3) Deposits to the Administration Revolving Trust, which is the account from which the above payments shall be made;

(b) Administration costs;

(c) Legal and other allocated costs;

(d) Internal County support costs;

(e) Bond expenses;

(f) Educational expenses;

(g) Travel expenses;

(h) Insurance premium expenses for excess coverage and other specific coverage policies. (Ord. No. 3132, adopted 1978; Ord. No. 3925, adopted 1996.)

#### **Sec. 5.62.030 Fund Sources.**

The following monies shall be deposited in the General Liability Trust Fund:

(a) Any amounts formally budgeted by the Board of Supervisors for inclusion into the Fund.

(b) Any funds paid to the County, from whatever source, for the provision of General Liability coverage.

(c) Any reimbursement made to the County for past payments made on claims.

(d) Any and all interest received from the investment or reinvestment of monies with the Fund.

In addition to such mandatory deposits, the Board of Supervisors may at any time, for any purpose and from any proper and available source, deposit additional monies into the Fund.

#### **Sec. 5.62.040 Balance Limitations.**

(A) The balance of the General Liability Trust Fund shall remain actuarially sound at all times and at no less than the seventy percent (70%) confidence level.

(B) The Board of Supervisors shall retain an independent actuarial consultant every three years or less, if necessary, to report on the actuarial status of the Fund.

(C) Upon receipt of and consideration of the Actuarial report, the Board of Supervisors shall, within a reasonable period of time, order such deposits into or withdrawals from the Fund as are necessary to maintain the balance of the Fund in an actuarially sound status. (Ord. No. 3132, adopted 1978; Ord. No. 3925, adopted 1996.)

#### **Sec. 5.62.050 Payments and Withdrawals.**

No payments or withdrawals from the Fund shall be made except by specific authorization of the Board of Supervisors, for the purposes set forth in Section 5.62.020, or for the purpose of maintaining a balance within the limitations of Section 5.62.040. The Board may delegate this function to the appropriate officer. (Ord. No. 3132, adopted 1978; Ord. No. 3925, adopted 1996.)

**Sec. 5.62.051** Repealed by Ord. No. 3925, adopted 1996.



**CHAPTER 5.63**

**OUTER CONTINENTAL SHELF IMPACT  
MITIGATION AND EMERGENCY  
RESPONSE TRUST FUND**

**Sec. 5.63.010 Establishment of Fund.**

The Auditor of the County shall establish a separate interest-bearing trust fund entitled "Outer Continental Shelf Impact Mitigation and Emergency Response Trust Fund." (Ord. No. 3642, adopted 1987.)

**Sec. 5.63.020 Purpose.**

Funds deposited in the Outer Continental Shelf Impact Mitigation and Emergency Response Trust Fund (hereafter "Trust Fund") shall be used exclusively as reserves for future expenditures and claims related to projects or elements in the approved County program for expenditure of grant funds allocated to the County under the Coastal Resources and Energy Assistance Program Report, legitimate offshore oil and gas-related emergency responses, and other expenditures and claims approved by the Secretary of Environmental Affairs for the State.

(A) **USE IN COASTAL RESOURCES AND ENERGY ASSISTANCE PROGRAM.** Trust funds may be used to supplement funds allocated to any project or element of a project described in the County's Final Program Report and incorporated into the grant agreement entered into between the Secretary of Environmental Affairs and the County. Approval by the Secretary of Environmental Affairs must be received prior to the expenditure out of or transfer from the Trust Fund, of any funds exceeding ten percent (10%) of the scheduled budget of the recipient program element or project.

**B. USE IN OFFSHORE OIL AND GAS-RELATED EMERGENCY RESPONSES.** Trust funds may be used by the County or an authorized agent to respond to an emergency arising from an accident or situation that endangers, or threatens to endanger the safety of

life, property, and natural environment. County action must be in response to an emergency that is related to the exploration, extraction, transportation, storage, processing, or refining of any oil or gas in Federal or State waters off the coast of California. The County shall report any such expenditure with the next semiannual Progress and Financial Report for the Secretary of Environmental Affairs' review and approval.

The County shall attempt to reclaim any and all legitimate costs incurred in responding to such emergencies from the responsible parties. All reimbursements for costs incurred by the County in response to such emergencies shall be paid back into the Trust Fund.

**C. OTHER USES APPROVED BY THE SECRETARY OF ENVIRONMENTAL AFFAIRS.** Trust funds may be used to offset legitimate expenses incurred by the County in exercising its responsibilities to plan, assess, mitigate, permit, monitor, enforce or to provide public services and facilities related to offshore energy development that are consistent with the State's Coastal Management Program, but are not specifically described in the County's Coastal Resources and Energy Assistance Program Report. Any and all expenditures of trust funds for these purposes must receive prior authorization from the Secretary of Environmental Affairs. The County shall submit a request for expenditure of trust funds with a proposed work scope and a detailed line-itemized budget to the Secretary of Environmental Affairs in writing prior to the commitment of trust funds for any of the above activities that are not included in subsections (A) or (B) of this Section. All submissions of expenditure requests will be in accordance with the conditions described in the Program Amendments in the Standard Grant Conditions (see attachment B on file in the office of the Clerk of the Board).

The fiscal requirements for expenditure of the grant funds described in the Standard Conditions in the grant agreement shall apply to the expenditure of funds out of the Trust Fund

described in subsections (A), (B) and (C) of this Section. (Ord. No. 3642, adopted 1987.)

**Sec. 5.63.030 Fund Sources.**

The Coastal Resources and Energy Assistance Act (Public Resources Code Sections 35000, et seq.) authorizes the allocation of Nine Hundred Thirty-six Thousand Dollars (\$936,000) in block grant funds for Mendocino County. From such allocation, the County shall place in the Trust Fund such total amount as shall be fixed by the Secretary of Environmental Affairs. In addition to the foregoing fixed amount placed in the Trust Fund, any fine, reimbursement, or assessment made of person(s), or a corporation in conformance with established State or local regulations for emergency responses performed by the County, may be added to the Trust Fund. (Ord. No. 3642, adopted 1987.)

**Sec. 5.63.040 Balance.**

The balance of the Trust Fund shall be determined by the Board of Supervisors. The Auditor of the County is hereby authorized to accrue the interest to the fund balance or to transfer all interest on the fund balance to an account determined by the Board of Supervisors. (Ord. No. 3642, adopted 1987.)

**Sec. 5.63.050 Payments and Withdrawals.**

No payment or withdrawal from the fund balance shall be made except by specific authorization from the County Administrative Officer for the purposes set forth in Section 5.63.020 of this Chapter. (Ord. No. 3642, adopted 1987.)

**Sec. 5.63.060 Financial Reports.**

The County shall submit a report on the Trust Fund condition, including expenditures, revenues, and balance, for the Secretary of Environmental Affairs' review and approval. This report shall be on a semiannual basis on April 30th and October 31st each year the Trust Fund is in existence. (Ord. No. 3642, adopted 1987.)

**Sec. 5.63.070 Effective Life of Trust Fund.**

The Trust Fund shall be in effect for five (5) years from the date of inception. Any extension to this effective life of the Trust Fund will require authorization by the Secretary of Environmental Affairs. On dissolution of the Trust Fund before five (5) years, all unexpended funds shall revert to the State or shall be allocated to activities related to offshore energy development. The County shall submit a request for extension or a proposal for expenditure of the balance, with a detailed work scope and line item budget to the Secretary of Environmental Affairs for approval within sixty (60) days after the dissolution of the Trust Fund. The Secretary of Environmental Affairs shall respond to the proposal within thirty (30) days. All submissions of expenditure requests will be in accordance with the conditions described in the Program Amendments in the Standard Grant Conditions (see attachment B on file in the office of the Clerk of the Board). (Ord. No. 3642, adopted 1987.)



## CHAPTER 5.72

### UNEMPLOYMENT COMPENSATION TRUST FUND

#### **Sec. 5.72.010 Establishment of Fund.**

The Auditor of the County of Mendocino shall establish a separate interest-bearing trust fund entitled: "Unemployment Compensation Trust Fund." (Ord. No. 3268, adopted 1979.)

#### **Sec. 5.72.020 Purpose.**

Funds deposited in the Unemployment Compensation Trust Fund shall be used solely for proper expenditures and claims related to the County's program of Unemployment Insurance, including but not limited to:

- a. Direct and attendant claims costs, including but not limited to deposits to the Administration Revolving Trust, which is the account from which the above payments shall be made.
  - b. Administration costs.
  - c. Legal and other allocated expenses.
  - d. Internal County support costs.
  - e. Education expenses.
  - f. Travel expenses.
  - g. Consulting expenses.
- (Ord. No. 3268, adopted 1979.)

#### **Sec. 5.72.030 Fund Sources.**

The following monies shall be deposited in the Unemployment Compensation Trust Fund:

- a. Any amounts formally budgeted by the Board of Supervisors for inclusion into the Fund.
- b. Any funds paid to the County, from whatever source, for the provision of Unemployment Compensation.
- c. Any and all interest received from the investment or reinvestment of monies within the Fund.

In addition to such mandatory deposits, the Board of Supervisors may at any time, for any purpose and from any proper and available source, deposit additional monies into the Fund. (Ord. No. 3268, adopted 1979.)

#### **Sec. 5.72.040 Covered Employees.**

All County employees except those specifically excluded by State and Federal law and/or regulations are covered. (Ord. No. 3268, adopted 1979, as amended by Ord. No. 3360, adopted 1981.)

#### **Sec. 5.72.050 Balance Limitations.**

(A) Effective September 1, 1983 the balance of the Unemployment Compensation Trust Fund shall at no time be less than an amount equal to one per cent (1%) of that total County budget for salaries of covered employees for the current fiscal year, nor shall it exceed an amount equal to two per cent (2%) of the total County budget for salaries of covered employees for the current fiscal year. (Ord. No. 3268, adopted 1979, as amended by Ord. No. 3360, adopted 1981.)

(B) The Auditor shall, on July 1 of each year, monitor the balance of the Unemployment Compensation Fund and shall report in writing to the Board of Supervisors on the fund balances in light of limits set forth in this section. (Ord. No. 3268, adopted 1979, as amended by Ord. No. 3360, adopted 1981.)

(C) Upon receipt of such written report of the Auditor, the Board of Supervisors shall, within a reasonable period of time, order such deposits into or withdrawals from the Fund as are necessary to maintain the balance with the limitations set forth in this section. (Ord. No. 3268, adopted 1979.)

#### **Sec. 5.72.051 Transfer of Funds.**

The Board of Supervisors may transfer \$100,000 from the Unemployment Insurance Fund to the Contingency Fund in order to offset the projected deficits for the 1982-83 budget year. (Ord. No. 3425, adopted 1983.)

#### **Sec. 5.72.060 Payments and Withdrawals.**

No payments or withdrawals from the Fund shall be made except by specific authorization of the County Administrative Officer or his/her designee, for the purposes set forth in Section

5.72.060

5.72.020, or for the purpose of maintaining a balance within the limitations of Section 5.72.050. (Ord. No. 3268, adopted 1979.)

## CHAPTER 5.82

### ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A FACILITY LEASE OF PROPERTY LOCATED AT 747 SOUTH STATE STREET, UKIAH, CALIFORNIA.

#### Sec. 5.82.010 Statement of Intent.

The County of Mendocino (the "County") intends to advertise for bids on a sale by the County of Mendocino the County's interest as lessee and optionee in certain real property generally described as a Lease With Option to Purchase, dated November 24, 1983, from Yokayo Center Group, a California general partnership, as owners, to the County, of property generally known as 747 South State Street, Ukiah, California, as amended, on the conditions that the successful bidder shall be required to (a) accept an assignment from the County of the County's interest in said lease and option, (b) exercise the option to purchase said property contained in said lease and option, (c) execute and deliver to the County a Deed of Gift vesting title in said real property in the County, subject to the hereinafter mentioned facility lease, and (d) lease said property back to the County, under a Facility Lease. (Ord. No. 3434, adopted 1983.)

#### Sec. 5.82.020 Statement of Needs.

The County now has a need for and desires to continue the use of said 747 South State Street property and the County proposes to lease said property from the successful bidder. (Ord. No. 3434, adopted 1983.)

#### Sec. 5.82.030 Statement of Public Interest.

It is hereby found and determined that it is in the public interest, convenience and welfare and for the common benefit of the inhabitants of the County that the County lease said 747 South State Street property from the successful bidder. (Ord. No. 3434, adopted 1983.)

#### Sec. 5.82.040 Execution of Lease.

The act of entering into a lease of said 747

South State Street property by the County from the successful bidder be and it is hereby approved. The form of proposed Facility Lease between the successful bidder and the County, submitted to this Board of Supervisors and on file in the office of the Clerk of the Board of Supervisors of the County and to which reference is hereby made, and the terms and conditions thereof, are hereby approved. Upon determination of the base rental to be paid under section 3(a) thereof by resolution of this Board of Supervisors, the Chairman of this Board and the Clerk of this Board are authorized and directed to execute and deliver said Facility Lease in substantially said form, as completed to include such subsequently determined base rental; provided, however, that the amount of such subsequently determined base rental payable in any twelve-month period shall not exceed \$250,000. (Ord. No. 3434, adopted 1983.)

#### Sec. 5.82.050 Non-Material Changes to Lease.

The Chairman of the Board of Supervisors and the Clerk of the Board of Supervisors are authorized to make such changes to the Facility Lease prior to the execution thereof as may be required in the interest of the County where such changes do not materially increase the obligation of the County or where such changes are first approved by resolution of this Board of Supervisors. (Ord. No. 3434, adopted 1983.)

#### Sec. 5.82.060 Effective Date of Ordinance.

This ordinance shall take effect and be in force thirty days from and after the date of its adoption. Pursuant to Section 54242 of the California Government Code, this ordinance is subject to the provisions for referendum applicable to ordinances of the County as such provisions are set forth in Sections 3750 through 3756 of the California Elections Code. This ordinance shall be published after adoption as required by law. (Ord. No. 3434, adopted 1983.)

**CHAPTER 5.92**

**COSTS OF INCARCERATION**

**Sec. 5.92.010 Title.**

This Chapter shall be known as the Costs of Incarceration Chapter of the Mendocino County Code. (Ord. No. 3506, adopted 1984.)

**Sec. 5.92.020 Authorization.**

This Chapter is enacted pursuant to Penal Code Sections 1203.1c and 1209. (Ord. No. 3506, adopted 1984.)

**Sec. 5.92.030 Deposit of Costs.**

The Sheriff-Coroner is hereby directed to receive payments from prisoners serving sentences within the terms of Penal Code Sections 1203.1c and 1209, and said officer is directed to deposit all sums into the county treasury. (Ord. No. 3506, adopted 1984.)

**Sec. 5.92.040 Determination of Costs.**

The Board of Supervisors shall make an annual determination of the average per-day costs of incarceration in the jail and detention

facility. Said costs are determined to be \$39.00 for the first day of incarceration and \$21.00 for each day thereafter. (Ord. No. 3506, adopted 1984.)

**Sec. 5.92.050 Payment Schedule.**

A payment schedule based upon income for reimbursement of the costs imposed by Section 5.92.030 shall be developed by the Sheriff-Coroner and approved by the presiding judges of the justice and superior courts. (Ord. No. 3506, adopted 1984.)

**Sec. 5.92.060 Severability.**

The sentences, paragraphs, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance. (Ord. No. 3506, adopted 1984.)

## CHAPTER 5.96

### RESERVED\*

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\***Editor's note**—Ord. No. 4309, adopted July 30, 2013, repealed ch. 5.96, §§ 5.96.010—5.96.040, in its entirety. Former ch. 5.96 pertained to board of equalization fees and was derived from Ord. No. 3536, adopted 1985.

## CHAPTER 5.100

### WILLIAMSON ACT ASSESSMENTS

#### Sec. 5.100.010 Fixed Base Year Percentage.

Pursuant to authority contained in Revenue and Taxation Code Section 423.3, the following assessment scheme shall apply to the value of land enforceably restricted under the Williamson Act:

(A) Land specified in Subdivision (c) of Section 16142 of the Government Code shall be assessed at the value determined as provided in Section 423 but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1 adjusted to reflect the percentage change in the cost of living not to exceed two percent (2%) per year. That percentage shall be seventy-five percent (75%).

(B) Prime commercial rangeland, as defined in Subdivision (c) of Section 423.3 of the Revenue and Taxation Code, shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed two percent (2%) per year. That percentage shall be eighty percent (80%).

(C) Land specified in Subdivision (d) of Section 16142 of the Government Code shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage in the cost of living not to exceed two percent (2%) per year. That percentage shall be ninety percent (90%).

For the purposes of this section "prime commercial rangeland" means rangeland which meets all of the following physical-chemical parameters:

- (1) Soil depth of twelve (12) inches or more.
- (2) Soil texture of fine sandy loam to clay.
- (3) Soil permeability of rapid to slow.
- (4) Soil with at least two and one half (2-1/2) inches of available water holding capacity in profile.
- (5) A slope of less than thirty percent (30%).

(6) A climate with eighty (80) or more frost-free days per year.

(7) Ten (10) inches or more average annual precipitation.

(8) When managed at potential, the land generally requires less than seventeen (17) acres to support one animal unit per year.

(Ord. No. 3666 (part), adopted 1987; Ord. No. 4005 (part), adopted 1998.)

#### Sec. 5.100.020 Operative Date.

This Chapter shall only be operative for all the tax years commencing with the 1988-1989 tax year, unless terminated by action of the Board of Supervisors. This section is intended to be retroactive to include tax years 1991-1992, 1992-1993, 1993-1994, 1994-1995, 1995-1996, 1996-1997, 1997-1998.

(Ord. No. 3666 (part), adopted 1987; Ord. No. 4005 (part), adopted 1998.)

## CHAPTER 5.110

### PROPERTY TAX ADMINISTRATION FEES ON LOCAL PUBLIC AGENCIES

#### Sec. 5.110.010 Authority.

Effective January 1, 1991, Revenue and Taxation Code Section 97 authorizes the County commencing with the 1989-90 fiscal year to recover its actual costs of assessing, collecting and allocating property taxes, including applicable administrative overhead costs as permitted by Federal Circular A-87 standards, from all public agencies in proportion to the property tax proceeds received by each public agency.

The allocation of property tax administration costs shall not exceed the actual County costs of assessing, collecting, and allocating property taxes, including applicable administrative overhead costs as permitted by Federal Circular A-87 standards.

The recovery of County property tax administration costs during the 1990-91 fiscal year shall be based on the County Auditor-Controller's determination of the County's property tax administration costs for the 1989-90 fiscal year, and the allocation of such costs among the public agencies in proportion to the property tax revenues received by each public agency for the 1989-90 fiscal year.

(Ord. No. 3764 (part), adopted 1991.)

#### Sec. 5.110.020 Finding.

The County Auditor-Controller has determined on Exhibit "A" attached to the ordinance codified in this Chapter the County's property tax administration costs for the 1989-90 fiscal year and the allocation among public agencies of such costs in proportion to the property tax revenues received by each public agency for the 1989-90 fiscal year.

(Ord. No. 3764 (part), adopted 1991.)

#### Sec. 5.110.030 Allocation.

The property tax administration costs for the 1989-90 fiscal year are hereby allocated among all

public agencies receiving property tax revenues for that fiscal year in accordance with Exhibit "A" attached to the ordinance codified in this Chapter. The allocation of property tax administration costs does not exceed the actual County costs of assessing, collecting and allocating property taxes for the 1989-90 fiscal year, including applicable administrative overhead costs as permitted by Federal Circular A-87 standards.

(Ord. No. 3764 (part), adopted 1991.)

#### Sec. 5.110.040 Retention.

The County Auditor-Controller is authorized and directed to invoice each public agency for its share of property tax administration costs in accordance with Exhibit "A". For each public agency which does not pay the invoice within thirty (30) days of the date of invoice, the County Auditor-Controller is authorized to retain up to one-half (½) of any increased property tax allocation to which a jurisdiction may be otherwise entitled, until the County recovers the property tax administration costs to which it is entitled.

(Ord. No. 3764 (part), adopted 1991.)

#### Sec. 5.110.050 Offset.

As an alternative to Section 5.110.040 and pursuant to Government Code Section 907, the County Auditor-Controller may offset any delinquent amount for the fee herein against any amount reciprocally owing to the delinquent local public entity by the County.

(Ord. No. 3764 (part), adopted 1991.)

#### Sec. 5.110.060 Severability.

It is the intent of the Board of Supervisors to recover its property tax administration costs to the maximum extent permissible. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

(Ord. No. 3764 (part), adopted 1991.)

**CHAPTER 5.120**

**RESERVED\***

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\***Editor's note**—Ord. No. 4279, adopted July 12, 2011, repealed former Ch. 5.120, §§ 5.120.010—5.120.090, in its entirety which pertained to jail booking fees on local public agencies and derived from Ord. No. 3794, adopted in 1991; Ord. No. 3849, adopted in 1993.



**CHAPTER 5.130****DELEGATING AUTHORITY TO INVEST TO  
TREASURER-TAX COLLECTOR****Sec. 5.130.010 Delegation of Authority to Invest  
for Calendar Year 2017.**

Pursuant to authority contained in Government Code section 27000.1 and 53607 the Board of Supervisors hereby delegates to the Treasurer the authority to invest or reinvest the funds of the County and the funds of other depositors in the County Treasury pursuant to Government Code sections 53600 to 53970 for the 2017 calendar year. Nothing in this section shall limit the Treasurer's authority pursuant to Government Code sections 53635 or 53684. (Ord. No. 3924, 1996; Ord. No. 4009, 1998; Ord. No. 4034, 1999; Ord. No. 4055, 2000; Ord. No. 4069, 2001; Ord. No. 4085, 2002; Ord. No. 4107, 2003; Ord. No. 4122, 2004; Ord. No. 4142, 2005; Ord. No. 4167, 2006; Ord. No. 4180, 2007; Ord. No. 4198, 2008) (Ord. No. 4216, 1-27-2009; Ord. No. 4232, 1-26-2010; Ord. No. 4271, 1-25-2011; Ord. No. 4288, 1-24-2012; Ord. No. 4303, 1-22-2013; Ord. No. 4321, 1-21-2014; Ord. No. 4331, 1-20-2015; Ord. No. 4350, 2-2-2016; Ord. No. 4378, 1-24-2017)

## CHAPTER 5.140

### MENDOCINO COUNTY LODGING BUSINESS IMPROVEMENT DISTRICT\*

#### Sec. 5.140.020 Authority.

This Chapter is adopted pursuant to the "Parking and Business Improvement Area Law of 1989," being Section 36500 to 36551 of the California Streets and Highways Code and Resolution of Intention No. 06-062 adopted by the Board of Supervisors of the County of Mendocino on April 11, 2006. Such resolution was published and mailed as provided by law, and hearings thereon were held by the Board of Supervisors of the County of Mendocino at its regular meeting on May 9, 2006 at which time all persons desiring to be heard, and all objections made or filed, were fully heard. The Board of Supervisors of the County of Mendocino duly concluded the hearing on May 9, 2006, and determined that protests objecting to the formation of the District had not been made by a majority of the operators of Hotels within the District and that such protests are overruled and denied. The Board of Supervisors of the County of Mendocino finds that the operators of hotels in the District, in the opinion of the Board of Supervisors of the County of Mendocino, will be benefited by the expenditure of funds raised by the assessments proposed to be levied. (Ord. No. 4336, 5-19-2015; Ord. No. 4384, § I, 6-6-2017)

#### Sec. 5.140.030 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this Chapter:

(a) **ADMINISTRATIVE FEE.** "Administrative fee" means a fee not to exceed three (3) percent, which the County of Mendocino is entitled

\***Editor's note**—Ord. No. 4336, adopted May 19, 2015, amended ch. 5.140, §§ 5.140.010—5.140.270, in its entirety. Former ch. 5.140 pertain to similar subject matter, and was derived from Ord. No. 4170 (part), adopted 2006.

to retain from the assessments they collect within their respective boundaries to pay for the County's everyday administrative costs of the District.

(b) **ADVISORY BOARD.** "Advisory board" means the advisory board appointed by the Board of Supervisors of the County of Mendocino.

(c) **ANNUAL REPORT.** "Annual report" means the annual report as approved by the Board of Supervisors pursuant to the Business and Improvement Area Law of 1989.

(d) **ANNUAL MARKETING PLAN.** "Annual Marketing Plan" means the BID Advisory Board annual report as approved by the Board of Supervisors as it pertains to the improvements and activities to be provided, the estimate revenue, and the estimated costs of the improvements and activities to be provided.

(e) **ASSESSMENT.** "Assessment" means the levy imposed by this Chapter for the purpose of providing services, activities and programs promoting hotel tourism in the District and marketing the District.

(f) **BID.** "BID" means the Mendocino County Lodging Business Improvement District.

(g) **BOARD.** "Board" means the Board of Supervisors of the County of Mendocino.

(h) **BOARD OF SUPERVISORS.** "Board of Supervisors" means the Board of Supervisors of the County of Mendocino.

(i) **BUSINESS AND IMPROVEMENT AREA LAW OF 1989.** "Business and Improvement Area Law of 1989" means the provisions of California Streets and Highways Code sections 36500 to 36551, as amended.

(j) **CITY or CITIES.** "City" or "cities" shall mean, individually or collectively, the City of Fort Bragg, the City of Ukiah, and the City of Willits.

(k) **CONTRACTOR.** "Contractor" means the individual or entity designated by the Board of Supervisors to administer the Business Improvement District (BID) including hiring and oversight of the individual or entity charged with implementation of the Annual Marketing Plan that is annually approved by the Board of Supervisors.

(l) **CORE BUSINESS OR ORGANIZATIONAL INTEREST.** "Core Business or Organizational Interest" means a governing board applicant's primary source of business or employment income or organizational representation.

(m) **COUNTY.** "County" means the County of Mendocino.

(n) **COUNTY CLERK.** "County Clerk" means the Clerk of the Board of Supervisors.

(o) **DISTRICT.** "District" means the Mendocino County Lodging Business Improvement District created by this Chapter and as delineated in Section 5.140.040.

(p) **ENFORCEMENT FEE.** "Enforcement fee" means the reimbursable fee, in addition to the administrative fee and any other penalties or fines, which the County is entitled to retain from the assessments they collect, equal to its actual costs of audits and actions to collect, minus any costs of audits and enforcement actions collected from operators in default of this Chapter.

(q) **HOTEL or LODGING BUSINESS.** "Hotel" or "lodging business" means any structure or any portion of any structure which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes and includes any hotel, inn, tourist home or house, private residence, detached bedroom, motel, studio hotel, bachelor hotel, lodging houses, rooming houses, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.

(r) **HOTEL REVENUES.** "Hotel revenues" means the gross revenues or gross rent collected from the occupancy of space prior to the levy of any tax or other charges.

(s) **LARGE LODGING OPERATORS.** "Large Lodging Operators" are those lodging operators who, in the aggregate, most nearly generate the top sixty percent (60%) of the assessment revenue on a fiscal year basis.

(t) **MCLA.** "MCLA" means the Mendocino County Lodging Association.

(u) **MEDIUM LODGING OPERATORS.** "Medium Lodging Operators" are those lodging operators ranked immediately below the Large Lodging Operators who, in the aggregate, most nearly generate the next twenty percent (20%) of the assessment revenue on a fiscal year basis.

(v) **MENDOCINO COUNTY LODGING ASSOCIATION.** "Mendocino County Lodging Association" means the Mendocino County Lodging Association, Inc., an Internal Revenue Code 501(c)(6) organization.

(w) **MENDOCINO COUNTY LODGING BUSINESS IMPROVEMENT DISTRICT.** "Mendocino County Lodging Business Improvement District" means the Lodging Business Improvement District of the County of Mendocino created by this Chapter and as delineated in Section 5.140.040.

(x) **OPERATOR.** "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sub lessee, mortgagee in possession, licensee, or any other capacity, including but not limited to use of a managing agent. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

(y) **PENALTY ASSESSMENT.** "Penalty Assessment" means the Penalties provided for in Section 5.140.130 which are imposed in addition to the Assessment and any other penalties or costs of audits and enforcement actions.

(z) **REGIONAL PROMOTIONAL ORGANIZATION.** "Regional Promotional Organization" means an organization in Mendocino County with regular meetings and an ongoing promotional mission focused on a particular region."

(aa) **RENT.** "Rent" means the consideration charged, whether or not received, for the occupancy of space for a period of thirty (30) days or

less, counting portions of calendar days as full days, in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, and property and services of any kind or nature, without any deduction there from whatsoever.

(ab) **SMALL LODGING OPERATORS.** "Small Lodging Operators" are those lodging operators ranked below the Medium Lodging Operators who, in the aggregate, most nearly generate the bottom twenty percent (20%) of the assessment revenue on a fiscal year basis.

(ac) **TAX ADMINISTRATOR.** "Tax Administrator" means the Treasurer-Tax Collector of the County of Mendocino.

(Ord. No. 4336, 5-19-2015; Ord. No. 4384, § II, 6-6-2017)

**Sec. 5.140.040 Area Established—Description.**

The Board of Supervisors finds and determines that the public convenience and necessity require the establishment of the District herein described. It further finds that the operators of hotels within the District will benefit from the activities undertaken to generate hotel tourism and marketing of the District. Pursuant to the Parking and Business Improvement Area Law of 1989, a parking and business improvement area is established, to be known as the "Mendocino County Lodging Business Improvement District," herein called "District." The District encompasses all that area within the unincorporated area of the County of Mendocino and the incorporated areas within the City of Fort Bragg, the City of Ukiah, and the City of Willits.

(Ord. No. 4336, 5-19-2015; Ord. No. 4384, § III, 6-6-2017)

**Sec. 5.140.050 Authorized Uses.**

The purpose of forming the District as a business improvement area under the Parking and Business Improvement Area Law of 1989 is to provide revenue to defray the costs of services, activities and programs promoting tourism which will benefit the operators of Hotels in the District

through the promotion and marketing of the Hotels and related products, including scenic, recreational, cultural and other attractions in the District of benefit to the District. It is the intent of this Chapter to provide a supplemental source of funding for the promotion of tourism in the District and it is not intended to supplant any other existing sources of revenues that may be used by the County of Mendocino for the promotion of tourism or marketing of products produced within the County. The specific services, activities and programs to be provided by the District are as follows:

(A) The general promotion of hotels operating within the District;

(B) The marketing of products and events that have a connection with the hotel industry operating in the District;

(C) The marketing of the District to the media and travel industry in order to benefit local tourism and the hotels in the District.

(D) Any activities permitted under the Parking and Business Improvement Law of 1989 that are included as costs as specified in the annual report to be prepared by the advisory board and adopted annually by the Board of Supervisors. Activities means, but is not limited to, all of the following:

1. Promotion of public events which benefit businesses in the area and which take place on or in public places within the area;

2. Furnishing of music in any public place in the area;

3. Promotion of tourism within the area;

4. Activities which benefit businesses located and operating in the area;

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.060 Classification of Hotels and Assessments Imposed.**

(A) Each operator of a hotel who collects rent and benefits from tourist visits and operates in the District will be assessed a share of the costs of the aforementioned services, activities and programs according to the rent revenues and the ben-

efit to be received, and the assessment is hereby levied as set forth as a one percent (1%) levy on gross rent.

(B) The above-described assessment is an assessment calculated on a daily basis from gross rent revenues collected by each operator, is levied on the operators of the Hotels on a daily basis and is due to be collected on a quarterly basis or at the close of any shorter reporting period established by the Tax Administrator.

(Ord. No. 4336, 5-19-2015; Ord. No. 4384, § IV, 6-6-2017)

**Sec. 5.140.070 Operator's Duties.**

(A) The operator of a hotel may elect to pass on all or part of the assessment to customers of the hotel, in which case the operator of the hotel shall separately identify or itemize the assessment on any document provided to a customer. The amount of assessment levy shall be separately stated from the amount of the rent charged, and each customer shall receive a receipt for payment from the operator.

(B) If the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

(C) Pursuant to Civil Code Section 2238, a proprietor performing his or her functions under this Chapter by a managing agent is responsible as principal for the negligence of his or her agent in the transaction of the business of the agency.

(D) Each operator of a hotel shall deliver a return to the Tax Administrator, on or before the last day of the month following the close of each calendar quarter or at the close of any shorter reporting period established by the Tax Administrator, which specifies the amount of gross rent collected during the previous three calendar months (calendar year quarterly basis) and pay the amount

of the resulting assessment due from the operator to the County of Mendocino. The County of Mendocino shall collect the assessment from the operators of hotels within the District.

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.080 Exemptions.**

The Board of Supervisors may elect to exempt a hotel business recently established in the area subject to this assessment from a given year's levy of assessments. If the Board elects to do so, it shall so specify in its annual resolution of intention that it must adopt pursuant to the Business and Improvement Area Law of 1989.

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.090 Reporting and Remitting.**

(A) Each operator shall, on or before the last day of the month following the close of each calendar quarter or at the close of any shorter reportings period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by the Tax Administrator, of the total rent charged and received and the amount of assessment due. Each operator shall describe in such return the assessment attributable to each hotel under the operator's control, together with the name of the owner of each hotel, the address and location of each hotel for which assessments are reported in the return. The Operator shall execute such return under penalty of perjury and shall return it to the Tax Administrator under the laws of the State of California.

(B) The failure to file such return shall be subject to a civil fine of Five Hundred Dollars (\$500.00). The fine shall be payable to the Tax Administrator within thirty (30) days after the Tax Administrator gives notice to an operator of the operator's failure to file the return.

(C) At the time the return is filed, the full amount of the assessment shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if the Tax Administrator deems it necessary in order to insure collection of the as-

assessment and the Tax Administrator may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All assessments collected by operators pursuant to this Chapter shall be held in trust for the account of the County until payment thereof is made to the Tax Administrator.

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.100 Registration Certificate.**

In order that the County will have an accurate record of parties being assessed a share of the costs of the District, each operator will be required to register as hereinafter provided.

(A) Each hotel owned or operated by the same owner or operator, at the time the District is formed, and located upon a separate parcel of property described by its own assessor's parcel number shall, within thirty days of the effective date of this ordinance, be automatically registered as such by the Tax Administrator. The Tax Administrator shall provide Hotel operators a Registration Certificate to be at all times posted in a conspicuous place on the premises. Each Hotel for which a separate business license is issued shall require a separate Registration Certificate.

(B) Prior to commencing business each operator, including each managing agent, of any Hotel shall register such hotel with the Tax Administrator and obtain from him or her a Registration Certificate to be at all times posted in a conspicuous place on the premises. The Registration Certificate shall, among other things, state the following:

- (1) Name and address of the hotel;
- (2) Name of the operator;
- (3) Name and address of owners;
- (4) Registration certificate number and date issued.

(C) The Registration Certificate shall not be transferable, and shall be returned to the Tax Administrator upon sale of property or cessation of business along with the final remittance of assessment due.

(D) The operator named on the face of the Registration Certificate shall be responsible for the assessment and shall remit such assessment to the Tax Administrator. The certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a Hotel without strictly complying with all local applicable laws,

including but not limited to permit requirements from any board, commission, department, or office in this County.

(E) The owner of the hotel shall report all changes of operators or operations to the Tax Administrator immediately including, but not limited to, any change in operations, mailing address, or changes in ownership.

(F) The Registration Certificate may be revoked by the Tax Administrator upon failure to comply with any provision of this Chapter. Revocation by the Tax Administrator may be appealed to the Board of Supervisors as provided in Section 5.140.150. An appeal of revocation as provided herein will stay the revocation until the Board of Supervisors issues its decision.

(G) Operation of a hotel business subject to this Chapter without a valid Registration Certificate shall be a misdemeanor and shall be punishable as provided by Section 5.140.200 (VIOLATION-MISDEMEANOR). Each day of operation without a valid Registration Certificate shall be deemed to be a separate offense.

(H) The Tax Administrator shall not charge a fee to issue the Registration Certificate. All administrative costs to issue the Registration Certificate shall be reimbursable from the administrative fee provided in this Chapter.

(Ord. No. 4336, 5-19-2015)

#### **Sec. 5.140.110 Review of Assessments.**

All of the assessments imposed pursuant to this Chapter shall be totaled in aggregate and reviewed by the Board of Supervisors and each assessment will be reviewed at least quarterly by the Tax Administrator to identify and notify operators in default of this Chapter. The Board of Supervisors shall review the assessments imposed pursuant to this Chapter based upon the annual report prepared by the advisory board appointed pursuant to this Chapter and Business and Improvement Area Law of 1989.

(Ord. No. 4336, 5-19-2015)

#### **Sec. 5.140.120 Imposition of Assessment.**

The assessment imposed by this Chapter is levied upon the operators of Hotels within the District, and the operator of each hotel shall be solely responsible for paying all assessments when due. Notwithstanding the foregoing, in the event that the operator of a Hotel elects to pass on some or all of the assessment to customers of the hotel, the operator of the hotel shall separately identify or itemize the assessment on any document provided to a customer. Assessments levied on the operators of a hotel pursuant to this Chapter and passed on to customers are not part of a hotel operator's gross receipts or gross revenues for any purpose, including the calculation of sales or use assessment, transient occupancy tax, or income pursuant to any lease. However, assessments that are passed on to customers shall be included in gross receipts for purposes of income and franchise assessments.

(Ord. No. 4336, 5-19-2015)

#### **Sec. 5.140.130 Penalties.**

(A) Any operator subject to assessment under this Chapter who fails to remit any assessment imposed by this Chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.

(B) Any operator subject to assessment under this Chapter who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date upon which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the assessment, in addition to the amount of the assessment and the ten percent (10%) penalty first imposed.

(C) If the Tax Administrator or applicable collecting entity determines that the nonpayment of any remittance due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the assessment due shall be added thereto, in addition to the penalties set forth in subsections (A) and (B) of this section.

(D) In addition to any penalties imposed hereunder, any operator who fails to remit any assessment imposed by this Chapter when due shall pay interest at the rate of one and one-half (1½) percent per month on the unpaid balance of the assessment, from the date on which the assessment first became delinquent until paid.

(E) The penalty assessment collected pursuant to this Section, including all penalties and interest, shall be added to the Assessment and shall be subject to the administrative fee and the fifty percent (50%) County match. (Ord. No. 4336, 5-19-2015)

**Sec. 5.140.140 Determination of Assessment by Tax Administrator Upon Default of Operator.**

(A) If any operator fails or refuses to calculate any assessment due, within the time provided in this Chapter, any report and remittance of an assessment, or any portion thereof required by this Chapter, the Tax Administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the assessment due. If the Tax Administrator determines that any levy imposed by this Chapter and payable by any operator has not been paid as required by this Chapter, or that any operator has failed or refused to calculate the same, or to make any report or remittance required by this Chapter, the Tax Administrator shall determine the appropriate unpaid assessment, interest, and/or penalty for noncompliance, and shall notify the operator of the assessment, interest, and/or penalties as provided for by this Chapter. In case such determination is made, the Tax Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address.

(B) Such operator may within ten (10) days after the serving of such notice or within fifteen (15) days after the mailing of such notice make application in writing to the Tax Administrator

for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the assessment, interest and penalties, if any, determined by the Tax Administrator, shall become final and conclusive and immediately due and payable. If such application is made, the Tax Administrator shall give not less than five (5) days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in the notice why said amount specified therein should not be fixed for such assessment, interest and penalties. At such hearing before the Tax Administrator, the operator may appear and offer evidence why such specified assessment, interest and penalties should not be so fixed.

(C) After such hearing, the Tax Administrator shall determine the proper assessment to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such assessment, interest and penalties. The Tax Administrator's determination shall be presumed to be correct. At any appeal before the Board of Supervisors described below, the operator has the burden of proving that the Tax Administrator's determination is incorrect, and the burden of producing sufficient evidence to establish the correct assessment liability. The amount determined to be due shall be payable within fifteen (15) days after such hearing, unless an appeal is taken to the Board of Supervisors as provided in Section 5.140.150 (APPEAL), below.

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.150 Appeal.**

Any operator aggrieved by any decision of the Tax Administrator with respect to the amount of the assessment imposed by this Section, including interest and penalties, if any, may appeal to the Board of Supervisors by filing a notice of appeal with the County Clerk within fifteen (15) days of the serving or mailing of the determination of assessment due. The Board of Supervisors shall fix a time and place for hearing such appeal, and



the Tax Administrator shall give notice in writing to such operator at their last known place of address. The Tax Administrator shall present the matter to the Board and include evidence submitted by the operator. The Tax Administrator shall also include proposed findings and a resolution of the appeal. At the hearing, both the Tax Administrator and the owner or operator shall have an opportunity to explain their case and introduce other statements or evidence. The Board may impose reasonable time limits on each party's presentation. The findings of the Board of Supervisors shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.160 Records.**

(A) Every operator shall keep and preserve for a period of five (5) years all records as may be necessary to determine the amount of any assessment levied for which the operator may be liable for the payment to the County. The records deemed necessary for this determination shall include but not be limited to general ledgers, income tax returns, a chronological cash journal showing sales and sale type separately, or other comparable means of summarizing the operator's monthly or quarterly revenue, supported by receipts, which may, with reasonable effort, be identified with the revenue summary. These records shall be available, during regular business hours, for inspection by the Tax Administrator or Auditor-Controller. Performance of an audit does not waive the County's right to any assessment or the five (5) year requirement of preserving records.

(B) The Tax Administrator at his or her sole discretion may require that these records shall be brought to the County Auditor's Office for review and examination.

(C) It is unlawful for any County official or any person having an administrative duty under this Chapter to make known in any manner what-

ever the business affairs, operations, or information obtained by an investigation of records and equipment of any operator or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return or to permit any return or copy thereof to be seen or examined by any person. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amount of any unpaid assessment or amounts of assessment levy required to be collected, interest and penalties.

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.170 Audit.**

(A) The County Auditor-Controller may audit the books and records of any operator to determine the adequacy of the assessment levy due.

(B) All operators shall keep and make available to the Tax Administrator and the County Auditor-Controller records including but not limited to lodging receipts, room or lodging registration records, sales tax returns, daily maid reports, linen service invoices, and all records described above in Section 5.140.160 (RECORDS).

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.180 Refunds.**

(A) Whenever the amount of any assessment levied, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the County under this Chapter, it may be refunded as provided in Subparagraphs (B) and (C) of this Section, provided a claim in writing therefore, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Administrator within three (3) years of the date of payment. The claim shall be on forms furnished by the Tax Administrator.

(B) In the event that the operator of a hotel elects to pass on some or all of the assessment to customers of the hotel, the operator of the hotel shall separately identify or itemize the assessment on any document provided to a customer. In this instance, any operator may claim a refund or take as credit against assessment levied and remitted to the County, the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Tax Administrator that the person who paid the assessment was incorrectly charged. Neither a refund nor a credit shall be allowed, however, unless the amount of the assessment so levied has either been refunded to the customer or credited to the account and subsequently paid to the customer or operator.

(C) A customer may obtain a refund of an assessment overpaid or paid more than once or erroneously or illegally collected or received by the County by filing a claim in the manner provided in Subparagraph (A) of this Section, but only when the assessment was paid by the customer directly to the Tax Administrator or when the customer, having paid the assessment to the operator, establishes to the satisfaction of the Tax Administrator that the customer has been unable to obtain a refund from the operator who elected to pass on some or all of the assessment unto the customer.

(D) No refund shall be paid under the provisions of this Section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.190 Actions to Collect.**

(A) Any assessment required to be paid by any operator under this Chapter shall be deemed a debt owed by the operator to the County. If the operator of a hotel elects to pass on some or all of the assessment to customers of the hotel, the amount collected by the operator that has not been paid to the County shall be deemed a debt owed by the operator to the County. Any person owing money to the County under this Chapter

shall be liable in an action brought in the name of the County of Mendocino for the recovery of such amount. The County shall be entitled to recover from anyone found liable for the debt, any costs, including attorney's fees, costs of enforcement, or other expenses incurred by the County because of the failure to timely remit assessment levy to the County.

(B) If judgment is obtained by the County, such judgment shall be recorded and shall constitute a lien against the property where the hotel is located.

(C) Whenever a debt owed by the operator to the County under this Chapter has not been paid to the County and the operator's Registration Certificate has been revoked under this Chapter, the County may obtain a court injunction against further operation of the hotel until the debt owed has been paid.

(D) The remedies for enforcement or collection provided in this Chapter shall be cumulative and not exclusive.

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.200 Violations—Misdemeanor.**

(A) Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor which shall be punishable by a fine of not more than Five Hundred Dollars (\$500) or by imprisonment in the County jail for a period of not more than six (6) months or by both such fine and imprisonment.

(B) Any operator or other person who fails or refuses to register as required herein or to furnish any return required to be made or who fails or refuses to furnish a supplemental return or other data required by the Tax Administrator or who renders a false or fraudulent return or claim is guilty of a misdemeanor which is punishable as aforesaid.

(C) Any person making, rendering, signing or verifying any report or claim, who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this Chapter is guilty of a misde-

meanor which is punishable as aforesaid. In addition, the Tax Administrator may pursue on behalf of the County, any civil or administrative remedy otherwise available for failure to comply with the requirements of this Chapter. If the County prevails, the County shall be entitled to recover any costs, including attorney's fees, costs of enforcement, or other expenses incurred because of failure to comply with the requirements of this Chapter. Failure to pay such costs upon demand shall be grounds for revocation of an operator's certificate of registration as provided in Section 5.140.100 (REGISTRATION CERTIFICATE) above. (Ord. No. 4336, 5-19-2015)

**Sec. 5.140.210 Advisory Board.**

(A) Pursuant to the Business and Improvement Area Law of 1989, an advisory board with five (5) members shall be appointed by the Mendocino County Board of Supervisors only for fulfilling the purposes of the Business and Improvement Area Law of 1989. Members of the advisory board shall be selected and appointed by the Mendocino County Board of Supervisors from a list of nominees prepared by the Board of Directors of the Mendocino County Lodging Association and/or the designated contractor. All nominees must be owners or operators of Hotels within the District, or employed by the operator of a Hotel within the District. Two (2) members shall be appointed to represent the inland area of the District. Two (2) members shall be appointed to represent the coastal region of the District. One (1) member shall be appointed at large. Members of the advisory board shall serve two (2) year terms, with two (2) members appointed in every even numbered year and three (3) members appointed in every odd numbered year. Upon completion of a term, an incumbent may apply to be considered for reappointment. In the event of a mid-term resignation, an appointment may be made by the Mendocino County Board of Supervisors for the remainder of that term.

(B) Provided contractor coordinates with the Mendocino County Treasurer-Tax Collector no

later than May 1 of any year, the Tax Collector will include in the next Transient Occupancy Tax billing distribution an announcement that has been produced by contractor, according to specifications and deadlines established by the Tax Collector, of openings on the advisory board with directions as to how eligible candidates may apply.

(C) The advisory board shall convene annually by November 30 to cause to be prepared the annual report for the purposes of the Business and Improvement Area Law of 1989.

(D) The advisory board shall attempt to submit its annual report to the Board of Supervisors at least ninety (90) days preceding the fiscal year for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report.

(E) The Board of Supervisors hereby gives authority to the Chief Executive Officer or designee to convene the advisory board, approve the bylaws, and approve the annual work plan for the advisory board.

(F) Nothing in this Chapter shall preclude the advisory board from convening at a meeting with the Board of Directors of the Mendocino County Lodging Association, and/or Contractor, to prepare and discuss the annual report with other countywide promotional and marketing organizations.

(Ord. No. 4336, 5-19-2015; Ord. No. 4384, § V, 6-6-2017; Ord. No. 4386, 7-11-2017)

**Sec. 5.140.220 Annual Report.**

(A) Pursuant to the Business and Improvement Area Law of 1989, the advisory board shall cause to be prepared an annual report for each fiscal year for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report. The report may propose changes, including, but not limited to, the boundaries of the parking and business improvement area or any benefit zones within the area, the basis and method of levying the assessments, and any changes in the classification of businesses, if a classification is used.

(B) The report shall be filed with the clerk and shall refer to the parking and business improvement area by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following:

(1) Any proposed changes in the boundaries of the parking and business improvement area or in any benefit zones within the area.

(2) The improvements and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements and the activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.

(5) The amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(C) The Board of Supervisors may approve the report as filed by the advisory board or may modify any particular item contained in the report and approve it as modified. The Board of Supervisors shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments.

(D) The BID Advisory Board annual report, as approved by the Board of Supervisors, shall, as it pertains to the improvements and activities to be provided, the estimated revenue, and the estimated costs of the improvements and activities to be provided, be deemed the BID Annual Marketing Plan.

(Ord. No. 4336, 5-19-2015; Ord. No. 4384, § VI, 6-6-2017)

**Sec. 5.140.230 Modification or Disestablishment of the District.**

(A) The Board of Supervisors, by ordinance, may modify the provisions of this Chapter and

may disestablish the District, after adopting a resolution of intention pursuant to such procedures prescribed by law, including the "Parking and Business Improvement Area Law of 1989," being Section 36500 to 36551 of the California Streets and Highways Code. Such resolution shall describe the proposed change or changes, or indicate it proposes to disestablish the area, and shall state the time and place of a hearing to be held by the Board of Supervisors to consider the proposed action.

(B) If the operators of Hotels who pay fifty percent (50%) or more of the assessments in the District file a petition with the County Clerk requesting the Board of Supervisors to adopt a resolution of intention to modify or disestablish the District, the Board of Supervisors shall adopt such resolution and act upon it as required by law. Signatures on such petition shall be those of a duly authorized representative of the operators of Hotels in the District.

(C) In the event the resolution proposes to modify any of the provisions of this Chapter, including changes in the existing assessments or in the existing boundaries of the District, such proceedings shall terminate if protest is made by the operators of Hotels who pay fifty percent (50%) or more of the assessments in the District, or in the existing boundaries of the District if it is proposed to be enlarged.

(D) If the resolution proposes disestablishment of the District, the Board of Supervisors shall disestablish the District; unless at such hearing, protest against disestablishment is made by the operators of Hotels paying fifty percent (50%) or more of the assessments in the District.

(E) In considering written protests submitted by owners of lodging businesses in an incorporated city to the formation of the District, the Board shall separately determine the number of written protests submitted by lodging business owners within the boundaries of each city. If written protests are received from lodging businesses operators who will pay more than fifty percent (50%) of the assessments proposed to be levied

within the boundaries of the city where the operator conducts businesses, then the Board of Supervisors shall declare lodging businesses in the incorporated city excluded from the District and ineligible to benefit from the activities of the District.

(F) Within one year from receipt of a signed petition protesting the assessment and requesting the removal from the District boundaries by owners of lodging businesses in an incorporated city who will pay more than fifty percent (50%) of the assessments proposed to be levied in that incorporated city boundary, the Board shall remove the incorporated city and all lodging businesses contained therein from the District pursuant to such procedures prescribed by law, including Streets & Highways Code section 36550 to 36551.

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.240 Administrative Fee.**

(A) The county shall be entitled to charge an amount equal to its actual costs of collection and administration, not to exceed three percent (3%) of the assessments collected from operators of Hotels in the District, to defer the administrative costs incurred for the operation of the District. Notwithstanding the foregoing, the three percent (3%) administrative fee limit shall not apply to audit and enforcement costs and other related unforeseeable costs. This administrative fee shall be collected no later than September 30 after the close of each fiscal year.

(B) All assessments shall be transferred to the Contractor within thirty (30) days following collection of the assessment by the County. Prior to the expenditure of such funds, the Contractor shall enter into a contract with the County.

(Ord. No. 4336, 5-19-2015; Ord. No. 4384, § VII, 6-6-2017)

**Sec. 5.140.245 Business Improvement District (BID) Administration and Implementation.**

The Board of Supervisors shall designate a Contractor that shall be responsible for adminis-

tration of the Business Improvement District (BID) including hiring and oversight of the individual or entity charged with implementation of the Annual Marketing Plan that is annually approved by the Board of Supervisors for countywide promotion and marketing.

(Ord. No. 4336, 5-19-2015)

**Sec. 5.140.250 Contract.**

A. Prior to the expenditure of any District funds, the Contractor shall enter into a contract with County for the services, activities and programs authorized by this Chapter. Pursuant to said contract, all assessments, including assessment penalties and interest, shall be transferred to the Contractor within thirty (30) days following collection of the assessment by the County.

B. The scope of services of the contract will itemize the services, activities, and programs to be provided by the Contractor or subcontracted by the Contractor for the District.

C. This contract shall provide for a fifty percent (50%) County match of the total current fiscal year assessment collected pursuant to Section 5.140.240(B), for the purpose of countywide promotion. The fifty percent (50%) County match shall be estimated based on the prior fiscal year assessment collected and shall be paid out in twelve (12) equal monthly installments. After the fiscal year is closed, an adjustment amount will be determined to make the annual County match amount equal to fifty percent (50%) of the total current fiscal year assessment collected. This adjustment amount will be applied no later than September 30 of the following fiscal year. The County may provide an advance in funds to the District and the contract shall provide for the terms and conditions of the advance.

D. The Contract shall provide that all copyright and other use rights in any and all promotional and marketing materials, including, but not limited to, any and all proposals, plans, specifications, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any

way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor's subcontractors or third parties at the request of the Contractor which are currently held or controlled by the Contractor, or which may be created during the term of this contract, shall be provided to any subsequent contractor designated by the County and if there is none they shall be assigned to the County and its assignees to assure their continued availability for use in the promotion and marketing of Mendocino County.

E. The Contract shall provide that all existing and unexpended material and financial assets of any kind derived from the BID assessment and match and transferred to Contractor by Visit Mendocino County, Inc., shall be provided to any subsequent contractor designated by the County and if there is none they shall be assigned to the County and its assignees to assure their continued availability for use in the promotion and marketing of Mendocino County;

F. The Contract shall require that all of the following conditions shall be incorporated into the bylaws of the Contractor's governing board and shall only be changed with the concurrence of the County and amendment of this section:

1. The governing board shall be subject to the Brown Act and provide for financial transparency in all promotional and marketing activities, including payroll.

2. The governing board shall be comprised of eleven (11) members of whom five (5) shall be directly elected by lodging operators as provided herein and six (6) shall be appointed by the Board of Supervisors as provided herein;

3. Governing board members:

a) Shall be required to submit a resume showing relevant experience, complete a questionnaire demonstrating their interest and commitment in promoting Mendocino County, and agree to actively participate in governing board meetings, committees, trainings and other scheduled board activities;

b) Shall be elected or appointed to three (3) year terms based on their core business or organi-

zational interest as defined herein except the At Large appointee shall be appointed based on their knowledge and commitment to promoting Mendocino County;

c) Shall be subject to term limits of not more than two (2) terms (except a member who has completed less than one-half (1/2) of a full term may serve two (2) additional terms if duly elected or appointed);

d) Shall be ineligible to serve for three (3) years after being termed out;

4. Lodging members of the governing board shall be directly elected by lodging operators, who shall be classified as "large," "medium," or "small," based on their gross receipts for the fiscal year preceding the election, and who shall vote the percentage of the assessment paid by them, in a County conducted election, as follows:

a) One (1) member elected by and from all large lodging operators;

b) One (1) member elected by and from all large coastal lodging operators;

c) One (1) member elected by and from all large inland lodging operators;

d) One (1) member elected by and from all medium lodging operators;

e) One (1) member elected by and from all small lodging operators;

5. Non-elected members of the governing board shall be appointed by the Board of Supervisors from applicants who have applied or been nominated as follows:

a) One (1) member nominated by and from a coastal chamber of commerce or coastal regional promotional organization;

b) One (1) member nominated by and from an inland chamber of commerce or inland regional promotional organization;

c) One (1) member nominated by and from a winery or winegrower organization or who applies from an individual winery or winegrower;

d) One (1) member who is nominated by and from an arts organization, by and from an attractions governing board, or who applies from an individual attraction;

e) One (1) member who applies from a food or beverage business, including culinary, beer or other spirits;

f) One (1) member who applies At Large

6. The terms of governing board members shall be staggered so that no less than three (3) or more than four (4) members shall be elected or appointed in any one (1) year (except to fill a vacant unexpired term) with initial terms elected or appointed as follows, with all subsequent terms to be for three (3) years;

a) Large lodging elected by all large lodging operators: three (3) years;

b) Large lodging elected by all large inland lodging operators: two (2) years;

c) Large lodging elected by all large coastal lodging operators: one (1) year;

d) Medium lodging elected by all medium lodging operators: two (2) years;

e) Small lodging elected by all small lodging operators: three (3) years;

f) Coastal chamber of commerce or regional promotional organization: three (3) years;

g) Inland chamber of commerce or regional promotional organization: two (2) years;

h) Winery or winegrower or winery or wine-grower organization: three (3) years;

i) Arts or Attractions: two (2) years;

j) Food and Beverage (including culinary, beer and other spirits): one (1) year;

k) At Large: one (1) year;

G. The BOS shall provide for public noticing of all vacancies; shall actively encourage multiple nominations for each open seat; and shall provide for geographical diversity.

(Ord. No. 4336, 5-19-2015; Ord. No. 4384, § VIII, 6-6-2017)

#### **Sec. 5.140.260 Enforcement Fee.**

The County shall be entitled to retain from the assessments they collect an enforcement fee equal to its actual costs of actions to collect including but not limited to attorney fees, minus any penalties collected from operators in default of this

Chapter. The fee provided by this Section shall be in addition to the three percent Administrative Fee charged under Section 5.140.240 above.

(Ord. No. 4336, 5-19-2015)

#### **5.140.270 Reserved.**

**Editor's note**—Ord. No. 4384, § IX, adopted June 6, 2017, repealed § 5.140.270, in its entirety. Former § 5.140.270 pertained to "Effective Date," and was derived from Ord. No. 4336, adopted May 19, 2015.

## CHAPTER 5.150

### ASSESSMENT APPEALS BOARD

#### **Sec. 5.150.010. Establishment of Board.**

Pursuant to the provisions of Section 16 of Article XIII of the California Constitution, an assessment appeals board is created and established for Mendocino County.

(Ord. No. 4286, 12-6-2011; Ord. No. 4308, 7-30-2013)

#### **Sec. 5.150.020. Members and Alternate Members of the Assessment Appeals Board.**

The assessment appeals board shall consist of three (3) members who shall be appointed and reappointed directly by the Board of Supervisors for terms as provided by law. The Board of Supervisors shall appoint and reappoint directly alternate members for terms as provided by law for regular members of the assessment appeals board. An alternate member shall serve whenever any regular member is temporarily unable to act as a member of the board.

(Ord. No. 4286, 12-6-2011; Ord. No. 4308, 7-30-2013)

#### **Sec. 5.150.030. Qualifications for Membership.**

A person shall not be eligible for nomination for membership on the assessment appeals board unless he or she has a minimum for five (5) years professional experience in this state of one (1) of the following: certified public accountant or public accountant; licensed real estate broker; attorney; property appraisers accredited by a nationally recognized professional organization; or a person who the nominating member of the Board of Supervisors has reason to believe is possessed of competent knowledge of property appraisal and taxation.

(Ord. No. 4286, 12-6-2011; Ord. No. 4308, 7-30-2013)

#### **Sec. 5.150.040. Jurisdiction and Duties of Assessment Appeals Board.**

The assessment appeals board shall constitute the board of equalization for Mendocino County and shall have the power to equalize the valuation of taxable property within the county for the purpose of taxation, as provided by applicable law.

(Ord. No. 4286, 12-6-2011; Ord. No. 4308, 7-30-2013)

#### **Sec. 5.150.050. Compensation.**

Compensation for members of the assessment appeals board shall be established by this board by resolution.

(Ord. No. 4286, 12-6-2011; Ord. No. 4308, 7-30-2013)

#### **Sec. 5.150.060. Clerical Assistance.**

The Clerk of the Board of Supervisors shall be the clerk of the assessment appeals board, keep a record of the proceedings, shall provide such clerical assistance as the assessment appeals board may require, and shall otherwise perform those duties prescribed by law for the clerk of the assessment appeals board.

(Ord. No. 4286, 12-6-2011; Ord. No. 4308, 7-30-2013)

#### **Sec. 5.150.070. Legal Advisor.**

The County Counsel shall, upon request, provide such legal assistance to the assessment appeals board as such counsel determines is appropriate and necessary.

(Ord. No. 4286, 12-6-2011; Ord. No. 4308, 7-30-2013)

#### **Sec. 5.150.080. Rules of Procedure.**

All proceedings before the assessment appeals board shall be conducted in accordance with the rules relating to local equalization as set forth in Title 18 of the Code of California Regulations, as well as such local rules as the Board of Supervisors may prescribe.

(Ord. No. 4286, 12-6-2011; Ord. No. 4308, 7-30-2013)



**Sec. 5.150.090. Assessment Appeal Board Fees.**

All fees and costs applicable to Assessment Appeal Board appeal applications and proceedings shall be set from time to time by Board of Supervisors' resolution.

(Ord. No. 4308, 7-30-2013)



## CHAPTER 5.170

### LIBRARY SPECIAL TRANSACTIONS AND USE TAX\*

#### Sec. 5.170.000. Title.

This ordinance shall be known as the County of Mendocino Library Special Transactions (Sales) and Use Tax Ordinance. The County of Mendocino shall hereinafter be called "County." This ordinance shall be applicable in the incorporated and unincorporated territory of the County. (Ord. No. 4277, 6-7-2011)

#### Sec. 5.170.010. Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below. (Ord. No. 4277, 6-7-2011)

#### Sec. 5.170.020. Purpose.

This ordinance is adopted to achieve the following, general purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7286.59 that authorize the County to adopt this tax ordinance which shall be operative if a two-thirds majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To enact a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

\*Editor's note—Approved by the voters at an election held on Nov. 8, 2011.

C. To enact a retail transactions and use tax ordinance that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To enact a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance. (Ord. No. 4277, 6-7-2011)

#### Sec. 5.170.030. Restricted Use of the Tax.

A. Proceeds from this tax shall be deposited into the County Treasury in a special fund entitled "Library Special Tax Fund" (hereinafter the "fund").

B. Monies deposited into the fund, together with any interest that accrues thereon, shall be used exclusively for preserving the existing libraries; reversing the deterioration in services at the existing libraries, upgrading of facilities, services, and collections; and extending branch library services to the unserved and underserved areas of the County. The specific projects for which the revenues from the transactions and use tax may be expended are as follows:

1. Maintaining local public libraries;
2. Restoring Open Hours at existing branches throughout the County to the level of 2006-07;
3. Expanding library programs for children and young adults;
4. Expanding outreach programs for individuals who cannot easily come to a library;
5. Acquiring and replacing library equipment and library materials.

C. The revenues collected from this tax shall be used only to supplement existing expenditures for public libraries and shall not be used to supplant existing funding for the support of public libraries.

(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.040. Contract With State.**

Prior to the operative date, the County shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the County shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.050. Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the County at the rate of one-eighth cent (0.125%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.060. Place of Sale.**

A. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made.

B. In the event a retailer has no permanent place of business in the State or has more than one

place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.070. Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the County of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-eighth cent (0.125%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.080. Adoption of Provisions of State Law.**

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.090. Limitations on Adoption of State Law and Collection of Use Taxes.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this County shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this County or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

(a) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

(b) Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "County" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.  
(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.100. Permit Not Required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.  
(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.110. Exemptions and Exclusions.**

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county

pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the County which is shipped to a point outside the County, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the County shall be satisfied:

(a) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-County address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

(b) With respect to commercial vehicles, by registration to a place of business out-of-County and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any pe-

riod of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this County of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be

deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the County shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the County or participates within the County in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.

7. "A retailer engaged in business in the County" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the County.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a County imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.120. Amendments.**

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales

and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.  
(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.130. Enjoining Collection Forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the County, or against any officer of the State or the County, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.  
(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.140. Severability.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.  
(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.150. Sunset.**

The Tax imposed by this Chapter shall be imposed for sixteen (16) years from the Operative Date of the tax as set forth in this ordinance and, thereafter, shall no longer be imposed.  
(Ord. No. 4277, 6-7-2011)

**Sec. 5.170.160. Effective Date.**

This ordinance shall take effect upon adoption by a two-thirds vote of the electorate.  
(Ord. No. 4277, 6-7-2011)





## **Title 6**

### **BUSINESS LICENSES AND REGULATIONS**

- Chapter 6.04 Business Licenses**
- Chapter 6.06 Film Permit**
- Chapter 6.12 Timber, Rough Lumber Mills,  
Manufacturing Plants**
- Chapter 6.16 Outdoor Festivals**
- Chapter 6.20 Licensure of Tobacco Retailers**
- Chapter 6.24 Prohibiting the Distribution and Display  
of Drug Paraphernalia**
- Chapter 6.28 Sale of Chemicals**
- Chapter 6.29 Conditions on the Display of Products  
Containing Pseudoephedrine with Other  
Active Ingredients**
- Chapter 6.32 Cannabis Business Tax**
- Chapter 6.35 Right to Industry**



## CHAPTER 6.04

### BUSINESS LICENSES\*

\* Prior ordinance history: Ords. 382, 397, 638, 736, 796, 804, 1953, 3272, 3324, 3328, 4003 and 4019

#### Sec. 6.04.010 Title.

This Chapter shall be known as and may be referred to in all proceedings as the "Mendocino County Business License Chapter". (Ord. No. 4200 (part), adopted 2008.)

#### Sec. 6.04.020 Purpose and Authority.

This Chapter is enacted pursuant to Chapter 2, Part 1, Division 7, Section 16100 of the Business and Professions Code of the State of California for the purpose of regulating certain kinds of business transacted and carried on in the unincorporated territory of the County of Mendocino, State of California. (Ord. No. 4200 (part), adopted 2008.)

#### Sec. 6.04.030 Definitions.

The following words and phrases when used in this chapter shall be construed as follows:

(a) The word "person" shall mean any person, firm, partnership, trust, estate, association, corporation, or organization of any kind. Where a principal acts through an agent, the word "person" shall include both such principal and agent.

(b) The word "business" includes professions, trades, occupations, and each and every activity for which this ordinance requires a license.

(c) The word "merchandise" shall mean any goods, wares, merchandise, products, or chattels of any description.

(d) The term "sell" or "sale" shall include offer for sale, solicit a sale, expose for sale, have in possession for sale, exchange, barter, trade, or any transaction in which merchandise is given for joining or making a contribution to any organization or business.

(e) The phrase "fixed place of business" means any permanent warehouse, building, or structure located within the unincorporated area of the County of

Mendocino, owned in fee or leased, at which the owner or lessee carries on a legitimate permanent business in good faith and at which stocks of merchandise are produced, stored, or kept in quantities usually carried and reasonably adequate to meet the requirements of the business or, if the business is one of performing services, where such services are performed. "Fixed place of business" does not mean tents, temporary stands, or other temporary structures, or permanent structures occupied pursuant to a temporary arrangement for a period of less than thirty (30) days.

(f) The term "itinerant business" includes any person soliciting the sale of any merchandise or service door-to-door or the operation of a roadside vending stand.

(g) A person shall be deemed to "transact" or "operate" a business if that person owns, manages, or receives all or part of the profits or a commission from such business or solicits, negotiates, or engages in any itinerant business.

(h) "Contractor" or "Building Contractor" includes the provisions of home improvement services at off-site locations to be consistent with Chapter 20 of the Mendocino County Code.

(i) The term "yard sale" consists of the sale of items normally found within the home. Yard sales shall be conducted no more than six (6) days within a one (1) year period and no more than two (2) consecutive days at any one time.

(j) A "secondhand dealer," as used in this chapter, means and includes any person, co-partnership, firm, or corporation whose business includes buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property. (Ord. No. 4200 (part), adopted 2008.)

#### Sec. 6.04.040 License Requirement.

It shall be unlawful for any person to transact any business in the unincorporated territory of Mendocino County for which a license fee is imposed or for which a license is required by this Chapter without possessing a valid and current Mendocino County

Business License for such business issued by the Tax Collector. (Ord. No. 4200 (part), adopted 2008.)

**Sec. 6.04.050 License Fee and Category Types.**

The Board of Supervisors shall set license fees in an amount that covers all administrative costs for license issuance. The license fee shall be based on a flat rate set by Resolution passed by the Board of Supervisors.

(a) **RETAIL MERCHANT/SERVICE.** For the business of selling any goods, wares, or merchandise for any purpose other than resale in the regular course of business. For any business selling or furnishing services of any kind to consumers.

(b) **WHOLESALE MERCHANT.** For the business of selling any goods, wares, or merchandise to any person engaged in the business of reselling said merchandise in the regular course of business.

(c) **FOOD FACILITY.** For the business of operating any facility that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.

(d) **MOTEL/HOTEL/RENTAL.** For the business of renting any structure which is designed for occupancy by transients for dwelling, lodging, or sleeping purposes including, but not limited to, any hotel, inn, tourist home, rooming house, apartment house, dormitory, public or private club, mobile home, house trailer, or any similar structure thereof.

(e) **CONTRACTOR.** For the business of any person who contracts for a project with another person, who with respect to such work is required to be licensed by the State as a contractor to perform services such as to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, project, development, improvement, or other structures therewith.

(f) **ITINERANT/GAMBLING/JUNK/ RECYCLING/SECONDHAND DEALER.** For the business of negotiating or soliciting the sale or purchase of any merchandise or service door-to-door or along the roadside conducted by any person. For the business of operating any gambling establishment or conducting any game of chance, or operating any recycling

or junk business such as soliciting the sale or purchase of any junk, scrap, wrecked autos, machinery, or other used merchandise. For the business of buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property.

(g) **MULTIPLE-SELLERS LICENSE.** For the business of managing, organizing, or conducting a facility, location or site, whether indoors or out of doors, where persons may independently sell their own merchandise, whether new or used, with or without the payment of a fee or commission to the person conducting the business. Such a license shall not be required for a conventional month-to-month or long-term commercial lease.

(h) **MISCELLANEOUS.** For an individual, partnership, company, or corporation that is conducting any type of business, not described in a category above, not exclusively exempt from obtaining a business license. (Ord. No. 4200 (part), adopted 2008.)

**Sec. 6.04.060 Form of License.**

The business license shall be in the form prescribed by the Tax Collector and must contain, at a minimum, the licensee's name, the business name, type of business, location of business, commencement and expiration dates of the license, and fee remitted or notation of Veteran's exemption. (Ord. No. 4200 (part), adopted 2008.)

**Sec. 6.04.070 Administration and Collection.**

(a) **ISSUING OFFICER.** All business licenses required by this Chapter shall be issued by the Tax Collector upon completion of the Business License application, all pertinent special requirements, and payment of the proper fee in lawful money of the United States or presentation of Veteran's honorable discharged military documents (DD214).

(b) **WORKERS COMPENSATION DECLARATION.** Per Labor Code Section 3711, proof of workers compensation insurance, or exemption thereof, is required at the time the business license is issued.

(c) **TERM OF LICENSE.** Unless otherwise specifically provided, the license period shall be one of the following: (1) The period of the annual license shall commence March 1 of each year and expire February 28 (February 29, when applicable) of the following year or (2) The period of the annual license shall commence on September 1 of each year and expire August 31 of the following year. License fees for businesses requiring special permits or approvals may be prorated in the amount of 50% to coincide with special requirements.

(d) **NUMBER OF LICENSES REQUIRED.** A separate license is required for each separate place of business even though the businesses are owned or operated by the same person. Where a combination of two (2) or more classes of businesses as herein classified are carried on at the same fixed place of business by the same owner and under one (1) management, only one (1) license shall be required. A separate business license and itinerant business permit shall be required for each individual engaged in any itinerant business even though any two (2) or more of such individuals are employed by the same person or are associated together in the same business.

(e) **COLLECTION OF FEES: DELINQUENT PENALTIES.** The License fee imposed hereby for the full minimum term of the license shall constitute a debt due and payable in advance at the office of the Tax Collector without demand, upon the transaction of any business for which a license fee is required hereby; and if such license is not procured and paid for on or before the first day of the month of the term for which such license may issue, the same shall become delinquent and fifty percent (50%) of the annual fee amount shall be added thereto and immediately become due and payable as a penalty and shall be collected by the Tax Collector before a license shall be issued. The County Counsel and Tax Collector are hereby authorized to institute legal action in the name of the County of Mendocino for the collection of any and all license fees and delinquent penalties due hereunder and not paid.

(f) **ACCOUNTING.** The Tax Collector shall deposit all Business License Fees to the proper fund

in the County Treasury. The original copy of each license issued by the Tax Collector shall bear the county seal. Whenever any error is made in preparing any license, both the original and duplicate copy shall be marked "VOID" and both such voided original and duplicate copy shall be retained. All duplicate copies of each license issued shall be available to the County Auditor at all times for auditing purposes.

(g) **TRANSFERABILITY.** No business license granted under the provisions of this chapter shall be transferable to another location, another person, or entity. A change of ownership does not require additional approval from the Department of Planning and Building Services, if applicable, provided the new business is of identical use intensity as the previous establishment and the prior owner conducted business at the same location within the previous six (6) month period. Excluded from this section are single unit rentals or vacation home rentals located within the jurisdiction of the "Mendocino Town Plan" that shall not be transferable at any time without new approval from the Department of Planning and Building Services.

(h) **MULTIPLE-SELLERS LICENSE.** The holder of a Multiple-Sellers license shall maintain at all times and display to any person, upon request, a list containing the names and addresses of the persons selling merchandise under their supervision or control and a general description of the merchandise offered by each such person. Within seven (7) days of the conduct of any business under a Multiple-Sellers license, the holder of the license shall furnish to the Tax Collector a copy of such list and shall pay to the Tax Collector a fee to be set by Resolution of the Board of Supervisors. (Ord. No. 4200 (part), adopted 2008.)

#### **Sec. 6.04.080 Special Requirements.**

(a) **DEPARTMENT OF PLANNING AND BUILDING SERVICES APPROVAL.** The Department of Planning and Building Services approval is required prior to the issuance of any new business license where the fixed place of business is situated in the unincorporated area of Mendocino County. No

person shall be licensed under this Chapter to carry on any type of business activity at a location or within a structure where such activity is prohibited by zoning and/or building standards.

Application Process

The Department of Planning and Building Services' staff shall review all applicable business license applications pursuant to Title 18 and Title 20 of the Mendocino County Code and recommend approval of such applications where the proposed use, site and building, if any, are consistent with all applicable provisions of the County Code.

(b) HEALTH DEPARTMENT APPROVAL. It is unlawful for any person to operate any food facility, including, but not limited to restaurant, grocery store, concession, or business where food is prepared and stored for purpose of human consumption, at the retail level, to the public in the unincorporated territory of Mendocino County without possessing a valid Permit to Operate issued by the Mendocino County Health Department and a Mendocino County Business License issued by the Tax Collector. The Health Department may make investigations of any food facility at any time, without the necessity of an application being made, even when it appears that such food facility is complying with all the aforementioned laws. Only one (1) Permit to Operate per calendar year shall be required for each food facility, excepting where there is a transfer of a business within the calendar year for which a business license was approved and issued.

Application Process

The Mendocino County Health Department shall upon application from any retail food facility for a business license make an investigation to determine if such food facility is complying with California Retail Food Code. Such investigation shall be completed and a Permit to Operate issued or denied within fifteen (15) days after the application is filed with the Health Department. In the event of denial of its Permit to Operate, the Health Department shall serve upon the food facility by delivering to any owner, manager, or employee thereof or by mailing postage prepaid to address of such food facility, its written notice withholding its Permit to Operate and

stating the reasons therefore. If the failure to comply with California Retail Food Code is of such a nature as can be corrected, the notice shall state what measures shall be taken to comply with such laws. Following such denial, the Health Department shall not be required to make any further investigation until notified that the conditions causing the denial have been corrected. Such notice shall constitute a new application.

(c) CALIFORNIA DEPARTMENT OF HEALTH SERVICES APPROVAL. It is unlawful for any person to engage, at the wholesale level, in the manufacturing, packing, labeling, or holding (warehousing) of processed food products prepared and stored for purpose of human consumption, in the unincorporated territory of Mendocino County, without verification of a Processed Food Registration obtained by the California Department of Health Services.

(d) SHERIFF'S OFFICE APPROVAL - ITINERANT BUSINESS PERMIT. Itinerant Business Permits are of two types: (1) Door-to-Door and (2) Roadside Vendor. It shall be unlawful for any person to transact any itinerant business as defined herein in the unincorporated territory of Mendocino County without possessing a valid Mendocino County Itinerant Business Permit issued by the Sheriff and a Mendocino County Business License issued by the Tax Collector.

Disqualifying Acts

The following persons are disqualified from applying for, possessing, displaying or using in any way an Itinerant Business Permit issued pursuant to this Chapter: (1) any person who has been convicted of any felony constituting a violent crime falling within Part 1 of the California Penal Code: Title 8 (Crimes Against Persons); Title 9 (Crimes Against The Person Involving Sexual Assault, and Crimes Against Public Decency and Good Morals); or Title 13 (Crimes Against Property); (2) any person who has been convicted of any of the aforementioned crimes and who at the time of application remains on probation or parole for that offense; (3) any person who has knowingly made any false statement in applying for a permit.

### Application Process

Application for a Mendocino County Itinerant Business Permit shall be made to the Mendocino County Sheriff. The application shall be on a form containing, at a minimum, the following information: the applicant's full name, address, telephone number, date of birth, physical descriptors, driver's license number, type of business to be transacted, names and addresses of all owners of such business, together with the nature of their interest therein, applicant's interest in business, description of applicant's motor vehicle, if used in the itinerant business, address of home office of business, number of associates accompanying applicant, period applicant expects to transact business in Mendocino County.

### Criminal History Clearance

The applicant shall submit to a full-face photograph. The applicant shall also submit to LiveScan fingerprinting for purposes of a criminal history clearance through the California Department of Justice and/or the Federal Bureau of Investigation. The Sheriff may issue the applicant a conditional Itinerant Business Permit, which shall be valid for the period of time required for completion of the criminal history clearance, or thirty (30) calendar days, whichever is less. Upon completion of this time period, absent a finding that the applicant has done some act which this Chapter declares will disqualify a person from obtaining such a permit, the applicant may exchange the conditional permit for a regular permit which shall remain valid for a term of one (1) year from the date of issuance unless sooner revoked in the manner specified in this Chapter. If the criminal history clearance finds that the applicant has committed a disqualifying act, said disqualifying act shall be noted on the application and shown to the applicant on demand.

### Renewals

Permits for subsequent years to a qualified applicant who has previously been issued a Mendocino County Itinerant Business Permit shall be issued upon submitting such information and pictures, as the Sheriff shall require keeping the applicant's file accurate and up-to-date. The application form shall require applicant to swear under penalty of perjury

that the statements made by applicant are true and correct.

(e) SHERIFF'S OFFICE APPROVAL - GAMBLING BUSINESS PERMIT. It shall be unlawful for any person to operate any gambling establishment or conduct any game of chance in the unincorporated territory of Mendocino County without possessing a valid Mendocino County Gambling Business Permit issued by the Sheriff and a Mendocino County Business License issued by the Tax Collector. It shall be unlawful for any person who does not have in their possession a valid Mendocino County Business License to act as a card dealer or otherwise to conduct a game of chance unless such person does so in a gambling establishment for which a valid Mendocino County Business License has been issued and has in their possession a valid Mendocino County Gambling Permit issued by the Sheriff.

### Disqualifying Acts

No gambling permit shall be issued to any person who has been convicted of any of the disqualifying acts listed in Section 6.04.080(d).

### Application Process

Application for a Mendocino County Gambling Business Permit shall be subject to the same conditions as the application for a Mendocino County Itinerant Business Permit. The form of the Gambling Business Permit shall be the same as that of the Itinerant Business Permit, with the exception that wherever the word "Itinerant" appears thereon it shall be changed and the word "Gambling" substituted therefore. The gambling permit issued under this section shall be effective for one year and shall be in the form of an identification card consisting of the applicant's photograph and whatever additional information the Sheriff reasonable deems relevant.

(f) SHERIFF'S OFFICE APPROVAL - RECYCLING OR JUNK BUSINESS DEALERS PERMIT. It shall be unlawful for any person to operate any recycling or junk business in the unincorporated territory of Mendocino County in which any portion of such business consists of the soliciting, the sale or purchase of any junk, scrap, wrecked autos, and machinery or other used merchandise at any

place other than the fixed place of business of the solicitor, without possessing a valid Mendocino County Junk Business Dealers Permit issued by the Mendocino County Sheriff and a Mendocino County Business License issued by the Tax Collector. Every vehicle engaged in the carrying of recycled materials or junk upon any public highway pursuant to this permit shall display a Mendocino County Recycling or Junk Business Dealers Permit and a Mendocino County Business License or a copy thereof in a place in such vehicle where it is visible from the outside of such vehicle. Every person transporting junk pursuant to this permit upon any public highway in this County shall be required to stop upon the request of any peace officer and submit to an inspection of their license, permit and load and shall be required to produce satisfactory bills of sale for the contents of their load.

Application Process

Application for a Mendocino County Recycling and Junk Business Dealers Permit shall be made to the Sheriff. The application shall contain the same information and shall be subject to the same conditions as the application for a Mendocino County Itinerant Business Permit. The form of the Recycling and Junk Business Dealers Permit shall be the same as that of the Itinerant Business Permit, with the exception that wherever the word "Itinerant" appears thereon it shall be changed and "recycling" or "junk" substituted therefore.

(g) **SHERIFF'S OFFICE APPROVAL - SECONDHAND DEALER LICENSE.** It shall be unlawful for any person to operate a secondhand business in the unincorporated territory of Mendocino County without possessing a valid Mendocino County Secondhand Dealer License issued by the Sheriff and a Mendocino County Business License issued by the Tax Collector.

Application Process

The Sheriff shall accept an application for and grant a Secondhand Dealer License to an applicant pursuant to the provisions of California Business and Professions Code Section 21641.

(h) **CONTRACTORS STATE LICENSE BOARD APPROVAL.** Prior to issuance of a busi-

ness license for a person to conduct business as a contractor, as defined by Business and Professions Code Section 7026, the Tax Collector shall verify that the person is licensed by the Contractor's State License Board pursuant to Business and Professions Code Section 16100.

(i) **LICENSED FIREARMS DEALERS.** To lawfully engage in the business of selling, leasing, or transferring firearms, a firearms dealer must possess the following: (1) Valid federal firearms license issued by the Bureau of Alcohol, Tobacco, and Firearms (2) Valid seller's permit issued by the State Board of Equalization (3) Valid certificate of eligibility issued by the Department of Justice. Per Penal Code Section 12071, the Tax Collector must verify the firearms dealer is in compliance prior to the issuance of the business license.

(j) **ANIMAL CARE AND CONTROL APPROVAL ON KENNELS.** Per Mendocino County Code Section 10.12.020, no person shall conduct a commercial kennel without obtaining a commercial kennel license issued by the Animal Care and Control Division.

(k) **TOBACCO RETAILER LICENSE.** Prior to issuance of a business license for a retailer selling tobacco products, as defined by Mendocino County Ordinance Number 4135 and Resolution Number 04-204, the Tax Collector shall obtain documentation of a valid Tobacco Retailer License issued by the Department of Public Health.

(l) **SOLID WASTE DIVISION APPROVAL.** Prior to issuance of a business license for recycling, hauling, or transportation of solid waste and recycling materials, the Director of the Solid Waste Division shall review the application to determine whether a permit is required under the Solid Waste Ordinance, Chapter 9A.04. (Ord. No. 4200 (part), adopted 2008.)

**Sec. 6.04.090 Exemptions.**

(a) **VETERANS.** Pursuant to Business and Professions Code Section 16102, every soldier, sailor or marine of the United States who has received an honorable discharge or a release from active duty under honorable conditions from such service may



hawk, peddle, and vend any goods, wares, or merchandise owned by him or her except for spirituous, malt, vinous, or other intoxicating liquor without payment of any license, tax or fee whatsoever provided, however, all such veterans shall nevertheless be required to obtain any and all permits and licenses required by this Chapter, to be issued without charge therefore. All such licenses shall be issued on an annual basis, and no such license shall be issued unless the applicant exhibits to the Tax Collector the original or photo-static copy of a document verifying their honorable discharge (DD214).

(b) CHARITABLE ORGANIZATIONS. No business license is required of any nonprofit organization that is exempted from taxes by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code of Subchapter F (commencing with Section 501 of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986), or the successor of either, or to any religious organization that has been granted an exemption from federal income tax by the United States Commissioner of Internal Revenue as an organization described in Section 501 (c)(3) of the Internal Revenue Code or a successor to that section.

(c) SALE OF LOCAL FARMER'S OWN PRODUCE AND ANIMALS. No business license or Itinerant Business Permit or the payment of any fee therefore shall be required of any person for the privilege of selling any animals, crops, or products raised or produced by such person on land situated in Mendocino County. The provisions of this chapter shall apply to the selling of any animals, crops, or products sold, in their original form, from the production location or at an organized farmers' market. The provisions of this chapter shall not include off-site roadside vendors.

(d) BANKS. The provisions of this Chapter shall not apply to banks under the provisions of Article 13, Section 27 of the Constitution of the State of California.

(e) INSURANCE COMPANIES. The provisions of this Chapter shall not apply to insurance companies under the provisions of Article 13, Section 28 of the Constitution of the State of California.

(f) SAWMILLS. No business license or fee thereof shall be required under this Chapter for any business of operating any sawmill, shingle mill, lath mill, or planing mill, or any other manufacturing plant converting timber or rough lumber into another form where a fee for such business is being paid under Mendocino County Code, Title 6, Chapter 6.12.

(g) COUNTY FAIR BUSINESSES. Any business which operates in Mendocino County exclusively during the term of any county fair sponsored by the Mendocino County Board of Supervisors, including the Anderson Valley Apple Show and Fair, also known as the Mendocino County Fair and Apple Show, and which operates exclusively on the grounds of said fair shall be exempt from the payment of any and all fees imposed by this Chapter; provided, however, that all such businesses shall, nevertheless, be required to obtain any and all permits and licenses required by this Chapter.

(h) HOME-BASED BUSINESS. Any person who operates a business not requiring the assistance of any other person, and who operates said business entirely upon the premises of his or her home or living unit, and who derives from said business no more than two thousand five hundred dollars (\$2,500.00) gross revenue per year, shall be exempt from the requirement to obtain a Mendocino County Business License.

(i) DOMESTIC-TYPE BUSINESS. Any person who operates a business providing services of a type normally viewed as domestic and typically performed in a household, such as washing and ironing clothes or small family day care providing day care for eight or fewer children, and who does not require in the operation of said business the assistance of any other person, shall be exempt from the requirements to obtain a Mendocino County business license.

(j) Any person whom the County is not authorized to license under the terms of any law or constitution of the United States or the State of California. (Ord. No. 4200 (part), adopted 2008.)

**Sec. 6.04.100 Revocations.**

The Business License, Itinerant Business Permit, Gambling Business Permit or Recycling or Junk Business Permit of any person who has done some act which would disqualify such person from obtaining such license or permit or who has transacted or operated the business in any manner contrary to any law, ordinance, chapter, rule, or regulation shall be revoked by the Board of Supervisors of Mendocino County after a finding made by said Board that said person was guilty of such an act after hearing such evidence thereon as any interested person may present at a public hearing held at least ten (10) days prior to the meeting at which action on such revocation takes place. Any person whose Business License, Itinerant Business Permit, Gambling Business Permit or Junk Business Permit has been revoked shall be disqualified from obtaining any Business License, Itinerant Business Permit, Gambling Permit or Recycling or Junk Business Permit at any time following such revocation unless the Board of Supervisors, shall by an order entered in its minutes, waive such disqualification. The Board of Supervisors may delegate its authority hereunder to the Tax Collector and Sheriff. (Ord. No. 4200 (part), adopted 2008.)

**Sec. 6.04.110 License or Permit: Posting and Exhibiting.**

It shall be unlawful for any person who engages in any business for which a Mendocino County Business License is required to fail, or refuse, to post the same in a conspicuous place in their place of business. In the case of a person having no fixed place of business, it shall be unlawful to fail or refuse to exhibit the license or permit to any person who shall demand to see the same. (Ord. No. 4200 (part), adopted 2008.)

**Sec. 6.04.120 Penalties.**

Violation of this ordinance is declared to be an infraction, and shall be punished as prescribed in Government Code Section 25132. (Ord. No. 4200 (part), adopted 2008.)

## CHAPTER 6.06

### FILM PERMIT

#### **Sec. 6.06.010 Title.**

This Chapter shall be known as and may be referred to in all proceedings as the "Mendocino County Film Permit Chapter." (Ord. No. 3337, adopted 1981.)

#### **Sec. 6.06.020 Purposes and Authority.**

This Chapter is enacted pursuant to California Constitution, Article 11, section 7 for the purpose of regulating the making of movies by movie production companies in the unincorporated areas of Mendocino County upon County streets or on property or in buildings owned by the County of Mendocino. (Ord. No. 3337, adopted 1981.)

#### **Sec. 6.06.030 Definitions.**

(a) "Making of Movies" for the purposes of this Chapter, shall mean the filming, video taping, or photographing for commercial purposes, of movies, films, commercials, or television programs on the County streets or on land or in buildings owned by the County of Mendocino. (Ord. No. 3337, adopted 1981.)

(b) "Movie Production Company", for the purposes of this Chapter, shall include any corporation, partnership, or individual engaged in the "making of movies" for a profit. (Ord. No. 3337, adopted 1981.)

(c) "County streets", for the purposes of this Chapter, shall mean those streets which are a part of the official Mendocino County maintained road system. (Ord. No. 3337, adopted 1981.)

(d) "Mendocino County film permit", for the purposes of this Chapter shall mean a permit issued by the County of Mendocino on a form setting forth standard conditions approved by the Mendocino County Board of Supervisors and such other reasonable conditions as may be required by the particular circumstances involved. (Ord. No. 3337, adopted 1981.)

#### **Sec. 6.06.040 Permit Requirements.**

It shall be unlawful for any movie production company to engage in the making of movies on County streets, or on land or in buildings owned by the County of Mendocino without first obtaining a Mendocino County film permit. (Ord. No. 3337, adopted 1981.)

#### **Sec. 6.06.050 Administration-Denial Appeal.**

The office of the County Administrator shall administer these provisions. That Office shall issue blank permit forms, review completed forms, and require application for other permits, when it deems necessary. Such other applications are to be processed in the normal fashion established by the concerned departments, except that the granting of any such permit shall be conditional upon the granting of the related film permit. Applications for movie film permits may be denied when the County finds that the imposition of reasonable conditions upon the making of movies will not prevent substantial disruption of traffic or County government activity or property, or the creation of traffic hazards, or damage to the environment, or unacceptable zoning violations. Applications to use County property or buildings or portions thereof not normally open to the public may be denied in the discretion of the County. (Ord. No. 3337, adopted 1981.)

#### **Sec. 6.06.060 Fees.**

A fee for the processing of an application for a Mendocino County film permit shall be collected at the time the application is filed, and prior to its being processed. The fees shall be in the amount established by resolution of the Board of Supervisors. (Ord. No. 3337, adopted 1981.)

#### **Sec. 6.06.070 Penalties.**

Any person or movie production company who violates any of the provisions of this Chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the Mendocino County Jail for a term not exceeding six (6) months, or by a fine not exceeding five hundred dollars

6.06.070

(\$500) or by both such fine and imprisonment. Each such person shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provision of this Chapter is committed, continued or permitted and shall be punishable thereof as provided by this Chapter. (Ord. No. 3337, adopted 1981.)

## CHAPTER 6.12

### TIMBER, ROUGH LUMBER MILLS, MANUFACTURING PLANTS.

#### Sec. 6.12.010 Declaration.

(a) The provisions of this Chapter shall not apply within the boundaries of incorporated municipalities. (Ord. No. 315, Sec. 1, adopted 1948.)

(b) It shall be unlawful for any person, copartnership, firm or corporation to operate for commercial purposes any sawmill, shingle mill, lath mill or planing mill, or any other manufacturing plant converting timber or rough lumber into another form without first applying for and receiving a permit from the County Tax Collector for such operation. (Ord. No. 315, Sec. 2, adopted 1948.)

#### Sec. 6.12.020 Application for Permit.

(a) Application for such permit as required by Section 6.12.010 of this Chapter shall be made upon blanks prepared for this purpose by the County Tax Collector and shall require the full name and mailing address of the person or persons intending to engage in the operation of the sawmill or other such manufacturing plant described in Section 6.12.010 of this Chapter or if the applicant be a copartnership, firm, corporation or otherwise, the official registered name of such copartnership, firm, corporation or otherwise, together with the firm names of the management thereof and the full name of the person authorized to transact business and responsible for the actual operation and mailing address thereof, the location of the operation and a statement of the ownership of the land whereon it is situated, and any other information which may be pertinent to the administration of fire laws and provisions of this Chapter. (Ord. No. 315, Sec. 3, adopted 1948.)

(b) Application for such permit as required by Section 6.12.010 of this Chapter shall be made out with such number of copies thereof as the

County Tax Collector may direct, in order that he may retain the original thereof in his office and transmit one (1) copy to the fire control agency having jurisdiction over fire prevention and suppression in the area in which the operation is situated, and a copy to any other governmental agency having a responsibility of enforcing fire, health or safety laws involving the operation requesting a permit to operate. (Ord. No. 315, Sec. 4, adopted 1948.)

#### Sec. 6.12.030 Fees.

A fee shall be charged for issuing a permit and shall be paid at the time the application is made. The amount of said fee is to be set by Resolution passed by the Board of Supervisors. All fees received pursuant to this Chapter shall be credited to the County General Fund. (Ord. No. 315, Sec. 5, adopted 1948, as amended by Ord. No. 3323, adopted 1980.)

#### Sec. 6.12.040 Issuance of Permit.

Upon receiving the application prescribed in this Chapter, duly executed before a person authorized to administer oaths and certified as to truthfulness and correctness, and upon receipt of the fees required by this Chapter, the County Tax Collector shall issue a permit as required in Section 6.12.010. (Ord. No. 315, Sec. 6, adopted 1948.)

#### Sec. 6.12.050 Authorization, Nontransferable.

The permit required by Section 6.12.010 of this Chapter shall authorize the person, copartnership, firm, corporation or company to whom it is issued to operate a sawmill or other manufacturing plant, as the case may be, in accordance with all laws pertaining thereto and is not transferable to any other operator or operation than the one to whom or for which it is issued. (Ord. No. 315, Sec. 7, adopted 1948.)

#### Sec. 6.12.060 Suspension of Permit.

Any permit issued pursuant to this Chapter

may be suspended by any Justice Court having jurisdiction, upon conviction of the permittee for violation of any fire, health or safety law pertaining to the operation authorized by the permit. (Ord. No. 315, Sec. 8, adopted 1948.)

**Sec. 6.12.070 Revocation of Suspension Procedure.**

At any time after a permit has been suspended, the court shall, upon the motion of the permittee, require the proper enforcement officers to make an examination of the suspended operation and to report the result of such examination to the court within five (5) days. If it is reported by the officers that the law violations for which the permit was suspended have been complied with, the court will revoke the suspension order. (Ord. No. 315, Sec. 9, adopted 1948.)

**Sec. 6.12.080 Renewal of Permit.**

Permits as are required in Section 6.12.010 of this Chapter shall be obtained annually and be valid from the date of issue and to April thirtieth of the following year, at which time, or prior thereto, application shall be made for a renewal of the permit. Upon receiving application together with the required fee prescribed in Section 6.12.010 of this Chapter, the County Tax Collector will renew the permit for the current year. (Ord. No. 315, Sec. 10, adopted 1948.)

**Sec. 6.12.090 Posting of Permit.**

Upon receiving the permit prescribed by this Chapter, the permittee shall place it in a conspicuous and safe location upon the premises of the operation which it authorizes. (Ord. No. 315, Sec. 11, adopted 1948.)

**Sec. 6.12.100 Penalties.**

Any person, copartnership, firm, corporation or company who operates any sawmill or other mill or manufacturing plant described in Section 6.12.010 of this Chapter, without first obtaining the required permit, or who operates such sawmill or other mill or manufacturing plant upon which the permit has been suspended by a court of competent jurisdiction, guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the County jail for not more than six (6) months or by both such fine and imprisonment. (Ord. No. 315, Sec. 12, adopted 1948.)

**Sec. 6.12.110 Enforcement.**

Any duly authorized peace officer or any other public officer having taken the oath of office and who is charged with the enforcement of fire prevention laws, public health laws or other laws pertaining to the safety of persons or property, either ordinances—articles of this County or laws of the State, shall have the power of peace officers to enforce this Chapter. (Ord. No. 315, Sec. 13, adopted 1948.)

## CHAPTER 6.16

### OUTDOOR FESTIVALS

#### Sec. 6.16.010 Outdoor Festivals Defined.

For the purpose of this chapter, "Outdoor festival" shall mean and include any outdoor gathering of one thousand (1,000) or more individual persons for the primary purpose of attending or participating in or observing any of the following events to which the public is admitted, with or without the payment of admission charges:

(A) A musical or theatrical performance. (Ord. No. 1317, adopted 1974, as amended by Ord. No. 1588, adopted 1975.)

(B) A fair, meaning any exhibition of crafts, of agricultural or industrial products, or of any other handiwork or product. (Ord. No. 1317, adopted 1974, as amended by Ord. No. 1588, adopted 1975.)

#### Sec. 6.16.020 Prohibition Without License.

Unless otherwise exempted, it is prohibited and unlawful for any individual, partnership, corporation, organization, or other person to promote, operate, maintain, conduct, advertise, lease property for, or sell or furnish tickets or other types of authority for admission to, any outdoor festival unless a license permitting the outdoor festival has been issued by the Tax Collector of the County of Mendocino after approval of the Board of Supervisors. (Ord. No. 1317, adopted 1974.)

#### Sec. 6.16.030 Government Fairgrounds Exemption.

An outdoor festival held on fairgrounds operated by the State of California, by the County of Mendocino, or by any other public entity shall be exempt from the requirements of this Chapter. (Ord. No. 1317, adopted 1974.)

#### Sec. 6.16.040 Application for License.

The application for a license permitting an

outdoor festival shall require at least fifteen (15) days for processing by the County of Mendocino under this Chapter. The application shall be filed with the Tax Collector of the County by 12:00 p.m. (noon) on the Monday next preceding the Tuesday meeting of the Board of Supervisors at which approval is sought. The Tax Collector shall review the application and, upon finding it complete, shall submit it to the Clerk of the Board of Supervisors by 12:00 p.m. (noon) of the following Wednesday. The Clerk shall forthwith place the matter on the agenda of the Board's next regular meeting. The application shall be accompanied by a nonrefundable fee which shall be of an amount to be set by resolution of the Board of Supervisors, and which shall contain the following information and accompanying documents. (Ord. No. 1317, adopted 1974, as amended by Ord. No. 1981, adopted 1977, as amended by Ord. No. 3277, adopted 1979.)

(A) The name, age, residence, mailing address, and telephone number of the applicant. If the application is made by a partnership, the names and addresses of all general partners shall be included. If the applicant is a corporation, the application shall be signed by the president and attested to by the secretary thereof and shall contain the names and addresses of all corporate officers, and certified copy of the articles of incorporation shall be attached to the application. The address and telephone number of the principal place of business of the applicant shall also be included in the application. (Ord. No. 1317, adopted 1974, as amended by Ord. No. 3277, adopted 1979.)

(B) The location and legal description of the premises where the outdoor festival is proposed to be conducted, including all lands to be used for parking or other use incidental to the outdoor activity. The applicant shall submit proof of ownership of said premises or the written consent of all owners thereof for the proposed use. (Ord. No. 1317, adopted 1974, as amended by Ord. No. 3277, adopted 1979.)

(C) The date or dates and the hours during

which the outdoor festival is to be conducted. (Ord. No. 1317, adopted 1974, as amended by Ord. No. 3277, adopted 1979.)

(D) A realistic estimate of the maximum number of spectators, participants, and other persons expected to attend the outdoor festival for each day it is conducted. (Ord. No. 1317, adopted 1974, as amended by Ord. No. 3277, adopted 1979.)

(E) A statement from the Sheriff of the County of Mendocino attesting to the adequacy of the proposed security arrangements or a statement from the Sheriff itemizing the deficiencies preventing him from issuing a statement of adequacy. (Ord. No. 1317, adopted 1974, as amended by Ord. No. 1588, adopted 1975, as amended by Ord. No. 3277, adopted 1979.)

(F) A statement from the County Health Officer of the County of Mendocino attesting to the adequacy of the proposed sanitation facilities, food preparation and handling arrangements, and waste disposal facilities or a statement from the County Health Officer itemizing the deficiencies preventing him from issuing a statement of adequacy. (Ord. No. 1317, adopted 1974, as amended by Ord. No. 3277, adopted 1979.)

#### **Sec. 6.16.050 Duties of Sheriff and County Health Officer.**

The applicant shall provide the Sheriff and the County Health Officer whatever information said officers reasonably require in order to issue the aforesaid statements of adequacy. The Sheriff and the County Health Officer shall have ten (10) days from the date a request for such statement is made in which to issue either (1) the aforesaid statement of adequacy or (2) a statement itemizing the deficiencies preventing him from issuing a statement of adequacy. (Ord. No. 1317, adopted 1974.)

#### **Sec. 6.16.060 Hearing Before Board.**

The Board of Supervisors shall review the application for the license at its regular meeting

following the timely filing of the application. It shall either approve, conditionally approve, or deny the license, and in doing so it shall act reasonably with a view to the public interest and the rights of all parties. In approving or conditionally approving the license, the Board shall specify the location for the outdoor festival and the specific days during which it may take place and shall establish all other terms reasonably required including guarantees for faithful performance. The Board shall neither deny a license nor impose conditions thereto on technical or frivolous grounds. The Board shall not deny a license by reason of the content of the proposed performance to the extent such content is not constitutionally prohibited by the laws of the County of Mendocino or the State of California. The Board shall take action on the day it reviews the application unless it continues the matter which may be done only with the express consent of the applicant. (Ord. No. 1317, adopted 1979.)

#### **Sec. 6.16.070 Issuance by Tax Collector.**

Upon determining that the Board of Supervisors has approved the license and that the applicant has complied with all conditions precedent to the issuance of the license, the Tax Collector shall issue the license to the applicant permitting the outdoor festival at the specific location authorized, and for the specific days authorized, and upon the compliance by the applicant with all other conditions established by the Board.

#### **Sec. 6.16.080 Nonprofit Organizations.**

A nonprofit organization shall be exempt from the payment of any fees for any license required under this Chapter provided, however, that the net proceeds from the outdoor festival do not inure to the benefit of any private persons, partnership, or corporation.

#### **Sec. 6.16.090 Revocation of License.**

The Board of Supervisors shall have the right to revoke any license issued pursuant to this



Chapter, after a public hearing has been held and after oral or written notice is received by the licensee at least twenty-four (24) hours prior to such hearing, for any of the following causes:

(a) The licensee permits the outdoor festival to be conducted in a disorderly manner or allows any person to remain on the premises while under the influence of intoxicating liquor, marijuana, or any narcotic or dangerous drug as defined by the California Health and Safety Code.

(b) The licensee violates or attempts to violate any law of the State of California or any ordinance of the County of Mendocino.

(c) The licensee has made a false, misleading, or fraudulent statement of material fact in the application for license or in any other document required pursuant to this Chapter.

Written notice of such revocation shall be forwarded by the Clerk of the Board to the Tax Collector, the Sheriff, and the licensee at the address given in the application. Such revocation shall become effective immediately upon order of the Board.

The Sheriff of the County of Mendocino may suspend operation and close any outdoor festival prior to the expiration of the term for which the license is granted in the event of a riot, major disorder, or serious breach of the peace which, in his reasonable opinion, threatens injury to person or persons or damage to property.

**Sec. 6.16.100 Nontransferability of License.**

No license granted under this Chapter shall be transferable to any other person or removable to any other location.

**Sec. 6.16.110 Punishment for Violation.**

Any violation of this chapter, or of any term or condition of any permit issued pursuant to this chapter, shall be a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail not exceeding ninety (90) days. A separate offense shall be deemed to have been committed for each day that such violation

continues. (Ord. No. 1317, adopted 1974, as amended by Ord. No. 1588, adopted 1975.)

**Sec. 6.16.120 Public Nuisance.**

Any violation of this chapter, or of any term or condition of any permit issued pursuant to this chapter, is hereby declared to be a public nuisance. (Ord. No. 1317, adopted 1974, as amended by Ord. No. 1588, adopted 1975.)

**CHAPTER 6.20****LICENSURE OF TOBACCO RETAILERS****Sec. 6.20.010 Definitions.**

The following words and phrases, whenever used in this Chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

(a) "Agency" means the County Health and Human Services Agency, Public Health Branch or the duly authorized designee of the County Health and Human Services Agency, Public Health Branch.

(b) "Hearing Officer" means person assigned by the Agency to conduct a hearing pursuant to this Chapter, who is qualified by training and experience to conduct such an adjudicatory hearing.

(c) "Person" shall mean any person, firm, partnership, trust, estate, association, corporation, or organization of any kind. Where a principal acts through an agent, the word "person" shall include both such principal and agent.

(d) "Tobacco Product" shall refer to, and is limited to, substances containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco.

(e) "Tobacco Retailer" means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco or Tobacco Products: "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco or Tobacco Products sold, offered for sale, exchanged, or offered for exchange.

(f) "Youth Decoy" shall refer to a participant in a compliance check who is under the age of eighteen (18), reasonably appears under the age of eighteen (18) and who has participated in the Public Health Branch training for youth involved with the tobacco control program compliance surveys. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

**Sec. 6.20.020 Requirement for Tobacco Retailer License.**

(a) It shall be unlawful for any Person to act as a Tobacco Retailer without first obtaining and maintaining a valid Tobacco Retailer's license pursuant to this Chapter for each location at which that activity is to occur. No license may be issued to authorize Tobacco Retailing at other than a fixed location. For example, Tobacco Retailing by Persons on foot and Tobacco Retailing from vehicles are prohibited.

(b) The payment of the license fee designated in Section 6.20.060 confers paid status upon a license for a term of one year. Each Tobacco Retailer shall apply for the renewal of his or her Tobacco Retailer's license no later than thirty (30) days prior to expiration of the payment term.

(c) Nothing in this Chapter shall be construed to grant any Person obtaining and maintaining a Tobacco Retailer's license any status or right other than the right to act as a Tobacco Retailer at the location in the County of Mendocino identified on the face of the permit. For example, nothing in this Chapter shall be construed to render inapplicable, supercede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on smoking in enclosed places of employment made applicable to business establishments by Labor Code §6404.5.

(d) It is the responsibility of each Tobacco Retailer to be informed regarding all laws applicable to Tobacco Retailing, including those laws affecting the issuance of a Tobacco Retailer's license. No Retailer may rely on the issuance of a license as a determination by the Agency that the Retailer has complied with all laws applicable to Tobacco Retailing. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

**Sec. 6.20.030 Application Procedure.**

Application for a Tobacco Retailer's license shall be submitted in the name of each Person proposing to conduct retail tobacco sales and shall be signed by each Person or an authorized agent thereof. It is the responsibility of each Person to be informed of the laws affecting the issuance of a Tobacco Retailer's

license. A license that is issued in error or on the basis of false or misleading information supplied by a Person may be revoked pursuant to Section 6.20.090(c) of this Chapter. All applications shall be submitted on a form supplied by the Agency and shall contain the following information:

1. The name, address, and telephone number of each Person.
2. The business name, address, and telephone number of each location for which a Tobacco Retailer's License is sought.
3. The name and mailing address authorized by each Person to receive all license-related communications and notices (the "Authorized Address"). If an Authorized Address is not supplied, each Person shall be understood to consent to the provision of notice at the business address specified pursuant to subparagraph 2 above.
4. Whether or not any Person has previously been issued a license pursuant to this Chapter that is, or was at any time, suspended or revoked and, if so, the dates of the suspension period or the date of revocation.
5. Such other information as the Agency deems necessary for the administration or enforcement of this ordinance. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

**Sec. 6.20.040 Issuance of License.**

Upon the receipt of an application for a Tobacco Retailer's license and the license fee, the Agency shall issue a license unless substantial record evidence demonstrates one of the following bases for denial:

- (a) the application is incomplete or inaccurate; or
- (b) the application seeks authorization for Tobacco Retailing by a Person for which or whom a suspension is in effect pursuant to Section 6.20.090 of this Chapter; or by a Person which or who has had a license revoked pursuant to Section 6.20.090 of this Chapter. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

**Sec. 6.20.050 Display of License.**

Each license shall be prominently displayed in a publicly visible location at the licensed premises. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

**Sec. 6.20.060 Fees for License.**

The fee to issue or to renew a Tobacco Retailer's license shall be established by resolution of Board of Supervisors of the County of Mendocino. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

**Sec. 6.20.070 Licenses Nontransferable.**

A Tobacco Retailer's license is nontransferable. If the information required in the license application pursuant to Section 6.20.030, items 1, 2, or 3, changes, Tobacco Retailer must notify the Agency within 14 days, and update all information on the license application form in order to continue to act as a Tobacco Retailer. For example, if a Tobacco Retailer to whom a license has been issued changes business location, that Tobacco Retailer must supply updated license information within 14 days of acting as a Tobacco Retailer at the new location. If a business is sold, the new owner must apply for a license for that location before acting as a Tobacco Retailer. The current licensee shall notify the Agency of the sale of the business. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

**Sec. 6.20.080 License Violation.**

(a) VIOLATION OF TOBACCO-RELATED LAWS. It shall be a violation of a Tobacco Retailer's license for a Person or his or her agent or employee to violate any local, state, or federal tobacco-related law.

(b) LICENSE COMPLIANCE MONITORING. The County anticipates that compliance checks of each Tobacco Retailer will be conducted at least two (2) times during each twelve-month period by the Agency. County shall not enforce any tobacco-related minimum-age law against a person who otherwise would be in violation of such law because of

the person's age (hereinafter "youth decoy") if the violation occurs when:

1. the youth decoy is participating in a compliance check supervised by a law enforcement official, a code enforcement official, or any peace officer; or
2. the youth decoy is participating in a compliance check funded or supervised in part by County or, funded or supervised in any part by the California Department of Health Services. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

**Sec. 6.20.090                    Suspension, Termination or Revocation of License.**

(a) ADMINISTRATIVE PENALTIES. The remedies provided by these provisions are cumulative and in addition to any other remedies available at law or in equity. Upon a determination by the Agency that a Person has engaged in any conduct that violates the provisions of this Chapter, the Agency may impose the following administrative penalties. All penalties resulting from violation of this Chapter and collected by the Agency shall be maintained in a fund specifically designated for compliance monitoring, enforcement efforts and education related to the sale of tobacco products to minors.

(b) SETTLEMENT OF ADMINISTRATIVE PENALTIES. The Agency shall verbally notify a Tobacco Retailer found violating this Chapter within 48 (forty-eight) hours or by written notice within five (5) days. The Agency head or his/her designee may engage in settlement negotiations with the Tobacco Retailer regarding violations upon written notification by the Tobacco Retailer within fifteen (15) calendar days of receipt of notice of violation. Settlement discussions may include imposition of fines, suspensions or other reasonable conditions intended to avoid future violations. A Notice of Settlement shall be memorialized if an agreement is reached and provided to the Agency, and no appeal shall be taken. Settlements will not be confidential and will be conferred without approval from the Board of Supervisors. Settlements will include an admission that the violation occurred and a stipulation that the violation

will be counted when considering what penalty will be assessed for any future violations.

(1) Upon a finding by the Agency of a first license violation within any thirty-six (36) month period, the Person shall receive a letter of reprimand from the Agency which shall advise the Person that if Person trains all sales employees at the location of the sale in the laws pertaining to the sale of tobacco products to minors and techniques to ensure future compliance with said laws no penalty will be imposed. Person must file with the Department, within 30 days of the issuance of the letter advising Person of this, an affidavit signed by Person and the sales employees that said training has been completed. If Person fails to timely submit the affidavit, the Agency shall impose a fine not less than two hundred fifty dollars (\$250.00) and not exceeding one thousand dollars (\$1,000.00) for a first violation in any thirty-six (36) month period.

(2) Upon a finding by the Agency of a second license violation within any thirty-six (36) month period, the Tobacco Retailer shall pay a fine of not less than fifteen hundred dollars (\$1,500.00) and not exceeding two thousand dollars (\$2,000.00) or the Person's license shall be suspended for not less than fourteen (14) days and not more than twenty-one (21) days.

(3) Upon a finding by the Agency of a third license violation within any thirty-six (36) month period, the Tobacco Retailer shall pay a fine not less than three thousand dollars (\$3,000.00) and not exceeding five thousand (\$5,000.00) or the Person's license shall be suspended for not less than thirty (30) nor more than sixty (60) days for a third violation.

(4) Upon a finding by the Agency of a fourth license violation within any thirty-six (36) month period, the Tobacco Retailer shall pay a fine of not less than ten thousand dollars (\$10,000.00) and not exceeding twenty thousand dollars (\$20,000.00) or the Person's license shall be suspended for not less than ninety (90) nor more than one hundred eighty (180) days.

(5) Upon a finding by the Agency of a fifth or subsequent license violation within any thirty-six

(36) month period the Person's license shall be revoked for not less than one year.

(c) **TERMINATION OF LICENSE FOR FAILURE TO PAY RENEWAL FEES.** A Tobacco Retailer's license which is not timely renewed pursuant to §6.20.020(b) shall automatically be deemed terminated by operation of law.

(d) **REVOCAION OF LICENSE ISSUED IN ERROR.** A Tobacco Retailer's license shall be revoked if the Agency finds, after notice and opportunity to be heard, that one or more of the bases for denial of a license under §6.20.040 existed at the time application was made or at anytime before the license issued. The revocation shall be without prejudice to the filing of a new application for a license.

(e) **APPEAL OF SUSPENSION, PENALTIES OR REVOCATION.** If the parties cannot negotiate a settlement agreement, a decision of the Agency to impose penalties or to revoke or suspend a license is appealable to the Agency, who shall appoint a Hearing Officer to conduct an evidentiary hearing. Requests for appeal must be filed with the Agency within ten (10) calendar days of personal service of the notice of the decision on the Person or Persons subject to the decision or within fifteen (15) calendar days if the Person or Persons subject to the decision are served by mail. An appeal shall stay all proceedings in furtherance of the appealed action. A suspension or revocation pursuant to Section 6.20.090(b) is not subject to appeal.

(f) **APPEAL HEARINGS.**

(1) Not later than fifteen (15) calendar days after receipt of a Retailer's request for appeal, the Agency shall provide written notice to the parties of the date, time, and place of the hearing.

(2) The Administrative Procedure Act (commencing with Government Code Section 11500) shall not be applicable to such hearing nor shall formal rules of evidence in civil or criminal proceedings be applicable.

(3) A record of the hearing shall be made by any means, as long as a reasonably accurate and complete written transcription of the proceedings can be derived from the recording. Although technical rules of evidence shall not apply, relevant evidence may be

admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious business.

(4) A decision by the Hearing Officer shall be supported by substantial evidence. Following conclusion of the hearing, the Hearing Officer shall prepare a written decision that either grants or denies the appeal, contains findings of facts and conclusions of law in support of the Hearing Officer's decision to impose fines, a license suspension, condition or some combination thereof. The Hearing Officer's written decision shall be the final decision of the County and shall become final upon the date notice thereof is mailed to the appellant by certified mail.

(5) Any determination of the Hearing Officer shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

(g) **LICENSE SUSPENSION REQUIRES THE REMOVAL OF ALL TOBACCO PRODUCTS FROM PUBLIC VIEW.** Tobacco Retailers whose license is suspended must remove from public view all tobacco products and tobacco advertising for the duration of their suspension. Failure to remove such items from view will be regarded as a violation of this ordinance equivalent to that of selling to minors.

(h) **REVOCAION OF LICENSE OBTAINED UNDER FALSE PRETENSES.** Tobacco Retailers whose licenses are obtained under false pretenses shall have their license revoked. This revocation shall be with prejudice. One calendar year must elapse between any revocation pursuant to this subsection and any subsequent application. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

**Sec. 6.20.100 Administrative Fine.**

(a) **GROUND FOR FINE.** If the Agency finds, based on substantial record evidence, that any unlicensed person, including a person named on a revoked or suspended license, has engaged in Tobacco Retailing in violation of this Chapter, the Agency shall fine that Person as follows:

1. a fine not exceeding one hundred dollars (\$100) for a first violation in any thirty-six (36) month period; or

2. a fine not exceeding two hundred dollars (\$200) for a second violation in any thirty-six (36) month period; or

3. a fine not exceeding five hundred dollars (\$500) for a third or subsequent violation in any thirty-six (36) month period.

Each day that such a Person engages in Tobacco Retailing shall constitute a separate violation.

(b) NOTICE OF VIOLATION. A notice of violation and of intent to impose a fine shall be personally served on, or sent by certified mail to, the Person or Persons subject to the fine. The notice shall state the basis of the Agency's determinations and include an advisement of the right to request a hearing to contest the fine. Any request for a hearing must be in writing and must be received by the Agency within ten (10) calendar days of personal service of the notice on the Person or Persons subject to a fine or within fifteen (15) calendar days if the Person or Persons subject to a fine are served by mail.

(c) IMPOSITION OF FINE. If no request for a hearing is timely received, the Agency's determination on the violation and the imposition of a fine shall be final and payment shall be made within thirty (30) calendar days of written demand made in the manner specified above for a notice of violation. If the fine is not paid within that time, the fine may be collected, along with interest at the legal rate, in any manner provided by law. In the event that a judicial action is necessary to compel payment of the fine and accumulated interest, the Person or Persons subject to the fine shall also be liable for the costs of the suit and attorney's fees incurred by the County in collecting the fine.

(d) NOTICE OF HEARING. If a hearing is requested pursuant to subsection (b) of this section, the Agency shall provide written notice, within forty-five (45) calendar days of its receipt of the hearing request, to the Person or Persons subject to a fine of the date, time, and place of the hearing in the manner specified above for a notice of violation.

(e) HEARING DECISION. The Hearing Officer shall render a written decision and findings within twenty (20) working days of the hearing. Copies of the decision and findings shall be provided to the

Person or Persons subject to a fine in the manner specified above for a notice of violation.

(f) FINALITY OF THE HEARING OFFICER'S DECISION. The decision of the Hearing Officer shall be the final decision of the County.

(g) APPEAL TO SUPERIOR COURT OF LIMITED JURISDICTION. Notwithstanding the provisions of §1094.5 or §1094.6 of the Code of Civil Procedure, within twenty (20) days after personal service of the Hearing Officer's decision and findings, or within twenty-five (25) days if served by mail, any Person subject to a fine may seek review of the hearing officer's decision and findings by the Superior Court of limited jurisdiction. A copy of the notice of appeal to the Superior Court shall be timely served in person or by first-class mail upon the Agency by the contestant. The appeal shall be heard de novo, except that the contents of the Agency's file in the case shall be received in evidence. A copy of the records of the Agency of the notices of the violation and of the Hearing Officer's decision and findings shall be admitted into evidence as prima facie evidence of the facts stated therein.

(h) FAILURE TO PAY FINE. If no timely notice of appeal to the Superior Court is filed, or the Agency is not timely served with a copy of a notice of appeal, the Hearing Officer's decision and findings shall be deemed confirmed and the fine shall be collected pursuant to subsection (c) of this Section. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

**Sec. 6.20.110 Enforcement.**

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

(a) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this ordinance shall constitute a violation.

(b) In addition to the administrative enforcement procedures provided by §6.20.090 of these Chapter violations of this ordinance may, at the discretion of the District Attorney, be prosecuted as misdemeanors.

(c) Violations of this ordinance are hereby declared to be public nuisances.

(d) Violations of this ordinance are hereby declared to be unfair business practices and are presumed to at least nominally damage each and every resident of the community in which the business operates.

(e) In addition to other remedies provided by this Chapter or by other law, any violation of this ordinance may be remedied by a civil action brought by the County Counsel or the District Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

(f) Any Person acting for the interests of itself, its members, or the general public may bring an action for injunctive relief to prevent future such violations or to recover such actual damages as he or she may prove. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

**Sec. 6.20.120 Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The Board of Supervisors of the County of Mendocino hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable. (Ord. No. 4135, adopted 2004; Ord. No. 4203 Sec. II (part), adopted 2008.)

## CHAPTER 6.24

### PROHIBITING THE DISTRIBUTION AND DISPLAY OF DRUG PARAPHERNALIA.

#### Sec. 6.24.01 Purpose.

The illegal use of controlled substances within the unincorporated area of Mendocino County creates serious social, medical and law enforcement problems. The illegal use of such substances by persons under 18 years of age has reached crisis dimensions. It is causing serious physical and psychological damage to the youth of this community, an impairment of educational achievement and of the efficiency of the educational system, increases in non-drug related crime, and a threat to the ability of the community to ensure future generations of responsible and productive adults — all to the detriment of the health, safety and welfare of the citizens of Mendocino County. (Ord. No. 3375, adopted 1982.)

The proliferation of the display of drug paraphernalia in retail stores within the unincorporated area, and the distribution of such paraphernalia, intensifies and otherwise compounds the problem of illegal use of controlled substances within this community. (Ord. No. 3375, adopted 1982.)

A ban only upon the display and distribution of drug paraphernalia to persons under 18 years of age would not be practical. The person who displays or distributes would have difficulty determining who could lawfully view or receive drug paraphernalia. The already thin staffed law enforcement agencies would be subjected to intolerable added enforcement burdens by adding age of a person who view or receives paraphernalia as an element of a prohibition upon display and distribution. A significant number of high school students are 18 years of age or older. It would be lawful to distribute paraphernalia to some students attending the same school in which the distribution to other students would be prohibited. Permitted display and distribution to adults within the community would symbolize a public tolerance of illegal drug use, making it difficult to explain the rationale of programs directed against similar abuse by youth. The problem of illegal consumption of con-

trolled substances by adults within this community is significant and substantial, necessitating a cessation of the encouragement to drug abuse which the display and distribution of drug paraphernalia create. (Ord. No. 3375, adopted 1982.)

This chapter is a measure which is necessary in order to discourage the illegal use of controlled substances within the unincorporated area of Mendocino County. (Ord. No. 3375, adopted 1982.)

#### Sec. 6.24.02 Definitions.

As used in this chapter, the following terms shall be ascribed the following meanings:

(a) "Business" means a fixed location, whether indoors or outdoors, at which merchandise is offered for sale at retail. (Ord. No. 3375, adopted 1982.)

(b) "Display" means to show to a patron or place in a manner so as to be available for viewing or inspection by a patron. (Ord. No. 3375, adopted 1982.)

(c) "Patron" means a person who enters a business for the purpose of purchasing or viewing as a shopper merchandise offered for sale at a business. (Ord. No. 3375, adopted 1982.)

(d) "Distribute" means to transfer ownership or a possessory interest to another, whether for consideration or as a gratuity. "Distribute" includes both sales and gifts. (Ord. No. 3375, adopted 1982.)

(e) "Controlled substance" means those controlled substances set forth in Sections 11054, 11055, 11056, 11057 and 11058 of the California Health and Safety Code, identified as Schedules I through V, inclusive, as said sections now exist or may hereafter be amended. (Ord. No. 3375, adopted 1982.)



(f) “Drug Paraphernalia” means all equipment, products, and materials of any kind which are intended by a person charged with a violation of this chapter for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of any law of the State of California. “Drug paraphernalia” includes, but is not limited to, all of the following: (Ord. No. 3375, adopted 1982.)

(1) Kits intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived; (Ord. No. 3375, adopted 1982.)

(2) Kits intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances; (Ord. No. 3375, adopted 1982.)

(3) Isomerization devices intended for use in increasing the potency of any species of plant which is a controlled substance; (Ord. No. 3375, adopted 1982.)

(4) Testing equipment intended for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances; (Ord. No. 3375, adopted 1982.)

(5) Scales and balances intended for use in weighing or measuring controlled substances; (Ord. No. 3375, adopted 1982.)

(6) Dilutants and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, intended for use in cutting controlled substances; (Ord. No. 3375, adopted 1982.)

(7) Separation gins and sifters intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana; (Ord. No. 3375, adopted 1982.)

(8) Blenders, bowls, containers, spoons and mixing devices intended for use in compounding

controlled substances; (Ord. No. 3375, adopted 1982.)

(9) Containers and other objects intended for use in storing or concealing controlled substances; and (Ord. No. 3375, adopted 1982.)

(10) Objects intended for use in injecting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: (Ord. No. 3375, adopted 1982.)

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; (Ord. No. 3375, adopted 1982.)

(b) Water pipes; (Ord. No. 3375, adopted 1982.)

(c) Carburetion tubes and devices; (Ord. No. 3375, adopted 1982.)

(d) Smoking and carburetion masks; (Ord. No. 3375, adopted 1982.)

(e) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand; (Ord. No. 3375, adopted 1982.)

(f) Miniature cocaine spoons, and cocaine vials; (Ord. No. 3375, adopted 1982.)

(g) Chamber pipes; (Ord. No. 3375, adopted 1982.)

(h) Carburetor pipes; (Ord. No. 3375, adopted 1982.)

(i) Air-driven pipes; (Ord. No. 3375, adopted 1982.)

(j) Bongs. (Ord. No. 3375, adopted 1982.)

In determining whether an object is “drug paraphernalia”, a court or other authority may consider, in addition to all other logically relevant factors, the following: (Ord. No. 3375, adopted 1982.)

1) Statements by an owner or by anyone in control of the object concerning its use; (Ord. No. 3375, adopted 1982.)

2) The proximity of the object to controlled substances; (Ord. No. 3375, adopted 1982.)

3) The existence of any residue of controlled substances on the object; (Ord. No. 3375, adopted 1982.)

4) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver to persons whom he knows intend to use the object to facilitate a violation of the laws of the State of California relating to controlled substances; (Ord. No. 3375, adopted 1982.)

5) Instructions, oral or written, provided with the object concerning its use; (Ord. No. 3375, adopted 1982.)

6) Descriptive material accompanying the object which explain or depict its use; (Ord. No. 3375, adopted 1982.)

7) National and local advertising concerning its use; (Ord. No. 3375, adopted 1982.)

8) The manner in which the object is displayed for sale; (Ord. No. 3375, adopted 1982.)

9) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise; (Ord. No. 3375, adopted 1982.)

10) The existence and scope of legitimate uses for the object in the community; and (Ord. No. 3375, adopted 1982.)

11) Expert testimony concerning its use. (Ord. No. 3375, adopted 1982.)

(g) "Person" means a natural person or any firm, partnership, association, corporation or cooperative association. (Ord. No. 3375, adopted 1982.)

**Sec. 6.24.03 Display of Drug Paraphernalia.**

(a) Except as authorized by law, it shall be unlawful for any person to willfully maintain or operate any business knowing, or under circumstances where one reasonably should know, that

drug paraphernalia is displayed at such business. (Ord. No. 3375, adopted 1982.)

(b) Except as authorized by law, it shall be unlawful for any person who is the owner of a business, an employee thereof or one who works at such business as an agent of the owner, to willfully display drug paraphernalia at such business. (Ord. No. 3375, adopted 1982.)

**Sec. 6.24.04 Distribution of Drug Paraphernalia.**

Except as authorized by law, it shall be unlawful for any person to willfully distribute to another person drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of any law of the State of California. (Ord. No. 3375, adopted 1982.)

**Sec. 6.24.05 Penalties.**

Any person who violates any of the provisions of this Chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the Mendocino County jail for a term not exceeding (6) months, or by a fine not exceeding Five Hundred Dollars (\$500.00) or by both such fine and imprisonment. Each such person shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provision of this Chapter is committed, continued or permitted and shall be punishable therefor as provided by this Chapter. (Ord. No. 3375, adopted 1982.)

## CHAPTER 6.28

### SALE OF CHEMICALS

#### Sec. 6.28.010 Reporting Sale of Chemicals.

(A) Any manufacturer, producer, wholesaler, retailer or other person who produces, sells, transfers, or otherwise furnishes any of the following substances to any person in the unincorporated area of the County shall submit a report to the Sheriff of all of those transactions:

- (1) N-methylephedrine;
- (2) N-methelpseudoephedrine;
- (3) N-ethylephedrine;
- (4) N-ethylpseudoephedrine.

(B) (1) Any producer, manufacturer, wholesaler, retailer, or other person shall, prior to producing, selling, transferring, or otherwise furnishing any substance specified in subsection (A) of this Section to a person in the unincorporated area of the County, require proper identification from the purchaser.

(2) For the purpose of this section, "proper identification" means a motor vehicle operator's license or other official state-issued identification of the purchaser which contains a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, and motor vehicle license number of any motor vehicle owned or operated by the purchaser, a letter of authorization from the business for which any substance specified in subsection (A) of this section is being furnished, which includes the business license number and address of the business, a full description of how the substance is to be used, and the signature of the purchaser. The person selling, transferring, or otherwise furnishing any substance specified in subsection (A) of this section shall affix his or her signature as a witness to the signature and identification of the purchaser.

(3) A violation of this subsection is a misdemeanor.

(C) Any manufacturer, producer, wholesaler, retailer, or other person who sells, transfers, produces or otherwise furnishes the substances specified in subsection (A) of this section to a person in the un-

incorporated area of the County shall, not less than twenty-one (21) days prior to delivery of the substance, submit a report of the transaction, which includes the identification information specified in subsection (B) of this section, to the Sheriff. However, the Sheriff may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Sheriff determines that either of the following exist:

(1) A pattern of regular supply of the substance exists between the manufacturer, producer, wholesaler, retailer, or other person who sells, produces, transfers, or otherwise furnishes such substance and the recipient of the substance.

(2) The recipient has established a record of utilization of the substance for lawful purposes.

(D) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers for furnishes a substance to his or her patients.

(3) Any manufacturer or wholesaler licensed by the California State Board of Pharmacy who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

(4) Sales consistent with federal law of any proprietary product containing substances listed in subdivisions (1) through (4) of subsection (A) of this Section.

(E) (1) Any person specified in subsection (C) of this section who does not submit a report as required by that subdivision or who knowingly submits a report with false or fictitious information shall be punished by imprisonment in the County jail not exceeding six (6) months or by a fine not exceeding Five Thousand Dollars (\$5,000), or by both the fine and imprisonment.

(2) Any person specified in subsection (C) of this section who has previously been convicted of a violation of subdivision (1) of this subsection shall,

6.28.010

upon a subsequent conviction thereof, be punished by imprisonment in the County jail not exceeding one (1) year, or by a fine not exceeding One Hundred Thousand Dollars (\$100,000), or by both the fine and imprisonment.

(F) This section shall be operative until December 31, 1988, and on that date is repealed. (Ord. No. 3667, adopted 1987.)

**CHAPTER 6.29**

**CONDITIONS ON THE DISPLAY OF  
PRODUCTS CONTAINING  
PSEUDOEPHEDRINE WITH OTHER  
ACTIVE INGREDIENTS**

**Sec. 6.29.010 Findings and Purpose.**

The Mendocino County Board of Supervisors finds that the use of methamphetamine is a national health crisis that affects the health and welfare of the citizens of the County of Mendocino. The Board of Supervisors further finds that the local production of methamphetamine, a key component of which is ephedrine, pseudoephedrine or phenylpropanolamine, is of staggering proportions. The County of Mendocino recognizes that the display of products containing ephedrine, pseudoephedrine or phenylpropanolamine on consumer-accessible shelving in retail establishments provides unrestricted consumer access to these products. In order to protect the health, safety and security of the public from the harm that results from the illicit manufacture, sale and use of methamphetamine, the County of Mendocino finds that it is necessary to regulate the display of products containing ephedrine, pseudoephedrine or phenylpropanolamine.

This Chapter places conditions on the display of products containing pseudoephedrine with other active ingredients in an attempt to limit a methamphetamine manufacturer's ability to obtain pseudoephedrine for the illegal production of methamphetamine.

(Ord. No. 4150 § 1 (part), adopted 2005.)

**Sec. 6.29.020 Limitations on Display of Products Containing Pseudoephedrine.**

All packages of any product containing ephedrine, pseudoephedrine or phenylpropanolamine, whether as the sole active ingredient or in combination with products that have less than therapeutically significant quantities of other active ingre-

dients, shall not be displayed and offered for sale in any retail establishment on consumer-accessible shelving.

(Ord. No. 4150 § 1 (part), adopted 2005.)

**Sec. 6.29.030 Definitions.**

(A) "Consumer-accessible shelving" in this Chapter means any area of a retail establishment other than a product display area behind a counter where the public is not permitted, or within a locked display case or within six (6) feet of a register located on a checkout counter.

(B) "Ephedrine," "pseudoephedrine," or "phenylpropanolamine" in this Section means and includes the salts, optical isomers, or salts of optical isomers of ephedrine, pseudoephedrine and phenylpropanolamine.

(C) "Retail establishment" in this Chapter means and includes any business entity and individual person who sells, offers for sale or attempts to sell any product containing ephedrine, pseudoephedrine or phenylpropanolamine at retail.

(Ord. No. 4150 § 1 (part), adopted 2005.)

**Sec. 6.29.040 Exceptions.**

This Chapter shall not apply as follows:

(A) To any product labeled pursuant to Federal regulation for use only in children under twelve (12) years of age;

(B) To any products that the State Department of Health, upon application of a manufacturer, determines has been formulated in such a way as to effectively prevent its use in the illicit manufacture of methamphetamine;

(C) To any animal feed products containing ephedrine, or naturally occurring or herbal ephedra or extract of ephedra, pseudoephedrine or phenylpropanolamine; and

(D) To the sale or delivery of any product containing ephedrine, pseudoephedrine or phenylpropanolamine pursuant to the lawful prescription of a person authorized by State law to prescribe such products.

(Ord. No. 4150 § 1 (part), adopted 2005.)

**Sec. 6.29.050 Enforcement and Fines.**

Any person who is considered the general owner or operator of a retail establishment where products containing ephedrine, pseudoephedrine or phenylpropanolamine are available for sale who violates Section 6.29.020 of this Chapter shall be guilty of an infraction punishable by a fine of up to Five Hundred Dollars (\$500).

(Ord. No. 4150 § 1 (part), adopted 2005.)

## CHAPTER 6.32

### CANNABIS BUSINESS TAX

#### Sections:

- Sec. 6.32.010 Title.
- Sec. 6.32.020 General Tax.
- Sec. 6.32.030 Purpose of the Ordinance.
- Sec. 6.32.040 Definitions.
- Sec. 6.32.050 Tax Imposed.
- Sec. 6.32.060 Reporting and Remittance of Tax.
- Sec. 6.32.070 Payments and Communications — Timely Remittance.
- Sec. 6.32.080 Payment — When Taxes Deemed Delinquent.
- Sec. 6.32.090 Notice Not Required by the County.
- Sec. 6.32.100 Penalties and Interest.
- Sec. 6.32.110 Refunds and Credits.
- Sec. 6.32.120 Refunds and Procedures.
- Sec. 6.32.130 Exemptions from the Tax.
- Sec. 6.32.140 Administration of the Tax.
- Sec. 6.32.150 Appeal Procedure.
- Sec. 6.32.160 Enforcement — Action to Collect.
- Sec. 6.32.170 Apportionment.
- Sec. 6.32.180 Constitutionality and Legality.
- Sec. 6.32.190 Audit and Examination of Records and Equipment.
- Sec. 6.32.200 Other Licenses, Permits, Taxes, Fees or Charges.
- Sec. 6.32.210 Payment of Tax Does Not Authorize Unlawful Business.
- Sec. 6.32.220 Deficiency Determinations.
- Sec. 6.32.230 Failure to Report— Nonpayment, Fraud.
- Sec. 6.32.240 Tax Assessment — Notice Requirements.

**Sec. 6.32.250 Tax Assessment — Hearing, Application and Determination.**

**Sec. 6.32.260 Conviction for Chapter Violation — Taxes Not Waived.**

**Sec. 6.32.270 Violation Deemed Misdemeanor.**

**Sec. 6.32.280 Severability.**

**Sec. 6.32.290 Remedies Cumulative.**

**Sec. 6.32.300 Amendment or Repeal.**

#### **Sec. 6.32.010 Title.**

This ordinance shall be entitled as the "Cannabis Business Tax". This ordinance shall be applicable in the unincorporated territory of the County of Mendocino, which shall be referred to herein as "County."

(Ord. No. 4361, § 1, 8-2-2016)

#### **Sec. 6.32.020 General Tax.**

The Cannabis Business Tax is enacted solely for general governmental purposes for the County and not for specific purposes. All of the proceeds from the tax imposed by this Chapter shall be placed in the County's general fund and used for purposes consistent with general fund expenditures of the County.

(Ord. No. 4361, § 1, 8-2-2016)

#### **Sec. 6.32.030 Purpose of the Ordinance.**

This ordinance is adopted to achieve the following purposes, among others, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by commercial cannabis businesses in the unincorporated area of the County, pursuant to the state Medical Marijuana Regulation and Safety Act, specifically California Business and Professions Code section 19348;

B. To impose a tax on the privilege of cultivating, manufacturing, producing, processing, pre-

paring, storing, providing, donating, selling, or distributing nonmedical marijuana and marijuana products and accessories by commercial cannabis businesses in the unincorporated area of the County if the "California Control, Regulate and Tax Adult Use of Marijuana Initiative" is approved by the voters in the November 2016 election, or if nonmedical marijuana activity otherwise becomes legal in the State of California, notwithstanding if state law uses the term "marijuana" or "cannabis";

C. To impose a tax on lawful commercial cannabis business in accordance with the authority granted by California Revenue and Taxation Code section 7284 to impose a business license tax;

D. To specify the type of tax and rate of tax to be levied and the method of collection; and

E. To comply with all requirements for imposition of a general tax, such tax to become operative only if submitted to the electorate and approved by a majority vote of the voters voting in an election on the issue.

(Ord. No. 4361, § 1, 8-2-2016)

#### **Sec. 6.32.040 Definitions.**

The following words and phrases shall have the meanings set forth below when used in this Chapter:

A. "Business" shall include all activities engaged in or caused to be engaged in within the unincorporated area of the County, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

B. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether

crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code and is not limited to medical cannabis.

C. "Cannabis product" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. "Cannabis product" also means marijuana products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medical cannabis products.

D. "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one (1) site. The plant canopy does not need to be continuous on any premise in determining the total square footage.

E. "Commercial cannabis business" means any commercial business activity relating to cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, and selling (wholesale and/or retail sales) of cannabis and any ancillary products and accessories in the unincorporated area of the County, whether or not carried on for gain or profit.

F. "Cannabis business tax," "business tax," or "commercial cannabis tax" means the tax due pursuant to this Chapter for engaging in commercial cannabis business in the unincorporated area of the County.

G. "Commercial cannabis cultivation" means cultivation conducted by, for, as part of a commercial cannabis business.

H. "County permit" means a permit issued by the County to a person to authorize that person to operate or engage in a commercial cannabis business. The term "County permit" includes a commercial medical cannabis permit issued pursuant to Chapter 10A.17 and/or any other subsequent Chapter of the Mendocino County Code which may be adopted or amended from time to time which authorizes any cannabis regulatory



activity, and if nonmedical marijuana business becomes legal under state law, the term "County permit" includes such permit as the County may require to operate or engage in nonmedical commercial cannabis business.

I. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

J. "Delivery" means the commercial transfer of cannabis or cannabis products from a dispensary.

K. "Dispensary" means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale.

L. "Distributor" or "distribution" or "distribution facility" means a person or facility involved in the procurement, sale, and/or transport of cannabis and cannabis products between permitted or licensed entities.

M. "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.

N. "Engaged in business" means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the unincorporated area of the County or coming into the unincorporated area of the County from an outside location to engage in such activities. A person shall be deemed engaged in business within the County if:

1. Such person or person's employee maintains a fixed place of business within unincorporated area of the County for the benefit or partial benefit of such person;

2. Such person or person's employee owns or leases real property within the unincorporated area of County for business purposes;

3. Such person or person's employee regularly maintains a stock of tangible personal property in the unincorporated area of County for sale in the ordinary course of business;

4. Such person or person's employee regularly conducts solicitation of business within the unincorporated area of County;

5. Such person or person's employee performs work or renders services in the unincorporated area of County; and

6. Such person or person's employee utilizes the streets within the unincorporated area of County in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

O. "Evidence of doing business" means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the unincorporated area of County.

P. "Fiscal year" means July 1 through June 30 of the following calendar year.

Q. "Gross Receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction there from on account of the cost of the

property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

1. Cash discounts where allowed and taken on sales;

2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;

3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

4. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;

5. Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;

6. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;

7. Cash value of sales, trades or transactions between departments or units of the same business;

8. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;

9. Transactions between a partnership and its partners;

10. Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:

a. The voting and non-voting stock of which is owned at least eighty percent (80%) by such other corporation with which such transaction is had; or

b. Which owns at least eighty percent (80%) of the voting and non-voting stock of such other corporation; or

c. At least eighty percent (80%) of the voting and non-voting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had.

11. Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in Subsection (9) above;

12. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar (\$1.00);

13. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

R. "Growing cycle" means the life of cannabis plant grown from seed, clone or start to maturity, at which point the plant is harvested for flower or byproducts to dry, cure grade, trim or package for retail or wholesale.

S. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a

fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container, that holds a valid County permit.

T. "Nursery" means a person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

U. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

V. "Personal medical cannabis cultivation" means cultivation by a qualified patient who cultivates one hundred (100) square feet total canopy area or less of cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person. "Personal medical cannabis cultivation" also includes cultivation by a primary caregiver who cultivates one hundred (100) square feet total canopy area or less of cannabis exclusively for the personal medical purposes of no more than five (5) specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with Section 11362.765(c) of the California Health and Safety Code, as it may be amended.

W. "Personal use" shall be defined as provided by state law if the "California Control, Regulate and Tax Adult Use of Marijuana Initiative" is approved by the voters in the November 2016 election, or if nonmedical cannabis use otherwise becomes legal in the State of California. This definition is applicable only if the "California Control, Regulate and Tax Adult Use of Marijuana Initiative" is approved by the voters in the November 2016 election, or if nonmedical cannabis use otherwise becomes legal in the State of California.

X. "Sale" means and includes any sale, exchange, or barter.

Y. "Square foot" or "square footage" means the maximum amount of canopy space for commercial cannabis cultivation authorized by a County permit issued to a person engaging in commercial cannabis business, or by a state license in the absence of a County permit or license, not deducting for unutilized square footage unless duly authorized in writing by the County.

Z. "State" means the State of California.

AA. "State license," "license," or "registration" means a state license issued pursuant to California Business & Professions Code Sections 19300, et seq. or other applicable state law.

BB. "Testing laboratory" means a facility, entity, or site in the state that offers or performs testing of cannabis or cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state; and
2. Registered with the California State Department of Public Health.

BB. "Transport" means the transfer of cannabis or cannabis products from the permitted business location of one (1) permittee or licensee to the permitted business location of another permittee or licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to state law.

CC. "Transporter" means a person issued all required state and County permits to transport cannabis or cannabis products between permitted facilities.

DD. "Treasurer-Tax Collector" means the Treasurer-Tax Collector of the County of Mendocino, his or her deputies or any other County officer charged with the administration of the provisions of this Chapter.  
(Ord. No. 4361, § 1, 8-2-2016)

#### **Sec. 6.32.050 Tax Imposed.**

A. There is established and imposed a cannabis business tax at the rates set forth in this Chapter. Every person who is engaged in commercial

cannabis cultivation in the unincorporated area of the County shall pay an annual cannabis business tax.

B. Tax on commercial cannabis cultivation excluding nurseries.

1. Every person who cultivates commercial cannabis in the unincorporated area of the County shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017 through June 30, 2020, shall be set at two and one-half percent (2.5%) of the gross receipts per fiscal year; provided, however, that cultivators shall pay not less than the following amounts:

a. Persons cultivating less than or equal to two thousand five hundred (2,500) square feet of cannabis shall pay a tax of no less than one thousand two hundred fifty dollars (\$1,250.00) per growing cycle.

b. Persons cultivating two thousand five hundred one (2,500) square feet and up to five thousand square feet of cannabis shall pay a tax of no less than two thousand five hundred dollars (\$2,500.00) per growing cycle.

c. Persons cultivating more than five thousand one (5,001) square feet of cannabis shall pay a tax of no less than five thousand dollars (\$5,000.00) per growing cycle.

2. As of July 1, 2020, such tax rate may be increased in two and one-half percent (2.5%) increments, not to exceed the maximum tax rate of ten percent (10%) per fiscal year on gross receipts. Incremental increases in the tax rate shall occur following an approval by the Board of Supervisors at a regularly scheduled meeting of the Board of Supervisors, and occur not more than once per fiscal year.

C. Tax on commercial cannabis dispensaries.

1. Every person who is engaged in business as a dispensary in the unincorporated area of the County shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017 through June 30, 2020 shall be set at five percent (5%) of the gross receipts per fiscal year.

2. As of July 1, 2020, such tax rate may be increased in two and one-half percent (2.5%) in-

crements, not to exceed the maximum tax rate of ten percent (10%) per fiscal year on gross receipts. Incremental increases in the tax rate shall occur following an approval by the Board of Supervisors at a regularly scheduled meeting of the Board of Supervisors, and occur not more than once per fiscal year.

D. Tax on all other commercial cannabis businesses.

1. Every person who is engaged in business as a distributor, delivery service manufacturer, nursery, testing laboratory, and transporter in the unincorporated area of the County shall pay an annual commercial cannabis business tax. The initial tax rate effective January 1, 2017 through June 30, 2020 shall be set at a flat rate of two thousand five hundred dollars (\$2,500.00) per fiscal year.

2. Beginning on July 1, 2020, and on July 1 of each succeeding year thereafter, the amount of the tax imposed by this paragraph D of this Section shall be adjusted up to the equivalent to the most recent change in the State Department of Industrial Relations (or successor agency) in the Consumer Price Index (CPI) for all urban consumers (California). However, no CPI adjustment resulting in a decrease of any tax imposed by this paragraph D shall be made.

(Ord. No. 4361, § 1, 8-2-2016)

#### **Sec. 6.32.060 Reporting and Remittance of Tax.**

The commercial cannabis business tax imposed by this Chapter shall be imposed on a fiscal year basis and shall be due and payable in quarterly installments as follows:

A. Each person owing a commercial cannabis business tax shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement on the form prescribed by the Treasurer-Tax Collector and remit to the Treasurer-Tax Collector the tax due. Each business shall pay on or before the last day of the month following the close of each calendar quarter.

B. If the cultivation begins in the middle of a fiscal year, the Treasurer-Tax Collector shall prorate, in monthly increments, the amount due for the fiscal year.

C. All tax statements shall be completed on forms prescribed by the Treasurer-Tax Collector.

D. Tax statements and payments for all outstanding taxes owed the County are immediately due to the Treasurer-Tax Collector upon cessation of business for any reason.

E. The Treasurer-Tax Collector may, at his or her discretion, establish shorter report and payment periods for any taxpayer as the Treasurer-Tax Collector deems necessary to insure collection of the tax.

F. The Treasurer-Tax Collection may, as part of administering the tax and in his or her discretion, modify the form of payment and take such other administrative actions as needed to facilitate collection of the tax.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.070 Payments and Communications — Timely Remittance.**

Whenever any payment, statement, report, request or other communication is due, it must be remitted to the Treasurer-Tax Collector on or before the final due date. A postmark will be accepted as timely received. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the County is open to the public.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.080 Payment — When Taxes Deemed Delinquent.**

Unless otherwise specifically provided under other provisions of this Chapter, the taxes required to be paid pursuant to this Chapter shall be deemed delinquent if not remitted to the Treasurer-Tax Collector on or before the due date as specified in Sections 6.32.060 and 6.32.070.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.090 Notice Not Required by the County.**

The Treasurer-Tax Collector is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.100 Penalties and Interest.**

A. Any person who fails or refuses to pay any commercial cannabis business tax required to be paid pursuant to this Chapter on or before the due date shall pay penalties and interest as follows:

1. A penalty equal to ten percent (10%) of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one and one-half percent (1.5%) per month; and

2. If the tax remains unpaid for a period exceeding one (1) calendar month beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one and one-half percent (1.5%) per month on the unpaid tax.

3. Interest shall be applied at the rate of one and one-half percent (1.5%) per month on the first day of the month for the full month, and will continue to accrue monthly on the unpaid tax until the balance is paid in full.

B. Whenever a check or electronic payment is submitted in payment of a commercial cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any fees, penalties and interest as provided for in this Section, and any other amount allowed under state law.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.110 Refunds and Credits.**

A. No refund shall be made of any tax collected pursuant to this Chapter, except as provided in Section 6.32.120.

B. No refund of any tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a business.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.120 Refunds and Procedures.**

A. Whenever the amount of any commercial cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the County under this Chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the Treasurer-Tax Collector within one (1) year of the date the tax was originally due and payable.

B. The Treasurer-Tax Collector, his or her deputies or any other County officer charged with the administration of this Chapter shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the Treasurer-Tax Collector to do so.

C. In the event that the commercial cannabis business tax was erroneously paid and the error is attributable to the County, the County shall refund the amount of tax erroneously paid up to one (1) year from when the error was identified.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.130 Exemptions from the Tax.**

A. The provisions of this Chapter shall not apply to personal medical cannabis cultivation.

B. If the "California Control, Regulate and Tax Adult Use of Marijuana Initiative" is approved by the voters in the November 2016 election, or if nonmedical cannabis use otherwise becomes legal in the State of California, the provisions of this Chapter shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under

state law, and for which the individual receives no compensation whatsoever related to that personal use. If a state law is adopted that legalizes nonmedical use of cannabis, the Treasurer-Tax Collector may implement this exemption to conform to such exemption for personal use as may be included in state law.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.140 Administration of the Tax.**

A. It shall be the duty of the Treasurer-Tax Collector to collect the taxes, penalties, fees, and perform the duties required by this Chapter.

B. For purposes of administration and enforcement of this Chapter generally, the Treasurer-Tax Collector may from time to time promulgate such administrative rules and procedures consistent with the purpose, intent, and express terms of this Chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.

C. The Treasurer-Tax Collector may take such administrative actions as needed to administer the tax, including but not limited to:

1. Provide to all commercial cannabis business taxpayers forms for the reporting of the tax;
2. Increase tax rates in accordance with this Chapter;
3. Provide information to any taxpayer concerning the provisions of this Chapter;
4. Receive and record all taxes remitted to the County as provided in this Chapter;
5. Maintain records of taxpayer reports and taxes collected pursuant to this Chapter;
6. Assess penalties and interest to taxpayers pursuant to this Chapter; and
7. Determine amounts owed and enforce collection pursuant to this Chapter.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.150 Appeal Procedure.**

Any taxpayer aggrieved by any decision of the Treasurer-Tax Collector with respect to the amount of tax, interest, penalties and fees, if any, due under this Chapter may appeal to the Board of

Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors within fifteen (15) days of the serving or mailing of the determination of tax due. The Clerk shall fix a time and place for hearing such appeal, and the Clerk shall give notice in writing to such operator at the last known place of address. The finding of the Board of Supervisors shall be final and conclusive and shall be served upon the appellant in the manner prescribed by this chapter for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.160 Enforcement — Action to Collect.**

A. Any taxes, penalties and/or fees required to be paid under the provisions of this Chapter shall be deemed a debt owed to the County. Any person owing money to the County under the provisions of this Chapter shall be liable in an action brought in the name of the County for the recovery of such debt. The provisions of this Section shall not be deemed a limitation upon the right of the County to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties and/or fees imposed by this Chapter or the failure to comply with any of the provisions of this Chapter.

B. In addition to any other remedies available under federal, state, or local law, if any amount required to be paid to the County under this Chapter is not paid when due, the Treasurer-Tax Collector may, within three (3) years after the amount is due record a certificate of lien specifying the amount of taxes, fees and penalties due, and the name and address of the individual or business as it appears on the records of Treasurer-Tax Collector. The lien shall also specify that the Treasurer-Tax Collector has complied with all provisions of this Chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid, together with penalties thereon, constitutes a lien upon all real property in the County owned by the individ-

ual or business, or subsequently acquired by the individual or business before the lien expires. The lien has the force, effect, and priority of a judgment lien and shall continue for ten (10) years from of filing of the certificate unless sooner released or otherwise discharged.

C. At any time within three (3) years after any individual or business is delinquent in the payment of any amount herein required to be paid or within three (3) years after the last recording of a certificate of lien under Subsection B of this Section, the Treasurer-Tax Collector may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the County under this Chapter. The warrant shall be directed to the Sheriff and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The Treasurer-Tax Collector may pay or advance to the Sheriff, the same fees, commissions and expenses for service provided by law for similar services pursuant to a writ of execution. The Treasurer-Tax Collector shall approve the fees for publication in the newspaper.

D. At any time within three (3) years after recording a lien against any individual or business, if the lien is not discharged and released in full, the Treasurer-Tax Collector may forthwith seize any asset or property, real or personal (including bank account), of the operator and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties and interest imposed for the delinquency and any cost incurred on account of the seizure and sale. Assets or property of the business subject to seizure and sale subject to this Chapter shall not include any assets or property which is exempt from execution under the provisions of Code of Civil Procedure.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.170 Apportionment.**

If a business subject to the tax is operating both within and outside the unincorporated

County, it is the intent of the County to apply the cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the County. For purposes of apportionment as may be required by law, the Treasurer-Tax Collector may promulgate administrative procedures for apportionment in accordance with state law.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.180 Constitutionality and Legality.**

This tax is intended to be applied in a manner consistent with the United States and California Constitutions and state law. None of the tax provided for by this Chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection and due process clauses of the Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution or state law.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.190 Audit and Examination of Records and Equipment.**

A. The Treasurer-Tax Collector or his or her designee shall have the power to audit and examine all books and records of persons engaged in cannabis businesses, including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis businesses, and, where necessary, all equipment, of any person engaged in cannabis businesses in the County, for the purpose of ascertaining the amount of commercial cannabis tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this Chapter.

B. It shall be the duty of every person liable for the collection and payment to the County of any tax imposed by this Chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he or she may have been

liable for the collection of and payment to the County, which records the Treasurer-Tax Collector or his/her designee shall have the right to inspect at all reasonable times.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.200 Other Licenses, Permits, Taxes, Fees or Charges.**

Nothing contained in Chapter 6.32 shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any provision of any other title or chapter of this code or any other ordinance or resolution of the county, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or chapter of this code or any other ordinance or resolution of the county. Any references made or contained in any other title or chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this code.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.210 Payment of Tax Does Not Authorize Unlawful Business.**

A. The payment of a commercial cannabis business tax required by this Chapter, and its acceptance by the County, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this Code and all other applicable state laws.

B. No tax paid under the provisions of this Chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or state law.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.220 Deficiency Determinations.**

If the Treasurer-Tax Collector is not satisfied that any statement filed as required under the



provisions of this Chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable. One (1) or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Section 6.32.240.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.230 Failure to Report—Nonpayment, Fraud.**

A. Under any of the following circumstances, the Treasurer-Tax Collector may make and give notice of an assessment of the amount of tax owed by a person under this Chapter at any time:

1. If the person has not filed a complete statement required under the provisions of this Chapter;

2. If the person has not paid the tax due under the provisions of this Chapter;

3. If the person has not, after demand by the Treasurer-Tax Collector, filed a corrected statement, or furnished to the Treasurer-Tax Collector adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this Chapter; or

4. If the Treasurer-Tax Collector determines that the nonpayment of any business tax due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the

tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter and any other penalties allowed by law.

B. The notice of assessment shall separately set forth the amount of any tax known by the Treasurer-Tax Collector to be due or estimated by the Treasurer-Tax Collector, after consideration of all information within the Treasurer-Tax Collector's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.240 Tax Assessment — Notice Requirements.**

The notice of assessment shall be served upon the person either by personal delivery, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the Treasurer-Tax Collector for the purpose of receiving notices provided under this Chapter; or, should the person have no address registered with the Treasurer-Tax Collector for such purpose, then to such person's last known address. For the purposes of this Section, a service by mail is complete at the time of deposit in the United States mail.

(Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.250 Tax Assessment — Hearing, Application and Determination.**

Within thirty days (30) days after the date of service the person may apply in writing to the Treasurer-Tax Collector for a hearing on the assessment. If application for a hearing before the County is not made within the time herein prescribed, the tax assessed by the Treasurer-Tax Collector shall become final and conclusive. Within thirty (30) days of the receipt of any such application for hearing, the Treasurer-Tax Collector shall cause the matter to be set for hearing before him or

her no later than thirty-five (35) days after the receipt of the application, unless a later date is agreed to by the Treasurer-Tax Collector and the person requesting the hearing. Notice of such hearing shall be given by the Treasurer-Tax Collector to the person requesting such hearing no later than five (5) days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Treasurer-Tax Collector should not be confirmed and fixed as the tax due. After such hearing the Treasurer-Tax Collector shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 6.32.240 for giving notice of assessment. (Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.260 Conviction for Chapter Violation  
— Taxes Not Waived.**

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter or of any state law requiring the payment of all taxes. (Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.270 Violation Deemed Misdemeanor.**

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and shall be punishable therefore as provided in Chapter 1.04.110 of this Code. (Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.280 Severability.**

If any provision of this Chapter, or its application to any person or circumstance, is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Chapter or the application of this Chapter to any other person or circumstance and, to that end, the provisions hereof are severable. (Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.290 Remedies Cumulative.**

All remedies and penalties prescribed by this Chapter or which are available under Chapter 1 of the County Code and any other provision of law or equity are cumulative. The use of one (1) or more remedies by the County shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter. (Ord. No. 4361, § 1, 8-2-2016)

**Sec. 6.32.300 Amendment or Repeal.**

The Board of Supervisors of the County of Mendocino is authorized to repeal this Chapter 6.32 without a vote of the people to the extent allowed by law. The Board of Supervisors of the County of Mendocino is further authorized to amend this Chapter 6.32 in any manner that does not increase the tax rate above the maximum rate specified for each category of business or in a manner that otherwise constitutes a tax increase for which voter approval is required by Article XIII C of the California Constitution. The people of the County of Mendocino affirm that the following actions shall not constitute an increase of the rate of a tax:

A. The restoration of the rate of the tax to a rate that is no higher than that set by this Chapter, if the Board of Supervisors has acted to reduce the rate of the tax;

B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter; or

C. The collection of the tax imposed by this Chapter, even if the County had, for some period of time, failed to collect the tax. (Ord. No. 4361, § 1, 8-2-2016)

**CHAPTER 6.35**  
**RIGHT TO INDUSTRY**

**Sec. 6.35.010 Title.**

This Chapter shall be known as and may be referred to in all proceedings as the "Mendocino County Right to Industry Ordinance".  
(Ord. No. 4319, 1-7-2014)

**Sec. 6.35.020 Purpose.**

The purpose of this ordinance is to enhance the prospects of growth and stability for Mendocino County's businesses that are located within the County's established industrial zones: I-1 (Limited Industrial), I-2 (General Industrial), I (Coast Industrial), and P-1 (Pinoleville Industrial). The County recognizes that industrial interests operating within the County may be endangered by residents or other businesses located nearby and who seek to abate what they deem a nuisance arising from operations by said industrial interests.

This ordinance seeks to reduce nuisance complaints by disclosing to existing and potential property owners of land zoned "Industrial Land", or which may be located within three hundred (300) feet of land zoned "Industrial Land", that they are affected by this ordinance. Furthermore, this ordinance seeks to clarify the circumstances in which an industrial operation may ultimately be declared a nuisance and ordered to change operations, after an initial investigation, declaration of a potential violation, and review of the evidence by a County Enforcement Officer or a Hearing Officer.  
(Ord. No. 4319, 1-7-2014)

**Sec. 6.35.030 Policy.**

Pursuant to the Planning Principles of the Mendocino County General Plan, it is the declared policy of this County to encourage sustainable economic growth. This objective directly correlates with the success of Mendocino County's industrial operations located within its industrially zoned districts. Where non-industrial land uses extend into industrial areas or exist side by

side, industrial operations may become the subject of nuisance complaints. As a result, industrial operations could be forced to cease or curtail operation, and others could be discouraged from making investments and improvements.

It is the purpose and intent of this ordinance to reduce the loss to the County of its employment base by limiting the circumstances under which industrial operations may be considered a nuisance. This section is not to be construed as in any way modifying or abridging State law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, Division 7 of the Water Code, or Government Code, relative to nuisances, but rather is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.

No existing or future industrial business or any of its appurtenances, consistent with the industrial operation provisions of the Mendocino County Zoning Code, conducted or maintained for commercial purposes, and in a manner consistent with applicable land use and environmental laws and regulations, shall become or be a nuisance, private or public, for adjacent land uses in or about the locality thereof after the same has been in operation for more than three (3) years, when such action was not a nuisance at the time it began; provided that the provisions of this subsection shall not apply whenever a nuisance results from a negligent or improper operation of any such industrial operation or its appurtenances.  
(Ord. No. 4319, 1-7-2014)

**Sec. 6.35.040 Definitions.**

Unless the context otherwise requires, the following current definitions and provisions of the Title 20 Zoning Ordinance of the Mendocino County Code, or as amended in the future, shall govern the construction of this Ordinance for more effective interpretation and enforcement.

**INDUSTRIAL LAND.** Shall mean those land areas of the County specifically classified and zoned as Limited Industrial (I-1), Industrial and also

known as "Coastal Industrial" (I), General Industrial (I-2), and Pinoleville Industrial (P-1), within which industrial and business activities are to be encouraged and protected. This zoning may include future Mendocino County General Plan and Zoning Code amendments to accommodate new types of industrial zoning, such as Light Industrial.

**INDUSTRIAL OPERATION.** Shall mean and include those Industrial Use Types described within Division I of the Mendocino County Zoning Code, Chapter 20.028 "Industrial Use Types," Coastal Industrial Use Types described within Division II of the Mendocino County Zoning Code, Chapter 20.328 "Coastal Industrial Use Types", whose definitions shall incorporate any future Mendocino County General Plan and Zoning Code amendments, and which includes the following:

Mendocino County Zoning Code, Chapter 20.028 "Industrial Use Types"

A. Section 20.028.005 — General Description of Industrial Use Types.

a. Industrial use types include on-site production of goods by methods not agricultural or extractive in nature. They also include certain uses accessory to the above, as specified in Chapter 20.164, Accessory Use Regulations.

B. Section 20.028.010 — Custom Manufacturing.

a. "Custom manufacturing" means the on-site production of individually crafted goods using hand tools or mechanical equipment typical of the type or specifications found in a home shop or not creating noise, dust, fumes, visual impacts or electrical or water use in excess of home shop or hobby equipment and may include incidental on-site sales of those goods to retail consumers. Typical uses include ceramic studios, candle-making shops, custom jewelry manufacturing and wood working shops, or light assembly of components manufactured off-premises.

C. Section 20.028.015 — General Industrial.

a. "General industrial" means industrial plants primarily engaged in manufacturing, compounding, processing, assembling, packaging, treatment

or fabrication of materials and products. Included are aggregate processing plants such as crushing, screening, washing and mixing plants.

D. Section 20.028.020 — Heavy Industrial.

a. "Heavy industrial" means all other industrial plants or other uses involving the compounding of radioactive materials, petroleum refining or manufacturing of explosives.

E. Section 20.028.025 — Explosive Storage.

a. "Explosives storage" means storage of any quantity of explosives as defined by Section 1200 of the California Health and Safety Code. Typical uses include storage in the course of manufacturing, selling or transporting explosives or in the course of blasting operations.

Mendocino County Zoning Code, Chapter 20.328 "Coastal Industrial Use Types"

A. Section 20.328.005 - General Description of Industrial Use Types.

On-site production or processing of goods by methods not agricultural or extractive in nature. They also include certain uses accessory to the above, as specified in Chapter 20.456 (Accessory Use Regulations)

B. Section 20.328.010 — Coastal-Related Industrial.

a. The coastal-related industrial use type includes coastal-related industrial uses, including but not limited to fish waste processing and fish processing of products for other than human consumption.

C. Section 20.328.015 — Coastal-Dependent Industrial.

a. Coastal-dependent industrial uses require a maintained navigable channel to function, including, for example: public or private docks, waterborne commercial carrier import and export operations, ship/boat building and repair, commercial fishing facilities, including berthing and fish receiving, off-boat sales and fish processing when product is for human consumption (fish waste processing and fish processing of products for other than human consumption are permitted under the coastal-related use type), and aquaculture support fa-

cilities. Offshore mining, dredging, mineral or petroleum extraction processes, or the stockpiling or transfer of relative material for, are not included.

D. Section 20.328.020 — Custom Manufacturing: Light Industrial.

a. Establishments primarily engaged in the on-site production of individually crafted goods using hand tools or mechanical equipment typical of the types or specifications found in a home shop, or using equipment or processes which do not create noise, dust, fumes, visual impacts, or electrical or water use in excess of home shop or hobby equipment, and which may include incidental on-site sales of those goods to retail consumers. Typical uses include ceramic studios, candle-making shops, custom jewelry manufacturing, woodworking shops, printing shops, custom textile manufacturing or light assembly of components manufactured off-premises.

E. Section 20.328.025 — General Industrial.

a. Industrial plants primarily engaged in manufacturing, compounding, processing, assembling, packaging, treatment, fabrication or recycling of materials and products. Included are white metal and appliance recycling and processing and aggregate processing plants such as crushing, screening, washing and mixing plants.

F. Section 20.328.030 — Heavy Industrial.

a. All other industrial plants or other uses not included within the General Industrial Use Type involving the compounding of radioactive materials or manufacturing of explosives.

This section is not limited to the aforementioned use types, and shall additionally include the permitted uses, uses subject to a minor use permit, and uses subject to a major use permit as described in the I, I-1, I-2 and P-1 Zoning Ordinances within the Title 20 — Zoning Ordinance, Divisions I and II of the Mendocino County Zoning Code.

(Ord. No. 4319, 1-7-2014)

#### **Sec. 6.35.050 Findings.**

The Board of Supervisors of Mendocino County finds that it is in the public's interest to

preserve and protect industrial land and operations within the County of Mendocino and to specifically protect these lands for exclusive industrial use. The purposes of this Chapter, therefore, are to promote the general health, safety and welfare of the County, to preserve and protect for exclusive commercial use those lands zoned for industrial use, to support and encourage continued industrial operation in the County, and to disclose to prospective purchasers and residents of property adjacent to or near to industrial operation of the inherent potential ramifications associated with such purchase of residence including, but not limited to, the sounds, odors, dust, and chemicals that may accompany industrial operations.

(Ord. No. 4319, 1-7-2014)

#### **Sec. 6.35.060 Disclosure.**

(A) CONSUMER DISCLOSURE BY SELLER. A person who is acting as an agent for the seller of real property which as long as it is zoned "Industrial Land", or which may be located within three hundred (300) feet of land zoned "Industrial Land", or the seller of real property if he or she is acting without an agent for as long as it is zoned "Industrial Land", or may be located within three hundred (300) feet of land zoned "Industrial Land" shall disclose to the prospective purchaser that:

The property described herein may be zoned as "Industrial Land", or may be located within three hundred (300) feet of such land, and residents of the property may be subject to inconvenience or discomfort arising from use of machinery, and from the pursuit of industrial operations including, but not limited to, assembly, manufacturing, cutting, drilling, machining, metalworking, milling, punching, "tapping", soldering, transportation of materials and goods, and welding. All of these activities, and others not mentioned in the non-exclusive preceding list, may generate light, glare, dust, smoke, noise and odor, all of which may occur twenty-four (24) hours a day, seven (7) days a week. Mendocino County has established

zoning for industrial land which sets as a priority the industrial use of the lands included therein, and residents of such property, or within three hundred (300) feet of the border of zoned areas, should be prepared to accept such inconvenience or discomfort as normal and necessary to industrial operation.

**(B) DISCLOSURE IN DOCUMENTS.** The disclosure statement set forth in Section 6.35.060(A) shall be included in a document that a purchaser, lessee or transferee signs evidencing the sale, purchase, transfer, or lease of real property zoned "Industrial Land" or may be located within three hundred (300) feet of such land. The disclosure by an agent or seller as specified in Section 6.35.060 may also be delivered to the prospective transferee as part of the Mendocino County Real Estate Disclosure Advisory form as commonly provided by real estate brokers, or by delivery to the prospective transferee of a local option disclosure statement pursuant to Article 1.5, Section 1102.6a of Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code of the State of California.

**(C) DISCLOSURE IN DISCRETIONARY ACTIONS.** Where a building designed for residential occupancy is to be located on property which, as long as it is zoned "Industrial Land", or on property which may be located within three hundred (300) feet of land zoned "Industrial Land", the owners of the property shall, prior to a discretionary action, be required to sign a statement of acknowledgement on forms approved by Planning and Building Services containing the following statement:

The property described herein may be zoned as "Industrial Land", or may be located within three hundred (300) feet of such land, and residents of the property may be subject to inconvenience or discomfort arising from use of machinery, and from the pursuit of industrial operations including, but not limited to, assembly, manufacturing, cutting, drilling, machining, metalworking, milling, punching, "tapping", soldering, transportation of materials and goods, and welding. All of these activities, and others not mentioned in

the non-exclusive preceding list, may generate light, glare, dust, smoke, noise and odor, all of which may occur twenty-four (24) hours a day, seven (7) days a week. Mendocino County has established zoning for industrial land which sets as a priority the industrial use of the lands included therein, and residents of such property, or within three hundred (300) feet of the border of zoned areas, should be prepared to accept such inconvenience or discomfort as normal and necessary to industrial operation.

In lieu of signing the statement required above, the owner may submit evidence that the statement set forth in Section 6.35.060(A) has been made part of a document evidencing the sale, purchase, transfer, or lease of the property on which the building is to be constructed.

(Ord. No. 4319, 1-7-2014)

**Sec. 6.35.070 Installation of Signs.**

The County may install or permit the installation of signs at the entry or within established industrial areas zoned as "Industrial Land" to notify and explain to purchasers that some of the land in this area is being used for industrial purposes and the operator's interests are protected by law. The prospective purchaser of such land or a residence is advised to check with local County agencies as to any regulation or requirements which may affect industrial property and of inherent potential problems associated with a purchase of such property or a residence in areas zoned as an "Industrial Land" and of the likely effect of such industrial operations.

(Ord. No. 4319, 1-7-2014)

**Sec. 6.35.080 Precedence Clause.**

It is the finding of the Board of Supervisors that this Ordinance is to take precedence over all ordinances or parts of ordinance or resolutions or parts of resolutions regarding nuisance abatement complaints in conflict herewith and same are hereby repealed to the extent of such conflict and no further.

(Ord. No. 4319, 1-7-2014)

**Title 7**

**EMERGENCY ORGANIZATION AND FUNCTIONS**

**Chapter 7.04 Emergency Organization and Functions**

**Chapter 7.10 Emergency Water Conservation**





**CHAPTER 7.04**  
**EMERGENCY ORGANIZATION AND**  
**FUNCTIONS\***

**Sec. 7.04.010 Purpose.**

The declared purposes of this Chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within this County in the event of an emergency; establish the Mendocino County Operational Area; define the emergency organization; and coordinate the emergency functions of this County with all other public agencies, corporations, organizations, and affected private persons. Furthermore, this Chapter establishes the State's Standardized Emergency Management System (SEMS) and the Federal Government's National Incident Management System (NIMS) as the means of effectively preparing for and responding to emergencies in Mendocino County.

(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.020 Definitions.**

(A) "Emergency" includes a "state of war emergency," "state of emergency" and "local emergency."

(1) "State of war emergency" means the condition, which exists immediately, with or without a proclamation thereof by the Governor, whenever this State or nation is attacked by an enemy of the United States, or upon receipt by the State of a warning from the Federal Government indicating that such an enemy attack is probable or imminent;

(2) "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a County, city and County, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought,

\***Editor's note**—Ord. No. 4366, adopted October 4, 2016, repealed ch. 7.04, §§ 7.04.010—7.04.180, in its entirety; and enacted a new ch. 7.04, to read as set out herein. Former ch. 7.04 pertained to similar subject matter and was derived from Ord. No. 4168, adopted 2006.

sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission;

(3) "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a County, city and County, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission.

(B) "Operational area" means an intermediate level of the State Emergency Services Organization, consisting of a County and all political subdivisions within the County area.

(C) "Director" means the Director of Emergency Services for the County of Mendocino.

(D) "Emergency organization" means all officers and employees of the County, together with those disaster service volunteers registered and enrolled to aid them during an emergency, and all groups, organizations, and persons who, by agree-

ment or operational support by law, may be impressed into service under provisions of California law.

(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.030 Operational Area Created.**

The Mendocino County Operational Area is hereby created and shall consist of the County and all political subdivisions within the County area, to include cities, special districts and school districts. All jurisdictions within the operational area shall provide the Director or designee with current emergency contact information at least annually, or when there are changes, whichever is more frequent.

(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.040 Director, Assistant Director and Emergency Services Coordinator.**

(A) There is hereby created the Office of Director of Emergency Services. The Chief Executive Officer is hereby designated the Director of Emergency Services for the Mendocino County Operational Area.

(B) There is hereby created the Office of Assistant Director of Emergency Services. The Mendocino County Sheriff is hereby designated the Assistant Director of Emergency Services for the Mendocino County Operational Area.

(C) There is hereby created the position of Emergency Services Coordinator for the County of Mendocino and the Mendocino County Operational Area. The Emergency Services Coordinator shall be an employee of the Mendocino County Executive Office selected by and under the direction and control of the Chief Executive Officer.

(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.050 Powers and Duties of Director and Assistant Director of Emergency Services.**

(A) The Director is hereby empowered to do the following:

(1) Request the Board of Supervisors to proclaim the existence or threatened existence of a

"local emergency" if the Board of Supervisors is in session, or to issue such proclamation if the Board is not in session. Whenever the Director proclaims a local emergency, the Board of Supervisors shall take action to ratify the proclamation within seven (7) days thereafter or the proclamation shall have no further force or effect;

(2) Request the Governor to proclaim a "state of emergency" when, in the opinion of the Director, the locally available resources are inadequate to cope with the emergency;

(3) Control and direct the efforts of the emergency organization of the County for the accomplishment of the purposes of this Chapter;

(4) Direct cooperation between and coordination of services and staff of the emergency organization of this County; and resolve questions of authority and responsibility that may arise between them;

(5) Represent this County in all dealings with public or private agencies on matters pertaining to emergencies as defined herein;

(6) Provide representation on the Disaster Councils for the incorporated cities of Fort Bragg, Point Arena, Ukiah and Willits;

(7) In the event of the proclamation of a "local emergency" as herein provided, a "state of emergency" or a "state of war emergency," the Director is hereby empowered to do the following:

(a) Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practical time by the Board of Supervisors,

(b) Obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the County for the fair value thereof and, if required immediately, to commandeer the same for public use,

(c) Require emergency services of any County officer or employee and, in the event of the proclamation of a "state emergency," to command the aid of as many citizens of this County as the

Director deems necessary in the execution of his or her duties. Such persons shall be entitled to all privileges, benefits, and immunities as are provided by State law for registered disaster service workers,

(d) Requisition necessary personnel or material of any County department or agency,

(e) Order mandatory evacuations and/or order and execute quarantine operations for the purposes of saving and protecting life,

(f) Execute all ordinary powers of County Executive Officer conferred by statute, ordinance, the Board of Supervisors or other lawful authority.

(B) The Assistant Director shall serve as the Director in the event the Director is unavailable to perform his or her duties.

(C) The Director and Assistant Director shall jointly develop an order of succession to the Director's office to take effect in the event that both the Director and Assistant Director are unavailable.

(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.060 Powers and Duties of the  
Emergency Services Coordinator.**

(A) Develop and maintain required emergency plans and annexes and submit such plans to the Director.

(B) Coordinate or provide required training in the Standardized Emergency Management System (SEMS), National Incident Management System (NIMS), Incident Command System (ICS), Emergency Operation Center (EOC), and such other training as may be required pursuant to State or Federal statute, rule or regulation.

(C) During an emergency or potential emergency, activate the County's Emergency Operations Center (EOC) after consultation with the Director, if possible. Notify the Director and Assistant Director immediately of any activation.

(D) Coordinate emergency preparation, response and recovery efforts with the incorporated cities of Fort Bragg, Point Arena, Ukiah and Willets.

(E) Research, apply for and administer emergency services and homeland security grants.

(F) Review and recommend updates or modifications to emergency ordinances, plans, annexes, policies, procedures or training curricula pursuant to changes in State or Federal laws, rules or regulations.

Research, apply for and administer emergency services and homeland security grants.

(G) Prepare and present educational programs, or coordinate delivery of same, to members of the emergency organization and the community.

(H) Gather and disseminate information on training related to emergency planning, preparation, response and recovery.

(I) Serve as advisor, respond to questions, and give expertise on emergency preparedness matters, respond to questions and give expertise on emergency preparedness matters from public agencies and the public.

(J) Assist in the collection of data on public and private resources within the area that could be used in the event of a disaster. Assist the public agencies in applying for and coordinating disaster assistance, which may be provided by Federal and/or State agencies.

(K) When requested, make recommendations concerning the coordination of communication needs of the agencies and/or emergency service providers.

(L) Assist in the coordination of volunteer efforts in regard to disaster planning, preparation and recovery that are not administered by another organization. Provide liaison services to volunteer organizations countywide.

(M) Coordinate and assist in the design, execution and evaluation of emergency preparedness exercises.

(N) Maintain, or cause to be maintained, and regularly test emergency management and emergency communications systems that may be used to communicate between the operational area and the State of California.

(O) Provide copies of plans, annexes, ordinances, policies and procedures as they are adopted or amended to each of the cities within the operational area.

(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.070 Disaster Council Membership.**

The Mendocino County Disaster Council is hereby created and shall consist of the following:

(A) The Director of Emergency Services, who shall serve as chair.

(B) The Assistant Director of Emergency Services, who shall serve as vice-chair.

(C) The Emergency Services Coordinator, who shall serve as secretary.

(D) Police Chiefs of the incorporated cities of Fort Bragg, Ukiah and Willits.

(E) City Managers of the incorporated cities of Fort Bragg, Point Arena, Ukiah and Willits (or their designee).

(F) The County Operational Area Mutual Aid Coordinator.

(G) One (1) Fire Chief selected by the Mendocino County Fire Chief's Association.

(H) The County Public Health Director.

(I) A member of the Mendocino County Office of Education.

(J) The County Board of Supervisors may appoint such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility.

(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.080 Disaster Council Powers and Duties.**

It shall be the duty of the Mendocino County Disaster Council, and it is hereby empowered, to recommend for adoption by the County Board of Supervisors, emergency and mutual aid plans and agreements, and such ordinances, resolutions, rules and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet at least once per year.

(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.090 Local Proclamation of Emergency.**

(A) Whenever an official designated by this Chapter proclaims a local emergency, the local emergency shall not remain in effect for a period in excess of seven (7) days unless the Board of Supervisors has ratified it.

(B) The Board of Supervisors shall review, at its regularly scheduled meetings until the local emergency is terminated, the need for continuing the local emergency. However in no event shall a review take place more than thirty (30) days after the previous review.

(C) The Board of Supervisors shall proclaim the termination of the local emergency at the earliest possible date the conditions warrant.

(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.100 Legality of Initial Emergency Measures.**

All emergency measures taken by the Director of Emergency Services prior to the issuance of an official proclamation of emergency, or prior to any decision of the Board of Supervisors not to issue such proclamation, shall be legal and binding upon the County.

(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.110 Emergency Operations Plan.**

The Director of Emergency Services shall be responsible for the development of the County of Mendocino emergency operation plan.

(A) All emergency plans and procedures shall utilize the Standardized Emergency Management System (SEMS) and National Incident Management System (NIMS).

(B) The goal of the emergency operations plan is to provide a framework for the effective coordination and mobilization of County resources, both public and private, to meet any condition constituting a local emergency, state of emergency, state of war emergency, or national emergency.

(C) The emergency operations plan shall address the following:

(1) Continuity of government;

- (2) Mobilization of resources;
- (3) Mutual aid;
- (4) Public information;
- (5) The principles and methods to be applied in carrying out emergency operations for rendering mutual aid during emergencies;

(6) The organization, powers and duties, services, and staff of the emergency organization.

(D) Said plan shall take effect upon adoption by the Board of Supervisors.

(E) Said plan may be revised from time to time as deemed necessary by the Director.  
(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.120 Continuity of Government.**

(A) In the event of a proclamation of local emergency, state of emergency, state of war emergency, or national emergency, when fewer than a quorum of the County Board of Supervisors is available, the Board of Supervisors shall proceed to reconstitute itself by filling vacancies until there are sufficient members to form a quorum as required by law, pursuant to Government Code Section 8635 et seq.

(B) In the event a Board member becomes available after a period of being unavailable, that Board member shall resume his/her office.

(C) Emergency appointments to the Mendocino County Board of Supervisors as authorized herein shall be temporary, and shall last only until such time as either an elected Board member becomes available, or a special election may be held.

(D) In the event the Chief Executive Officer is or becomes unavailable, or if the office is vacant, the ordinary duties of Chief Executive Officer shall be temporarily discharged by the Assistant Chief Executive Officer or by a designated Deputy Chief Executive Officer.

(1) This shall not affect the succession to the office of Director of Emergency Services, as specified in Section 7.04.050 of this Chapter;

(2) If the Chief Executive Officer becomes available, he/she shall resume the office of Chief Executive Officer and Director of Emergency Services.

(E) In the event the Sheriff is or becomes unavailable, the duties of the office shall be discharged by the Undersheriff, or if that position is vacant or the incumbent is unavailable, by the senior ranking officer next in line of authority.  
(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.130 Expenditures.**

Any expenditure made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the County of Mendocino.  
(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.140 Emergency Services Joint Powers Agreement Participation.**

The Mendocino County Board of Supervisors may participate in an emergency services joint powers agreement with any other jurisdiction(s) in Mendocino County, to include cities, special districts, or other public agencies.  
(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.150 Punishment of Violations/Acts Prohibited During Emergencies.**

(A) Any person who violates any of the provisions of this Chapter or who refuses or wilfully neglects to obey any lawful order or regulation promulgated or issued as provided in this Chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not to exceed One Thousand Dollars (\$1,000.00) or by imprisonment not to exceed six (6) months or by such fine and imprisonment.

(B) This Section is not intended to conflict with any State or Federal laws or penalties governing the same or similar conduct. To the extent such a conflict does occur, the State or Federal provisions shall prevail.

(C) Beginning on the date the existence of a major emergency or disaster is declared by the Director of Emergency Services, and/or the Board of Supervisors, and ending one hundred eighty (180) days after that date, and within the area to

which the declaration applies, no person, contractor, business or other entity during an emergency shall:

(1) Wilfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this Chapter or in the performance of any duty imposed upon him/her by virtue of this Chapter;

(2) Do any act forbidden by any lawful rule or regulation issued pursuant to this Chapter, if the act is of such a nature as to give or be likely to give assistance to the enemy, during a state of war emergency, or to imperil the lives or property of inhabitants of this County, or to prevent, hinder, or delay the defense or protection thereof;

(3) Wear, carry, or display, without authority, any means of identification specified by any emergency service agency of the State of California, the County of Mendocino, any special district, or any city in the County of Mendocino;

(4) Sell or offer to sell, any consumer food items, repair or reconstruction service, emergency or medical supplies or gasoline for an amount which is ten (10) or more percent greater than the price charged by a person, contractor, business or other entity for said goods or services immediately prior to the proclamation of emergency, unless said person, business, contractor or other entity can prove that the increase was directly attributable to additional costs imposed on it by the supplier of the goods or for labor and materials used to provide the service;

(5) Buy, sell, remove, deface, cover, hide, destroy, or tamper with any sign, tag or placard posted by a member of the County emergency organization on a building or structure damaged by a disaster;

(6) Post any sign, tag or placard not authorized by the County organization on a building or structure damaged by a disaster;

(7) For purposes of this subsection, the following definitions shall apply:

(a) A consumer food item is any article, which is used or intended for use for food, drink, confection or condiment by humans or animals except for alcoholic beverages,

(b) Repair or reconstruction services are those contractor services for repairs to residential and commercial property of any type, which are damaged as a result of the disaster. This includes the removal of debris (including a damaged tree) and garbage,

(c) Emergency supplies shall include, but are not limited to, water, flashlights, radios, batteries, blankets, soaps and diapers,

(d) Medical supplies shall include, but are not limited to, prescription and nonprescription drugs, bandages, gauzes and disinfectants.

(Ord. No. 4366, 10-4-2016)

**Sec. 7.04.160 Effective Date.**

The effective date of the ordinance codified in this Chapter shall be November 3, 2016.

(Ord. No. 4366, 10-4-2016)

## Chapter 7.10

### EMERGENCY WATER CONSERVATION

#### Sec. 7.10.010 Purpose.

The declared purpose of this Chapter is to adopt the necessary rules and regulations on matters related to the local drought emergency adopted by the Board of Supervisors on January 7, 2014 and continuing to date. Such rules are designed to protect life and property affected by the emergency. Cooperation of all Lake Mendocino water users is necessary to achieve necessary water conservation goals for the Mendocino County portion of the Russian River drainage. Immediate action is necessary to avoid depleting Lake Mendocino storage and to, in turn, avoid significant health and safety risks, and catastrophic economic losses to Mendocino County's residents. Based on the findings set forth below, this ordinance is passed as an urgency ordinance for the immediate preservation of the public peace, health, and safety.

(Ord. No. 4224, 7-14-2009; Ord. No. 4231, 1-12-2010; Ord. No. 4323, 1-21-2014)

#### Sec. 7.10.020 Findings.

1. Mendocino County is now in its second year of receiving less than average rain fall.

2. Lake Mendocino storage remains at unprecedentedly low levels and water delivery limitations have become worse, creating emergency conditions in Mendocino County.

3. The State of California declared a Water Emergency on January 17, 2014.

4. Governor Brown is "calling on Californians to reduce their water usage by 20 percent.

5. The Governor is also directing the State Water Board to put water right holders on notice that they may be directed to cease or reduce water diversion.

6. The Governor's declaration of emergency urges local water suppliers to implement their local water shortage contingency plans immediately

7. The City of Willits declared a Water Emergency on January 8, 2014.

8. The City of Willits has a 90 day supply of water in its reservoirs.

9. The Township of Brooktrails has approximately an 80 day supply of water in its reservoirs.

10. On January 7, 2014, the Mendocino County Board of Supervisors adopted Resolution Number 14-007 declaring a local emergency in Mendocino County due to drought conditions. The Declaration will continue until such time as the Board of Supervisors declares otherwise.

11. Pursuant to Government Code § 8630 et seq., and Mendocino County Code Chapter 7.04, the Director of Emergency Services and the Board of Supervisors may promulgate orders and regulations necessary to preserve the public order and safety.

12. The adverse environmental, economic, and social impacts of the drought pose an imminent threat of disaster and threaten to cause widespread harm to people, businesses, property, communities, wildlife, and recreation in Mendocino County.

13. The Mendocino County Board of Supervisors has requested assistance from the State of California, from all relevant State agencies, including but not limited to, the Office of Emergency Services, the Department of Water Resources, the State Water Resources Control Board, the Department of General Services, the Department of Public Health, and the Department of Food and Agriculture, with such assistance to include, but not be limited to, the provision of technical and financial assistance, surplus equipment, and regulatory relief to assist in mitigating or averting the impacts of the drought emergency by increasing water supply and availability, reducing mandated water releases, facilitating water transfers and emergency intertie connections, and all other necessary and appropriate actions to mitigate or relieve the drought emergency.

(Ord. No. 4224, 7-14-2009; Ord. No. 4231, 1-12-2010; Ord. No. 4323, 1-21-2014)

**Sec. 7.10.030 Conservation Requirement.**

a) All water users in the County of Mendocino are urged to reduce their use of water by twenty (20) percent.

b) All local water suppliers are requested to implement their local water shortage contingency plans immediately.  
(Ord. No. 4224, 7-14-2009; Ord. No. 4230, 11-10-2009; Ord. No. 4323, 1-21-2014)

tional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this ordinance, or the validity of its application to other persons or circumstances.  
(Ord. No. 4224, 7-14-2009; Ord. No. 4231, 1-12-2010; Ord. No. 4323, 1-21-2014)

**Sec. 7.10.040 Reporting Requirements.**

All water agencies, cities, and districts who divert water subject to this chapter shall, on a monthly basis, provide written documentation to the Mendocino County Water Agency that the above requirement is being met.  
(Ord. No. 4224, 7-14-2009; Ord. No. 4231, 1-12-2010; Ord. No. 4323, 1-21-2014)

**Sec. 7.10.050 Penalty.**

The violation of any provisions of any section of this Ordinance, including, but not limited to, the reporting requirements set forth in Section 7.10.040, shall be treated as a misdemeanor.  
(Ord. No. 4224, 7-14-2009; Ord. No. 4231, 1-12-2010)

**Sec. 7.10.060 Application of Ordinance.**

The immediate application of this Ordinance shall be terminated upon a Resolution by the Board of Supervisors that the current drought conditions no longer exist and shall be reinstated upon a new declaration of a drought emergency.  
(Ord. No. 4224, 7-14-2009; Ord. No. 4231, 1-12-2010; Ord. No. 4323, 1-21-2014)

**Editor's note**—Ord. No. 4323, adopted January 21, 2014, amended the title of § 7.10.060 to read as set out herein. Previously § 7.10.060 was titled review.

**Sec. 7.10.070 Severability.**

The provisions of this ordinance are separate and severable. If any provision of this ordinance is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed this ordinance irrespective of the invalidity of the provision held to be unconstitu-



## Title 8

### PUBLIC HEALTH, SAFETY AND WELFARE

- Chapter 8.04 Firearms—Shooting
- Division I Dumps and Fires
- Division II Specific Geographical Areas
- Division III Proximity to Occupied Buildings
- Chapter 8.05 Community Bill of Rights (Measure S)
- Chapter 8.08 Curfew—Minors
- Chapter 8.16 Juvenile Detention Home
- Chapter 8.20 Juvenile Justice and Delinquency  
Prevention Commission
- Chapter 8.24 Lost and Unclaimed Property
- Chapter 8.28 County Library System
- Chapter 8.32 Law Library
- Chapter 8.40 Fireworks
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- Chapter 8.48 Work/Education Furlough Program
- Chapter 8.52 Bingo Games
- Chapter 8.56 Reward
- Chapter 8.60 Response Alarm Systems
- Chapter 8.64 Airport Rules and Regulations
- Chapter 8.68 Commission on the Status of Women
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- Chapter 8.70 Hazardous Materials Releases
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Caused By Cannabis Cultivation
- Chapter 8.80 Emergency Response Services
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Private Property
- Chapter 8.86 Consumption of Alcohol in Public Areas  
Within the Town of Mendocino
- Chapter 8.95 Coroner's Fees
- Chapter 8.200 Graffiti Suppression
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- Chapter 8.400 Declare Intentionally Killed and Left  
Standing Trees a Public Nuisance



**CHAPTER 8.04****FIREARMS—SHOOTING****DIVISION I DUMPS AND FIRES****Sec. 8.04.010 Prohibition of Shooting Upon Public Dumping Grounds.**

Every person who shoots any firearm from, upon or into an area used as a garbage dumping ground by the general public is guilty of a misdemeanor punishable by imprisonment in the County jail not exceeding six (6) months, or by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment. (Ord. No. 345, Sec. 1, adopted 1954.)

**Sec. 8.04.020 Prohibition of Shooting Near Forest Fires.**

It shall be unlawful for any person to discharge firearms within one (1) mile of the perimeter of any forest, brush, grass, or grain fire during any time that fire fighters are engaged in efforts to control and extinguish such fires. (Ord. No. 322, Sec. 1, adopted 1950.)

**Sec. 8.04.030 Penalties.**

Any person discharging firearms in violation of Section 8.04.020 of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the County jail for not more than six (6) months, or by both such fine and imprisonment. (Ord. No. 332, Sec. 2, adopted 1950).

**Sec. 8.04.040 Enforcement.**

Any duly authorized peace officer or any other public officer having taken the oath of office and who is charged with the enforcement of fire prevention laws, game laws, public health laws or other laws pertaining to the safety of persons or property, either ordinance—articles of this County or laws of the State, shall have the power of peace officers to enforce this Chapter. (Ord. No. 322, Sec. 3, adopted 1950.)

**DIVISION II SPECIFIC GEOGRAPHICAL AREAS****Sec. 8.04.050 Shooting Prohibited in Specified Areas.**

It shall be unlawful and a misdemeanor for any person to discharge any firearm upon or into any portion of any of the following described areas:

(A) The Pudding Creek Area in the vicinity of Fort Bragg, including all the area west of State Highway One commonly known as Pudding Creek Beach, and including all the area east of State Highway One between Pudding Creek Road and the southern edge of Pudding Creek east to the railroad tunnel. (Ord. No. 798, adopted 1971.)

(B) The Low Gap Park Area in the vicinity of Ukiah, said area including all of the area west of the Ukiah city limits south of Low Gap Road (also known as County Road 212), east of Underhill Ranch Road (a private road.) and north of Maple Street (also known as Valley View Drive, a private road.) (Ord. No. 1274, adopted 1974.)

(C) The Mariposa Creek swimming area in the vicinity of Redwood Valley, said area including all of the area east of Tomki Road (also known as County Road 237), south of Fisher Lake Road (within Mountain River Ranch Subdivision), east of the Russian River (West Branch), and north of a line extending due east from Mile Post 0.88 on Tomki Road (County Road 237). Ord. No. 1416, adopted 1975.)

**Sec. 8.04.060 Penalties.**

Any person discharging firearms in violation of Section 8.04.050 of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment. (Ord. No. 798, adopted 1971.)

**Sec. 8.04.070 Enforcement.**

Any duly authorized peace officer or any other public officer having taken the oath of office and

who is charged with the enforcement of game laws, public health laws, or other laws pertaining to the safety of person or property, shall have the power to enforce this Chapter. (Ord. No. 798, adopted 1971.)

### **DIVISION III PROXIMITY TO OCCUPIED BUILDINGS**

#### **Sec. 8.04.080 Shooting Prohibited Near Occupied Building.**

Except as hereinafter provided for shotguns, no person other than the owner, person in possession of the premises, or person having the express permission of the owner or person in possession of the premises, shall discharge any firearm within five hundred (500) yards of any occupied dwelling house, or any residence, of any other building or barn or outbuilding used in connection with such dwelling house or residence, or of any building in the process of construction. (Ord. No. 1325, adopted 1974, amended by Ord. No. 1327, adopted 1974, as amended by Ord. No. 1350, adopted 1974.)

#### **Sec. 8.04.085 Shotguns.**

No person other than the owner, person in possession of the premises, or person having the express permission of the owner or person in possession of the premises shall discharge any shotgun within one hundred fifty (150) yards of any occupied dwelling house, of any residence, of any other building or barn or outbuilding used in connection with such dwelling house or residence, or of any building in the process of construction. (Ord. No. 1350, adopted 1974.)

#### **Sec. 8.04.087 Exemptions.**

Sections 8.04.080 and 8.04.085 shall not apply to any of the following persons:

(A) Any person using an established target range or trap-shooting area for the purpose of practice shooting with a firearm while on the premises of such range or area; an "established" target range or trap-shooting area for the purposes of this Chapter shall be one registered with the Sheriff and approved by him as such. (Ord. No. 1577 A, adopted 1975.)

(B) Any person who is a member of a hunting or shooting club while hunting on premises owned or leased by such club. (Ord. No. 1577 A, adopted 1975.)

(C) Any person in the act of adjusting the sights of a firearm while on premises established and equipped for that purpose whose owner has granted such person express permission to do so. (Ord. No. 1577 A, adopted 1975.)

#### **Sec. 8.04.090 Penalties.**

Any person who discharges a firearm in violation of this Chapter is guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment. (Ord. No. 1325, adopted 1974.)

#### **Sec. 8.04.100 Enforcement.**

Any duly authorized peace officer or any other public officer having taken the oath of office, and who is charged with the enforcement of game laws, public health laws, or other laws pertaining to the safety of persons or property, shall have the power to enforce the provisions of this Chapter. (Ord. No. 1325, adopted 1974.)

**CHAPTER 8.05**

**COMMUNITY BILL OF RIGHTS  
(MEASURE S)\***

**Sections:**

- Sec. 8.05.010 Definitions.**
- Sec. 8.05.020 Statements of Law—A Local Bill of Rights.**
- Sec. 8.05.030 Statements of Law—Prohibitions Necessary to Secure the Bill of Rights.**
- Sec. 8.05.040 Enforcement.**
- Sec. 8.05.050 Enforcement—People's Rights to Superior to Corporate Power.**
- Sec. 8.05.060 Effective Date and Existing Permit holders.**
- Sec. 8.05.070 People's Right to Self-Government.**
- Sec. 8.05.080 California and Federal Constitutional Changes.**
- Sec. 8.05.090 Severability.**

**Sec. 8.05.010 Definitions.**

(a) "Corporations," for purposes of this Ordinance, shall include any corporation, limited partnership, limited liability partnership, business trust, other business entity, public benefit corporation, or limited liability company organized under the laws of any state of the United States or under the laws of any country.

(b) "Ecosystem" shall include, but not be limited to, wetlands, creeks, aquifers, and other water systems, forests, and meadows, as well as naturally occurring habitats that sustain humans, wildlife, flora and fauna, and other organisms.

(c) "Extraction" shall include the digging or drilling of a well for purposes of exploring for, developing, or producing hydrocarbons.

\*Editor's note—The provisions of Ord. of 11-4-2014, §§ 1—9, were not specifically amendatory. At the direction of the County, as a part of Supp. No. 40, those provisions were included to read as set out herein.

(d) "Hydraulic fracturing" shall mean an activity in which water, propane, diesel, chemicals and a solid proppant or any other agent are pumped into a wellbore at a rate sufficient to increase the pressure downhole to a value in excess of the fracture gradient of the formation rock, causing the formation to crack, thus allowing the fracturing fluid to enter and extend the crack farther into the formation, forming passages through which hydrocarbons can flow.

(e) "Hydrocarbons" shall mean any of numerous organic compounds, including but not limited to methane, benzene, propane, petroleum and oil.

(f) "Infrastructure" shall include, but not be limited to, pipelines or other vehicles of conveyance of hydrocarbons, and any ponds or other containments used for wastewater, "frack" water, or other materials used during, or resulting from, the process of unconventional hydrocarbon extraction.

(g) "Natural Community" shall mean wildlife, flora, fauna, soil and air-dwelling and aquatic organisms, as well as humans and human communities that have established sustainable interdependencies within a diverse matrix of organisms, within a natural ecosystem.

(h) "Unconventional Extraction of Hydrocarbons" shall include, but not be limited to, hydraulic fracturing, "fracking," directional and horizontal drilling, and waste injection wells. The term shall also include, but not be limited to, extraction of water from any surface or subsurface source for use in these activities; depositing, disposal, storing, transporting and processing of waste water, produced water, frack water, flow-back, brine or other materials, chemicals or by-products used in, or resulting from, these activities; the construction and siting of any new infrastructure to support these activities, as well as application for, or issuance of, permits for engaging in these activities.

(Ord. of 11-4-2014(1), § 1)

**Sec. 8.05.020 Statements of Law—A Local Bill of Rights.**

(a) Right to Community Self-Government.  
All residents of Mendocino County possess the

right to a form of governance where they live which recognizes that all power is inherent in the people and that all free governments are founded on the people's consent. Use of the Mendocino County government by the sovereign people to make law and policy shall not be deemed, by any authority, to eliminate or reduce that self-governing authority.

(b) Right to Clean Water, Air and Soil. All residents, natural communities and ecosystems in Mendocino County possess the right to water, air and soil that is untainted by toxins, carcinogens, particulates, nucleotides, and hydrocarbons introduced into the environment through the unconventional extraction of hydrocarbons.

(c) Rights of Natural Communities and Ecosystems. Natural communities and ecosystems possess rights to exist and flourish within Mendocino County without harm resulting from the unconventional extraction of hydrocarbons.

(d) Right to be Free from Chemical Trespass. All residents, natural communities and ecosystems in Mendocino County possess the right to be free from chemical trespass resulting from the unconventional extraction of hydrocarbons.

(e) Rights as Self-Executing, Fundamental, and Unalienable. All rights delineated and secured by this Ordinance are inherent, fundamental, and unalienable; and shall be self-executing and enforceable against both private and public actors. (Ord. of 11-4-2014(1), § 2)

**Sec. 8.05.030 Statements of Law—Prohibitions Necessary to Secure the Bill of Rights.**

(a) It shall be unlawful for any government, corporation or natural person to engage in the unconventional extraction of hydrocarbons within Mendocino County.

(b) The prohibitions in section 3(a) of this Ordinance [subsection (a) of this Section 8.05.030] shall not apply to hydrocarbon extraction wells installed and operating in the County prior to the enactment of this Ordinance, only if the extraction process used for those wells prior to the en-

actment of this ordinance is not changed to a different extraction process after the enactment of this ordinance.

(c) Governments, corporations, and natural persons engaged in unconventional extraction of hydrocarbons, whether in Mendocino County or in a neighboring jurisdiction or offshore location; shall be strictly liable for all harms resulting from those activities caused to natural water sources, ecosystems, people and communities within Mendocino County.

(d) It shall be unlawful for any corporation, government or natural person to violate the rights recognized and secured by this Ordinance.

(e) No permit, license, privilege, charter, or other authority issued by any State, federal or international entity which would violate the prohibitions of this Ordinance or deprive any County resident of any rights secured by this Ordinance, the California Constitution, the United States Constitution, or other laws, shall be deemed valid within Mendocino County. (Ord. of 11-4-2014(1), § 3)

**Sec. 8.05.040 Enforcement.**

(a) Any corporation, government or natural person that violates any prohibition established by this Ordinance shall be guilty of a misdemeanor. Those liable for a violation are each and every officer and director of any corporation that engages in fracking in Mendocino County, and each and every person who operates any fracking machinery in Mendocino County. Upon conviction the violator(s) shall be sentenced to one (1) year in county jail and shall pay a fine of ten thousand dollars (\$10,000.00) for each violation. Each time the pump is turned on, and each stroke of the pump shall be a separate violation, and violation of each section of this Ordinance shall count as a separate violation. Each day that fracking infrastructure equipment is staged or located in Mendocino County for more than eight (8) hours, whether or not that equipment is actually used for fracking, and each separate location in Mendocino County where such equipment is situated, is a

separate violation. The court shall not authorize probation for any person convicted of any portion of this ordinance, under any circumstance.

(b) The County, or any resident of the County, may enforce the rights and prohibitions of this Ordinance through an action brought in any court possessing jurisdiction over activities occurring within the County. In such an action, the County or the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(c) Any action brought by either a resident of the County or by the County to enforce or defend the rights of ecosystems or natural communities secured by this Ordinance shall bring that action in the name of the ecosystem or natural community in a court possessing jurisdiction over activities occurring within the County. Damages shall be measured by the cost of restoring the ecosystem or natural community to its state before the injury, and shall be paid to the County to be used exclusively for the full and complete restoration of the ecosystem or natural community.

(Ord. of 11-4-2014(1), § 4)

**Sec. 8.05.050 Enforcement—People's Rights to Superior to Corporate Power.**

(a) Corporations which violate or seek to violate this Ordinance, or which are alleged to have violated this Ordinance, shall not be deemed to be "persons," nor possess any other legal rights, privileges, powers, or protections which would interfere with the rights or prohibitions enumerated by this Ordinance. "Rights, privileges, powers, or protections" shall include the power to assert state, federal or international preemptive laws in an attempt to overturn this Ordinance, and the power to assert that the people of this municipality lack the authority to adopt this Ordinance.

(b) All laws adopted by the legislature of the State of California, and rules adopted by any State agency, shall be the law of Mendocino County only to the extent that they do not violate the rights or prohibitions of this Ordinance.

(Ord. of 11-4-2014(1), § 5)

**Sec. 8.05.060 Effective Date and Existing Permit holders.**

This Ordinance shall be effective immediately on the date of its enactment, at which point the Ordinance shall apply to any and all actions that would violate this Ordinance regardless of the date of any applicable permit.

(Ord. of 11-4-2014(1), § 6)

**Sec. 8.05.070 People's Right to Self-Government.**

Use of the courts or the legislature by any government, corporation or natural person to attempt to overturn the provisions of this Ordinance shall require the County to schedule community meetings focused on changes to County government that would secure the rights of the people to local self-government.

(Ord. of 11-4-2014(1), § 7)

**Sec. 8.05.080 California and Federal Constitutional Changes.**

Through the adoption of this Ordinance, the people of the County call for amendment of the California Constitution and the federal Constitution to recognize the right to self-government free from governmental preemption and or nullification by corporate "rights" when local laws expand and are more protective of the rights of individuals, the community and nature.

(Ord. of 11-4-2014(1), § 8)

**Sec. 8.05.090 Severability.**

The provisions of this Ordinance are severable. If any court decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance.

(Ord. of 11-4-2014(1), § 9)

## CHAPTER 8.08

### CURFEW—MINORS

#### Sec. 8.08.010 Minors Between the Ages of Sixteen and Eighteen Years.

(A) It is unlawful for any minor between the ages of sixteen (16) years and eighteen (18) years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks or other public grounds, public places and public buildings, places of amusement and eating places, vacant lots or other unsupervised places, between the hours of 11:00 p.m. and daylight immediately following. The provisions of this Section shall not apply (1) when the minor is accompanied by his or her parents, guardian or other adult person having the care and custody of the minor, (2) when the minor is upon an emergency errand directed by his or her parents, guardian or other adult person having the care and custody of the minor, (3) when the minor is going to or returning from a meeting, entertainment or recreational activity in a direct route to or from his or her home, or (4) when the minor is going to or returning from his or her place of employment in a direct route between such place of employment and his or her home.

(B) Each violation of the provisions of this Section shall constitute a separate offense. (Ord. No. 3892, Sec. 2 (part), adopted 1994.)

#### Sec. 8.08.020 Minors Under the Age of Sixteen Years.

(A) It is unlawful for any minor under the age of sixteen (16) years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks or other public grounds, public places and public buildings, places of amusement and eating places, vacant lots or other unsupervised places, between the hours of 10:00 p.m. and daylight immediately following. The provisions of this Section shall not apply (1) when the minor is accompanied by his or her parents, guardian or other adult person having

the care and custody of the minor, (2) when the minor is upon an emergency errand directed by his or her parents, guardian or other adult person having the care and custody of the minor, (3) when the minor is going to or returning from a meeting, entertainment or recreational activity in a direct route to or from his or her home, or (4) when the minor is going to or returning from his or her place of employment in a direct route between such place of employment and his or her home.

(B) Each violation of the provisions of this Section shall constitute a separate offense. (Ord. No. 3892, Sec. 2 (part), adopted 1994.)

#### Sec. 8.08.030 Penalties.

Any minor violating the terms of this Chapter is guilty of a misdemeanor. (Ord. No. 3892, Sec. 2 (part), adopted 1994.)

#### Sec. 8.08.040 Apprehension—Detention—Proceedings.

Any minor violating the provisions of this Chapter may be immediately apprehended and lawfully detained, and appropriate proceedings may be instituted under and pursuant to the provisions of the Juvenile Court Law as set forth in the Welfare and Institutions Code of the State of California.

(Ord. No. 3892, Sec. 2 (part), adopted 1994.)



**CHAPTER 8.16****JUVENILE DETENTION HOME****Sec. 8.16.010 Creation of Public Schools.**

There is hereby created an elementary public school and a secondary public school which shall be established and maintained within the Mendocino County Juvenile Detention Home facility.

(Ord. No. 524, Sec. 1, adopted 1967.)

**Sec. 8.16.020 Instruction Responsibility.**

The Mendocino County Superintendent of Schools, pursuant to Section 856 of the Welfare and Institution Code shall staff and administer said school.

(Ord. No. 524, adopted 1967, as amended by Ord. No. 3235, adopted 1978.)

**Sec. 8.16.030 Scope of Curriculum.**

The Mendocino County Superintendent of Schools is hereby authorized and directed to cause to be taught such grade or grades as may be in the judgement of said Superintendent necessary to insure the proper education of such juveniles as may be from time to time located within said juvenile home.

(Ord. No. 524, adopted 1977, amended by Ord. No. 3235, adopted 1978.)

**Sec. 8.16.040 Laws Applicable.**

Said school shall be administered and maintained in compliance with all applicable laws, rules and regulations.

(Ord. No. 524, Sec. 4, adopted 1967.)



## CHAPTER 8.20

### JUVENILE JUSTICE AND DELINQUENCY PREVENTION COMMISSION

#### **Sec. 8.20.010 Establishment.**

There is hereby created, pursuant to Welfare and Institutions Code section 225 et seq., the Mendocino County Juvenile Justice and Delinquency Commission hereinafter referred to in this Chapter as "Commission." (Ord. No. 580, adopted 1969, Ord. No. 586 and Ord. No. 590, adopted 1969, as amended by Ord. No. 801, adopted 1971, as amended by Ord. No. 3578, adopted 1985.)

#### **Sec. 8.20.020 Purpose.**

The purpose of the Commission is to coordinate on a county-wide basis the work of its governmental and non-governmental organizations engaged in activities designed to prevent juvenile delinquency and encouraging community participation in the growth, development and other matters relating to our youth. (Ord. No. 580, adopted 1969 as amended by Ord. No. 586, and 590, adopted 1969.)

#### **Sec. 8.20.030 Membership and Term.**

Membership of the Commission shall consist of not less than seven (7) nor more than fifteen (15) citizens. Members shall be appointed by the Presiding Judge of the Superior Court for Mendocino County with the concurrence of the Judge of the Mendocino County Juvenile Court and with the concurrence of the Mendocino County Board of Supervisors. Each member of the Commission shall serve for a term of four (4) years, the initial date of commencement of said terms to be staggered as deemed appropriate by the aforesaid presiding judge. (Ord. No. 580, adopted 1969, as amended by Ord. No. 1027, adopted 1972.)

#### **Sec. 8.20.040 Vacancies.**

Upon a vacancy occurring in the membership of the Commission, and upon the expiration of the term of office of any member, a successor shall be appointed by the aforesaid presiding judge with the concurrence of the aforesaid judge of the juvenile court and with the concurrence of the Board of Supervisors. (Ord. No. 580, adopted 1969, as amended by Ord. No. 1027, adopted 1972.)

(a) When any member of the Commission is absent from three consecutive regularly scheduled commission meetings, such absence shall constitute a resignation and the vacancy may be filled as hereinbefore provided. (Ord. No. 580, adopted 1969, as amended by Ord. No. 590, adopted 1969.)

#### **Sec. 8.20.050 Compensation and Expenses.**

The members of the Commission shall serve without compensation but each member shall be reimbursed for his necessary traveling and other expenses incurred in the performance of his official duties. (Ord. No. 580, adopted 1969, as amended by Ord. No. 590, adopted 1969.)

#### **Sec. 8.20.060 Staff.**

The Mendocino County Probation Department shall render all necessary staff services to the Commission. (Ord. No. 580, adopted 1969.)

#### **Sec. 8.20.070 Powers.**

The Commission shall have the power and authority necessary to carry out the ordinance and state law including but not limited to the following:

- (a) To hold hearings.
- (b) To request from any department, division, board, commission, or other agency of this County such assistance and data as will enable it to properly carry out its powers and purposes; (Ord. No. 580, adopted 1969.)
- (c) To accept any gifts, donations, or bequests, or any contributions from any public or private source to carry out its purpose. (Ord. No. 580,

8.20.070

adopted 1969, as amended by Ord. No. 590, adopted 1969.)

**Sec. 8.20.080 Effective Date.**

The effective date of this ordinance shall be January 1, 1970. (Ord. No. 580, adopted 1969, amended by Ord. No. 586 and 590, adopted 1969.)

**Sec. 8.20.090 Dependent Children.**

All of the duties of the Mendocino County Probation Office concerning dependent children as described in Section 300 of the Welfare and Institutions Code are hereby delegated to the Mendocino County Social Services Department pursuant to Section 272 of the Welfare and Institutions Code. (Ord. No. 582, adopted 1969, as amended by Ord. No. 3364, adopted 1982.)

## CHAPTER 8.24

### LOST AND UNCLAIMED PROPERTY

#### Sec. 8.24.010 Title.

This chapter shall be known as the Mendocino County Lost and Unclaimed Property Ordinance. (Ord. No. 1037, adopted 1972, as amended by Ord. No. 1711, adopted 1976.)

#### Sec. 8.24.020 Intent.

The intent of the Board of Supervisors in adopting this chapter is to provide procedures for the care, restitution, sale, and destruction of lost or unclaimed property in the possession of the Sheriff's Department. (Ord. No. 1711, adopted 1976.)

#### Sec. 8.24.030 Authority.

The authority for the Board of Supervisors to adopt this chapter is set forth in Sections 2080, et seq., of the California Civil Code. (Ord. No. 1711, adopted 1976.)

#### Sec. 8.24.040 Lost and Unclaimed Property Defined.

'Lost and unclaimed property' in this chapter means personal property of others taken into the possession of the Sheriff's Department, left in its possession, or turned over to it by persons who found or received the same, except the following:

(A) Property subject to confiscation under the law of this state or of the United States. (Ord. No. 1711, adopted 1976.)

(B) Vehicles, the storage, sale, or disposition of which is governed by the provisions of Chapter 15.28 of the Mendocino County Code. (Ord. No. 1711, adopted 1976.)

#### Sec. 8.24.050 Holding Periods.

Except as otherwise provided in this chapter, all unclaimed property in the possession of the Sheriff's Department shall be held and stored by the Sheriff for a period of at least three (3) months. (Ord. No. 1711, adopted 1976, as

amended by Ord. No. 3579, Sec. 1, adopted 1985.)

#### Sec. 8.24.060 Restoration to Legal Owner.

The Sheriff shall restore unclaimed property in his possession to its legal owner upon proof of such ownership satisfactory to him and upon the payment of all reasonable necessary costs incurred in the care and protection thereof and cost of publication, if any. Where any such property may be needed or required as evidence in any criminal proceeding, the Sheriff shall delay the restoration of such property to its legal owner until the conclusion of such proceedings. If such property is introduced as evidence in a criminal case, it shall be disposed of only upon order of the proper court. If the legal owner is a person prohibited by law from possessing such property, restoration shall not be made. (Ord. No. 1711, adopted 1976.)

#### Sec. 8.24.070 Found or Saved Property.

Where lost money or other lost personal property is found or saved by a person other than in the course of employment as an employee of any public agency and is turned over to the Sheriff's Department in accordance with the provisions of the Civil Code of the State of California, or otherwise, and no owner appears and proves his ownership of such property within ninety (90) days thereafter, the Sheriff's Department shall, if such property is of a value of Fifty Dollars (\$50.00) or more, cause to be published at least once in a newspaper of general circulation notice of the found or saved property. If, after seven (7) days following the first publication of the notice, no owner appears and proves his ownership of the property, the property shall be returned to the finder on payment of all reasonable charges, including cost of publication. The Sheriff's Department may require the finder to deposit with it an amount sufficient to cover the cost of publication before so proceeding. Where such property is of a value of less than Fifty Dollars (\$50.00), it may be returned to the finder without

publication of notice after expiration of the minimum applicable holding period specified in Section 8.24.050 of this chapter if no owner appears and proves his ownership of the property. The provisions of this section shall not apply where the finder is a person prohibited by law from possessing such property. (Ord. No. 1711, adopted 1976, as amended by Ord. No. 3579, Sec. 2, adopted 1985.)

**Sec. 8.24.080 Unclaimed Bicycles and Toys.**

Any bicycles or toys, or both, in the possession of the Sheriff's Department which have been unclaimed for a period of at least three (3) months may, instead of being sold at public auction to the highest bidder pursuant to the provisions of Section 2080.5 of the Civil Code, be turned over to the Probation Officer of, or to the Social Services Department of, the County of Mendocino for use in any program of activities designed to prevent juvenile delinquency. The Sheriff shall establish procedures for periodically notifying said Probation Officer and Social Services Department of such bicycles and toys and shall equitably determine, in his discretion, their allocation. (Ord. No. 1711, adopted 1976.)

**Sec. 8.24.090 Sale of Devaluating Property.**

Notwithstanding the foregoing provisions, when any unclaimed property in the possession of the Sheriff's Department is in danger of perishing or of losing the greater part of its value, or when the reasonably necessary costs incurred in the care and protection of any such property amount to two thirds ( $\frac{2}{3}$ ) of its value, the Sheriff's Department may sell such property by public auction in the manner and upon the notice of sale of personal property under execution, if it is a thing which is commonly the subject of sale, when the owner cannot, with reasonable diligence, be found or, being found, refuses upon demand to pay the reasonably necessary costs incurred in the care and protection thereof. (Ord. No. 1711, adopted 1976.)

**Sec. 8.24.100 Public Auction.**

All unclaimed property received by the Sheriff's Department shall be offered for sale at public auction to the highest bidder except as follows:

(A) It may be transferred to the County Purchasing Agent for sale in the manner provided by Article 7 (commencing with Section 25500) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code for the sale of surplus personal property; if the County Purchasing Agent determines that any such property transferred to it for sale is needed for a public use, such property may be retained by the agency or department and need not be sold. (Ord. No. 1711, adopted 1976.)

(B) Unclaimed property having no monetary value shall be destroyed unless some other disposition can be made of such property which would be in the public interest. (Ord. No. 1711, adopted 1976.)

(C) Unclaimed property of a type or kind for which a permit or license to sell the same is required by state or federal law shall be destroyed unless some other disposition can be made of such property which would be in the public interest. (Ord. No. 1711, adopted 1976.)

**Sec. 8.24.110 Notice of Sale of Property.**

Before offering any unclaimed property for sale, the Sheriff's Department shall publish at least once in a newspaper of general circulation published in the County a notice of its intention to sell such unclaimed property at public auction to the highest bidder at the time and place therein specified. Such notice shall be made at least five (5) days in advance of the public auction. (Ord. No. 1711, adopted 1976.)

**Sec. 8.24.120 Sale to Highest Bidder.**

Items offered for sale at public auction shall be sold to the highest bidder. Where the particular item offered for sale is one which certain persons are prohibited by law from possessing, using, or consuming, such person shall not be permitted to

participate in the bidding on such items. (Ord. No. 1711, adopted 1976.)

**Sec. 8.24.130 Disposition of Proceeds from Sale.**

Proceeds received from the sale of unclaimed property by the Sheriff's Department shall be

delivered to the County Treasurer for deposit in the general fund. (Ord. No. 1711, adopted 1976.)

**Sec. 8.24.140 Expenses of Sale.**

The expenses connected with a sale of unclaimed property by the Sheriff's Department shall be a proper charge against the County general fund. (Ord. No. 1711, adopted 1976.)

**CHAPTER 8.28**

**COUNTY LIBRARY SYSTEM**

of the State of California; and the Board of Supervisors shall proceed to establish said County Free Library System as provided therein. (Ord. No. 454, Sec. 1, adopted 1963.)

**Sec. 8.28.010 County Free Library System Established.**

A County Free Library System is hereby established for the unincorporated areas of the County of Mendocino, State of California, as provided in Chapter 2, Division XX of the Education Code

**Sec. 8.28.020 Board of Supervisors May Amend or Repeal.**

This Chapter may be amended or repealed by the Board of Supervisors of the County of Mendocino, State of California. (Ord. No. 454, Sec. 2, adopted 1963.)



**CHAPTER 8.32****LAW LIBRARY****Sec. 8.32.010 Law Library—Law Governing.**

The Board of Supervisors, pursuant to authority contained in Business and Professions Code section 6364, makes applicable all provisions of Chapter 5, Division 3 of the Business and Professions Code to the regulation of the County law library. (Ord. No. 46, adopted 1891, as amended by Ord. No. 3600, adopted 1986.)

## **CHAPTER 8.40**

### **FIREWORKS**

#### **Sec. 8.40.010 Definitions.**

The word “fireworks” as used in this Chapter is defined by Health and Safety Code Section 12511. Additionally the word “fireworks” also includes both “dangerous fireworks” as defined by Health and Safety Code section 12505 and “safe and sane fireworks” as defined by Health and Safety Code section 12529. (Ord. No. 367, Sec. 1, adopted 1956, as amended by Ord. No. 3581, Sec. 1, adopted 1985.)

#### **Sec. 8.40.020 Declarations.**

It shall be unlawful for any person, firm or corporation to have in his or its possession, or to keep, store, use, shoot, discharge, set off, ignite, manufacture, sell, give or transport any fireworks within the County of Mendocino, except for use in a public display of fireworks, pursuant to a permit obtained under the provisions of Health and Safety Code sections 12570, et seq. (Ord. No. 367, Sec. 2, adopted 1956, as amended by Ord. No. 3581, Sec. 2, adopted 1985.)

#### **Sec. 8.40.030 Penalties.**

Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor. (Ord. No. 367, Sec. 3, adopted 1956, as amended by Ord. No. 3581, Sec. 3, adopted 1985.)

## CHAPTER 8.44

### TRESPASS

#### Sec. 8.44.010 Private or Business Property.

(A) **Failure to leave.** Every person who remains upon any private property or business premises within the County of Mendocino, after being notified by the owner or lessee or other person in charge thereof to remove therefrom, is guilty of a misdemeanor. (Ord. No. 1414, adopted 1975, as amended by Ord. No. 1691, adopted 1976.)

(B) **Refused entry.** Every person who, without permission, express or implied, of the owner or lessee or other person in charge of private property or business property or business premises after having been notified by the owner or lessee, or any person in charge thereof, to keep off or keep away therefrom is guilty of a misdemeanor. (Ord. No. 1414, adopted 1975, as amended by Ord. No. 1691, adopted 1976.)

(C) **Exceptions.** This section shall not apply to any of the following instances:

(1) Where its application results in or is coupled with an act prohibited by the Unruh Civil Rights Act or any other provision of law relating to prohibited discrimination against any person on account of color, race, religion, creed, ancestry, sex, or national origin. (Ord. No. 1414, adopted 1975, as amended by Ord. No. 1691, adopted 1976.)

(2) Where its application results in or is coupled with an act prohibited by Section 365 of the California Penal Code or any other provision of law relating to duties of innkeepers and common carriers. (Ord. No. 14114, adopted 1975, as amended by Ord. No. 1691, adopted 1976.)

(3) Where its application would result in an interference with or inhibition of peaceful labor picketing or other lawful labor activities. (Ord. No. 1414, adopted 1975, as amended by Ord. No. 1691, adopted 1976.)

(4) Where its application would result in an interference with or inhibition of any other exer-

cise of a constitutionally protected right of freedom of speech such as (but not limited to) peaceful expressions of political or religious opinions not involving offensive personal conduct. (Ord. No. 1414, adopted 1975, as amended by Ord. No. 1691, adopted 1976.)

(5) Where the person who is upon another's private property or business premises is there under claim or color of legal right. This exception is applicable (but not limited to) the following types of situation involving disputes wherein the participants have available to them practical and effective civil remedies: Marital and post-marital disputes; disputes regarding title to or rights in real property; landlord-tenant disputes; disputes between members of the same family or between persons residing upon the property concerned up until the time of the dispute; employer-employee disputes; business-type disputes such as those between partners; debtor-creditor disputes; and instances wherein the person claims rights to be present pursuant to order, decree, or process of court. (Ord. No. 1414, adopted 1975, as amended by Ord. No. 1691, adopted 1976.)

(D) **Penalty.** Any person convicted of violating this section shall be punishable by a term not exceeding five (5) days in the county jail or by a fine not exceeding One Hundred Dollars (\$100.00), or both. (Ord. No. 1414, adopted 1975, as amended by Ord. No. 1691, adopted 1976.)

**CHAPTER 8.48**

**WORK/EDUCATION FURLOUGH  
PROGRAM**

**Sec. 8.48.010 Purpose.**

The Board of Supervisors hereby finds and declares that a Work/Education Furlough Program for the Mendocino County jail is both feasible and necessary for the following reasons:

(A) Such a program would permit inmates to continue or secure employment so as to ensure their employment upon release, despite the high rate of unemployment within the County, and to enable them to adequately support their dependents without additional public assistance. (Ord. No. 1732, adopted 1976.)

(B) Such a program would permit undertrained and undereducated inmates to participate in the many excellent local training programs, and in training and educational opportunities offered by the Community College, and thereby better equip such inmates to secure employment upon release. (Ord. No. 1732, adopted 1976.)

(C) Such a program would contribute to the optimum utilization of Mendocino County's Rehabilitation Center. (Ord. No. 1732, adopted 1976.)

(D) Such a program would, in the opinion of the Probation Department make possible a much more comprehensive rehabilitation program and contribute to a lower rate of recidivism within the County. (Ord. No. 1732, adopted 1976.)

**Sec. 8.48.020 Administration.**

The Probation Officer shall act as the administrator of the Work/Education Furlough Program. However, all guidelines and regulations necessary for the implementation of the program shall be jointly developed by the Sheriff and Probation Officer and shall not be effective without the specific approval of both such officials. (Ord. No. 1732, adopted 1976.)

**Sec. 8.48.030 Exchange of Inmate-  
Participants.**

The Chief Probation Officer shall have the authority to enter into agreements with any other county or counties whereby persons sentenced to, or imprisoned in, the jail of one county, but regularly employed in another county, may be transferred by the sheriff of the county in which he is confined to the jail of the county in which he is employed, in order that he may be enabled to continue in his regular employment in such other county through such county's work furlough program. Any such agreement shall comply fully with standards established by Resolution of the Board of Supervisors. (Ord. No. 2080, adopted 1978.)

**CHAPTER 8.52**

**BINGO GAMES**

**Sec. 8.52.010 Purpose.**

This ordinance is adopted pursuant to Section 19 of Article IV of the California Constitution in order to make the game of bingo lawful under the terms and conditions of this article. (Ord. No. 1784, adopted 1976.)

**Sec. 8.52.020 Definitions.**

Whenever in this Chapter the following terms are used they shall have the meanings respectively ascribed to them in this section.

(A) Bingo is a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random.

(B) Nonprofit, charitable organization is an organization exempted from the payment of the bank and corporation tax by sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), and 23701(l) of the Revenue and Taxation Code and includes mobile home park associations and senior citizens organizations. (Ord. No. 1784, adopted 1976, as amended by Ord. No. 3582, Sec. 1, adopted 1985.)

(C) Minor is any person under the age of eighteen (18) years. (Ord. No. 1784, adopted 1976, as amended by Ord. No. 3582, Sec. 1, adopted 1985.)

**Sec. 8.52.030 Licensing Provisions.**

(A) LICENSE. It shall be unlawful for any person to conduct any bingo games in the unincorporated area of Mendocino County unless such person is a member of a nonprofit, charitable organization acting on behalf of such nonprofit, charitable organization and has been issued a license as provided by this Chapter. (Ord. No. 1784, adopted 1976.)

(B) TERM OF LICENSE AND FEES. A bingo license shall be issued for a period of twelve (12) months and may be renewed for additional

periods of twelve (12) months provided that such renewal is made prior to the expiration of the original twelve-month period or any subsequent twelve-month renewal period. Upon any license renewal, the applicant shall update all information required under Section 8.52.040 (A). The fees for a bingo license and any renewal thereof shall be determined by a resolution by the Board of Supervisors. The appropriate fee shall accompany the submission of each application, is non-refundable and shall be used to defray the cost of the issuance of said license or renewal. (Ord. No. 1784, adopted 1976, as amended by Ord. No. 1851, adopted 1977.)

(C) NONTRANSFERABILITY. Each license issued hereunder shall be issued to a specific person on behalf of a specific nonprofit charitable organization to conduct a bingo game at a specific location and shall in no event be transferable from one person to another nor from one location to another. (Ord. No. 1784, adopted 1976.)

**Sec. 8.52.040 Application for License.**

(A) PROCEDURE. Application for license shall be made to the Treasurer-Tax Collector on the prescribed forms, and shall be filed not less than twenty (20) days prior to the proposed date of the bingo game or games. Such application form shall require from the applicant at least the following:

(1) A list of all members who will operate the bingo game, including full names of each member and residence address. (Ord. No. 1784, adopted 1976.)

(2) The date (s) and place (s) of the proposed bingo game or games. (Ord. No. 1784, adopted 1976.)

(3) Proof that the organization is a nonprofit charitable organization as defined by this Chapter. (Ord. No. 1784, adopted 1976.)

(B) INVESTIGATION. Upon receipt of an application for a license the Treasurer-Tax Collector may send copies of such application to any office or department which the Treasurer-Tax Collector deems essential in order to carry out a proper

investigation of the applicant. The Sheriff and every officer and/or department to which an application is referred shall investigate the truth of the matters set forth in the application and may examine the premises to be used for the bingo game. Upon approval of any application for a bingo license, the Treasurer-Tax Collector shall issue the license. (Ord. No. 1784, adopted 1976.)

**Sec. 8.52.050 Limitations.**

A nonprofit, charitable organization shall conduct a bingo game only on property both owned or leased by it, and which property is used by such organization for an office or for the performance of the purposes for which the organization is organized. (Ord. No. 1784, adopted 1976.)

(A) No minors shall be allowed to participate in any bingo game. (Ord. No. 1784, adopted 1976.)

(B) All bingo games shall be open to the public, not just to the members of the nonprofit, charitable organization. (Ord. No. 1784, adopted 1976.)

(C) A bingo game shall be operated and staffed only by members of the nonprofit, charitable organization which organized it. Such members shall not receive a profit, wage or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such game or participate in the promotion, supervision or any other phase of such game. (Ord. No. 1784, adopted 1976.)

(D) No individual, corporation, partnership, or other legal entity except the organization authorized to conduct a game shall hold a financial interest in the conduct of such bingo game. (Ord. No. 1784, adopted 1976.)

(E) All profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account; licensee shall retain for one (1) year a full and complete financial statement of all monies collected, disbursed and the amount remaining for charitable purposes, which record shall be made available to Treasurer-Tax Collector upon written request. (Ord. No. 1784, adopted 1976.)

(F) No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted. (Ord. No. 1784, adopted 1976.)

(G) The total value of prizes awarded during the conduct of any bingo games shall not exceed five hundred dollars (\$500.00) in cash or kind, or both, for each separate game which is held. (Ord. No. 1784, adopted 1976; Ord. No. 4300, 9-25-2012)

(H) No bingo game shall be conducted between the hours of midnight and 8:00 a.m. (Ord. No. 1784, adopted 1976.)

(I) Any peace officer of the county shall have free access to any bingo game licensed under this Chapter. The licensee shall have the bingo license and lists of approved staff available for inspection at all times during any bingo game. (Ord. No. 1784, adopted 1976.)

**Sec. 8.52.060 License Denial, Suspension or Revocation.**

(A) **PROCEDURE.** The Treasurer-Tax Collector may deny an application for a bingo license, or suspend or revoke a license if she finds the applicant or licensee or any agent or representative thereof has:

(1) Knowingly made any false, misleading or fraudulent statement of a material fact in the application or in any record or report required to be filed under this ordinance; or

(2) Violated any of the provisions of this Chapter. (Ord. No. 1784, adopted 1976.)

If after investigation, the Treasurer-Tax Collector determines that a bingo license should be suspended or revoked or an application for such license denied, she shall prepare a notice of suspension, revocation or denial of application setting forth the reasons for such suspension, revocation or denial of application. Such notice shall be sent by certified mail to the applicant's last address provided in the application or be personally delivered. Any person who has had an application for a bingo license denied or a license suspended or

revoked by the Treasurer-Tax Collector may appeal that decision in the manner provided in his chapter. (Ord. No. 1784, adopted 1976.)

(B) APPEAL. Whenever an appeal is provided for in this chapter, such appeal shall be filed and conducted as prescribed in this section:

(1) Within fifteen (15) calendar days after the date of any denial, suspension, revocation or other decision of the Treasurer-Tax Collector, an aggrieved party may appeal such action by filing with the Clerk of the Board of Supervisors a written appeal briefly setting forth the reasons why such denial, suspension, revocation or other decision is not proper. (Ord. No. 1784, adopted 1976.)

(C) Within ten (10) days of such written appeal the Board of Supervisors shall conduct a public hearing to determine if grounds for license denial, suspension or revocation exist and may sustain, modify or reverse the decision of the Treasurer-Tax Collector. The decision of the Board shall be final. (Ord. No. 1784, adopted 1976.)

**Sec. 8.52.070 Violations and Penalties.**

(A) It is unlawful for any person to receive a profit, wage or salary from any bingo game authorized by this chapter. (Ord. No. 1784, adopted 1976.)

(B) Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor. (Ord. No. 1784, adopted 1976, as amended by Ord. No. 3582, Sec. 2, 1985.)

## CHAPTER 8.56

### REWARD

#### **Sec. 8.56.010 Reward for Information Leading to Conviction of Persons Destroying County Property or Injuring County Officers or Employees.**

(A) There is established a reward for information leading to the identification, apprehension and conviction of any person causing injury or death to any County officer or employee, or who willfully damages or destroys any County property. The reward shall be in the amount of five hundred dollars (\$500.00). (Ord. No. 3278, adopted 1979, as amended by Ord. No. 3353, adopted 1981.)

(B) Pursuant to Government Code Section 53069.5, any person whose willful misconduct has resulted in injury or death to any County officer or volunteer, or who has willfully damaged or destroyed property of the County shall be liable for the amount of any reward paid under this section and if he is an unemancipated minor the parent or guardian shall also be liable for the amount. (Ord. No. 3278, adopted 1979, as amended by Ord. No. 3353, adopted 1981.)

(C) For the purposes of this ordinance, County property is defined as property owned or leased by the County of Mendocino. (Ord. No. 3278, adopted 1979.)



## CHAPTER 8.60

### RESPONSE ALARM SYSTEMS

#### Sec. 8.60.010 Purpose.

Numerous false alarms have created a danger to public safety and a burden on law enforcement services. It is the purpose of this ordinance to regulate false and nuisance alarm use in unincorporated areas of Mendocino County. (Ord. No. 3274, adopted 1979)  
(Ord. No. 4221, 5-5-09)

#### Sec. 8.60.020 Definitions.

For the purposes of this Chapter, certain words and phrases shall be construed herein as set forth in this section, unless it is apparent from the context that a different meaning is intended.

1. **ALARM SYSTEM** shall mean any device designed for the detection of an unauthorized entry on or into any building, place or premises, or of the commission of an unlawful act, which when activated emits a sound or transmits a signal or message, and which directly or indirectly, initiates or causes a response by the Sheriff.

2. **AUDIBLE ALARM** shall mean that type of alarm system which, when activated, emits an audible sound.

3. **FALSE ALARM** shall mean an alarm signal activated through alarm user negligence or error for reasons not of an emergency nature, or when activated due to malfunction of any segment of the response alarm system, and which results in a response by a public safety agency where an emergency situation does not exist.

4. **SHERIFF** shall mean the Sheriff of Mendocino County, or his authorized deputy.

5. **PERSON** shall mean any person, firm, partnership, trust, estates, association, corporation or organization of any kind, including schools and other government entities.

6. **ALARM USER** shall mean any person who operates or uses or causes or allows to be operated or used, any alarm system in any building, place, or premises.

7. **ALARM BUSINESS** shall mean any business which is engaged in the selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any response alarm system in any building, place, or premises.

8. **ALARM AGENT** shall mean any person who is hired by an alarm business as an agent or employee to sell, lease, maintain, service, repair, alter, replace, remove or install any response alarm system in or on any building, place, or premises. (Ord. No. 3274, adopted 1979)  
(Ord. No. 4221, 5-5-09)

#### Sec. 8.60.030 Alarm System Registration.

No alarm user shall activate any new alarm system installed after the effective date of this ordinance, in any unincorporated area of Mendocino County, without registering that alarm system with the Sheriff at least 24 hours before the system is activated. Alarm systems installed in emergency situations for temporary use not to exceed thirty days may be registered at any time prior to activation.

The alarm user who registers the alarm system shall provide the following information to the Sheriff in writing:

1. The name, address and telephone number of the response alarm system user.

2. Name, address and telephone number of the alarm business installing the alarm (if any).

3. A description of the premises or area protected by the response alarm system including the location of doors, windows and areas protected by the alarm system within the premises.

4. A list of phone numbers and addresses of all people responsible for security of the premises, who have authorized access to the premises and to the alarm system controls.

5. The name, address and telephone number of the place of business where the alarm terminates.

The alarm user shall notify the Sheriff in writing within ten (10) days of any changes in registration information.

Alarm users of alarm systems installed prior to the enactment of this ordinance which are not registered with the Sheriff, shall have ten (10) days in which to register their alarm system after notification of the registration requirement by the Sheriff.

Failure of any alarm user to register any alarm system as set forth herein shall also be grounds for non-response by the Sheriff to any signal from that alarm system, until the alarm system is registered. (Ord. No. 3274, adopted 1979)

**Sec. 8.60.040 False Alarm Regulations.**

Public safety and safety of peace officers require that any alarm system causing false alarms be corrected immediately.

After the first false alarm response in any calendar month, the Sheriff may notify the alarm system user of the violation and consequences of action by the Sheriff as set forth in this ordinance. That notification by the Sheriff may require written proof be furnished to the Sheriff within ten (10) days by the alarm user that the problem causing the false alarms has been corrected.

Failure to provide proof of correction within that ten day period may be grounds, at the discretion of the Sheriff, for non-response to a signal from that alarm system until proof of correction is received from the alarm user.

The second false alarm in a calendar month, or the third false alarm in a calendar quarter and subsequent false alarms in that month or quarter shall be cause for the County of Mendocino to bill the alarm user for the costs incurred by the Sheriff responding to that false alarm. The amount of those costs billed shall be \$150.00 (one hundred fifty-dollars) per false alarm. Failure to pay may be grounds for non-response to that alarm by the Sheriff.

After the fourth false alarm response to an alarm system by the Sheriff in a calendar quarter, the Sheriff will notify in writing the alarm user to show cause why response to the response alarm system causing the nuisance false alarms should

not be terminated. The Sheriff shall make the determination whether or not response shall be terminated.

If response to an alarm is terminated, it shall be for a period not to exceed sixty (60) days from the date the alarm user is notified of non-response by the Sheriff, or until satisfactory proof of correction of the problem causing the false alarms is furnished to the Sheriff, whichever is shorter.

In any case where the Sheriff terminates response to an alarm system under this ordinance, the alarm user shall be notified of the termination prior to the actual termination of response.

For the purposes of this ordinance, any number of false alarms in a time period from 12:00 p.m. of one day to 12:00 p.m. of the following day shall be considered one (1) false alarm.

In any case where response to an alarm system is terminated, it will be the responsibility of the alarm user to apply to the Sheriff at the end of the non-response period for response to that alarm system. (Ord. No. 3274, adopted 1979)

**Sec. 8.60.050 Audible Alarm System Regulations.**

No person shall install an audible alarm system without a mechanical electronic or other device which will shut off the audible sound of the alarm after a period of not more than thirty (30) minutes.

Any audible alarm system installed prior to enactment of this ordinance shall be modified to include automatic shut-off of the audible sound of the alarm as described in this section, within thirty (30) days after the alarm user is notified to do so by the Sheriff. (Ord. No. 3274, adopted 1979)

**Sec. 8.60.060 Alarms Terminating at Sheriff's Office-Fees.**

Any Alarm System with termination or notification equipment installed in the Sheriff's Department offices where that equipment is monitored by Sheriff's Office personnel shall be subject to an annual fee of \$60.00 (sixty dollars) for that

service. That fee will be payable in January of each calendar year, beginning in January, 1980. (Ord. No. 3274, adopted 1979)

**Sec. 8.60.070 Automatic Calling Devices.**

No person shall by means of any mechanical device call and deliver a recorded message to any telephone number used by the Mendocino County Sheriff's department. A person shall be deemed guilty of a separate offense for each call made in violation of this section.

**Sec. 8.60.080 Alarm Agent Registration.**

Any alarm agent, as defined in this chapter, shall register with the Sheriff prior to acting as an alarm agent. Registration shall be on a form provided by the Sheriff, and shall contain such information as he shall require, for the purpose of confirming that alarm agent's identity and conformance with the requirements of the Business and Professions Code pursuant to Section 7523(c) of that code. (Ord. No. 3274, adopted 1979)

**Sec. 8.60.090 Alarm Business License.**

The Tax Collector shall not issue a business license for any alarm business, as described in Section 8.60.020 of the Mendocino County Code who does not possess a current and valid Mendocino County Alarm Business Registration Certificate issued by the Sheriff. (Ord. No. 3274, adopted 1979)

**Sec. 8.60.100 Alarm Business Registration Certificate.**

An alarm business owner or manager shall obtain an Alarm Business Registration Certificate from the Sheriff at his office, Ukiah, California. The certificate shall be on a form provided by the Sheriff and shall contain such information as he shall require for the purpose of confirming that the alarm company holds the licenses and permits required by the Business and Professions Code. No fee shall be charged for this registration. (Ord. No. 3274, adopted 1979)

**Sec. 8.60.110 Infraction.**

The violation of any provisions of Sections 8.60.050, 8.60.070, and 8.60.080, shall constitute an infraction. (Ord. No. 3274, adopted 1979, as amended by Ord. No. 3583, adopted 1985)

## CHAPTER 8.64

### AIRPORT RULES AND REGULATIONS

#### Sec. 8.64.010 Application.

(A) The following rules and regulations are applicable to public use of airports operated and maintained by the County of Mendocino. All persons using said airports shall be subject to, and governed by, these rules and regulations; administrative rules and regulations as may be adopted by resolution of the Board of Supervisors; all County Ordinances; State and Federal law; and regulations of the Federal Aviation Agency. (Ord. No. 3347, adopted 1981.)

(B) The Airport Manager shall enforce the rules and regulations. Requests for review of a decision of an Airport Manager shall be made in writing to the Director of Public Works. An appeal of a decision of the Director of Public Works may be made, in writing, to the Board of Supervisors. The ruling of the Board of Supervisors shall be final. (Ord. No. 3347, adopted 1981.)

#### Sec. 8.64.020 Definitions.

(A) "County" means the County of Mendocino, a political subdivision of the State of California. (Ord. No. 3347, adopted 1981.)

(B) "Airport" means each and every airport and all airport property owned, operated, or controlled by the County of Mendocino. It includes all improvements, facilities and appurtenances. (Ord. No. 3347, adopted 1981.)

(C) "Aircraft" means any contrivance used or designed for navigation in the air, whether self-propelled or not. (Ord. No. 3347, adopted 1981.)

(D) "Airport Manager" means a person so designated under the terms of a contract with County or an employee of County appointed to a job classification entitled Airport Manager or Airport Supervisor. If no person is designated or appointed Airport Manager, it means the County Director of Public Works. (Ord. No. 3347, adopted 1981.)

(E) "Based Aircraft" means any aircraft assigned a reserved parking space, tie-down space, or hangar space; whether or not such assignment is made under a written lease with the County. (Ord. No. 3347, adopted 1981.)

(F) "Operate Aircraft" means the self-propelled, pushed, or towed movement of aircraft on the ground; or movement of aircraft in flight. (Ord. No. 3347, adopted 1981.)

(G) "Maintain Aircraft" means any form of service, maintenance or repair of aircraft. (Ord. No. 3347, adopted 1981.)

(H) "Owner" means the registered and/or legal owner of an aircraft according to the files of the Federal Aviation Agency. (Ord. No. 3347, adopted 1981.)

(I) "Person" means individuals, corporate entities, or public agencies. (Ord. No. 3347, adopted 1981.)

#### Sec. 8.64.030 Use of Airport.

(A) BUSINESS ACTIVITY—No person, except operators of commercial aircraft on runways and in designated itinerant parking areas, shall use an airport in any manner whatsoever for any commercial, profit, gainful or revenue producing purpose; including, without limitation, flight instruction or maintenance of aircraft; without written approval of County. No persons shall solicit funds for any purpose on an airport without written consent of the County Director of Public Works. No person shall distribute, post, or display any commercial or noncommercial signs, circulars, handbills, or advertisements on an airport without written consent of the County Director of Public Works. (Ord. No. 3347, adopted 1981.)

(B) PARKING OF AIRCRAFT—No person shall park any aircraft in any area not designated for such purpose without prior consent of the Airport Manager. Parked aircraft shall have parking brakes set and/or wheels blocked to prevent movement. Parked aircraft shall be firmly secured to the ground by ropes or other appropriate means when left unattended. No aircraft shall

be taxied under its own power into or out of any hangar. Aircraft shall be halted and all engines stopped a minimum of twenty-five (25) feet before entering any hangar. (Ord. No. 3347, adopted 1981.)

(C) AIRCRAFT PARKING CHARGES—Itinerant and reserved parking of aircraft in designated areas shall be subject to such fees as may be established by resolution of the Board of Supervisors, as may be agreed upon between aircraft owner or operator and County, or as may be established by an Airport Manager pursuant to the terms of said Manager's agreement with County. (Ord. No. 3347, adopted 1981.)

(D) CHARTER AND AIR TAXI FLIGHT OPERATION CHARGES—Operations of air charter and air taxi operators, including, but not limited to, passengers, freight, express, or cargo carrying movements of aircraft from an airport shall be subject to such fees as may be established by resolution of the Board of Supervisors. (Ord. No. 3347, adopted 1981.)

(E) FIXED BASE OPERATIONS—A fixed base operator is defined as a person, partnership, corporation, unincorporated association; their assignees or sublessees; which operate a business upon County airports. Fixed base operations shall be permitted at the Mendocino County Airport at Little River and at the Round Valley Airport pursuant to the terms and conditions of an agreement between the operator and the Board of Supervisors. The agreement shall require a reasonable fee to be paid to County by the operator. (Ord. No. 3347, adopted 1981.)

(F) CAR RENTAL OPERATIONS—No person shall operate a car rental service at an airport without approval of the Board of Supervisors. (Ord. No. 3347, adopted 1981.)

(G) RENTAL OF HANGARS—Rental of hangars, protective structures, shelters, or reserved parking spaces provided by County shall be subject to such fees as may be established by resolution of the Board of Supervisors or as may be established by an Airport Manager pursuant to the terms of said Manager's agreement with County. (Ord. No. 3347, adopted 1981.)

(H) INSTALLATION OF PRIVATELY OWNED HANGARS—Individual owners of aircraft may, subject to the terms and conditions of an agreement between said owner and the Board of Supervisors, install portable or relocatable hangars, protective structures or shelters at locations on the airport designated by the Director of Public Works. Applications shall be submitted in writing to the Director of Public Works. The Board of Supervisors may deny the application if it is determined that the requested installation would not be compatible with efficient and secure operation of the airport as a public facility or if the requested application would not be in the best public interest. (Ord. No. 3347, adopted 1981.)

(I) SALE OF AVIATION FUELS—No person, firm or corporation shall bring, store, use, or distribute aviation fuel or lubricants on an airport except as may be authorized by County. County shall be the sole distributor of aviation fuel at an airport or shall provide by contract for the manner of distribution. (Ord. No. 3347, adopted 1981.)

(J) NON-PROFIT, NON-COMMERCIAL FLYING CLUBS—Non-profit, non-commercial flying clubs shall be subject to the same user fees as owners and operators of non-commercial aircraft. (Ord. No. 3347, adopted 1981.)

(K) TRASH AND DEBRIS REMOVAL—All persons using an airport shall be responsible for the cleanliness of their respective areas and for the removal of all trash and debris originating from said persons use of a designated area. (Ord. No. 3347, adopted 1981.)

(L) REPORT OF DAMAGE—Any damage to, or malfunctioning of buildings, structures, utilities, traffic control devices, or other airport property shall be promptly reported to the Airport Manager. (Ord. No. 3347, adopted 1981.)

#### **Sec. 8.64.040 Operation of Aircraft.**

(A) COMPLIANCE WITH LAWS AND REGULATIONS—No person shall operate or maintain any aircraft at an airport except in strict conformity with all ordinances, rules, and regulations of County, State and all applicable regulations of the

Federal Aviation agency. (Ord. No. 3347, adopted 1981.)

(B) **LANDING AND TAKE-OFF**—All aircraft shall land and take-off only on designated runways. (Ord. No. 3347, adopted 1981.)

(C) **ENGINE STARTING AND RUN-UPS**—No aircraft engine shall be started or run-up in any hangar or when the aircraft is tailed toward hangar doors or positioned in such a manner as to constitute a danger to persons or property. All engine run-ups and tests shall be performed only in areas and at such times as shall be designated by the Airport Manager. No engine affixed to an aircraft shall be started or operated unless a qualified aircraft operator is in the aircraft attending to the controls. (Ord. No. 3347, adopted 1981.)

(D) **TAXIING OF AIRCRAFT**—Aircraft shall be taxied at all times at a slow and reasonable speed, in a safe manner, and under control of a qualified operator. Except as may be specifically directed otherwise, all aircraft operators shall taxi at their own discretion. (Ord. No. 3347, adopted 1981.)

**Sec. 8.64.050 General.**

(A) **DAMAGE TO AIRPORT**—Any person causing damage to an airport or any airport property shall be responsible for the cost of repair or replacement. All damage shall be promptly reported to the Airport Manager. (Ord. No. 3347, adopted 1981.)

(B) **DAMAGED AIRCRAFT**—Witnesses to and participants in any accident or damage to aircraft occurring at an airport shall promptly make a full report of such damage or accident to the nearest Federal Aviation Agency Safety Officer and to the Airport Manager. Aircraft operators, owners, or their agents shall be responsible for, and shall cooperate and assist in the prompt removal of damaged aircraft parts, property, or debris resulting from any accident, provided, however, that the Airport Manager or officials of the Federal Aviation Agency, may prohibit the movement or removal of any damaged aircraft or property. (Ord. No. 3347, adopted 1981.)

(C) **DAMAGE TO PROPERTY**—No person shall destroy or damage any building, structure, facility, sign, marker, tree, flower, shrub, lawn, or other

property on an airport, except in connection with a County authorized encroachment or in connection with airport construction, reconstruction or maintenance of the facilities by County. (Ord. No. 3347, adopted 1981.)

(D) **USE OF ROADS AND WALKS**—No person shall operate any vehicle or travel on an airport in any manner except on roads, walks, paths, and areas provided for the particular means of travel. No obstructions shall be permitted on any road, walk, or path without written approval of County. (Ord. No. 3347, adopted 1981.)

(E) **FIREARMS**—No person except peace officers, authorized federal, state, or County employees, or members of the armed forces of the United States on official duty shall carry firearms or explosives on an airport without prior consent of the Airport Manager. No person shall hunt, conduct target practice, or discharge firearms on an airport. (Ord. No. 3347, adopted 1981.)

(F) **ANIMALS**—No person shall enter the runway area of an airport with any animal. Animals may be permitted in other areas of an airport if restrained by leash or confined in such manner as to be under control. (Ord. No. 3347, adopted 1981.)

**Sec. 8.64.060 Fire Safety Regulations.**

All persons using an airport for any reason shall comply with all fire safety regulations administered by responsible federal, state or County agencies. (Ord. No. 3347, adopted 1981.)

**Sec. 8.64.070 Liability.**

ASSUMPTION OF LIABILITY—The privilege of using an airport and its facilities is conditioned upon the assumption of full responsibility, liability, and risk by the user thereof; and the County of Mendocino, its agents and employees, shall not be liable for loss, damage, or injury to persons or property arising out of any accident, of any nature whatsoever, or from any cause whatsoever including, but not limited to, fire, theft, vandalism, wind, flood, earthquake, collision, or act of God.

(Ord. No. 3347, adopted 1981.)

**Sec. 8.64.080 Penalty.**

(A) Any person operating, using, or handling any aircraft, vehicle, equipment, or apparatus, or using an airport or any of its facilities in violation of these rules and regulations or who refuses to comply therewith, shall be subject to immediate removal by the Airport Manager and may be permanently deprived of any further use of an airport or its facilities for such length of time as may be required to insure the safeguarding of the airport and the public.

(B) Any person operating, using, or handling any aircraft, vehicle, equipment, or apparatus, or using an airport or any of its facilities in violation of these rules and regulations or who refuses to comply therewith, is guilty of an infraction.

(Ord. No. 3347, adopted 1981, as amended by Ord. No. 3584, adopted 1985.)

## CHAPTER 8.68

### COMMISSION ON THE STATUS OF WOMEN

#### Sec. 8.68.010 Establishment.

There is established, pursuant to authority contained in Government Code Section 31000.1, a County of Mendocino Commission on the Status of Women.

(Ord. No. 3609, adopted 1986; Ord. No. 3773, adopted 1991.)

#### Sec. 8.68.020 Purpose.

The Commission is established to serve in an advisory capacity to the Board of Supervisors on all matters concerning the status of women within the County of Mendocino. The Commission shall not attempt to regulate or undertake those responsibilities preempted by Federal, State or other local agencies. The Commission shall not advise on matters within the jurisdiction of other commissions or committees formed by the Board of Supervisors nor shall the Commission advise on County employee-employer relations without prior authorization having been obtained from the Board of Supervisors.

(Ord. No. 3609, adopted 1986.)

#### Sec. 8.68.030 Membership and Term.

The Commission shall consist of fifteen (15) members, residents of Mendocino County, appointed by the Board of Supervisors to serve two (2) year terms. Each Supervisor shall appoint three (3) persons within his or her district.

(Ord. No. 3609, adopted 1986; Ord. No. 3757, adopted 1991.)

#### Sec. 8.68.040 Meetings.

The Commission shall convene no fewer than four (4) meetings annually at such time and place as shall be agreed upon by the Commission and such other special meetings as shall be required from time to time.

(Ord. No. 3609, adopted 1986.)

#### Sec. 8.68.050 Powers and Duties.

The powers and duties of the Commission, as qualified by Section 8.68.020 shall be as follows:

(A) On behalf of the Board of Supervisors, to study and investigate by means of meetings, conferences, public hearings or other appropriate means, conditions impacting on the status of women;

(B) To recommend to the Board of Supervisors necessary programs, or legislation to promote, ensure and protect equal rights and opportunities for women;

(C) To render to the Board of Supervisors, upon the Board's request, a report or reports of Commission activities;

(D) Subject to the approval of the County Administrator, to request of any County department information, services, facilities and any other assistance for the purposes of furthering the objectives of this Chapter;

(E) Though the Commission shall not receive County funding, with the consent of the Board of Supervisors, the Commission may solicit and accept funds from Federal and State governmental agencies for carrying out the purposes outlined in this Chapter. The Commission may also, with the consent of the Board of Supervisors, accept gifts, donations and grant awards from any source for carrying out its functions.

(Ord. No. 3609, adopted 1986.)

#### Sec. 8.68.060 Reimbursements/ Volunteers.

(A) The Commission shall be a nonfunded commission and Commissioners shall serve without compensation.

(B) The Commission may engage the services of volunteer workers and consultants without compensation as it finds necessary. Service of an individual as a volunteer worker or as a consultant shall not be considered as employment by the County for any purpose.

(Ord. No. 3609, adopted 1986.)



**Sec. 8.68.070 Bylaws.**

The Commission may adopt and amend by-laws subject to the prior approval of the Board of Supervisors. (Ord. No. 3609, adopted 1986.)

## CHAPTER 8.69

### COUNTY COMMISSION ON MEDICAL CARE

#### Sec. 8.69.000 Findings.

The Board of Supervisors of the County of Mendocino makes the following findings:

1. Pursuant to Welfare and Institutions Code Section 14087.54, any county or counties may establish a special Commission in order to meet the problems of the delivery of publicly assisted medical care in the county or counties and to demonstrate ways of promoting quality care and cost efficiency.

2. Partnership HealthPlan of California Commission ("Commission") is a multi-county Commission currently composed of the counties of Solano, Napa, Yolo and Sonoma that has created a managed health care plan for Medi-Cal recipients.

3. This Board deems it appropriate to join the Commission and the Commission wishes to expand to include Mendocino County. The Commission may expand to other counties in the future. (Ord. No. 4274, 5-3-2011; Ord. No. 4310, 7-30-2013)

#### Sec. 8.69.010 Title.

This ordinance shall be known as the COUNTY COMMISSION ON MEDICAL CARE.

(Ord. No. 4274, 5-3-2011; Ord. No. 4310, 7-30-2013)

#### Sec. 8.69.020 Purpose.

Partnership HealthPlan of California Commission ("Commission") is a multi-county Commission that has created a managed health care plan for Medi-Cal recipients. The purpose of this chapter is to authorize the County of Mendocino to join the existing Commission. This will allow the implementation of a county organized health system in Mendocino County as authorized by Welfare and Institutions Code Section 14087.54.

The purpose of the Commission is to negotiate exclusive contracts with the California Department of Health Care Services and to arrange for the provision of health care services to qualifying individuals, as well as other purposes set forth in the enabling ordinances established by the respective counties.

(Ord. No. 4274, 5-3-2011; Ord. No. 4310, 7-30-2013)

#### Sec. 8.69.030 Designation and Duration of Commission.

Partnership HealthPlan of California Commission ("Commission") is a multi-county commission that has created a managed health care plan for Medi-Cal recipients. The Purpose of this ordinance is to authorize the County of Mendocino to join the existing Commission. This will allow the implementation of a county organized health system in Mendocino County as authorized by Welfare and Institutions Code Section 14087.54. The Mendocino County Board of Supervisors hereby authorizes Mendocino County to join the Commission. The Commission shall continue to represent Mendocino County until the Mendocino County Board of Supervisors terminates the representation. To terminate representation, the Mendocino County Board of Supervisors or its designee shall provide ninety (90) day notice to the other participating counties and will provide notice to the State Department of Health Care Services as set forth in Welfare and Institutions Code Section 14087.54(g).

(Ord. No. 4274, 5-3-2011; Ord. No. 4310, 7-30-2013; Ord. No. 4348, 12-8-2015)

#### Sec. 8.69.040 Membership of Commission.

(a) The Partnership HealthPlan of California (PHC) Commission on medical care shall be comprised of Commissioners appointed by the Board of Supervisors of each member county. Unless and until the Commission amends its By-laws to establish a different formula or system for membership, each County's membership shall be calculated based on the number of Medi-Cal Ben-

eficiaries enrolled in the HealthPlan as follows: zero (0) — twenty-five thousand (25,000) = one (1) seat; twenty-five thousand (25,000) — forty thousand (40,000) = two (2) seats; forty thousand (40,000) — fifty-five thousand (55,000) = three (3) seats; fifty-five thousand (55,000)+ = four (4) seats: Commission Members shall be recommended by the Mendocino County Health and Human Services Agency using the criteria in Section 8.69.040(c)(1—3).

(b) The number of Medi-Cal members for each county shall be determined by PHC as of July 1 of each year beginning in the year 2009. The determination by PHC shall be announced to each county by August 1 of each year. Any additions or deletions of Commissioners shall be implemented effective September 1 of each year.

(c) The members appointed by Mendocino County Board of Supervisors shall be selected as follows:

1. One (1) member shall be the director of the Mendocino County Health and Human Services Agency.

2. One (1) Member from the community ("Public Representatives"). The Mendocino County Health and Human Services Agency may make recommendations based on the following criteria:

(1) Geography;

(2) Knowledge of the healthcare needs of County residents;

(3) Business and Finance experience.

(Ord. No. 4274, 5-3-2011; Ord. No. 4310, 7-30-2013; Ord. No. 4348, 12-8-2015)

**Sec. 8.69.050 Terms of Office for Members and Vacancy in Office.**

The terms of office for each of the members of the Commission appointed by the Mendocino County Board of Supervisors shall be four (4) years. Nothing herein shall prohibit a person from serving more than one (1) term. Each Commission member shall remain in office at the conclusion of that member's term until a successor member has been elected and installed into office. An office shall become vacant if a board member discontin-

ues to function in the area from which appointed, or fails to attend three (3) meetings in a row of the Commission.

(Ord. No. 4274, 5-3-2011; Ord. No. 4310, 7-30-2013)

**Sec. 8.69.060 Powers and Duties of Commission.**

Pursuant to the provisions of Section 14087.54 of the Welfare and Institutions Code, the Commission shall:

(a) Have the power to negotiate the exclusive contract with the California Department of Health Care Services as specified in Section 14087.5 of the Welfare and Institutions Code, and to arrange for the provision of health care services provided under Chapter 7, Part 3, Division 9 of the Welfare and Institutions Code;

(b) Be considered an entity separate from the County;

(c) File the statement required by Section 53051 of the Government Code;

(d) Have the power to acquire, possess, and dispose of real or personal property, as may be necessary for the performance of its functions, to employ personnel and contract for services required to meet its obligations, and to sue or be sued; and

(e) Have all the rights, powers, duties, privileges, and immunities conferred by Article 2.8 of Chapter 7, Part 3, Division 9 of the Welfare and Institutions Code in addition to those previously specified in this section.

(Ord. No. 4274, 5-3-2011; Ord. No. 4310, 7-30-2013)

**Sec. 8.69.070 Obligations.**

Pursuant to the provisions of Section 14087.54(d) of the Welfare and Institutions Code, any obligations of the Commission, statutory, contractual, or otherwise, shall be the obligations solely of the Commission and shall not be the obligations of the County of Mendocino.

(Ord. No. 4274, 5-3-2011; Ord. No. 4310, 7-30-2013)

8.69.080

**Sec. 8.69.080 Effective Date.**

This ordinance shall take effect thirty days (30) after adoption by the Board.  
(Ord. No. 4274, 5-3-2011; Ord. No. 4310, 7-30-2013)

## CHAPTER 8.70

### HAZARDOUS MATERIALS RELEASES

#### Sec. 8.70.010 Definitions.

For the purpose of this Chapter, the following definitions shall apply:

(A) "Hazardous material" means any material described in Section 25501(k) of the California Health and Safety Code.

(B) "Unauthorized release of hazardous material" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, unless permitted or authorized by a regulatory agency.

(C) A "threatened release" means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce or mitigate damages to persons, property or the environment.

(D) "Handler" means any business which handles a hazardous material. (Ord. 3653, adopted 1987; Ord. No. 3909 (part), adopted 1995.)

#### Sec. 8.70.020 Duty to Report Unauthorized Releases and Threatened Releases.

The handler or any employee, authorized representative, agent or designee of a handler of any hazardous material shall, upon discovery immediately report any release or threatened release of a hazardous material to the local Fire Department, the Department of Public Health, Division of Environmental Health (Administering Agency for Chapter 6.95 of the California Health and Safety Code), and the Governor's Office of Emergency Services Warning Center. Compliance with this section does not release handlers from other reports required by State and Federal law.

The County Administrator shall be notified of significant releases which may have a significant effect on County resources. (Ord. No. 3653, adopted 1987; Ord. No. 3909 (part), adopted 1995.)

#### Sec. 8.70.030 County Response to Release of Hazardous Substance.

Pursuant to Section 25507.2 of the California Health and Safety Code, the Department of Public Health, Division of Environmental Health, is hereby authorized to train for, and respond to, the release or threatened release of a hazardous material. The Department may contract with other agencies for hazardous materials emergency response operations. (Ord. No. 3653, adopted 1987; Ord. 3909 (part), adopted 1995.)

#### Sec. 8.70.040 Reimbursement for County Expenses.

The persons or entities described in Section 8.70.020 shall reimburse the County of Mendocino for the full cost of the services provided pursuant to Section 8.70.030. Payment shall be due upon receipt of invoice. (Ord. No. 3653, adopted 1987; Ord. 3909 (part), adopted 1995.)

#### Sec. 8.70.050 Penalties.

Pursuant to the authority of Section 25514.5 of the California Health and Safety Code, the following administrative civil penalties are adopted for each day in which violations of this Title and Chapter 6.95, Article 1 of the California Health and Safety Code occur.

(A) A penalty of Five Hundred Dollars (\$500) for the first violation;

(B) A penalty of One Thousand Dollars (\$1,000) for the second violation within one year;

(C) A penalty of Two Thousand Dollars (\$2,000) for the third and subsequent violations.

This section does not preempt any other applicable criminal or civil penalties. (Ord. No. 3653, adopted 1987; Ord. 3909 (part), adopted 1995.)

**Sec. 8.70.060 Authorized Emergency Vehicles.**

Pursuant to Section 2416(a)(10) of the California Vehicle Code, any vehicle designated by the Director of the Department of Public Health as a hazardous materials response team vehicle, and used for response to hazardous materials emergencies, is an authorized emergency vehicle. (Ord. 3909 (part), adopted 1995.)

## CHAPTER 8.72

### UNLAWFUL PANHANDLING

#### Sec. 8.72.010 Findings and Purpose.

The Board of Supervisors finds that this Chapter is necessary for the following reasons:

(A) Within the past two (2) years, there has been a substantial increase in aggressive panhandling in Mendocino County.

(B) The number of people engaging in this activity has increased in parking lots, at entrances to business establishments such as grocery stores, and on streets and major intersections and freeway on- and off-ramps.

(C) When this activity occurs in such places, it interferes with the safety, privacy, and security of the people who are approached for contributions of money, goods, or services.

(D) Panhandling of operators and other occupants of motor vehicles on public streets and freeway on- and off-ramps impedes traffic and endangers those who may enter the roadway to negotiate or complete an exchange of money, goods, or services.

(E) Panhandling in parking lots or within close proximity to the entrance to financial institutions, supermarkets, or retail stores can be intimidating or can threaten people using such facilities and undermine their sense of safety, privacy, and quality of life.

(F) In February 2005, the City of Ukiah adopted an ordinance imposing restrictions on unlawful panhandling within the city limits. Since the city's ordinance took effect, the County has experienced an increase in aggressive panhandling activities in the commercial areas of the unincorporated area immediately outside the city limits.

(G) Reasonable time, place, and manner restrictions on panhandling will avoid these negative effects, and will not unreasonably restrict the expressive activity of people engaging in panhandling. (Ord. No. 4172 (part), adopted 2006.)

#### Sec. 8.72.020 Definitions.

The following words and phrases, wherever used in this Chapter, shall be construed as defined in this Section, unless it is clear from the context that they have a different meaning.

(A) "Aggressive manner" means:

(1) Approaching or speaking to a person, or following a person before, during, or after panhandling, if that conduct is likely to cause a reasonable person to:

(a) Fear bodily harm to oneself or another person, or damage to or loss of property; or

(b) Otherwise be intimidated into giving money or another thing of value; or if the conduct is intended to have these effects.

(2) Approaching an occupied vehicle by entering into the roadway when traffic is either stopped or moving, before, during, or after panhandling;

(3) Knocking on the window of, or physically reaching toward or into an occupied vehicle, whether that vehicle is on a public street or parked, before, during, or after panhandling;

(4) Continuing to solicit from a person after the person has given a negative response to such panhandling;

(5) Intentionally touching or causing physical contact with another person without that person's consent in the course of panhandling;

(6) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including causing a pedestrian or vehicle operator to take evasive action to avoid physical contact before, during, or after panhandling;

(7) Using violent or threatening gestures toward a person before, during, or after panhandling;

(8) Using profane, offensive, or abusive language toward a person before, during, or after panhandling;

(9) Panhandling while under the influence of alcohol or any illegal narcotic or controlled substance; or

(10) Following a person while panhandling with the intent of asking that person for money, goods, or other things of value.

(B) "Panhandling" means asking for money or objects of value, with the intention that the money or object be transferred at that time and at that place. "Panhandling" shall include using the spoken, written, or printed word, bodily gestures, signs, or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services.

(C) "Public place" means a place where a governmental entity has title to or which the public or a substantial group of persons has access, including, but not limited to, street, highway, parking lot, plaza, transportation facility, shopping center, school, place of amusement, park, or playground.

(D) "Check cashing business" means any person, corporation, partnership or firm duly licensed by the Attorney General to engage in the business of cashing checks, drafts, or money orders for consideration under Section 1789.31 of the California Civil Code.

(E) "Automated teller machine" means a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments, whether or not that device is affiliated with or owned by a specific financial institution.

(F) "Automated teller machine facility" means the area comprised of one (1) or more automatic teller machines and any adjacent space that is made available to banking customers during or after regular banking hours. (Ord. No. 4172 (part), adopted 2006.)

#### **Sec. 8.72.030 Unlawful Panhandling Prohibited.**

It is unlawful and a public nuisance for any person to:

(A) Panhandle in an aggressive manner in any public place.

(B) Panhandle within twenty (20) feet of any entrance or exit of any check cashing business, supermarket or retail store, or within twenty (20) feet of any automated teller machine without the consent of the owner/agent of the property or another person legally in possession of such facilities; provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility.

(C) Panhandle an operator or other occupant of a motor vehicle while such vehicle is located on any street or highway on-ramp or off-ramp, for the purpose of performing or offering to perform a service in connection with such vehicle or otherwise soliciting a donation or the sale of goods or services; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the operator or passenger of such vehicle.

(D) Panhandle in any public transportation vehicle, or any public or private parking lot or parking structure. (Ord. No. 4172 (part), adopted 2006.)

#### **Sec. 8.72.040 Penalties.**

A first offense of any violation of this Chapter shall be an infraction punishable as provided in Mendocino County Code Section 1.04.110(B). Any second or subsequent offense of this Chapter shall be a misdemeanor punishable as provided in Mendocino County Code Section 1.04.110(A). (Ord. No. 4172 (part), adopted 2006.)

#### **Sec. 8.72.050 Other Applicable Laws.**

Nothing in this Chapter shall limit or preclude the enforcement of other applicable laws, and to that end, the remedies under this Chapter and the punishments thereunder shall be cumulative and not exclusive. (Ord. No. 4172 (part), adopted 2006.)

#### **Sec. 8.72.060 Severability.**

The provisions of this Chapter are separate and severable. If any provision of this Chapter is for any reason held by a court to be unconstitu-



tional or invalid, the Board declares that it would have passed this Chapter irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Chapter, or the validity of its application to other persons or circumstances. (Ord. No. 4172 (part), adopted 2006.)

## CHAPTER 8.75

### UNIFORM NUISANCE ABATEMENT PROCEDURE\*

#### Sections:

- Sec. 8.75.010 Title.
- Sec. 8.75.020 Findings and Purpose.
- Sec. 8.75.030 Definitions.
- Sec. 8.75.040 Public Nuisance Defined.
- Sec. 8.75.050 Public Nuisance Declared.
- Sec. 8.75.060 Scope of Chapter.
- Sec. 8.75.070 Summary Abatement.
- Sec. 8.75.080 Administrative Abatement.
- Sec. 8.75.090 Service of Notice and Order to Abate.
- Sec. 8.75.100 Hearing Officer.
- Sec. 8.75.110 Procedure to Appeal Notice and Order to Abate.
- Sec. 8.75.120 Hearing Procedures.
- Sec. 8.75.130 Determination by Hearing Officer.
- Sec. 8.75.140 Abatement after Determination by Hearing Officer.
- Sec. 8.75.150 Recovery of Costs of Abatement and Accounting.
- Sec. 8.75.160 Hearing on Accounting.
- Sec. 8.75.170 Determination after Hearing on Accounting.
- Sec. 8.75.180 Special Assessment and Abatement Lien.
- Sec. 8.75.190 Notice of Lien and Lien.
- Sec. 8.75.200 Collection by Special Assessment.
- Sec. 8.75.210 Attorneys' Fees.

Sec. 8.75.220 Use of Money Collected under this Chapter.

Sec. 8.75.230 Violations.

Sec. 8.75.240 Severability Clause.

#### Sec. 8.75.010 Title.

This Chapter shall be known and cited as the "Uniform Nuisance Abatement Procedure." (Ord. No. 4373, § 1, 1-10-2017)

#### Sec. 8.75.020 Findings and Purpose.

The Board of Supervisors of Mendocino County determines that the establishment of an Ordinance to establish procedures for the abatement of a nuisance is derived from and consistent with the provisions of Government Code Section 25845 and is necessary for the public health and welfare. This procedure is intended to be an alternate procedure for abatement of any violation of the Mendocino County Code or any other Ordinance that is declared to be a public nuisance. (Ord. No. 4373, § 1, 1-10-2017)

#### Sec. 8.75.030 Definitions.

For the purposes of this chapter:

(A) "Board" shall refer to the Board of Supervisors of Mendocino;

(B) "Chapter" shall refer to chapter 8.75 of the Mendocino County Code;

(C) "County" shall refer to the County of Mendocino;

(D) "Enforcement Officer" shall mean a County employee with authority to enforce any provision of the Mendocino County Code;

(E) "Occupant" shall mean anyone reasonably known to the Enforcement Officer to be in possession, control, or having charge of the subject property other than the Owner;

(F) "Owner" shall mean the property owner or owners, or his, her or their agent or agents, as shown on the last equalized assessment roll or the supplemental roll, whichever is more current; (Ord. No. 4373, § 1, 1-10-2017)

\*Editor's note—Ord. No. 4373, § 1, adopted January 10, 2017, set out provision for use herein. At the editor's discretion those provisions have been treated as repealing ch. 8.75, §§ 8.75.010—8.75.100, in its entirety; and enacting a new ch. 8.75 to read as set out herein. Former ch. 8.75 pertained to similar subject matter, and was derived from Ord. No. 4227, adopted September 1, 2009.

**Sec. 8.75.040 Public Nuisance Defined.**

The provisions of this Chapter shall be applicable to any nuisance as defined herein or any Ordinance of the County, Section of the Mendocino County Code, Resolution of the Board, or Statutes of the State of California.

It is a public nuisance for any person owning, leasing, occupying, or having charge of any property within the County to maintain such property in such a manner, that any one (1) or more of the following conditions or activities are found to exist or for any person to contribute to the existence of the following conditions or activities:

(A) The presence of garbage, dead animals or other putrescible material that constitutes a nuisance as determined by a health officer;

(B) An excessive accumulation of solid waste, including but not limited to used tires, furniture, carpets, mattresses, or appliances, including but not limited to refrigerators, freezers, washing machines, or clothes dryers;

(C) The unlawful disposal or burying of solid waste, including but not limited to garbage, refuse, tires, construction or demolition debris, building materials, salvage materials, appliances or parts thereof, furniture, cabinets, or other household fixtures at any place other than a permitted solid waste facility;

(D) Causes, maintains, or permits solid waste to be deposited within the County in any manner that violates the provisions of this Chapter;

(E) Causes or permits the deposit of solid waste on the right-of-way of any public highway, street, easement or thoroughfare, or upon any camping place or public grounds, or on any premises, or in any container, without the permission of the owner thereof, or into any stream or dry watercourse, within the County of Mendocino, State of California, and outside of the incorporated cities;

(F) Any condition that provides or contributes to the breeding of mosquitoes;

(G) The improper storage or disposal of hazardous waste, including but not limited to waste products from the manufacturing of methamphetamine or other illegal drugs;

(H) Attractive nuisance dangerous to children whether in a building, on the premises of a building, or on an unoccupied lot in the form of abandoned wells, shafts, septic tanks, or other types of abandoned excavations;

(I) Any property maintained in such a condition as to be a threat to human health, safety, or environment as determined by a health officer;

(J) Any improvement or condition within, or adjacent to, a County road right-of-way which undermines the safe operation or integrity of the County roadway;

(K) Interference with County Road drainage;

(L) Any encroachment as described in California Streets and Highways Code section 1480.5;

(M) Any condition declared by a Statute of the State of California or by an Ordinance of Mendocino County to be a nuisance;

(N) Any public nuisance known at common law or equity;

(O) Any condition dangerous to human life, unsafe, or detrimental to the public health or safety; or

(P) Any use of land, buildings, or premises established, operated, or maintained contrary to the provisions of this Chapter or Chapters 6, 9, 9A, 10, 10A, 15, 16, 18, 20 or 22 of the Mendocino County Code.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.050 Public Nuisance Declared.**

A public nuisance may be declared for any reason specified in any County Ordinance by an Enforcement Officer given the authority to enforce the Ordinance.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.060 Scope of Chapter.**

(A) After a public nuisance is declared, it may be abated by the Enforcement Officer and his or her County Department in accordance with the procedures provided in this Chapter, including but

not limited to summary abatement, when necessary to preserve or protect the public health or safety, or administrative abatement.

(B) The procedures set forth in this Chapter are not exclusive, but are cumulative to all other civil and criminal remedies provided by law. The seeking of other remedies shall not preclude the simultaneous commencement of proceedings pursuant to this Chapter.

(C) Nothing in this Chapter shall be construed as imposing on the Enforcement Officer or the County any duty to declare a nuisance, or to take any other action with regard to a nuisance, and neither the Enforcement Officer nor the County shall be held liable for failure to declare a public nuisance, or for failure to take any other action with regard to a public nuisance.

(D) Nothing in this section shall be construed to limit or restrict the ability of any other entity with enforcement authority, such as the police or fire departments, to enforce this Chapter or perform their duties.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.070 Summary Abatement.**

(A) After a public nuisance is declared, the nuisance may be summarily abated by any reasonable means and without notice or hearing when immediate action is necessary to preserve or protect the public health or safety. In addition, any public agency or public contractor, appointed by the Board, may use summary abatement to remove solid waste, which has been illegally deposited in violation of Sections 8.75.040(D) and (E).

(B) Summary abatement actions shall not be subject to the requirements of this Chapter, nor shall summary abatement actions be prohibited after initiation of proceedings pursuant to this Chapter, if immediate action at any time becomes necessary to preserve or protect the public health or safety.

(C) In the event a public nuisance is summarily abated, the County may recover its costs pursuant to the provisions of Sections 8.75.150 — 8.75.200. In cases of encroachments as defined by

Streets and Highways Code section 1480.5, the Department of Transportation may also collect the daily penalties designated in section 1483 of the Streets and Highways Code.

(D) When summary abatement has been carried out for illegally deposited trash and the person responsible for the illegal deposit has been identified by evidence in the trash, or through other means, and is not the owner of the property where the trash was deposited, the Enforcement Officer may impose costs of abatement on the responsible party. Imposition of costs on the responsible party shall not relieve the Owner of his or her obligation to pay the costs until the responsibility party actually pays the costs imposed. A Notice of Assessment of Costs of Summary Abatement shall be mailed or otherwise delivered in each such case.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.080 Administrative Abatement.**

(A) After a public nuisance is declared, the Enforcement Officer may issue a Notice and Order to Abate and serve such Notice pursuant to Section 8.75.090.

(B) The Notice and Order to Abate shall be in writing and shall:

1. Identify the Owner and any Occupant other than the Owner if known or reasonably identifiable by the Enforcement Officer;
2. Identify the Enforcement Officer and his or her County Department issuing the Notice;
3. Describe the subject property sufficient for identification;
4. State that a public nuisance has been declared along with a description of the nuisance;
5. Identify the remedial action required to abate the nuisance and provide a reasonable time for the Owner or Occupant to abate the nuisance;
6. State that the Owner or Occupant may, within ten (10) calendar days after the date that the Notice was served, make a request to the Department issuing the Notice and Order to Abate for a hearing to appeal the Notice and declaration

of public nuisance, or to show other cause why those conditions should not be abated in accordance with the provisions of this Chapter.

7. State the applicable hearing fee, if such a fee has been established;

8. Contain a statement that, unless the Owner or Occupant abates the nuisance within the time specified, or makes a timely request for appeal of the Notice, the County will abate the nuisance, charge all abatement costs incurred by the County to the Owner, and that such costs may be recovered by special assessment added to the county assessment roll, may become a lien on the real property that may be recorded, or may be placed on the unsecured tax roll.

(C) The owner or occupant may appeal the Notice and Order to Abate and the determination of the Enforcement Officer as specified in the Notice and Order to Abate. If the owner or occupant appeals the Notice and Order to Abate and declaration of public nuisance, then the provisions in Sections 8.75.100 through 8.75.140 shall apply.

(D) Abatement by County: If the Owner or Occupant has not abated the violations pursuant to the Notice and Order to Abate and has not filed an appeal within the time prescribed, the Enforcement Officer, his or her Department, or other authorized designee may cause to be done whatever work is necessary to abate the public nuisance. If necessary, the Enforcement Officer, or authorized designee, may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of inspecting the property to determine if the nuisance remains and also for undertaking the work to abate the nuisance if the nuisance had not already been abated.

(E) All costs of abatement incurred by the County may be recovered pursuant to the procedures set forth in Sections 8.75.150 — 8.75.200. (Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.090 Service of Notice and Order to Abate.**

(A) The Notice and Order to Abate shall be served on each Owner and on each Occupant, if

known to the Enforcement Officer, of the subject property. Notice may be served in the following manner:

1. By personal service; or

2. By certified mail, postage prepaid, and return receipt requested, addressed to each Owner at the address shown on the last equalized assessment roll or last known address according to the County Assessor, and addressed to each Occupant known to the Enforcement Officer at the street address of the subject property; or

3. If the first two (2) options in this section fail, or if the Owner or Occupants cannot be located in the exercise of reasonable diligence, the notice may be served by United States first class mail, postage prepaid with certificate of mailing, and by posting a copy of the notice in a conspicuous place in front of or on the real property on which, or in front of which, the nuisance exists, or if the property has no frontage upon any street, highway, or road, then upon the portion of the property nearest to a street, highway, or road, or most likely to give actual notice to the owner and any person known by the Enforcement Officer to be in possession of the property.

(B) The date of service is deemed to be the date of personal service, or the date of signed delivery if by certified mail, or five (5) days after the date of posting and mailing.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.100 Hearing Officer.**

Pursuant to Government Code Sections 25845(i) and 27720 et seq., the director of the Department of the Enforcement Officer seeking to enforce this Chapter shall coordinate with County Counsel to appoint and contract with a Hearing Officer pursuant to Mendocino County Code chapter 2.76 for the purpose of presiding at the administrative hearings provided for by this chapter.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.110 Procedure to Appeal Notice and Order to Abate.**

Within ten (10) days from the date of a properly served Notice and Order to Abate, any Owner

or Occupant may appeal the Notice and Order to Abate and the Enforcement Officer's determination declaring the public nuisance to a person designated as a Hearing Officer, except in cases regarding Animal Control issues which shall be appealed to the Animal Care and Control Advisory Board. The appeal shall:

- (A) be submitted in writing,
- (B) specify the grounds upon which the appeal is taken,
- (C) contain the name, address and telephone number of the appellant,
- (D) be accompanied by the payment of an appeal fee in an amount established by Resolution by the Board, and
- (E) be filed with the Department specified on the Notice and Order to Abate.

The Department receiving the appeal shall then cause the matter to be set for hearing by notifying the Hearing Officer directly or by requesting County Counsel to coordinate with the Hearing Officer.

Timely appeal shall stay any further abatement action until the hearing is conducted. A hearing before a Hearing Officer shall be set for a date that is not less than ten (10) and not more than thirty (30) days from the date that the notice of appeal is filed. In accordance with the noticing provisions set forth in Section 8.75.090, the Hearing Officer, or the County Counsel in cooperation with the Hearing Officer, shall notify the parties in writing, at least ten (10) days prior to the hearing date, of the date and location of the hearing. It shall be sufficient to provide notice to the appellant by using the address listed in the request for appeal.

If summary abatement has been carried out for illegally deposited trash, the person alleged responsible for the illegal deposit and who has received a Notice of Assessment of Costs of Summary Abatement may appeal said Notice in the manner set forth above.  
(Ord. No. 4373, § 1, 1-10-2017)

#### **Sec. 8.75.120 Hearing Procedures.**

(A) Pursuant to Government Code Section 27721, the Hearing Officer may issue subpoenas as necessary to require the attendance at the hearing of persons or the production of books, papers or other things related to the subject matter of the hearing.

(B) The Enforcement Officer, or other officer within the Department with jurisdiction to cause the abatement of the alleged nuisance shall first describe the acts or conditions constituting a nuisance and shall respond specifically to the grounds set out in the demand for hearing. Thereafter, the objector shall present whatever evidence is relevant to refute the allegation.

(C) Parties may choose to be represented by an attorney at an administrative hearing provided by the Chapter. However, formal rules of evidence or procedure in any proceeding subject to this Chapter shall not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Nonetheless, any failure to make a timely objection to offered evidence constitutes a waiver of the objection.

(D) In a proceeding alleging a violation of Section 8.75.040(D) or (E), the presence of at least two (2) pieces of addressed mail or other identifying information in the dumped material shall be deemed to create a rebuttable presumption that the person so identified is responsible for the dumped material and is subject to the penalties and remedies provided for in this Chapter.

(E) The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified as an interpreter by either the State of California or the County of Mendocino.

(F) Hearings shall take place at the earliest practical date following the Notice of Appeal. The failure of the appellant to appear shall not prevent the hearing from proceeding providing proper notice has been given in accordance with this Chap-

ter. The hearing may only be continued upon request of a party to the hearing and upon a showing of good cause but in no event shall there be more than one (1) continuance allowed.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.130 Determination by Hearing Officer.**

(A) At the conclusion of the hearing, and based on the evidence before it, the Hearing Officer shall determine:

1. Whether the acts or conditions specified in the Notice of Abatement exist;
2. Whether those acts or conditions constitute a public nuisance;
3. If a public nuisance is determined to exist, whether it should be abated by the County; and
4. The appropriateness of any penalties imposed.

(B) If the Hearing Officer finds that the alleged nuisance does exist and should be abated, abatement of the nuisance shall be ordered. An Order of Abatement is final immediately, unless the order or a provision of this Code expressly provides otherwise.

(C) A copy of the written decision and Order of Abatement shall be served personally or by mail upon each objector and all other persons upon whom the Notice and Order to Abate was served.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.140 Abatement after Determination by Hearing Officer.**

Pursuant to the determination as described in section 8.75.130, the following shall apply:

(A) The Order of Abatement issued by the Hearing Officer may direct that any occupancy, use or activity cease immediately if its existence or continuation is found to be an immediate threat to health or safety. Otherwise, abatement shall be commenced by the owner within five (5) calendar days of the service of the decision and Order, or any longer period provided in the Order, and shall

continue with reasonable diligence until complete. Reasonable diligence shall be determined by the Enforcement Officer.

(B) Upon the failure, neglect, or refusal to properly comply with the Order of Abatement issued by the Hearing Officer within the prescribed time period, the Enforcement Officer, his or her Department, or other authorized designee, may cause to be done whatever work is necessary to abate the public nuisance. If necessary, the Enforcement Officer, or authorized designee, may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of inspecting the property to determine if the nuisance remains and also for undertaking the work to abate the nuisance if the nuisance had not already been abated.

(C) All costs of abatement incurred by the County may be recovered pursuant to the procedures set forth in Sections 8.75.150 — 8.75.200.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.150 Recovery of Costs of Abatement and Accounting.**

All costs of abatement incurred by the County may be recovered pursuant to this section

(A) When the County causes the abatement of a nuisance pursuant to this Chapter, the Enforcement Officer, his or her Department, or the authorized designee shall keep an accounting of the cost of abatement for each separate assessor's parcel involved in the abatement.

(B) When the County has completed the work of abatement, or has paid for such work, the costs of abatement shall be charged and billed to the Owner by the Department that abated the nuisance. The bill shall be mailed to the address of the Owner as shown on last equalized assessment roll or the supplemental roll, whichever is more current.

(C) The bill shall apprise the Owner that failure to pay the bill or request a hearing on the accounting within thirty (30) days from the date of mailing, may result in an abatement lien upon the property.

1. The bill shall include a notice that the Owner may request the Department issuing the bill to

provide a hearing within thirty (30) days of the date of mailing for the purpose of contesting the accuracy and reasonableness of the accounting of the costs of abatement.

2. The bill shall further state that if hearing on accounting is not requested within thirty (30) days of the date of mailing that the amount stated in the bill shall be deemed accurate and reasonable.

3. The bill shall further state that any request for a hearing on the accounting shall:

- a. be in writing,
- b. be delivered to the Department that issued the bill within thirty (30) of the date of mailing of the bill,
- c. sufficiently identify the subject property and bill being contested,
- d. contain the name, address and telephone number of the person requesting the hearing,
- e. request a hearing on the accounting and state the grounds on which the requested is based, and
- f. be accompanied by the hearing fee, if such fee has been established by resolution of the Board, and if such fee has been established then the bill shall state the amount of the fee.

(D) If Owner timely and properly requests a hearing on the accounting, the director of the Department that issued the bill may adjust or waive the bill, as he or she deems appropriate, prior to the hearing on accounting. The hearing on accounting shall be heard pursuant to Section 875.160.

(E) If a timely appeal is not requested and if the bill is not paid within thirty (30) days of mailing, the amount stated in the bill shall be deemed accurate and reasonable and the Department may proceed to collect the stated amount in the bill pursuant to the provisions in Sections 8.75.180 — 8.75.200.

(Ord. No. 4373, § 1, 1-10-2017)

#### **Sec. 8.75.160 Hearing on Accounting.**

(A) If a timely request for hearing on accounting is received in accordance with Section 8.75.150

by the Department that issued the bill, the Department receiving the request shall then cause the matter to be set for hearing by notifying the Hearing Officer directly or by requesting County Counsel to coordinate with the Hearing Officer. The hearing shall be set for the earliest practicable date, but no sooner than ten (10) days from the date that the notice of appeal is filed.

(B) A timely request for hearing on accounting shall stay any further lien action, such as recording the lien, until the hearing procedures are finished.

(C) In accordance with the noticing provisions set forth in Section 8.75.090, either the Hearing Officer, or the County Counsel in cooperation with the Hearing Officer, shall notify the parties in writing, at least ten (10) days prior to the hearing date, of the date and location of the hearing.

(D) The hearing procedures set out in Section 8.75.120 shall apply to the hearing on accounting except as otherwise provided in this section.

1. At the time and location fixed for the hearing on accounting, the Enforcement Officer, or other authorized designee within the Department with jurisdiction to enforce the bill, shall first present evidence establishing the accuracy and reasonableness of the accounting of costs of abatement and shall respond specifically to the grounds set out in the request for hearing on accounting.

2. Thereafter the objector shall be heard on the issue of whether the accounting was accurate and reasonable and shall present whatever evidence is relevant to refute the accuracy or reasonableness of the accounting.

3. If the objector fails to appear at the hearing, a written accounting by the Enforcement Officer, or other authorized designee within his or her Department, that includes an itemized accounting by parcel shall be prima facie evidence of the reasonableness and accuracy of the accounting as stated within the bill.

(Ord. No. 4373, § 1, 1-10-2017)

#### **Sec. 8.75.170 Determination after Hearing on Accounting.**

(A) After hearing the evidence from the parties attending the hearing, the Hearing Officer



shall determine whether the accounting of costs of abatement, as stated in the bill, was accurate and reasonable, and either confirm, deny or otherwise modify the amount stated in the bill.

a. If the Hearing Officer decides that denial or modification to the accounting is just and appropriate, the Hearing Officer shall order such modification by stating the item to be modified or denied, and the amount of any modification.

b. If the Hearing Officer decides that the accounting as stated in the bill was accurate and reasonable, the Hearing Officer shall so state and confirm.

(B) The Hearing Officer shall issue a written decision, which shall be final and conclusive, and which shall be served personally or by mail upon each objector.

(C) The Owner shall have thirty (30) days, or as otherwise indicated in the Hearing Officer's decision, from the date of service of decision to pay the amount as specified in the Hearing Officer's decision, which was determined to be accurate and reasonable by the Hearing Officer. If the Owner fails to pay such determined amount within the time prescribed, the Department may proceed to collect the determined amount pursuant to the provisions in Section 8.75.180 — 8.75.200.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.180 Special Assessment and Abatement Lien.**

The Board, by resolution, may order that the costs of abating a nuisance pursuant to this Chapter be placed upon the County tax roll by the County Auditor as a special assessment against the respective parcels of land, or be placed on the unsecured roll, pursuant to Government Code section 25845. The Board may resolve that a notice of abatement lien be recorded against the respective parcels of real property pursuant to Government Code section 25845.

The Department that issued the bill for costs of abatement may request the Board to make a resolution pursuant to this section either after the Owner fails to pay the bill or request a hearing of

accounting in the prescribed time, or after a Hearing Officer establishes the costs of abatement after a hearing on accounting.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.190 Notice of Lien and Lien.**

After the Board resolves that a notice of abatement lien be recorded against the respective parcels of real property pursuant to Section 8.75.180, the Enforcement Officer or Department that issued the bill of costs of abatement shall prepare and have recorded in the office of the County Recorder of Mendocino County a notice of lien. The notice shall contain:

(A) A description of the real property subject to the lien sufficient to identify the premises;

(B) The identity of the Record Owner or possessor of property subject to the lien;

(C) A description of the proceeding under which the lien was made, including the date upon which the abatement was ordered by the Enforcement Officer or Department with jurisdiction to abate, or by the Hearing Officer if the Owner requested an appeal of the notice and order to abate within the prescribed time, the date the abatement was complete, and any subsequent order or resolution by a Hearing Officer or by the Board;

(D) The amount of the lien;

(E) A claim of lien upon the described premises.

Upon the recordation of a Notice of Lien, the amount claimed shall constitute a lien upon the described premises, pursuant to Section 25845 of the California Government Code. Such lien shall be at parity with the liens of State and County taxes.

(Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.200 Collection by Special Assessment.**

After the Board resolves that the costs of abating a nuisance pursuant to this Chapter be placed upon the County tax roll by the County Auditor as a special assessment against the respective parcels of land, or be placed on the unsecured roll, pursuant to Government Code section 25845, the

resolution of the Board specially assess the abatement lien, along with any recorded notice of lien may be delivered to the County Auditor by the Department that issued the bill for costs of abatement. The County Auditor will then enter the amount of the lien on the assessment roll as a lien. Thereafter, the amount set forth shall be collected pursuant to Government Code section 25845. (Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.210 Attorneys' Fees.**

Pursuant to Government Code Section 25845(c), in any action, administrative proceeding, or matter commenced by the County to abate a nuisance, or to collect the cost of abatement or any penalty or fee related thereto, the prevailing party shall recover its attorneys' fees. The recovery of attorneys' fees under this section is limited to those actions, administrative proceedings, or matters in which the County chooses at the initiation of the action, administrative proceeding, or matter to seek the recovery of its own attorneys' fees. In no event shall an award of attorneys' fees under this Chapter exceed the reasonable amount of attorneys' fees incurred by the County in the action or proceeding. (Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.220 Use of Money Collected under this Chapter.**

All money collected for penalties for violations of this Chapter and all money collected for recovery of costs of enforcement of this Section shall be made available to the Department responsible for the enforcement action for training and further Code enforcement actions. (Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.230 Violations.**

It shall be unlawful for any person to refuse to allow any duly authorized officer, employee, agent, or contractor of the County to enter upon any premises for the purposes of abating the public nuisance as authorized herein or to interfere in any manner whatever with such officer, employee, agent,

or contractor. Any violation of this Section shall be deemed to be a misdemeanor except with respect to Mendocino County Code Chapter 9.31. The Board of Supervisors adopts and incorporates herein by reference provisions set forth in Government Code Section 25845.5. (Ord. No. 4373, § 1, 1-10-2017)

**Sec. 8.75.240 Severability Clause.**

The provisions of this Ordinance are separate and severable. If any provision of this Ordinance is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed this Ordinance irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Ordinance, or the validity of its application to other persons or circumstances. (Ord. No. 4373, § 1, 1-10-2017)

**CHAPTER 8.76****ABATEMENT PROCEDURE FOR  
NUISANCES CAUSED BY CANNABIS  
CULTIVATION****Sections:****Sec. 8.76.010 Findings, Purpose and Authority.****Sec. 8.76.020 Definitions.****Sec. 8.76.030 Scope of Chapter.****Sec. 8.76.040 Summary Abatement.****Sec. 8.76.050 Standard Abatement.****Sec. 8.76.060 Administrative Order to Show Cause.****Sec. 8.76.070 Service of Notice and Order to Show Cause.****Sec. 8.76.080 Automatic Hearing Procedures.****Sec. 8.76.090 Enforcement.****Sec. 8.76.100 Liability for Costs.****Sec. 8.76.110 Administrative Penalties.****Sec. 8.76.120 Severance.****Sec. 8.76.010 Findings, Purpose and Authority.**

The Board of Supervisors of Mendocino County finds that effective abatement of nuisances caused by cultivation of cannabis requires a more expedient set of procedures than those otherwise appropriate for other types of nuisances as laid out in Mendocino County Code chapter 8.75. This chapter is enacted pursuant to Government Code Sections 25843 and 53069.4 to address the unique circumstances related to abatement of nuisances caused by cannabis cultivation.

(Ord. No. 4374, § 1, 1-10-2017)

**Sec. 8.76.020 Definitions.**

The definitions set forth in Chapter 8.75 of this Code shall also apply to this Chapter with the exception of the term "Chapter", which instead shall refer to Chapter 8.76 for the purposes of this Chapter.

(Ord. No. 4374, § 1, 1-10-2017)

**Sec. 8.76.030 Scope of Chapter.**

When a public nuisance is declared, which is caused by the cultivation of cannabis, such as a nuisance declaration made pursuant to Section 9.31.130 of this Code, the procedures in this Chapter may be applied.

(Ord. No. 4374, § 1, 1-10-2017)

**Sec. 8.76.040 Summary Abatement.**

After a public nuisance is declared, the nuisance may be summarily abated by any reasonable means and without notice or hearing when immediate action is necessary to preserve or protect the public health or safety. Summary abatement shall be carried out in accordance with the provisions of Mendocino County Code section 8.75.070.

(Ord. No. 4374, § 1, 1-10-2017)

**Sec. 8.76.050 Standard Abatement.**

Whenever an Enforcement Officer declares or determines that a public nuisance has been declared pursuant to this Chapter and exists within the unincorporated area of Mendocino County, he or she may alternatively utilize the abatement procedures provided by Chapter 8.75 of this Code.

(Ord. No. 4374, § 1, 1-10-2017)

**Sec. 8.76.060 Administrative Order to Show Cause.**

As an alternative to the uniform abatement procedures provided in Chapter 8.75, the Enforcement Officer may instead utilize the provisions of this Chapter, starting with the issuance of a notice and administrative order to show cause. The notice and order to show cause shall:

A. Identify the owner(s) of the property upon which the nuisance exists, as named in the records of the county assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.

B. Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.

C. Identify such property by reference to the assessor's parcel number.

D. Contain a statement describing the unlawful conditions existing on the premises that caused the declaration of a public nuisance, and that also describes the actions required to abate it.

E. Contain a statement that the owner or occupant is required to abate the unlawful conditions caused by cannabis cultivation within five (5) calendar days after the date that said notice was served.

F. Notify the recipient(s) that, unless the owner or occupant abates the conditions, a hearing will be held before a hearing officer appointed in accordance with this Chapter to determine whether there is any good cause why these conditions should not be abated.

G. Specify the date, time, and location of the hearing to be held before a hearing officer, or state that the date, time and location of the hearing will be specified in a subsequent notice.

H. State that the owner or occupant will be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a nuisance under this chapter, or whether there is any other good cause why those conditions should not be abated.

I. Contain a statement that, unless the owner or occupant abates the conditions, or shows good cause before the Hearing Officer why the conditions should not be abated, the enforcing officer, his or her Department, or other authorized designee will cause to be done whatever work is necessary to abate the nuisance.

J. State that the abatement costs, including administrative costs, may be made a special assessment added to the county assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.

(Ord. No. 4374, § 1, 1-10-2017)

#### **Sec. 8.76.070 Service of Notice and Order to Show Cause.**

The notice and order to show cause shall be served on each Owner and on each Occupant, if known to the Enforcement Officer, of the subject property, in the following manner:

A. By posting a copy of the notice in a conspicuous place in front of or on the real property on which, or in front of which, the nuisance exists, or if the property has no frontage upon any street, highway, or road, then upon the portion of the property nearest to a street, highway, or road, or most likely to give actual notice to the owner and any person known by the Enforcement Officer to be in possession of the property; and

B. By either personal service, or by United States mail, first class or overnight, or by overnight courier service. If by mail or courier service, then postage shall be prepaid with a certificate of mailing requested, and shall be addressed to each Owner at the address shown on the last equalized assessment roll or last known address according to the County Assessor, and addressed to each Occupant known to the Enforcement Officer at the street address of the subject property.

C. Date of service shall be deemed to be the date of personal service, or five (5) days after delivery by United States first class mail, or one (1) day after overnight delivery by either the United States mail or courier service.

D. If the notice and order are properly and timely served, the failure of any owner or occupant to receive such notice shall not affect the validity of the proceedings conducted herein.

(Ord. No. 4374, § 1, 1-10-2017)

#### **Sec. 8.76.080 Automatic Hearing Procedures.**

A. In order to hear cases brought by the Enforcement Officer under this Chapter, the Board of Supervisors authorizes the use of a Hearing Officer pursuant to Mendocino County Code section 2.76. The Enforcement Officer's department or agency shall coordinate with County Counsel, prior to the issuance of any notice and order to

abate, to ensure that a Hearing Officer is appointed for the purpose of presiding at the administrative hearings provided for by this Chapter.

B. The Hearing Officer shall hold an administrative hearing to determine whether the conditions existing on the property subject to the notice constitute a nuisance under this Chapter, or whether there is any other good cause why those conditions should not be abated. This hearing shall be held no less than five (5) calendar days after service of the notice and order to show cause.

C. Parties may choose to be represented by an attorney; however, formal rules of evidence or procedure shall not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Nonetheless, any failure to make a timely objection to offered evidence constitutes a waiver of the objection. The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

D. The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified as an interpreter by either the State of California or the County of Mendocino.

E. The Enforcement Officer shall first describe the acts or conditions constituting a nuisance. Thereafter, the Owner or Occupant of the property shall be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a nuisance under this Chapter, or whether there is any other good cause why those conditions should not be abated.

F. In the event that the Owner or Occupant does not appear and present evidence at the hearing, the Hearing Officer may base their decision solely upon the evidence submitted by the Enforcement Officer. Failure of the Owner or Occupant to

appear and present evidence at the hearing shall constitute a failure to exhaust administrative remedies.

G. The Hearing Officer shall consider the evidence presented by the parties, and shall issue a written decision and order that either affirms, reverses, or modifies the determination contained in the administrative order to show cause issued by the Enforcement Officer, and may include findings relating to the existence or non-existence the alleged nuisance caused by cannabis cultivation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the notice and order to show cause. If the notice and order to show cause has been combined with the administrative citation and penalties procedures set forth in Mendocino County Code Chapter 1.08, then the decision shall also include the matters set forth in Section 1.08.120. Such decision shall be served on the parties upon whom the notice and order to show cause was served, and the Enforcement Officer, pursuant to Sections 8.76.070(B) and (C) or in the manner agreed upon by the parties. The decision shall be final when signed by the Hearing Officer and served as provided by this paragraph.

(Ord. No. 4374, § 1, 1-10-2017)

#### **Sec. 8.76.090 Enforcement.**

If the owner or occupant fails to abate any nuisance caused by the cultivation of cannabis within two (2) calendar days of the date of service of the decision of the Hearing Officer under this Chapter requiring such abatement, the Enforcement Officer, his or her Department, or other authorized designee may cause to be done whatever work is necessary to abate the nuisance. If necessary, the Enforcement Officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of inspecting the property to determine if the nuisance remains and also for undertaking the work to abate the nuisance if the nuisance had not already been abated.

(Ord. No. 4374, § 1, 1-10-2017)

**Sec. 8.76.100 Liability for Costs.**

A. In any enforcement action brought pursuant to this Chapter, each person who causes, permits, suffers, or maintains the nuisance caused by the cultivation of cannabis shall be liable for all costs incurred by the County, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this chapter, whether those costs are incurred prior to, during, or following enactment of this chapter.

B. The costs of abatement incurred as a result of enforcement pursuant to this Chapter may be recovered in accordance with Sections 8.75.150 — 8.75.200.

(Ord. No. 4374, § 1, 1-10-2017)

**Sec. 8.76.110 Administrative Penalties.**

A. The procedures and remedies set forth in Mendocino County Code Chapter 1.08 regarding administrative citations and penalties may be used in combination with the procedures set out in this Chapter.

B. When the Mendocino County Administrative Citation Ordinance is used in combination with the procedures and remedies set forth in this Chapter, the Mendocino County Administrative Citation Ordinance shall be modified as follows:

1. If a notice of violation is issued by an Enforcement Officer pursuant to Mendocino County Code Section 1.08.070(A), the Enforcement Officer may provide for a time to correct a violation pertaining to the cultivation of cannabis of less than thirty (30) days, but not less five (5) days;

2. The service procedures set out in this Chapter shall be sufficient to effect service of any required notice pursuant to the Mendocino County Administrative Citation Ordinance;

3. The provisions establishing an appeal of the Administrative Citation in the Mendocino County Administrative Citation Ordinance are no longer optional, but shall be provided as a matter

of course and be heard at the same time and location as the hearing regarding the notice and order to show cause provided in this Chapter.

4. Any hearing fee applicable to the Mendocino County Administrative Citation Ordinance as established by resolution of the Board, or any requirement to provide an advance deposit prior to a hearing contesting the Administrative Citation, shall not apply.

5. All other provisions of the Mendocino County Administrative Citation Ordinance shall apply, unless they are in direct conflict with this Chapter, in which case the provisions of this Chapter shall apply.

(Ord. No. 4374, § 1, 1-10-2017)

**Sec. 8.76.120 Severance.**

The provisions of this Ordinance are separate and severable. If any provision of this Ordinance is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed this Ordinance irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Ordinance, or the validity of its application to other persons or circumstances.

(Ord. No. 4374, § 1, 1-10-2017)

## CHAPTER 8.80

### EMERGENCY RESPONSE SERVICES

#### Sec. 8.80.010 Definitions.

For the purpose of this Chapter, the following definitions shall apply:

(A) "County" means the County of Mendocino for any emergency services, emergency response, medical rescue or fire rescue services rendered within the County of Mendocino, or search and rescue performed within or in the immediate vicinity of Mendocino County. "County" shall also refer to any other County or City and County for any emergency services, emergency response, medical rescue, or fire rescue rendered to a Mendocino County resident in any other County or City and County, or search and rescue performed for a Mendocino County resident within or in the immediate vicinity of another County or City and County.

(B) "Emergency Services" means any services performed by the County or any other agency that is under contract to the County to perform immediate life and property protection measures.

(C) "Emergency Response" means any County agency or any other agency that is under contract to the County to respond to immediate emergencies which cause a threat to life, public welfare, and property. "Emergency Response" also means any response by the Sheriff's Office, or any response by the Sheriff's Office to assist another law enforcement agency, to a driver operating a vehicle under the influence of alcohol or drugs, or the combined influence of alcohol and drugs. "Emergency Response" shall also mean an incident caused by that driver that requires the use of lights or sirens on an emergency vehicle, including but not limited to, a police car, fire truck, or ambulance.

(D) "Expense of an Emergency Response" means reasonable costs incurred by any County department in making an emergency response, including the salaries and associated overhead of Sheriff, rescue and/or emergency medical services during the response, a reasonable charge for the

cost of emergency vehicles used during the response, and the cost of any consumable supplies used during the response. The charge for Sheriff's salaries and overhead shall be computed using the calculations in Section 8.80.025.

(E) "Medical Rescue" means any immediate service performed by the County of Mendocino to limit or discontinue further threat or continued threat to a person(s) life by use of technical or specialized equipment and qualified trained personnel.

(F) "Fire Rescue" means any fire suppression or light rescue services performed by the County to limit or discontinue further threat or extension of continued threat to life and property by use of specialized fire suppression apparatus and qualified trained personnel.

(G) "Search and Rescue" means any services rendered by the County Sheriff to a person or persons lost or in danger of their lives within or in the immediate vicinity of this County.

(H) "Under the Influence of an Alcoholic Beverage or any Drug, or the Combined Influence of an Alcoholic Beverage and any Drug," means that a person is in that condition when, as a result of drinking an alcoholic beverage or using a drug, or both, his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle with the caution characteristic of a sober person of ordinary prudence under the same or similar circumstances. For purposes of this Section, the presumptions described in Sections 23152 and 23155 of the Vehicle Code shall apply. (Ord. No. 3793 (part), adopted 1991; Ord. No. 3912 (part), adopted 1995; Ord. No. 3922 (part), adopted 1996.)

#### Sec. 8.80.020 County Emergency Response.

The County shall respond to emergencies in the unincorporated areas of the County that are not within a legal fire or rescue protection jurisdiction. (Ord. No. 3793 (part), adopted 1991; Ord. No. 3912, adopted 1995.)

**Sec. 8.80.025 Computation of Charge for Salaries and Overhead.**

The charge for salaries and overhead imposed for an emergency response shall be computed by multiplying the average hourly base salary rate of Sheriff's Deputy, Sheriff's Corporal, and Sheriff's Sergeant in the fourth lowest step in the County Pay Plan, as certified by the Auditor-Controller, by two hundred percent (200%) and by multiplying that product by the total time computed in one-tenth hour segments, rounded up to the nearest one-tenth hour, of each County law enforcement officer involved in an emergency response. In addition, Workers' Compensation expenditures paid by the County to and on behalf of County employees for any injuries sustained by a County employee, and the County's cost to repair or replace equipment damaged or destroyed during a chargeable emergency response, shall be added to the charge. (Ord. No. 3922 (part), adopted 1995.)

**Sec. 8.80.030 Reimbursement for County Services.**

(A) Any person requesting or receiving the emergency response services described in Section 8.80.010 in the unincorporated areas of the County shall reimburse the County of Mendocino for the expense of an emergency response. These costs shall be a debt of that person, and shall be collectable by the County of Mendocino in the same manner as in an obligation under a contract, express or implied. The charge shall be computed pursuant to the calculations in Section 8.80.025. Payment shall be due within thirty (30) days after submission of an invoice by the County.

(B) The County may set off the amount owed under this Chapter against any amounts the County may owe the debtor. The remedies provided herein shall not prevent the County from collecting interest on amounts assessed under this Chapter, if otherwise allowed by this Code or other provisions of state law. The County may also pursue any other remedies at law or in equity to recover the amount claimed under this Chapter and to collect that amount from the debtor.

(C) Any person who is a resident of Mendocino County requesting or receiving emergency response services in another County for which Mendocino County is required to pay pursuant to Government Code Section 26614.5 shall reimburse the County of Mendocino for any such payment made to a County or City and County which rendered emergency response services. These costs shall be a debt of that person, who shall be liable to the County of Mendocino in the same manner as in an obligation under a contract, express or implied. Payment shall be due within thirty (30) days after submission of an invoice by the County.

(D) Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, and as a result operates a motor vehicle negligently or in a willfully wrongful manner, shall be liable for the expense of an emergency response by the County caused by that person's operation of the vehicle. (Ord. No. 3793 (part), adopted 1991; Ord. No. 3912 (part), adopted 1995; Ord. No. 3922 (part), adopted 1996.)

**Sec. 8.80.040 Sheriff Search and Rescue Expenses.**

The County or City and County of residence of a person searched for or rescued by the Mendocino County Sheriff shall pay the County of Mendocino any expenses that exceed one hundred dollars (\$100) for such search or rescue services within thirty (30) days after the submission of a claim by Mendocino County (Government Code Section 26614.5.) (Ord. No. 3793 (part), adopted 1991; Ord. No. 3912 (part), adopted 1995.)

**Sec. 8.80.050 Attorneys' Fees.**

In the event that suit is instituted to collect any sum due the County of Mendocino pursuant to this Chapter, the County, if it prevails, shall be entitled in addition to any other damages to attorney's fees as provided in this Section.

(A) "Prevail," as used in this Section, means that the filing of the action contributed significantly to



securing the opposing party or parties' agreement to pay or payment of the sum sought by the County or any lesser sum, whether as a result of voluntary payment after the action is filed, formal settlement or judgment. There shall be a rebuttable presumption that if the opposing party or parties pay or agree to pay any sum to the County of Mendocino after the action is filed, the filing of the action contributed significantly to the party or parties' agreement to pay or payment.

(B) Such fees shall be established by the court upon the filing of a cost bill as provided by law or by separate motion. In determining the amount of the fee the court shall multiply the number of hours devoted to preparing and prosecuting the action, commencing when the matter is first referred to the County Counsel for collection by a reasonable hourly rate for the services provided. In determining a reasonable hourly rate, the court shall consider the reasonable market rate in the jurisdiction for the attorney's services, taking into consideration the attorney's experience and skill and shall not be limited to the amounts actually paid by the County.

(C) If there is more than one opposing party, they shall be jointly and severally liable for all of the attorney's fees awarded to the County by the court. (Ord. No. 3793 (part), adopted 1991; Ord. No. 3912 (part), adopted 1995.)

**CHAPTER 8.85****SERVICE OF ALCOHOL TO MINORS AT  
EVENTS ON PRIVATE PROPERTY****Sec. 8.85.010 Findings and Purpose.**

The Board of Supervisors finds that this Chapter is necessary for the following reasons:

(A) Unsupervised parties on private property where alcohol is consumed by minors are not only unlawful but often a cause for disturbance.

(B) Problems associated with such gatherings are difficult to resolve unless the Sheriff's Office has the legal authority to enter the private premises and direct the host to disperse the group.

(C) Law enforcement's ability to abate loud and disturbing gatherings or gatherings where alcohol is served to minors on private property will decrease the abuse of intoxicants by minors, physical altercations and injuries, neighborhood vandalism and excessive noise, thereby improving public safety.

(D) Abatement of large parties, gatherings or events on private property is necessary when such activity is determined to be a threat to the peace, health, safety, or general welfare of the public.

(E) Sheriff's deputies frequently have been required to make return calls to the location of a party, gathering, or event in order to disperse uncooperative participants, causing a drain of manpower and resources and, in some cases, leaving other areas of the County with inadequate police protection.

(F) Accordingly, the purposes of this Chapter are:

To protect public health, safety and general welfare;

To enforce laws prohibiting the consumption of alcohol by minors;

To recover costs of providing law enforcement services to abate parties, gatherings or events. (Ord. No. 3968 (part), adopted 1997.)

**Sec. 8.85.020 Definitions.**

The following words and phrases, wherever used in this Chapter, shall be construed as defined in this

Section, unless it is apparent from the context that they have a different meaning.

(A) "Cost of Providing Law Enforcement Services" means the charge as computed in Section 8.80.025 of Chapter 8.80.

(B) "Juvenile" means any minor child under the age of eighteen (18) years.

(C) "Minor" means any person under the age of twenty-one (21) years.

(D) "Party, Gathering or Event" means a group of persons who have assembled or are assembling for a social occasion or a social activity.

(E) "Person Responsible for the Event" means and includes, but is not limited to:

(1) The person who owns, rents, leases or otherwise has control of the premises where the party, gathering or event takes place if the person is present or has actual knowledge that the party, gathering or event is taking place or has taken place;

(2) The person in charge of the premises; or

(3) The person who organized the event.

(F) If the person responsible for the event is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the costs incurred for law enforcement services pursuant to this Chapter. (Ord. No. 3968 (part), adopted 1997.)

**Sec. 8.85.030 Unlawful Gatherings on Private  
Property When Alcohol is  
Served to Minors.**

Except as permitted by Article I, Section 4 of the California Constitution, no person shall suffer, permit, allow or host a party, gathering or event at his or her place of residence or other private property, place or premises under his or her control where five (5) or more persons under the age of twenty-one (21) are present and alcoholic beverages are in the possession of, or are being consumed by, any person under the age of twenty-one (21) years. A violation of this Section shall constitute a misdemeanor punishable by a fine of up to One Thousand Dollars (\$1,000.00) or by imprisonment for up to six (6) months in the county jail, or by both fine

and imprisonment. (Ord. No. 3968 (part), adopted 1997.)

**Sec. 8.85.040 Liability for Law Enforcement Services at Parties, Gatherings or Events.**

When a party, gathering or event occurs on private property in violation of Section 8.85.030 and a peace officer at the scene determines that there is a threat to the public peace, health, safety or general welfare, the peace officer is empowered to arrest or cite the person responsible for the event; and that person shall be liable for the cost of providing law enforcement services. (Ord. No. 3968 (part), adopted 1997.)

**Sec. 8.85.050 Fees for Law Enforcement Services at Parties, Gatherings or Events.**

(A) The charge for salaries and overhead for law enforcement services as calculated in Section 8.80.025 shall be a debt of the person responsible for the event, and, as provided in Section 8.85.020, Subsection (F), a debt of the parents or guardians of a juvenile responsible for an event. The County shall be entitled to collect that debt in the same manner as an obligation under a contract, express or implied. If suit is instituted to collect such obligation, the County shall be entitled, in addition to any other costs, to attorney's fees as provided in Section 1.04.115 of this Code.

(B) Notwithstanding the provisions of the foregoing subdivision, the Sheriff shall waive the amount of the obligation over Five Hundred Dollars (\$500.00) if payment is made within thirty (30) days after presentation of an invoice.

(C) The amount of such fees collected, up to Five Hundred Dollars (\$500.00) per incident, shall be placed in a special Youth Services Fund to be administered by the County Sheriff's Office. (Ord. No. 3968 (part), adopted 1997.)

**Sec. 8.85.060 Appeal of Imposition of Costs and Expenses.**

(A) **Appeal Committee/Appeal Rights.** Any person upon whom law enforcement costs and ex-

penses have been imposed pursuant to this Chapter may appeal these costs and expenses to an Appeals Committee composed of one (1) representative from the office of the Auditor-Controller, one (1) representative of the Department of Public Health and one (1) representative of the Sheriff's Department.

(B) **Appeal Procedure.** A person to whom notice of imposition of costs and expenses was mailed may appeal said imposition to the Appeals Committee within ten (10) days of the mailing of the notice.

The appeal shall be filed in writing with the Sheriff's Department. The Sheriff's Department shall convene the Appeals Committee which shall schedule a hearing within thirty (30) days of receiving an appeal.

Any appeal which fails to satisfy any requirement under this Section or any person who fails to appear at the scheduled committee meeting without an adequate excuse acceptable to the Committee shall forfeit the right to appeal.

(C) **Appeal Standards.** In acting on the appeal, the Committee may in its discretion reduce or excuse the imposed service costs and expenses based on any of the following factors:

- (1) The accuracy of the calculation of the costs and expenses;
- (2) The nature, circumstances, extent and gravity of the violation;
- (3) The extent to which the violation was willful and/or intentional;
- (4) Whether and to what extent the violation has recurred; and
- (5) Whether, and to what extent the person promptly reimbursed the County for its costs and expenses incurred in connection with this violation or prior violations of this Chapter. (Ord. No. 3968 (part), adopted 1997.)

**Sec. 8.85.070 Severability.**

If any provision of this Chapter is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed the ordinance codified in this Chapter irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall

8.85.070

therefore not affect the remaining provisions of this Chapter, and to that end the provisions of this Chapter are severable. (Ord. No. 3968 (part), adopted 1997.)

**CHAPTER 8.86**  
**CONSUMPTION OF ALCOHOL IN PUBLIC**  
**AREAS WITHIN THE TOWN OF**  
**MENDOCINO**

punishable as set forth in Mendocino County Code Section 1.04.110(B). (Ord. No. 4066 (part), adopted 2000.)

**Sec. 8.86.010 Purpose.**

This Chapter addresses an increasing problem with people drinking intoxicating liquor in public areas within the Historical Preservation District of the Town of Mendocino thereby endangering the health and safety of citizens and visitors to the Town. (Ord. No. 4066 (part), adopted 2000.)

**Sec. 8.86.020 Intoxicating Liquor.**

For the purpose of this Chapter, "intoxicating liquor" includes any alcoholic beverage containing more than one-half of one percent of alcohol by volume and includes all types of spirituous, vinous and malt liquors. (Ord. No. 4066 (part), adopted 2000.)

**Sec. 8.86.030 Public Consumption Prohibited.**

It is unlawful for any person to drink or consume any intoxicating liquor upon any public street, public roadway, public alley or public parking lot or public sidewalk within the Historical Preservation District of the Town of Mendocino as described in Mendocino County Code Section 20.760.010. (Ord. No. 4066 (part), adopted 2000.)

**Sec. 8.86.040 Exceptions.**

Nothing in Section 8.86.030 shall limit the consumption of alcohol at special events or activities which have been granted a license pursuant to the provisions of Mendocino County Code Chapter 6.16 pertaining to Outdoor Festivals. Nor shall this Chapter apply to beach areas or the Mendocino Headlands which are properties belonging to the California State Parks Department. (Ord. No. 4066 (part), adopted 2000.)

**Sec. 8.86.050 Penalty.**

Any violation of this Chapter is an infraction



**CHAPTER 8.95**

**CORONER'S FEES**

**Sec. 8.95.010 Authority to Charge Fees.**

Except as provided elsewhere in this Chapter, the Sheriff-Coroner is hereby authorized to charge fees to defray the cost of the issuance of any documents, and to defray the cost of providing any service to the public.

The Board of Supervisors shall establish the fees by resolution. (Ord. No. 3911 (part), adopted 1995.)

**Sec. 8.95.020 Coroner's Charge for Taking Custody of a Dead Body.**

(A) Pursuant to Government Code Section 27472, the Sheriff-Coroner, whenever taking custody of a dead body pursuant to law, may charge and collect from the person entitled to control the disposition of the remains the actual expense incurred by the Sheriff-Coroner in removing the body from the place of death and keeping the body until its release to the person responsible for its interment. The charge shall not include expenses of keeping the body during the time necessary for the Coroner to perform his or her duties in connection with it. The charge, if not paid, may be considered a part of the funeral expenses and paid as a preferred charge against the estate of the decedent.

(B) The charge shall not exceed the maximum amount established by Government Code Section 27472 and shall not be imposed upon: (1) a person who claims and proves to be indigent, or (2) in cases in which the body is that of a child not more than fourteen (14) years of age, or (3) in cases in which the Coroner ascribes the death to the criminal act of another, unless the Coroner has reasonable grounds to believe that the deceased was involved in any criminal activity which contributed to his or her own death. (Ord. No. 3911 (part), adopted 1995.)

**Sec. 8.95.030 Amount of Fee.**

The amount of the fee for body removal and storage services shall be established pursuant to a

resolution adopted by the Board of Supervisors subsequent to a public fee hearing, except that the fee shall not exceed the amount specified in Government Code Section 27472, or any successor statute. (Ord. No. 3911 (part), adopted 1995.)

**Sec. 8.95.040 Exceptions to Coroner's Fees.**

All cases handled by the Sheriff-Coroner shall be billed for transportation, personnel handling, and storage costs, except for the following categories of cases:

- (A) Decedents under fourteen (14) years of age;
- (B) Homicides;
- (C) In custody or police-involved cases;
- (D) Indigents (County disposition);
- (E) Cases in which private charitable funds available to pay funeral costs would thereby be reduced so as to preclude payment;
- (6) Cases specifically exempted by the Sheriff-Coroner or his designee. (Ord. No. 3911 (part), adopted 1995.)

**CHAPTER 8.200**

**GRAFFITI SUPPRESSION\***

**Sec. 8.200.010 Purpose of Chapter.**

The Board of Supervisors finds that graffiti on public and private property has a direct negative impact on a neighborhood and the value of property, and presents an imminent danger to the public safety and welfare as it encourages gang activity and other acts of malicious activity, and is a public nuisance. The presence of graffiti which is not abated immediately encourages the creation of additional graffiti, resulting in neighborhood blight and increased costs of abatement. The purpose of this Chapter is to provide a program for rapid removal of graffiti from walls and structures on both public and private property in the unincorporated area of Mendocino County and to provide regulation designed to prevent and control the further spread of graffiti in the unincorporated area of Mendocino County.  
(Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.020 Definitions.**

"Graffiti" means any defacing of public or private buildings, structures or places, unauthorized by the owner or other person in control of the property, through any inscription, word, figure or design that is marked, etched, scratched, drawn or painted using application of paint, ink, dye or any other similar substance.

"Graffiti implement" means any pressurized container, broad-tipped marker of one-quarter inch or more, paint stick, or graffiti stick.  
(Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.030 Graffiti Prohibited.**

(A) No person shall place or cause to be placed graffiti upon any publicly or privately owned permanent building, structure or place within unincorporated area of Mendocino County.

\*Editor's note—Ord. No. 4298, § 1, adopted July 10, 2012, amended Ch. 8.200, §§ 8.200.010—8.200.100 in their entirety. Former Ch. 8.200 pertained to similar subject matter and was derived from Ord. No. 4176 § 1 (part), adopted 2006.

(B) No person owning or otherwise in control of any real property within the unincorporated area of Mendocino County, shall allow or permit any graffiti to remain on any permanent structure located on such property when the graffiti is visible from the street or other public or private property.  
(Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.040 Summary Abatement of Graffiti.**

The Sheriff or his/her designee, or the Director of Planning and Building or his/her designee, or the Solid Waste Director or his/her designee, or other persons authorized by the Chief Executive Officer, are hereby authorized to summarily abate graffiti by painting over it, notwithstanding any requirements in this Code for prior notice before abatement.  
(Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.050 Alternative Notice and Consent for Removal of Graffiti.**

(A) Whenever the Director of Planning and Building or his/her designee, determines that graffiti exists on any permanent structure in the unincorporated area of Mendocino County which is visible from the street or other public or private property, the Director may as an alternative to summary abatement cause a notice to be served on the property owner demanding abatement of the graffiti as provided by this section.

(B) The notice shall be served on the owner(s) of the affected property, as such owner's name and address appear on the last equalized property tax assessment rolls of the County of Mendocino. The notice shall be served by either personal delivery or certified or first class mail. In addition, where the property is known to be occupied by other than the record owner, a copy of the notice shall be sent by certified or first class mail to the occupant at the property address or posted on the affected property.

(C) The notice shall inform the property owner that the graffiti exists and must be immediately abated. The notice shall request that, within ten



(10) days of personal delivery or mailing of the notice, the owner either abate the graffiti or sign and return a consent form authorizing the County to enter the property and abate the graffiti, at the property owner's expense, by cleaning, painting or otherwise removing the graffiti. The consent form to be signed by the owner shall be prepared by the County and served with the Notice to Abate. (Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.060 Graffiti Declared Public Nuisance.**

Graffiti which is visible from a street or other public or private property, is hereby declared to be a public nuisance. (Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.070 Failure to Remove Graffiti or Provide Consent for Removal by County.**

(A) In the event the property owner receiving notice under Section 8.200.050 fails to either abate the graffiti or consent to abatement by the County, within the 10-day period, The County may proceed to abate the graffiti under any applicable nuisance abatement procedure including, but not limited to, the nuisance abatement procedures provided in Chapter 8.75 of this Code, to include assessment of the costs of abatement against the owner and placement of an abatement lien. If The County anticipates that these abatement procedures will be used, any notice required by Chapter 8.75 of this Code may be included in the notice specified by Section 8.200.050 so that only one (1) 10-day notice period is required prior to abatement by The County. County employees, agents, volunteers and other work crews supervised by The County, and private contractors of The County, are expressly authorized to enter private property for purposes of abating graffiti under any nuisance abatement procedure.

(B) Where graffiti has been abated by The County due to the refusal or failure of the property owner to either remove the graffiti or to allow The County to remove the graffiti, the owner shall

reimburse The County for the actual cost of the removal of the graffiti. If the statute or ordinance under which The County proceeds with abatement does not specify the costs to be included, such costs shall include labor, material, inspection and reasonable administrative costs. (Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.080 Penalty for Violation.**

(A) Any person found guilty of applying graffiti in violation of Section 8.200.030, shall reimburse The County or the property owner for any and all costs the owner or The County may incur in removing graffiti under this Chapter. If the violator is a minor, the parent or guardian shall be responsible for such reimbursement. Such reimbursement shall be in addition to any other civil or criminal penalties authorized by law to be imposed.

(B) Any person who fails to comply with any Order of Abatement or who violates any other provision of this Chapter, is guilty of an infraction, punishable as set forth in Section 1.04.110 of this Code.

(C) Any person who obstructs, impedes or interferes with any representative of The County or any property owner when engaged in proceedings involving abatement of graffiti under this Chapter, is guilty of an infraction, punishable as set forth in Section 1.04.110 of this Code. (Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.090 Possession of Graffiti Implements by Minors.**

It shall be unlawful for any person under the age of eighteen (18) years to have in his or her possession any graffiti implement capable of defacing property with a permanent, indelible or waterproof substance while on private property without the consent of the Owner, or while on public property, unless the minor is using the graffiti implement under the supervision of a parent, teacher or legal guardian. (Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.100 Display, Storage, Sale and Conveyance of Graffiti Implements to Minors.**

(A) It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan, or otherwise furnish, or to permit to be exchanged, given, loaned or otherwise furnished, any graffiti implement to anyone under the age of eighteen (18) years in the absence of and without the written consent of the parent or legal guardian.

(B) Before selling any graffiti implement capable of defacing property with a permanent, indelible or waterproof substance, a retailer must first obtain bona fide evidence of age and identity. As used herein, the phrase "bona fide evidence of age and identity" shall mean any document evidencing the age and identity of any individual that has been issued by a federal, state, or local governmental entity, and includes, but is not limited to, a motor vehicle operator's license, a registration certificate issued under the federal selective service act, or an identification card issued to a member of the armed forces.

(C) Any person, organization, company, firm or association engaged in the retail sale of graffiti implements capable of defacing property with a permanent, indelible or waterproof substance must place a sign at the location of retail sale that is clearly visible and legible to employees and customers and which states as follows:

**GRAFFITI IMPLEMENTS: IT IS UNLAWFUL FOR ANY PERSON TO SELL OR GIVE TO ANY INDIVIDUAL UNDER THE AGE OF EIGHTEEN YEARS ANY GRAFFITI IMPLEMENT CAPABLE OF BEING USED TO DEFACE PROPERTY. ANY PERSON WHO MALICIOUSLY DEFACES REAL PROPERTY IS GUILTY OF VANDALISM WHICH IS PUNISHABLE BY A FINE, IMPRISONMENT, OR BOTH.**

(Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.110 Civil Responsibility for Damages for Wrongful Sale, Display and Storage.**

Any person, organization, company, firm, or association who sells, displays or stores any graffiti implements in violation of the provisions of this Article shall, to the extent permitted by law, be personally liable for any and all costs incurred by any party in connection with the removal of graffiti, or the repair of any property containing graffiti, caused by any person who used such graffiti implement in violation of the provisions of California Penal Code Section 594, and for all attorney's fees and court costs incurred in connection with the civil prosecution of any claim for damages.

(Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.120 Remedies Cumulative.**

Nothing in this Chapter shall be deemed to prevent County Counsel or District Attorney from commencing a civil or criminal proceeding or action to abate a public nuisance under any other applicable law. The remedies provided for herein shall be cumulative and not exclusive.

(Ord. No. 4298, § 1, 7-10-2012)

**Sec. 8.200.130 Severability.**

The provisions of this Ordinance are separate and severable. If any provision of this Ordinance is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed this Ordinance irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Ordinance, or the validity of its application to other persons or circumstances.

(Ord. No. 4298, § 1, 7-10-2012)

## CHAPTER 8.300

### SMARTMETER MORATORIUM

#### Sec. 8.300.010 Purpose and Intent.

It is the purpose and intent of this Chapter to adopt a moratorium on the installation of SmartMeters and related equipment to allow time to analyze additional information regarding the potential risks and effects of SmartMeters to the health, safety and welfare of County residents.

(Ord. No. 4272, 1-25-2011)

#### Sec. 8.300.020 Findings.

1. The County of Mendocino (hereinafter the "County"), through its police powers granted by Article XI of the California Constitution, retains broad discretion to legislate for public purposes and for the general welfare, including but not limited to matters of public health, safety and consumer protection.

2. The County of Mendocino has a franchise agreement with PG&E that has been in effect since 1945.

3. The County retains authority under Article XII, Section 8 of the Constitution to grant franchises for public utilities, and pursuant to California Public Utilities Code section 6203, "may in such a franchise impose such other and additional terms and conditions . . . , whether governmental or contractual in character, as in the judgment of the legislative body are to the public interest."

4. Public Utilities Code section 2902 reserves the County's right to supervise and regulate public utilities in matters affecting the health, convenience and safety of the general public, "such as the use and repair of public streets by any public utility, the location of the poles, wires, mains, or conduits of any public utility, on, under, or above any public streets, and the speed of common carriers operating within the limits of the municipal corporation."

5. Pacific Gas & Electric Company ("PG&E") is now installing SmartMeters in Central and Northern California and is preparing to install these meters within the County of Mendocino.

6. Concerns about the impact and accuracy of SmartMeters have been raised nationwide, leading the Maryland Public Service Commission to deny permission on June 21, 2010 for the deployment of SmartMeters in that state. The State of Hawaii Public Utility Commission also recently declined to adopt a smart grid system in that State. The City and County of San Francisco has challenged the installation and other municipalities and the cost of moratoriums, and Santa Cruz have issued moratoriums seeking to delay the implementation of SmartMeters until the questions about their accuracy can be evaluated.

7. Major problems and deficiencies with SmartMeters in California have been brought to the attention of the Board of Supervisors of the County of Mendocino, including PG&E's confirmation that SmartMeters have provided incorrect readings costing ratepayers untold thousands of dollars in overcharges and PG&E's records outlined "risks" and "issues" including an ongoing inability to recover real-time data because of faulty hardware originating with PG&E vendors.

8. The ebb and flow of gas and electricity into homes discloses detailed information about private details of daily life. Energy usage data, measured moment by moment, allows the reconstruction of a household's activities: when people wake up, when they come home, when they go on vacation, and even when they take a hot bath. SmartMeters represent a new form of technology that relays detailed hitherto confidential information reflecting the times and amounts of the use of electrical power without adequately protecting that data from being accessed by unauthorized persons or entities and as such pose an unreasonable intrusion of utility customers' privacy rights and security interests. Indeed, the fact that the CPUC has not established safeguards for privacy in its regulatory approvals may violate the principles set forth by the U.S. Supreme Court in *Kyllo v. United States* (2001), 533 U.S. 27.

9. There is now evidence showing that problems with SmartMeters could adversely impact the amateur radio communication network that

operates throughout California and neighboring states, as well as other radio emergency communication systems that serve first responders, government agencies, and the public.

10. Significant health questions have been raised concerning the increased electromagnetic frequency radiation (EMF) emitted by the wireless technology in SmartMeters, which will be in every house, apartment and business, thereby adding additional human-made EMF to our environment around the clock to the already existing EMF from utility poles, individual meters and telephone poles.

11. FCC safety standards do not exist for chronic long-term exposure to EMF or from multiple sources, and reported adverse health effects from electromagnetic pollution include sleep disorders, irritability, short term memory loss, headaches, anxiety, nausea, DNA breaks, abnormal cell growth, cancer, premature aging, etc. Because of untested technology, international scientists, environmental agencies, advocacy groups and doctors are calling for the use of caution in wireless technologies; and

12. The primary justification given for the SmartMeters program is the assertion that it will encourage customers to move some of their electricity usage from daytime to evening hours; however, PG&E has conducted no actual pilot projects to determine whether this assumption is in fact correct. Non-transmitting time-of-day meters are already available for customers who desire them, and enhanced customer education is a viable non-technological alternative to encourage electricity use timeshifting. Further, some engineers and energy conservation experts believe that the SmartMeters program—in totality—could well actually increase total electricity consumption and therefore the carbon footprint.

13. Assembly Member Jared Huffman also recently introduced legislation (AB 37) which would add a section to the Public Utilities Code to require the CPUC to identify alternative options for customers who do not wish to have a wireless SmartMeter installed and allow customers to opt-

out of wireless SmartMeter installation, including removing existing SmartMeters where requested by the customer. Most importantly, the legislation would suspend deployment of SmartMeters until the CPUC meets the above requirements.

14. Because the potential risks to the health, safety and welfare of County residents are so great, the Board of Supervisors wishes to adopt a moratorium on the installation of SmartMeters and related equipment within the unincorporated area of the County of Mendocino. The moratorium period will allow legislative process referenced above to be completed and for additional information to be collected and analyzed regarding potential problems with SmartMeters.

15. There is a current and immediate threat to public health, safety and welfare because, without this ordinance, SmartMeters or supporting equipment will be installed or constructed or modified in the County without PG&E's complying with the CPUC process for consultation with the local jurisdiction, the County's Code requirements, and subjecting residents of Mendocino County to the privacy, security, health, accuracy and consumer fraud risks of the unproven SmartMeter technology.

16. The Board of Supervisors hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance does not authorize construction or installation of any facilities and, in fact, imposes greater restrictions on such construction and installation in order to protect the public health, safety and general welfare. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

17. There is no feasible alternative to satisfactorily study the potential impact identified above as well or better with a less burdensome or restrictive effect than the adoption of this urgency moratorium ordinance; and

18. Based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from the SmartMeter technology; therefore it is appropriate to adopt a moratorium that would remain in effect from the date of its adoption until it sunsets in accordance with the provisions set forth in Section 8.300.080 unless your Board acts to repeal it prior to that date.  
(Ord. No. 4272, 1-25-2011)

**Sec. 8.300.030 Moratorium.**

From and after the effective date of this Ordinance, no SmartMeter may be installed in or on any home, apartment, condominium or business of any type within the unincorporated area of the County of Mendocino, and no equipment related to SmartMeters may be installed in, on, under, or above any public street or public right-of-way within the unincorporated area of the County of Mendocino.  
(Ord. No. 4272, 1-25-2011)

**Sec. 8.300.040 Violation.**

Violations of the Moratorium may be charged as infractions or misdemeanors as set forth in Chapter 1.04.110 of the Mendocino County Code. In addition, violations shall be deemed public nuisances, with enforcement by injunction or any other remedy authorized by law.  
(Ord. No. 4272, 1-25-2011)

**Sec. 8.300.050 Severability.**

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the remainder of this Chapter, including the application of such party or provision to other circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one (1) or more sec-

tions, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.  
(Ord. No. 4272, 1-25-2011)

**Sec. 8.300.060 Compliance With CEQA.**

The County finds that this Chapter is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the following categorical exemptions apply: Sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including by direct referral to the County Counsel as appropriate for judicial enforcement).  
(Ord. No. 4272, 1-25-2011)

**Sec. 8.300.070 Effective Date.**

The Clerk of the Board will publish the Ordinance codified in this Chapter as required by law. The Ordinance codified in this Chapter shall take effect immediately.  
(Ord. No. 4272, 1-25-2011)

**Sec. 8.300.080 Sunset Date.**

This ordinance shall sunset within thirty (30) days after both of the following conditions are met:

1. At the time PG&E offers to its customers an alternative to wireless advanced metering infrastructure devices; and
  2. Information about the technology and risks associated with the specific model of advanced metering infrastructure device being proposed for installation is provided to customers residing in the unincorporated areas of the County.
- (Ord. No. 4272, 1-25-2011)

**CHAPTER 8.400**

**DECLARE INTENTIONALLY KILLED AND LEFT STANDING TREES A PUBLIC NUISANCE**

**Sec. 8.400.010 Findings.**

Title 8 of the Mendocino County Code entitled PUBLIC HEALTH, SAFETY AND WELFARE grants Mendocino County the authority to protect the health, safety, and welfare of the county's residents. The citizens of Mendocino County find as follows:

A. The County has over 1 million (1,000,000) acres of forest lands with much of it in private industrial ownership; and

B. Some industrial owners manage their forest lands by intentionally killing but not downing unwanted trees; and

C. Intentionally killed and left standing trees present an extreme fire hazard; and

D. Intentionally killed and left standing trees can impede rapid suppression of fires; and

E. Intentionally killed and left standing trees pose a life safety risk to firefighters; and

F. Intentionally killed and left standing trees endanger the public health and safety of rural residents.

(Ord. No. 4367, 6-7-2016)

**Sec. 8.400.020 Prohibition.**

The citizens of Mendocino County, by their authority to adopt ordinances by initiative add a new chapter to Title 8 of the Mendocino County Code to read as follows:

Trees greater in height than five (5) meters, intentionally killed and left standing for more than ninety (90) days (except those created for the benefit of wildlife habitat) are a public nuisance and the party responsible shall be liable for any resulting damage when the tree is:

(1) Within one thousand (1,000) meters or more critical infrastructures:

(a) Roads including public roads, private roads and driveways, fire lanes

(b) Telecommunication infrastructure including poles, wire, fiber, terminals, towers

(c) Electrical infrastructure including poles, wire, substations, transformers

(d) Significant water sources, including rivers, creeks, ponds, lakes

(2) Within one thousand (1,000) meters of a structure

(3) Within CAL FIRE State Responsibility Area

The County shall not enter residential property to verify compliance.

(Ord. No. 4367, 6-7-2016)

**Sec. 8.400.030 Severability.**

If any section, subsection, sentence, phrase or clause of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The citizens of Mendocino County hereby declare that they would have adopted the Ordinance and each section despite the fact that one (1) or more section, subsection, phrases or clauses be declared invalid.

(Ord. No. 4367, 6-7-2016)

**Title 9**

**HEALTH AND SANITATION**

**Chapter 9.05 Emergency and Pre-Hospital Medical Service System**

**Division One General**

**Division Two Authorizations**

**Division Three Funding**

**Division Four Effective**

**Chapter 9.08 Restaurants**

**Chapter 9.12 Regulation of Sewage and Septage Pumpers**

**Chapter 9.16 Fees Pertaining to Health or Sanitation**

**Chapter 9.20 Smoking in County Buildings**

**Chapter 9.24 Mendocino County Water Haulers' Ordinance**

**Chapter 9.28 Regulation of Hazardous Substances Stored in Underground Storage Tanks**

**Chapter 9.30 Adult Use Marijuana Cultivation Regulation**

**Chapter 9.31 Medical Marijuana Cultivation Regulation**

**Chapter 9.32 Smoking Pollution Control and Health Protection Ordinance**

**Chapter 9.33 Outdoor Burning**

**Chapter 9.34 FIRST 5 Mendocino County Ordinance**

**Chapter 9.35 IHSS Public Authority Ordinance**

**Chapter 9.36 Reserved**

**Chapter 9.37 The Repeal of (Measure G) Mendocino County Code Chapter 9.36 Cannabis Personal Use Ordinance for Mendocino County/and Adoption of New Guidelines for Maintenance and Possession of Medical Marijuana That Do Not Exceed the Minimum State Limits**

- Chapter 9.40 Disease Prevention Demonstration Project**
- Chapter 9.41 Single-use Carryout Bags by Retail Establishments**
- Chapter 9.42 Disposable Food Ware**



**CHAPTER 9.05****EMERGENCY AND PRE-HOSPITAL  
MEDICAL SERVICE SYSTEM\*****Sections:****Division One General**

- Sec. 9.05.100 Title.**
- Sec. 9.05.110 Authority.**
- Sec. 9.05.120 Intent and Scope.**
- Sec. 9.05.130 Definitions.**

**Division Two Authorizations**

- Sec. 9.05.200 Authorization Required.**
- Sec. 9.05.210 Ambulance Service Provider Permits Required.**
- Sec. 9.05.220 Provider Authorization Required.**
- Sec. 9.05.230 Exclusive Operating Area.**
- Sec. 9.05.240 EMS Dispatch.**
- Sec. 9.05.250 Emergency and Disaster Operations.**
- Sec. 9.05.260 Violations.**

**Division Three Funding**

- Sec. 9.05.300 Fees.**
- Sec. 9.05.310 EMS Fund and EMS Trust.**

**Division Four Effective**

- Sec. 9.05.400 Severability.**
- Sec. 9.05.410 CEQA.**
- Sec. 9.05.420 Implementation.**

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\*Editor's note—Ord. No. 4379, adopted March 7, 2017, repealed ch. 9.05, Divs. 1—5, §§ 9.05.010—9.05.050, 9.05.100—9.05.199, 9.05.200—9.05.270, 9.05.300—9.05.390, 9.05.400—9.05.420, in its entirety; and enacted a new ch. 9.05 to read as set out herein. Former ch. 9.05 pertained to "Emergency Medical Response," and was derived from Ord. No. 3791 (part), adopted 1991 and Ord. No. 3876 (part), adopted 1994.

**DIVISION ONE GENERAL****Sec. 9.05.100 Title.**

A. The ordinance codified in this Chapter shall be known as the "Emergency and Pre-Hospital Medical Services System Ordinance of Mendocino County."  
(Ord. No. 4379, 3-7-2017)

**Sec. 9.05.110 Authority.**

A. The County of Mendocino (hereinafter, "County") has established an Emergency Medical Services (EMS) system containing an organized pattern of readiness and response services pursuant to California Health and Safety Code section 1797.200, et seq.

B. The County has designated a Local EMS Agency (LEMSA) to administer the County EMS system pursuant to Health and Safety Code section 1797.200, et seq.

C. This Chapter shall be administered by the County through its designated LEMSA. The LEMSA shall administer the EMS System through the use of agreements with public and private entities as well as policies, procedures and guidelines as provided for in Health and Safety Code section 1797.204.

(Ord. No. 4379, 3-7-2017)

**Sec. 9.05.120 Intent and Scope.**

A. Intent: It is the intent of this Chapter for the LEMSA to provide medical control and management of EMS in the County in conformance with California Health and Safety Code section 1443, Welfare and Institution Code section 17000, Vehicle Code section 2512, and Government Code section 37101.

B. Scope: The LEMSA shall develop and implement policy, procedure, and guidelines setting forth minimum requirements for the authorization and operation of ground and air EMS providers for the purpose of providing the organization and resources required to maintain an EMS

system that meets state mandates and the health and safety needs of the residents of and the visitors to the County.

C. The LEMSA shall develop and implement procedures for the training, education, certification, accreditation and discipline of pre-hospital personnel in accordance with Health and Safety Code and California Code of Regulations for the purposes of protecting the health and safety of the residents of and the visitors to the County.

D. The LEMSA shall develop and implement additional policy, procedure and guidelines as appropriate to be consistent with current health-care practice or when mandated by Health and Safety Code and/or California Code of Regulations for the purposes of protecting the health and safety of the residents of and the visitors to the County.

(Ord. No. 4379, 3-7-2017)

**Sec. 9.05.130 Definitions.**

A. "Advanced Life Support" or "ALS"; see "Class of Service."

B. "Ambulance" means any privately or publicly owned vehicle especially designed, constructed, modified, equipped, arranged, maintained and operated for the sole purpose of transporting sick, injured, infirm, convalescent or otherwise incapacitated persons, and expectant mothers.

C. "Ambulance Dispatch Center" means any entity that dispatches ambulances in response to requests for service through any means of communication.

D. "Ambulance Service Provider" means any person or entity who, for monetary, public service, or other consideration, transports, in one (1) or more air or ground ambulances providing any class of service, one (1) or more persons needing medical attention or services from any location in the County.

E. "Ambulance Service Provider Permit" means a permit issued by the LEMSA in accordance with LEMSA policy authorizing the holder to act as an Ambulance Service Provider within the County.

F. "Basic Life Support" or "BLS"; see "Class of Service."

G. "Board" means the Board of Supervisors, County of Mendocino.

H. "Class of service" means the level or levels of complexity of field emergency medical services that may be provided by the Permittee and/or certified person. These are:

1. Emergency Medical Responder (EMR) level care provided by a person who has completed a state-approved EMR course that meets or exceeds the national EMS education standards for EMR and functions within the state and LEMSA-approved scope of practice,

2. Basic Life Support (BLS) as defined in Health and Safety Code Section 1797.60 provided at the EMT scope of practice level as defined in Health and Safety Code Section 1797.80.

3. Advanced Life Support (ALS) as defined in Health and Safety Code Section 1797.56 provided by a paramedic as defined in Health and Safety Code Section 1797.84.

4. "Critical Care Transport" or "CCT" level care during transport which exceeds the paramedic scope of practice, requiring a higher level of health care licensure.

I. "County" means the County of Mendocino, State of California.

J. "Department" means County of Mendocino, Department of Health and Human Services Agency.

K. "Emergency Medical Services" or "EMS" means medical services performed in response to an Emergency Call.

L. "EMS Aircraft Service" means any aircraft service utilized for the purpose of pre-hospital emergency patient response and transport. EMS Aircraft Service includes air ambulances and all categories of rescue aircraft as defined in Title 22.

M. "EMS Dispatch" means the Ambulance Dispatch Center designated by the LEMSA for the dispatch of EMS responders to Emergency Calls.

N. "EMS Entity" means a public or private organization of any type providing EMS and/or Ambulance services within the County.

O. "EMS System" means a specifically organized arrangement which provides for the personnel, facilities and equipment for the effective and coordinated delivery of medical care services under emergency conditions, as described in Health and Safety Code sections 1797 and 1798.

P. "EOA" means Exclusive Operating Area as defined in Health & Safety Code section 1797.85.

Q. "LEMSA" means the Local EMS Agency established by the County, designated by the Board pursuant to Health and Safety Code section 1797, et seq.

R. "Maddy EMS Fund" references funding available through Health and Safety Code section 1797.98 which compensates health care providers for emergency medical services for individuals who do not have health insurance and cannot afford to pay for emergency care and for discretionary EMS purposes.

S. "Permit" means an "Ambulance Service Provider Permit."

T. "Permittee" means an Ambulance Service Provider which has been granted a permit by the LEMSA to engage in a business or service in which ambulances are operated.

U. "Provider Authorization" means an agreement between an EMS Entity and the LEMSA specifying terms and conditions for the provision of EMS including, but not limited to, class of service to be provided, LEMSA approval for optional scope of practice, participation in LEMSA data and quality improvement activities and/or performance standards.

(Ord. No. 4379, 3-7-2017)

## **DIVISION TWO AUTHORIZATIONS**

### **Sec. 9.05.200 Authorization Required.**

A. All EMS Entities operating in the County shall be authorized by the LEMSA in accordance with the requirements of this Chapter and any Federal or State law or regulation governing EMS.

B. Authorization shall consist of a Provider Authorization and, if indicated for the type of EMS Entity, an Ambulance Service Provider Permit.

C. Provider Authorizations shall be issued in accordance with LEMSA Provider Authorization Policy.

D. Ambulance Service Provider Permits shall be issued in accordance with LEMSA Ambulance Service Permit Policy.

(Ord. No. 4379, 3-7-2017)

### **Sec. 9.05.210 Ambulance Service Provider Permits Required.**

A. Any entity (either as an owner, agent or otherwise) who wishes to furnish, operate, conduct, maintain, or otherwise engage in, or offer, or profess to engage in providing ambulance service in the County shall have a valid Ambulance Service Provider Permit in accordance with the LEMSA System Plan and EMS policies, procedures, and guidelines.

B. Permit requirements shall apply to providers of air and ground ambulances, including BLS, ALS and CCT vehicles.

C. Permit requirements shall not apply to ambulance service providers engaged in the transport of patients where the transport initiated outside County boundaries for transport into or through the County.

D. Public agencies operating as EMS Entities are exempt from the LEMSA permitting process.

E. LEMSA Policy shall specify due process for the issuance of Ambulance Service Provider permits including:

1. Application and approval process.
2. Procedure for denial of application.
3. Procedure for suspension or revocation of permits issues in conformity with this chapter.
4. Appeal process for contesting denial of application, or suspension and or revocation of permits issued in conformity with this chapter.

(Ord. No. 4379, 3-7-2017)

**Sec. 9.05.220 Provider Authorization Required.**

A. Any EMS entity providing ambulance service, Advanced Life Support or other EMS Services requiring LEMSA authorization in the County, shall secure a Provider Authorization from the LEMSA specifying terms and conditions for the provision of EMS including, but not limited to, class of service to be provided, LEMSA approval for optional scope of practice, participation in LEMSA data and quality improvement activities and applicable performance standards as defined in LEMSA policies, procedures and guidelines.

B. Provider Authorizations shall not apply to cities or fire districts providing pre-hospital emergency medical services subject to and in accordance with Health and Safety Code section 1797.201. Such agencies providing services under Section 1797.201 shall nonetheless be subject to LEMSA medical control and applicable performance standards as defined in LEMSA policies, procedures and guidelines. Compliance of City and Fire District pre-hospital emergency service providers with LEMSA medical control and applicable performance standards pursuant to LEMSA policies, procedures and guidelines shall not evidence or constitute an "agreement" with such City and Fire Districts for purposes of Section 1797.201, and nothing in this ordinance may be so construed. Nothing in this ordinance is intended to affect, or may be construed to affect, in any way the rights and obligations of City and Fire District pre-hospital emergency service providers pursuant to Section 1797.201. Nothing in this ordinance is intended to affect or may be construed to affect the eligibility of City and Fire District pre-hospital emergency service providers to enter exclusive operating agreements under Health and Safety Code section 1797.224.

**C. Exemptions.**

1. Provider Authorization requirements shall not apply to non-transport EMS Entities except where specific LEMSA authorizations for EMS Scope of Practice are required by California Health and Safety Code and/or California Code of Regulations.

2. Provider Authorization requirements shall not apply to ambulance service providers engaged in the transport of patients where the transport initiated outside County boundaries for transport into or through the County.

(Ord. No. 4379, 3-7-2017)

**Sec. 9.05.230 Exclusive Operating Area.**

A. The LEMSA, as directed by the Board, may establish one or more exclusive operating areas (EOAs), as defined in Health & Safety Code section 1797.85, which may be awarded either without a competitive process (a "non-competitive EOA") or pursuant to a competitive process (a "competitive EOA"), provided that in either case the requirements of Health and Safety Code section 1797.224 are met.

B. An EMS Entity granted an EOA shall enter into an agreement with the County (an "EOA Agreement") setting forth the terms on which the EMS Entity shall provide services within the EOA, including the level and type of ambulance services covered by the EOA Agreement.

C. No EMS Entity shall render any type or level of services considered exclusive within an EOA, unless the EMS Entity has entered into an EOA Agreement with the County to provide such services.

D. Nothing in this Chapter or in any rule or regulation enacted by the County shall be construed as requiring the County to establish either a competitive or noncompetitive EOA.

(Ord. No. 4379, 3-7-2017)

**Sec. 9.05.240 EMS Dispatch.**

A. All dispatch of ambulance(s) and/or EMS Entities in response to a request for EMS services shall be in accordance with relevant LEMSA policy for the provision of Medical Control to EMS Dispatch.

B. Dispatch of ambulance(s) and/or EMS Entities in response to a request for EMS and/or ambulance transportation shall only be conducted by communications centers approved by the LEMSA.

(Ord. No. 4379, 3-7-2017)

**Sec. 9.05.250 Emergency and Disaster Operations.**

During any "state of war emergency," "state of emergency" or "local emergency," as defined in the California Emergency Service Act (Chapter 7 of Division 1 of Title 2 of the Government Code), as amended, each Ambulance Service Provider shall provide equipment, facilities, and personnel as required by the LEMSA.

(Ord. No. 4379, 3-7-2017)

**Sec. 9.05.260 Violations.**

A. Any person or EMS Entity required to have a valid Ambulance Service Provider Permit to provide ambulance services within the County, that does not have a valid Ambulance Service Provider Permit shall be in violation of this Chapter as well as any relevant statute or regulation.

B. Any EMS Entity providing ambulance services without the LEMSA authorization required in the Health and Safety Code or the California Code of Regulations Title 22 via a Provider Authorization shall be in violation of this Chapter as well as any relevant statute or regulation.

(Ord. No. 4379, 3-7-2017)

**DIVISION THREE FUNDING**

**Sec. 9.05.300 Fees.**

The LEMSA shall establish the fees to recover the costs of the oversight of the EMS system through the County Board of Supervisors approved fee schedule.

(Ord. No. 4379, 3-7-2017)

**Sec. 9.05.310 EMS Fund and EMS Trust.**

A. An EMS special fund, known as the "Maddy Fund," has been established pursuant to Health and Safety Code section 1797.98, et seq. Monies collected are to be deposited in this fund and distributed according to the Health and Safety Code.

B. An EMS Trust has been established for monies collected from EMS providers related to permits, fines, and liquidated damages. Said mon-

ies will continue to be exclusively utilized to fund EMS-related system improvements at the direction of the LEMSA. It is not intended to support EMS provider operations.

(Ord. No. 4379, 3-7-2017)

**DIVISION FOUR EFFECTIVE**

**Sec. 9.05.400 Severability.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

(Ord. No. 4379, 3-7-2017)

**Sec. 9.05.410 CEQA.**

Adoption and implementation of this ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. Adoption and implementation of the Permit and Provider Authorization requirements, and other measures contained in the ordinance will not result in any direct physical change to the environment. The basis for this determination is that this ordinance does not in itself approve any activities that have an environmental impact, but instead establishes standards, Permit and Provider Authorization requirements, and other measures that regulate the delivery of EMS. The Director of the Department of Health Services is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

(Ord. No. 4379, 3-7-2017)

**Sec. 9.05.420 Implementation.**

This ordinance shall be, and the same is hereby declared to be, in full force and effect thirty (30)

days after the date of its passage. A summary of the ordinance shall be published once before the expiration of fifteen (15) days after passage, with the names of the Supervisors voting for or against the same, in The Ukiah Daily Journal, a newspaper of general circulation published in the County of Mendocino, State of California.  
(Ord. No. 4379, 3-7-2017)

**CHAPTER 9.08**  
**RESTAURANTS**

fine and imprisonment. (Ord. No. 3656, adopted 1987.)

**Sec. 9.08.010 Purpose and Authority.**

The ordinance codified in this Chapter is enacted pursuant to Section 27503 of the Health and Safety Code of the State of California for the purpose of protecting the public health, and regulating certain kinds of business transacted and carried on in the unincorporated territory of the County of Mendocino, State of California. (Ord. No. 3656, adopted 1987.)

**Sec. 9.08.020 Definitions.**

For the purpose of this Chapter, the following definition applies:

(A) "Restaurant" means any food establishment issued a permit to operate as a restaurant by the Division of Environmental Health. (Ord. No. 3656, adopted 1987.)

**Sec. 9.08.030 Hand Washing and Toilet Facilities.**

All restaurants which do not come within the definition of a temporary food facility, mobile food preparation unit or food vehicle shall install and make available at least one hand washing or toilet facility for patrons; provided, however, that any such restaurant which is in operation as of the effective date of the ordinance codified in this Chapter shall have six (6) months from such date within which to comply with this Section. Any such restaurant which already has as of such date either a hand washing facility or toilet facility, or both, shall be required to make such facility available during such six (6) months. (Ord. No. 3656, adopted 1987.)

**Sec. 9.08.040 Penalty.**

Failure to comply with the provisions of this Chapter shall be a misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000) or by imprisonment in the County Jail for a period not to exceed six (6) months or both the

## CHAPTER 9.12

### REGULATION OF SEWAGE AND SEPTAGE PUMPERS

#### Sec. 9.12.010 License Required.

It shall be unlawful for any person, firm, or corporation to pump, or to engage in the business of pumping, cleaning, or otherwise removing material from septic tanks, cesspools, seepage pits, sewage wells, sewage ponds, or other sewage disposal systems, or to dispose of or aid in the disposal of septage, sewage, or any material removed from such systems, unless he holds an unrevoked license from the Mendocino County Health Officer as provided by this Chapter. (Ord. No. 411, adopted 1961, as amended by Ord. No. 3465, adopted 1983.)

#### (a) DEFINITIONS—

**HEALTH OFFICER**—the duly appointed Health Officer of Mendocino County, including his authorized deputies, the Director of Environmental Health Officers, Environmental Health Officers, and Assistant Environmental Health Officers.

**SEPTAGE**—residual materials, including sludge, scum, and liquid from a septic tank.

**SEWAGE**—the liquid and waterborne wastes derived from ordinary living processes, free from industrial wastes.

**CESSPOOL**—an unlimited pit, including sewage wells, which receives raw sewage.

**SEWAGE PONDS**—an open pond which receives sludge, sewage, or wastewater for either storage or treatment. (Ord. No. 3465, adopted 1983.)

#### Sec. 9.12.020 Applicability of Article.

Sections 9.12.010 to 9.12.080, inclusive, of this Chapter, shall not be applicable to any person, firm or corporation who either as owner or tenant cleans a septic tank, cesspool or a sewage seepage pit upon property actually owned, leased or occupied by him or it, but said owner or tenant shall be required to file the statement required by Section

9.12.080 of this Chapter. (Ord. No. 411, Sec. 11, adopted 1961.)

#### Sec. 9.12.030 License Application Procedure.

Application for a license referred to in Section 9.12.010 shall be made to the Health Officer of Mendocino County on forms provided by him or her. A non-refundable fee of fifty dollars (\$50.00) to defray the cost of investigating the application, shall accompany the application. (Ord. No. 411, adopted 1961, as amended by Ord. No. 3465, adopted 1983.)

#### Sec. 9.12.040 License Conditions.

Applicants shall be licensed as required by the provisions of this Chapter, under such standards and conditions adopted by the Health Officer, and deemed necessary for the protection of public health and safety. (Ord. No. 411, adopted 1961, as amended by Ord. No. 3465, adopted 1983.)

#### (a) BOND REQUIRED

Before an applicant can be licensed or before a license is renewed, he shall submit a bond in the amount of \$2,500. Said bond shall meet terms and conditions established by the Health Officer to insure performance according to this Chapter. (Ord. No. 3465, adopted 1983.)

#### FAITHFUL PERFORMANCE BOND

WHEREAS, the Board of Supervisors of Mendocino County, State of California, and \_\_\_\_\_, (hereinafter designed as "principal") have entered into an agreement whereby principal agrees to pump or engage in the business of pumping, cleaning or otherwise removing material from septic tanks, cesspools, seepage pits, sewage wells, sewage ponds and other sewage disposal systems within the County pursuant to Mendocino County Code Chapter 9.12 and agrees to abide by and observe the provisions contained therein; and

WHEREAS, said principal is required under the terms of said Chapter 9.12 to furnish



a bond for the faithful performance of his obligation thereunder.

NOW, THEREFORE, we the principal and \_\_\_\_\_, as surety, are held and fully bound to the County of Mendocino hereinafter called "COUNTY" in the penal sum of twenty-five hundred dollars (\$2,500) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presence.

The condition of this obligation is such that if the above bonded principal his, her or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in Mendocino County Code Chapter 9.12 and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and all respects according to their true intent and meaning, and shall indemnify and save harmless County, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the County in successfully enforcing such obligation, all to be taxed as costs and included in any judgement rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms and conditions of Mendocino County Code Chapter 9.12 shall in anyway affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said Chapter 9.12.

In witness whereof, this instrument has been duly executed by the principal insured above named on \_\_\_\_\_.  
(Ord. No. 3465, adopted 1983.)

**Sec. 9.12.050 Inspection, Examination of Applicant.**

Said license shall be issued only after a satisfactory examination conducted by the Health Officer, covering the equipment to be used in the pumping of septic tanks, cesspools, seepage pits, sewage wells, sewage ponds, or other sewage disposal systems, and applicants knowledge of sanitary principles, pertaining to public health, safety and nuisances, and the willingness and ability of the applicant in observing such sanitary principles, laws and regulations. Either before or after issuance of a license as herein required, the Health Officer of the County of Mendocino, or his duly authorized representative shall be, and they are hereby, empowered to inspect all equipment of any licensee, or other person, firm or corporation, used in cleaning septic tanks, cesspools or seepage pits, sewage wells, sewage ponds, or other sewage disposal systems. (Ord. No. 411, adopted 1961, as amended by Ord. No. 3465, adopted 1983.)

**Sec. 9.12.060 Health Officer Duty to Act.**

The Health Officer is required to act upon each application filed hereunder within thirty (30) days of the date of filing such application. (Ord. No. 411, Sec. 5, adopted 1961.)

**Sec. 9.12.070 Fees.**

Application and license fees shall be as adopted by Resolution of the Board of Supervisors of Mendocino County. If any licensee shall fail to renew his license within thirty (30) days of the date of expiration of said license, a late charge of fifty dollars (\$50.00) shall be added to the license fee, or the license may be suspended or revoked or both. (Ord. No. 411, adopted 1961, as amended by Ord. No. 3304, adopted 1980, as amended by Ord. No. 3465, adopted 1983.)

**Sec. 9.12.080 Duties of License.**

(a) Each licensee shall be required to file with the Health Officer once every three (3) months, or when requested by the Health Officer, a statement giving the name and address of the owner and/or tenant of each and every one of the premises where a

septic tank, cesspool, seepage pit, sewage well, sewage pond, or other sewage disposal system has been pumped. Said statement shall specify the type of sewage disposal facility pumped, the date and the exact place where the septage or other material was disposed of. (Ord. No. 411, adopted 1961, as amended by Ord. No. 3465, adopted 1983.)

(b) The licensee shall display on each side of all vehicles used by him, to pump sewage disposal systems, or to transport or handle septage or other material from such systems, the name, address, and telephone number of the licensee, and the words "LICENSED BY THE MENDOCINO COUNTY HEALTH DEPARTMENT" followed by: "LICENSE NO. \_\_\_\_" as issued by the Health Officer. All such lettering shall be a minimum of two (2") inches high, and shall be in a contrasting color. (Ord. No. 411, adopted 1961, as amended by Ord. No. 3465, adopted 1983.)

(c) All septage or other material removed from sewage disposal systems shall be disposed of only at facilities approved for the disposal of such material. Violation of this provision is hereby declared a public nuisance. (Ord. No. 3465, adopted 1983.)

**Sec. 9.12.090 License Non-Transferable.**

The license issued under the provision of this Chapter shall not be transferable and shall be used only by the person, firm or corporation whose name appears thereon. If the licensee sells or transfers any of his equipment, he shall immediately cause his license number to be removed from said equipment and report such sale or transfer to the Health Department within seven (7) days. (Ord. No. 411, Sec. 9, adopted 1961.)

**Sec. 9.12.100 Suspension, Revocation of Licenses; Appeal.**

Any license issued under this Chapter may be suspended or revoked for good cause by the Health Officer. Good cause shall mean any violation of this Chapter, or violation of other laws and regulations pertaining to the removal and disposal of material from sewage disposal systems. (Ord. No. 411,

adopted 1961, as amended by Ord. No. 3465, adopted 1983.)

(a) **SUSPENSION—**

Any license issued pursuant to this Chapter may for good cause be suspended or revoked by the Health Officer. Good Cause shall mean any violation of this Chapter, or violation of other laws or regulations pertaining to the removal and disposal of material from sewage disposal systems. Any licensee whose license has been suspended shall not engage in the practice of pumping, cleaning or otherwise removing material from septic tanks, cesspools, seepage pits, sewage wells, sewage ponds, or other sewage disposal systems, or to dispose of or aid in the disposal of septage, sewage, or other material removed from such systems until his license has been reinstated. Any licensee whose license has been revoked shall not engage in any of the above acts until a new license has been issued.

Whenever the Health Officer finds a person or entity is not in compliance with the provisions of this Chapter, he shall issue a written notice to the licensee. If the licensee fails to comply, the hearing officer shall issue to the licensee a notice setting forth the acts or omissions with which the licensee is charged, and informing him or her of a right to a hearing, if requested, to show cause why the license should not be suspended or revoked. A request for a hearing shall be made by the licensee within ten (10) calendar days after receipt of the notice. A failure to request a hearing within ten (10) calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing.

The hearing shall be held a reasonable time after mailing or service of the notice and, in no

event, later than thirty (30) days after said notice or service. Upon written request of the licensee, the Health Officer may postpone any hearing date, if circumstances warrant such action. (Ord. No. 3465, adopted 1983.)

**(b) APPEAL OF SUSPENSION, REVOCATION —**

Any licensee not satisfied with the decision of the Health Officer, may appeal the decision to the Board of Supervisors of the County of Mendocino. Such appeal shall be made in writing, and filed with the Clerk of the Board of Supervisors, with a copy served upon the Health Officer. The Board of Supervisors shall hear and decide such an appeal within thirty (30) days from the date of filing of the appeal with the Clerk of the Board of Supervisors. It shall be unlawful for the licensee to engage in the business of pumping sewage disposal systems pending the decision of the Board of Supervisors. (Ord. No. 3465, adopted 1983.)

**Sec. 9.12.110 Penalties.**

Any person, firm or corporation violating or causing or permitting to be violated any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the County Jail for not more than six (6) months or by both such fine and imprisonment. (Ord. No. 411, adopted 1961, as amended by Ord. No. 3465, adopted 1983.)

**Sec. 9.12.111 Injunctive Relief.**

In addition to any other relief, a violation or threatened violation of this Chapter may be enjoined. (Ord. No. 3465, adopted 1983.)

**CHAPTER 9.16**

**FEEES PERTAINING TO HEALTH OR  
SANITATION**

**Sec. 9.16.010 Fees Established by  
Resolution.**

There shall be established by resolution of the Board of Supervisors the appropriate fees to be charged, and method of collecting such, for the following inspections, visits, inoculations, permits, and other services of the Mendocino County Health Department:

- (a) Immunizations
- (b) Tuberculin Tests
- (c) Home Care Visits
- (d) Swimming Pool Plan Renew
- (e) Water Sampling Bacteriological Testing
- (f) Water Supply Permits
- (g) Permits issued pursuant to the Mendocino County Air Pollution Control District regulations
- (h) Mendocino County Air Pollution Control District Hearing Board Applications. (Ord. No. 989A, adopted 1971.)

## CHAPTER 9.20

### SMOKING IN COUNTY BUILDINGS

#### Sec. 9.20.010 Title.

This Chapter shall be known and cited as the Smoking Chapter of the Mendocino County Code. (Ord. No. 1275, adopted 1974.)

#### Sec. 9.20.020 Declaration.

The Mendocino County Board of Supervisors finds and declares that tobacco smoke is hazardous to public health and offensive to a substantial number of members of the public.

The U.S. Environmental Protection Agency has determined that tobacco smoke is a major source of indoor air pollution, and that side-stream smoke is currently classified as a Class A carcinogen.

The Surgeon General ("Health Consequences of Involuntary Smoking," 1986) concludes that exposure to tobacco smoke places healthy nonsmokers at increased risk for developing lung cancer.

Employees subjected to prolonged exposure to side-stream smoke in the workplace have been found in scientifically conducted studies to experience loss of job productivity and some have been forced to take periodic sick leave because of reactions to secondhand smoke.

Research reveals that side-stream smoke causes a significant amount of cardiovascular disease in the U.S., and that the number of deaths from this cause may exceed the deaths caused by lung disease associated with side-stream smoke.

Smoking in workplaces is a major cause of fires and damage to equipment, as well as costly repairs to furniture, vehicles and fixtures.

"Simple separation of smokers and nonsmokers with the same air space may reduce, but does not eliminate, exposure of nonsmokers to environmental tobacco smoke." ("The Health Consequences of Involuntary Smoking," 1986 Surgeon General's Report).

Smoking results in serious and significant physical discomfort and health hazard to nonsmokers, and constitutes an impediment to public health

in the workplace. (Ord. No. 1275, adopted 1974; Ord. No. 3792 Sec. 1, adopted 1991.)

#### Sec. 9.20.030 Definitions.

(a) The term "county building" refers to any building owned or leased by the County of Mendocino which accommodates county employees acting within the scope of their employment.

(b) The term "outdoor area" refers to the Mendocino County Low Gap compound (bordered on the east by Bush Street, the north by Low Gap Road, the west by the western boundary of the county Jail and the south by the drive separating County facilities from Pomolita School property and Low Gap Park). Outdoor areas also includes the space within 15 feet of doorways and windows of any building owned or leased by the County not within the above-described compound, unless this boundary is not under the control of the County. Except as specified otherwise in Sec. 9.20.040, parking areas and private vehicles are not "outdoor areas."

(c) The term "county vehicle" refers to any vehicle owned or leased by the County of Mendocino which accommodates county employees acting within the scope of their employment.

(d) The term "tobacco smoke" refers to the smoke produced by the combustion of tobacco by any means, including but not limited to, cigarettes, cigars, and pipes.

(e) The term "tobacco byproduct" refers to any substance expectorated by anyone using chewing tobacco or any smokeless tobacco product. (Ord. No. 1275, adopted 1974; Ord. No. 3792 Sec. 2, adopted 1991; Ord. No. 3988 Sec. 1, adopted 1997.)

#### Sec. 9.20.040 Prohibitions and Penalty.

It shall be unlawful and an infraction for any member of the general public, or any other person including any county employee or elected official, to cause the production of tobacco smoke or byproduct of tobacco within any county building or vehicle or any outdoor area of any county building, which has not been designated as a smoking area by the County Administrative Officer. (Ord. No. 1275,

9.20.040

adopted 1974; Ord. No. 3616, adopted 1986; Ord. No. 3696, adopted 1988; Ord. No. 3792 Sec. 3, adopted 1991; Ord. No. 3988 Sec. 2, 1997.)

**Sec. 9.20.050** Repealed by Ord. No. 3792, adopted 1991.

**Sec. 9.20.060** Repealed by Ord. No. 3792, adopted 1991.

**CHAPTER 9.24**  
**MENDOCINO COUNTY WATER**  
**HAULERS' ORDINANCE**

**Sec. 9.24.010 Title.**

This Chapter shall be known and cited as the "Mendocino County Water Haulers' Ordinance." (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.020 Declaration.**

It is the purpose of this Chapter to regulate the transportation of potable water for domestic use in order to promote the community welfare, convenience, health and safety. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.030 Definitions.**

For the purpose of this Chapter, the following words and phrases are defined:

(a) "County" means the unincorporated territory of Mendocino County.

(b) "Health Officer" means the Mendocino County Public Health Officer or his duly appointed representative of the Division of Environmental Health.

(c) "Person" means any individual, firm, partnership, co-partnership, joint venture, association, concern, corporation, estate trust, business trust, receiver, syndicate, or other group or combination acting as a unit.

(d) "Permit" means a written authorization issued by the Public Health Officer pursuant to this Chapter.

(e) "Transport Water" means haul water in a container or tank or by Health and Safety Code, Section 4010 et seq. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.040 Permit Requirements.**

No person shall:

(a) Transport water to any other person for purposes of domestic use in the County, from a source not previously approved by the Health Department.

(b) Transport water to any other persons for purpose of domestic use within the County, unless a permit has been obtained as required by this ordinance. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.050 Exclusions.**

This Chapter is applicable regardless of whether the activities regulated are performed for compensation; however, it shall not apply to persons providing potable water for their own single family dwelling unit. This Chapter is not intended to apply to bottled water, regulated pursuant to Secs. 4040 et seq. of the California Health and Safety Code. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.060 Requirements.**

Vehicles used in the business of transporting potable water for domestic purposes shall have painted on the outside of each side wall of the hauling body, in letters of not less than two inches (2") in height and one inch (1") wide, the following information in a color contrasting to the body color:

(a) The name of the collector, transporter or company operating the vehicle.

(b) Permit number issued by the Health Department.

(c) Number of vehicles, if more than one (1) is operated by the collector, transporter or company. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.070 Application.**

Applicants for a permit under this Chapter shall file with the Health Officer, on a form furnished and approved by the Health Officer, the following information:

(a) Firm name.

(b) Name, business address and business phone number of owner and operator.

(c) Home address and home telephone number of owner and operator.

(d) Location and description of source of water to be transported.





(e) Name and address of laboratory designated to perform chemical bacteriological tests.

(f) Base location of transporting vehicles.

(g) Vehicle name, model, year and license number.

(h) Description of water containers used for transportation of water, including material, shape, capacity and number.

(i) Previous use of containers.

(j) Method and frequency of cleaning and disinfecting containers. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.080 Conditions on Permit.**

The Health Officer may condition any permit which he issues. Conditions may include requirements for sanitizing containers, for regular bacteriological and chemical testing and for the keeping of records thereof. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.090 Expiration.**

Every permit issued under this Chapter shall automatically become null and void on December 31st of the year of issuance. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.100 Revocation.**

Any permit issued pursuant to this Chapter may be suspended by the Health Officer for a maximum of ten (10) days upon violation of this Chapter and in the event of serious violation or repeated violations, such permit may be revoked by the Health Officer. Notice of the hearing for revocation of the permit shall be given in writing by the Health Officer and shall state grounds of the complaint and the time and place of hearing. Such notice shall be mailed to the permittee, by first class mail, at least five (5) days prior to the date set for hearing. Said hearing shall be conducted by the Health Officer and permittee shall have the right to present evidence, cross examine witnesses and to be represented by counsel. Any person, firm, or corporation dissatisfied with the action of the Health Officer in revoking a permit, after a hearing, may within a period of ten (10) days after receipt of notice of revocation, file with the Clerk of the Board of Supervisors, a notice of intent to appeal.

In the event of appeal, the Board of Supervisors shall within thirty (30) days of filing the notice of intent to appeal hear and determine the matter, and notice thereof shall be given in the same manner as in the case of the original hearing. The permit shall be suspended pending the decision of the Board of Supervisors and such decision shall be final and conclusive. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.110 Permit Fees.**

A fee shall be charged for each permit issued pursuant to resolution by the Board of Supervisors as a reasonable charge to defray the costs to the County in the administration of this Chapter. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.120 Inspection.**

The Health Officer, during reasonable hours, for the purpose of enforcing or administering this Chapter, shall have the authority to enter any building or premises associated with a water supply, transportation or storage facility regulated pursuant to this Chapter. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.140 Construction and Validity.**

If any provision of this Chapter shall be rendered void or unconstitutional by judicial or other determinations, all other sections of this Chapter which are not expressly held to be void or unconstitutional shall continue in full force and effect. (Ord. No. 3297, adopted 1980.)

**Sec. 9.24.150 Violations and Penalties.**

Any person, agent, or employee of any person, who violates any provision of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five (\$25.00) nor more than five hundred dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment. (Ord. No. 3297, adopted 1980.)

9.24.160

**Sec. 9.24.160 Effective Date.**

This ordinance shall take effect thirty (30) days after adoption by the Mendocino County Board of Supervisors. (Ord. No. 3297, adopted 1980.)

**CHAPTER 9.28****REGULATION OF HAZARDOUS  
SUBSTANCES STORED IN  
UNDERGROUND STORAGE TANKS****Sec. 9.28.010 Title.**

This Chapter shall be known and cited as the Regulation of Hazardous Substances Stored in Underground Storage Tanks. (Ord. No. 3477, adopted 1983.)

**Sec. 9.28.020 Intent.**

It is the intent of the Mendocino County Board of Supervisors to adopt this Ordinance pursuant to State law as authorized by 1983 Statutes Chapter 1046 in order to retain local control and remain exempt from its preemptive provisions for failing to adopt a local ordinance prior to January 1, 1984. (Ord. No. 3477, adopted 1983.)

**Sec. 9.28.030 State Law Incorporated.**

Mendocino County hereby incorporates by reference the minimum standards for the ownership and operation of underground storage tanks as specified by Health and Safety Code Section 25291 and 25292 providing for double containment of certain underground storage tanks, and issuing permits therefore, as those laws may be amended from time to time. (Ord. No. 3477, adopted 1983, as amended by Ord. No. 3586, Sec. 1, adopted 1985.)

**Sec. 9.28.040 Permits Required.**

No person shall own or operate an underground storage tank, unless a permit for such ownership or operation is issued by the Mendocino County Department of Public Health as specified herein. (Ord. No. 3477, adopted 1983.)

**Sec. 9.28.050 Local Agency.**

For purposes of this Chapter, the "local agency" means the Mendocino County Department of Public Health which is the local agency responsible for administering and enforcing the provisions of this

Chapter. (Ord. No. 3477, adopted 1983.)

**Sec. 9.28.060 Permits Issued by Mendocino  
County Department of Public  
Health.**

The Mendocino County Department of Public Health shall be responsible for issuing a permit or permits for each underground storage tank as that term is defined in Health and Safety Code Section 25281(r) that is owned or operated within Mendocino County. (Ord. No. 3477, adopted 1983, as amended by Ord. No. 3586, Sec. 2, adopted 1985.)

**Sec. 9.28.070 Fees.**

The fee for a permit or permits issued under this Chapter shall be established by Ordinance. The County may waive the fees imposed by this Chapter for a public agency. (Ord. No. 3347, adopted 1983.)

**Sec. 9.28.080 Permit Forms Required.**

Permits to own, operate or transfer ownership or operation of underground storage tanks shall be applied for on forms specified by the State Water Resources Control Board and provided by the Mendocino County Department of Public Health. (Ord. No. 3477, adopted 1983.)

**Sec. 9.28.090 Minimum Standards for  
Underground Storage Tanks.**

Unless established otherwise by Ordinance setting stricter standards, the minimum standards for the ownership and operation of the underground storage tank shall be those specified in Health and Safety Code Sections 25291 and 25292 as those sections may be amended from time to time. (Ord. No. 3477, adopted 1983, as amended by Ord. No. 3586, Sec. 3, adopted 1985.)

**Sec. 9.28.100 Inspection.**

The Mendocino County Department of Public Health may inspect every underground storage tank within Mendocino County at least once every three years to determine whether or not the

underground storage tank complies with the design and construction standards specified in Health and Safety Code Sections 25291 and 25292 which ever is applicable, whether the operator has monitored and tested the underground storage tanks as required by its permit and whether or not the tank is in safe operating conditions. After such inspection, the Mendocino County Department of Public Health may prepare a compliance report detailing the results of the inspection and may send a copy of it to the permit holder. (Ord. No. 3477, adopted 1983, as amended by Ord. No. 3586, Sec. 4, adopted 1985.)

**Sec. 9.28.110 Additional Inspections.**

In addition to the inspections specified in Section 9.28.100, the Mendocino County Department of Public Health may require the permit holder to employ, periodically, special inspectors, as that term is defined in Health and Safety Code Section 25281(n), to conduct an audit or assessment of the permit holder's facility as that term is defined in Health and Safety Code Section 25281(c) to determine whether or not the facility complies with the factors specified in Section 9.28.100 and to prepare a special investigation report with recommendations concerning the safe storage of hazardous materials at the facility. (Ord. No. 3477, adopted 1983, as amended by Ord. No. 3497, adopted 1984, as amended by Ord. No. 3586, Sec. 5, adopted 1985.)

**Sec. 9.28.130 Overfill Protection.**

The Mendocino County Department of Public Health may require a means of overfill protection of any primary tank including an overfill prevention device or an attention-getting higher level alarm or both. (Ord. No. 3477, adopted 1983.)

**Sec. 9.28.140 Penalties.**

(A) Any operator of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) per day for any of the following:

- (1) Operates an underground storage tank which has not been issued a permit.

- (2) Fails to monitor the underground storage tank, as required by the permit.

- (3) Fails to maintain records as required by the Mendocino County Department of Public Health.

- (4) Fails to report an unauthorized release as required by Health and Safety Code Sections 25294 and 25295.

- (5) Fails to properly close an underground storage tank, as required by Health and Safety Code Section 25298.

(B) Any owner of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) per day for any of the following:

- (1) Failure to obtain a permit as specified in this Chapter.

- (2) Failure to repair an underground tank in accordance with the provisions of this Chapter.

- (3) Abandonment or improper closure of any underground tank subject to the provisions of this Chapter.

- (4) Knowing failure to take reasonable and necessary steps to assure compliance with this Chapter by the operator of an underground tank. (Ord. No. 3477, adopted 1983, as amended by Ord. No. 3586, Sec. 6, adopted 1985.)

**Sec. 9.28.150 Penalties Are Cumulative.**

Penalties under Section 9.28.140 are in addition to, and do not supersede or limit, any and all other legal remedies and penalties, civil or criminal, which may be applicable under other laws. (Ord. No. 3477, adopted 1983.)

**Sec. 9.28.160 Future Amendments.**

The County may amend this Ordinance from time to time as authorized by State law. (Ord. No. 3477, adopted 1983.)

**Sec. 9.28.170 Severability.**

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance, which is reasonably separable from the remaining portion

of this Ordinance is, for any reason, held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance, it being herein expressly declared that this Ordinance and each section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted irrespective of the fact that any one or more sections, subsections, paragraphs, clauses or phrases be declared invalid or unconstitutional. (Ord. No. 3477, adopted 1983.)

## CHAPTER 9.30

### ADULT USE MARIJUANA CULTIVATION REGULATION

#### Sec. 9.30.010 Purpose and Intent.

It is the purpose and intent of this Chapter to immediately regulate the cultivation of adult use marijuana in a manner that is consistent with State law and which is necessary to protect the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Mendocino by balancing: (1) the desires of people wishing to cultivate marijuana used for non-medical purposes; and (2) the needs of neighbors and communities to be protected from public safety and nuisance impacts. Nothing in this Chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance as defined herein; or (2) allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under California State law.

This Chapter is enacted pursuant to paragraph (1) of subdivision (b) of California Health and Safety Code § 11362.2, and is intended to regulate the personal cultivation of marijuana as allowed by paragraph (3) of subdivision (a) of California Health and Safety Code § 11362.1.

Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of adult use marijuana, as defined herein, from any and all applicable local and state construction, grading, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.

(Ord. No. 4383, § 1, 5-2-2017)

#### Sec. 9.30.020 Findings.

(A) In 2016 the voters of the State of California approved Proposition 64 (amending, repealing and adding sections of the Business and Professions Code, the Food and Agriculture Code, and Health and Safety Code, the Labor Code, the

Revenue and Taxation Code, and the Water Code, and entitled "the Control, Regulate and Tax Adult Use of Marijuana Act").

(B) The intent of Proposition 64 was to legalize marijuana for those over twenty-one (21) years old, protect children, Californians and the environment and regulated the cultivation, distribution, sale and use of marijuana. Proposition 64 legalizes the cultivation of not more than six (6) marijuana plants. It further provides that counties may enact reasonable regulations to reasonably regulate said cultivation.

(C) Marijuana plants, whether grown indoors or outdoors, especially as they mature prior to harvest, may produce a distinctive odor that may be detectable far beyond property boundaries.

(D) Marijuana may be sold for as much as twelve-hundred dollars (\$1,200.00) per pound, or more.

(E) The strong smell of marijuana may create an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery and armed robbery.

(F) In recent years there has been an increased number of marijuana related incidents of burglary, robbery and armed robbery, some including acts of violence resulting in injury or death.

(G) Marijuana that is grown indoors may require excessive use of electricity which may overload standard electrical systems creating an unreasonable risk of fire. If indoor grow lighting systems are powered by diesel generators, improper maintenance of the generators and fuel lines and the improper storage and disposal of diesel fuel and waste oil may create an unreasonable risk of fire and pollution.

(H) In the absence of a formal regulatory framework, marijuana cultivators are less likely to learn of, or implement, guidelines that are protective of the public peace, health and safety.

(I) The County finds that in the absence of a formal regulatory framework the negative impacts frequently associated with marijuana cultivation are expected to increase, resulting in an unregu-

lated, unstudied and potentially significant negative impact on the environment and upon the public peace, health and safety.

(J) The County has previously adopted regulations governing the cultivation of medical marijuana. This ordinance imposes regulations on the personal cultivation of non-medical adult use marijuana pursuant to Proposition 64. (Ord. No. 4383, § 1, 5-2-2017)

### **Sec. 9.30.030 Definitions.**

As used herein the following definitions shall apply:

"Adult use marijuana" means non-medical marijuana cultivated pursuant to Proposition 64 and the provisions of this Chapter 9.30.

"Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

"Cultivation" means the planting, growing, harvesting, drying or processing at a cultivation site of marijuana plants or any part thereof.

"Cultivation site" means a location or locations within a private residence or on the grounds of a private residence where marijuana is planted, grown, harvested, dried, cured, graded, trimmed, or where one (1) does all or any combination of those activities, the total plant canopy of which shall not exceed one hundred (100) square feet.

"Indoors" means cultivation within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the County of Mendocino, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one (1) or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as two inches (2") x four inches (4") or thicker studs overlain with three-eighths-inch ( $\frac{3}{8}$ ") or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

"Legal parcel" means a lot of real property which was created pursuant to the Subdivision Map Act, or for which a certificate of compliance has been recognized and recorded.

"Marijuana" means "adult use marijuana" and also means all parts of the plant *Cannabis sativa*, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

"Mixed light" means the use of both natural and artificial or supplemental lighting sources during the growing cycle to cultivate marijuana. Included in this definition is the process of solely manipulating natural light to cultivate adult use marijuana.

"Outdoors" or "outdoor cultivation" means any cultivation site that uses no artificial or supplemental lighting to cultivate marijuana. Use of supplemental lighting to maintain vegetative starts or immature plants prior to transplanting outdoors shall be considered consistent with this definition.

"Parcel" means a legal parcel as defined herein.

"Park" means an area of land used for community recreation owned or operated by a public entity or a private area of land recognized as a neighborhood park utilized by youth. State or Federal designated parks and forestlands as recognized within the Mendocino County General Plan are not included within this definition.

"Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

"Plant canopy" means the cumulative total of square footage occupied by growing marijuana plants, as determined by calculating the area within the outermost circumference of the canopy of each plant, but does not include aisles or other open areas outside the canopy area of growing marijuana plants.

"Private residence" means a house, apartment unit, mobile home or other similar dwelling.

"Publically traveled private road" means a private roadway easement or access easement which serves, or has the potential to serve, more than four (4) lots or parcels. Such easement shall be considered a street as defined in Mendocino County Code section 20.008.052(26).

"Residential Treatment Facility" means a State licensed residential facility that provides treatment for drug and/or alcohol dependency.

"School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any licensed preschool or child day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

"Sheriff" or "Sheriff's Office" means the Sheriff's Office of the County of Mendocino or the authorized representatives thereof.

"Wildlife Exclusionary Fencing" means fencing designed and installed to prevent the entry of wildlife into the enclosed area, such as cyclone or field fencing a minimum of six (6) feet high measured from grade that is installed into the ground and secured to prevent animals from burrowing underneath. The fence must include a lockable gate and the gate opening must include a solid step or apron installed into the ground and secured to prevent animals from burrowing underneath.

"Youth-oriented facility" means elementary school, middle school, high school, public park, and any establishment that advertises in a manner

that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

(Ord. No. 4383, § 1, 5-2-2017)

**Sec. 9.30.040 Limitations on Cultivation of Adult Use Marijuana Plants.**

(A) Cultivation of adult use marijuana in or on the grounds of a private residence or accessory structure may contain one (1) or more cultivation sites, containing no more than six (6) adult use marijuana plants with a total plant canopy not to exceed one hundred (100) square feet.

(B) Cultivation of adult use marijuana on a parcel where medical marijuana plants are being cultivated pursuant to the qualified patient or primary caregiver exemption of section 10A.17.030, shall not be used to increase the total square footage of cannabis that may be cultivated thereon but shall be contained within the square footage allowed pursuant to said exemption.

(C) Cultivation of adult use marijuana on a parcel where medical marijuana plants are being cultivated pursuant to Chapter 9.31 shall not be used to increase the total number of marijuana plants that may be cultivated on the legal parcel, but up to six (6) of the total allowed number of twenty-five (25) plants may be set aside as personal cultivation of adult use marijuana.

(D) Cultivation of adult use marijuana is allowed on a parcel where medical cannabis is cultivated pursuant to Chapter 10A.17 provided that the person or persons cultivating the adult use marijuana reside thereon, the adult use marijuana plants do not exceed one hundred (100) square feet of total plant canopy and the plants shall be identified on the site plan required pursuant to Chapter 10A.17.090.

(E) Cultivation of adult use marijuana on any parcel less than ten (10) acres in size shall only be allowed indoors as defined in this Chapter. (Ord. No. 4383, § 1, 5-2-2017)



**Sec. 9.30.050 Limitation on Location to Cultivate Marijuana.**

(A) The cultivation of marijuana, in any amount or quantity, shall not be allowed in the following areas:

(1) Within one thousand (1,000) feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility as defined herein.

(2) Outdoors or using mixed light within one hundred (100) feet of any occupied legal residential structure located on a separate parcel.

(3) Outdoors or using mixed light in a mobile home park as defined in Health and Safety Code section 18214.1 within one hundred (100) feet of an occupied mobile home that is under separate ownership.

(4) In any location where the marijuana plants are visible from the public right of way or publicly traveled private roads.

(5) Outdoors or using mixed light within fifty (50) feet of a parcel under separate ownership or access easement (whichever is most restrictive).

(B) The distance between the above-listed uses in section (A)(1) and marijuana that is being cultivated shall be measured in a straight line from the nearest point of the fence required in section 9.30.060, or if the marijuana is cultivated indoors, from the nearest exterior wall of the building in which the marijuana is cultivated to the nearest boundary line of the property on which the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs is located. The distance in sections (A)(2) and (A)(3) to any residential structure shall be measured from the fence required in section 9.30.060 to the nearest exterior wall of the residential structure.

(C) Any indoor cultivation sites that comply with paragraph (A)(1) shall also be subject to the following:

(1) Cultivation sites located within a private residence that is a rental unit, as that term is

defined by County Code section 20.008.050, shall not be located in any indoor space other than a garage or accessory structure.

(2) Indoor cultivation sites shall comply with the building property line setback established by the zoning district in which the cultivation site is located.

(3) The cultivation of marijuana within an accessory structure shall be subject to the development requirements of the zoning district in which it is located and to the accessory use regulations of the applicable zoning code.

(Ord. No. 4383, § 1, 5-2-2017)

**Sec. 9.30.060 Cultivation of Marijuana.**

(A) It is declared to be unlawful for any person owning, leasing, occupying, or having charge or possession of any parcel of land within any unincorporated area of the County to cause or allow such parcel of land to be used for the outdoor or indoor cultivation of marijuana plants in excess of the limitations imposed within section 9.30.040 or in violation of the limitations on location imposed within section 9.30.050 or in violation of any of the following conditions contained in this section.

(B) The cultivation of marijuana shall be limited to no more than one hundred (100) square feet of total plant canopy within or upon the grounds of any private residence.

(C) The outdoor, indoor or mixed light cultivation of marijuana shall not propagate objectionable odors which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public.

(D) The use of light assistance for the indoor or mixed light cultivation of marijuana shall not exceed a maximum of thirty-five (35) watts of lighting capacity per one (1) square foot of growing area. The indoor or mixed-light cultivation of marijuana shall rely on the electrical grid or some

form of alternative energy source. The indoor or mixed-light cultivation of marijuana shall not rely on a generator as a primary source of power.

(E) All lights used for the indoor or mixed light cultivation of marijuana shall be fully contained within structures or otherwise shielded to fully contain any light or glare involved in the cultivation process. Security lighting shall be motion activated and all outdoor lighting shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed.

(F) All activities associated with the cultivation of marijuana shall not exceed the noise level standards as set forth in the County General Plan Policies DE100, 101 and 103.

(G) All cultivation of marijuana shall not utilize water that has been or is illegally diverted from any stream, creek, or river.

(H) The activities associated with cultivation of marijuana shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water.

(I) All marijuana grown in Mendocino County (excluding indoor growing) must be within a secure, wildlife exclusionary fence of at least six (6) feet in height that fully encloses the immediate garden area. The fence must include a lockable gate that is locked at all times when the resident is not in the immediate area. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.

(J) All buildings where marijuana is cultivated or stored shall be properly secured to prevent unauthorized entry.

(K) Any fuel, fertilizer, pesticide, fungicide, rodenticide, herbicide or other substance toxic to wildlife, children, or pets, must be stored in a secured and locked structure or device.

(L) Prohibition on Tree Removal. Removal of any commercial tree species as defined by Cal-

ifornia Code of Regulations section 895.1, Commercial Species for the Coast Forest District and Northern Forest District, and the removal of any true oak species (*Quercus* sp.) or Tan Oak (*Notholithocarpus* sp.) for the purpose of developing a marijuana cultivation site is prohibited. This prohibition shall not include the pruning of any such trees for maintenance, or the removal of such trees if necessary to safety or disease concerns.

(M) Any person who is not the legal owner of a parcel and who is cultivating marijuana on such parcel shall obtain written permission to cultivate marijuana from the legal owner of the parcel prior to commencing cultivation of marijuana on such parcel.

(N) Nothing in this section shall be construed as a limitation on the County's authority to abate any violation which may exist from the cultivation of marijuana plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building. (Ord. No. 4383, § 1, 5-2-2017)

#### **Sec. 9.30.070 Public Nuisance.**

A violation of any provision of this Ordinance shall be deemed to be a public nuisance and subject to the enforcement process as set forth in section 9.30.080.

(Ord. No. 4383, § 1, 5-2-2017)

#### **Sec. 9.30.080 Enforcement.**

(A) The County may abate the violation of this Chapter in accordance with the provisions of County Code Chapter 8.75, 8.76 or by the prosecution of a civil action, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this Chapter or requiring compliance with other terms.

(B) The County may also abate the violation of this Chapter through the abatement process established by Government Code section 25845. (Ord. No. 4383, § 1, 5-2-2017)

**Sec. 9.30.090 Attorneys' Fees.**

Pursuant to Government Code section 25845(c), in any action, administrative proceeding, or matter commenced by the County to abate a nuisance, or to collect the cost of abatement or any penalty or fee related thereto, the prevailing party shall recover its attorneys' fees. The recovery of attorneys' fees under this section is limited to those actions, administrative proceedings, or matters in which the County chooses at the initiation of the action, administrative proceeding, or matter to seek the recovery of its own attorneys' fees. In no event shall an award of attorneys' fees under this Chapter exceed the reasonable amount of attorneys' fees incurred by the County in the action or proceeding.

(Ord. No. 4383, § 1, 5-2-2017)

**Sec. 9.30.100 Use of Money Collected Under This Chapter.**

All money collected for penalties for violations of this Chapter and all money collected for recovery of costs of enforcement of this Chapter shall be made available to the Department responsible for the enforcement action for training and further code enforcement actions.

(Ord. No. 4383, § 1, 5-2-2017)

## CHAPTER 9.31

### MEDICAL MARIJUANA CULTIVATION REGULATION\*

#### Sec. 9.31.010 Purpose and intent.

It is the purpose and intent of this Chapter to immediately regulate medical marijuana in a manner that is consistent with State law and which is necessary to protect the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Mendocino by balancing: (1) the needs of medical patients and their caregivers for enhanced access to medical marijuana; (2) the needs of neighbors and communities to be protected from public safety and nuisance impacts; and (3) the need to limit harmful environmental impacts that are sometimes associated with marijuana cultivation. Nothing in this Chapter shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance as defined herein; (2) allow the use or diversion of marijuana for nonmedical purposes; or (3) allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under California State law.

Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of medical marijuana, as defined herein, from any and all applicable local and state construction, grading, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.

Nothing in this Chapter is intended, nor shall it be construed, as allowing cultivation of medical marijuana in the areas governed by the Inland Zoning Code of Mendocino County without a permit as required by section 10A.17.030(A) or by

\*Editor's note—Ord. No. 4383, § 2, adopted May 2, 2017, repealed ch. 9.31, §§ 9.31.010—9.31.190, in its entirety; and enacted a new ch. 9.31 to read as set out herein. Former ch. 9.31 pertained to similar subject matter, and was derived from Ord. No. 4356, adopted May 17, 2016 and Ord. No. 4375, § 1, adopted January 10, 2017.

any qualified patient or primary caregiver in excess of the limits provided by section 10A.17.030(B) of this Code.

(Ord. No. 4383, § 2, 5-2-2017)

#### Sec. 9.31.020 Confidential Nature of Medical Marijuana Information Legislative Intent.

To the fullest extent authorized by State and Federal law, all use information received by and/or generated by the operation of this Chapter or prior or other iterations of cannabis cultivation ordinances of the County has always been intended to be treated and held by the County as confidential information. Notwithstanding the foregoing, information provided to the county may be released as required by law, judicial order, or subpoena, and could be used in criminal prosecution.

(Ord. No. 4383, § 2, 5-2-2017)

#### Sec. 9.31.030 Findings.

(A) The voters of the State of California approved Proposition 215 (codified as Health and Safety Code section 11362.5 and entitled "The Compassionate Use Act of 1996").

(B) The intent of Proposition 215 was to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, and to ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not thereby subject to criminal prosecution or sanction. The Act further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes."

(C) The State enacted SB 420 in 2004, known as the Medical Marijuana Program Act (codified as Health and Safety Code section 11362.7 et seq.) to clarify the scope of The Compassionate Use Act of 1996, facilitate the prompt identification of

qualified patients and primary caregivers, avoid unnecessary arrest and prosecution of these individuals, provide needed guidance to law enforcement officers, promote uniform and consistent application of the Act, and enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects and to allow local governing bodies to adopt and enforce rules and regulations consistent with SB 420.

(D) The Medical Marijuana Program Act defines "primary caregiver" as an individual who is designated by a qualified patient or person with an identification card, and who has consistently assumed responsibility for the housing, health, or safety of that patient or person.

(E) The right of qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer upon them the right to create or maintain a public nuisance.

(F) Marijuana plants, whether grown indoors or outdoors, especially as they mature prior to harvest, may produce a distinctive odor that may be detectable far beyond property boundaries.

(G) Marijuana, whether grown for medicinal purposes, or diverted to the black market, may be sold for as much as twelve-hundred dollars (\$1,200.00) per pound, or more.

(H) The strong smell of marijuana may create an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery and armed robbery.

(I) In recent years there has been an increased number of marijuana related incidents of burglary, robbery and armed robbery, some including acts of violence resulting in injury or death.

(J) Marijuana that is grown indoors may require excessive use of electricity which may overload standard electrical systems creating an unreasonable risk of fire. If indoor grow lighting systems are powered by diesel generators, improper maintenance of the generators and fuel lines and the

improper storage and disposal of diesel fuel and waste oil may create an unreasonable risk of fire and pollution.

(K) The original enactment of this ordinance in 2008 adopted a limit of no more than twenty-five (25) marijuana plants on any one (1) parcel which was intended to result in a significant reduction in the complaints of odor and the risks of fire, crime and pollution described herein.

(L) In 2010, in response to complaints that the twenty-five (25) plant per parcel limit was too restrictive and that the overall impact on negative impacts was less than optimal, the County amended this ordinance to allow for an exemption to the twenty-five (25) plant per parcel limitation provided that those seeking the exemption apply for, obtain, and abide by the conditions of a permit issued by the Sheriff. The exemption required inspection by the Sheriff's Office and compliance with numerous conditions designed to protect the public peace, health and safety, including numerous conditions that required enhanced environmental protection.

(M) The exemption came to be known as the 9.31 permit program and successfully provided a means for medical marijuana cultivators to be clearly in compliance with state and local law while protecting the public peace, health, and safety, including the environment.

(N) In 2012, in response to a directive from the United States Department of Justice, the County eliminated the exemption from the twenty-five (25) plant per parcel limit and has not had in place a system of regulatory compliance since that time.

(O) With the elimination of the exemption from the twenty-five (25) plant per parcel limit, the County also revised the definition of legal parcel from defining an unlimited number of contiguous parcels under common ownership or control as one (1) parcel eligible for a single exemption, to defining any portion of a parcel with a separate Assessor's Parcel number as a parcel, resulting in an individual owner of multiple contiguous parcels being able to cultivate twenty-five (25) mari-

juana plants times the number of Assessor's Parcel numbers, instead of being limited to no more than ninety-nine (99) plants with an exemption.

(P) Mendocino County's geographic and climatic conditions; low population density; availability of resource lands previously utilized for forestry and grazing; and history and reputation as a cannabis producing region; have attracted a steady influx of individuals for the purpose of participating in cannabis activity, whether for medical or commercial reasons.

(Q) The State Water Resources Control Board, the North Coast Regional Water Quality Control Board, and the State Department of Fish and Wildlife have documented a dramatic increase in the number of marijuana cultivation sites, corresponding increases in impacts to water supply and water quality, including the discharge of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash and human waste. These impacts result from the widespread unpermitted, unmitigated, and unregulated impacts of land grading, road development, vegetation removal, timber clearance, erosion of disturbed surfaces and stream banks, stream diversion for irrigation, temporary human occupancy without proper sanitary or waste disposal facilities and threaten the survival of endangered fish species. In addition, the actions of some marijuana growers, either directly or through irresponsible practices, result in the killing of wildlife, including the endangered Pacific Fisher.

(R) Mendocino County also remains vulnerable to numerous large scale trespass commercial marijuana cultivation operations on public and private lands, yet law enforcement consistently estimates that each year they eradicate no more than ten (10) percent of the marijuana grown in violation of state law.

(S) Effective enforcement is further hampered by conflicting local, state and federal laws which create ambiguity in determining which marijuana cultivation operations are legal or not, and whether those that are non-compliant ought to be subject to civil or criminal enforcement.

(T) On September 11, 2015, the State enacted the Medical Cannabis Regulation and Safety Act (MCRSA), which took effect January 1, 2016, and which mandated a comprehensive state licensure and regulatory framework for cultivation, manufacturing, distribution, transportation, testing, and dispensing of medical marijuana on a commercial basis, but implementing regulations have yet to be written and state licenses will not be available until 2018.

(U) Previous landmark marijuana legislation, including the Compassionate Use Act and the Medical Marijuana Program Act, have precipitated a "green rush" with individuals moving to Mendocino County to grow marijuana; with some seeking to capitalize on ambiguities in the law, while others lack an awareness of community and environmental consciousness.

(V) Since the adoption of MCRSA numerous sources, including law enforcement, elected officials, county administrators, neighbors and marijuana cultivators have reported numerous inquiries from individuals and entities, both from within and without Mendocino County, who seek to expand their current cultivation operations, or start new ones.

(W) In the absence of a formal regulatory framework, marijuana cultivators are less likely to learn of, or implement, guidelines that are protective of the public peace, health, safety and the environment; while law enforcement has been deprived of a clear means of distinguishing legally compliant marijuana cultivators from those who threaten the public peace, health, safety and the environment.

(X) The County finds that in the absence of a formal regulatory framework the negative impacts frequently associated with marijuana cultivation are expected to increase, resulting in an unregulated, unstudied and potentially significant negative impact on the environment and upon the public peace, health and safety.

(Y) In 2016 the voters of the State of California approved Proposition 64 (amending, repealing and adding sections of the Business and Profes-

sions Code, the Food and Agriculture Code, and Health and Safety Code, the Labor Code, the Revenue and Taxation Code, and the Water Code, and entitled "the Control, Regulate and Tax Adult Use of Marijuana Act"). Proposition 64 allows for the personal cultivation of up to six (6) marijuana plants on the grounds of or within any private residence.

(Ord. No. 4383, § 2, 5-2-2017)

**Sec. 9.31.040 Definitions.**

As used herein the following definitions shall apply:

"Adult use marijuana" means marijuana cultivated pursuant to Proposition 64 and the provisions of Chapter 9.30.

"Agricultural Commissioner" or "Agricultural Commissioner's Office" or the "Department of Agriculture" means the Mendocino County Department of Agriculture or the authorized representatives thereof.

"Attorney General's Guidelines" means Guidelines for the Security and Non-Diversion of marijuana Grown for Medical Use issued by the Attorney General in August 2008.

"Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

"Collective" means "Medical Marijuana Collective," as defined below.

"Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants at a cultivation site of marijuana plants or any part thereof.

"Cultivation site" means a location or locations on one (1) legal parcel where marijuana is planted, grown, harvested, dried, cured, graded, trimmed, or where one (1) does all or any combination of those activities.

"Identification card" shall have the same definition as California Health and Safety Code section 11362.5 et seq., and as may be amended.

"Indoors" means cultivation within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by

the County of Mendocino, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one (1) or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as two inches (2") x four inches (4") or thicker studs overlain with three-eighths inches ( $\frac{3}{8}$ ") or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

"Legal parcel" means a lot of real property which was created pursuant to the Subdivision Map Act, or for which a certificate of compliance was recognized and recorded. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this Chapter.

"Marijuana" means all parts of the plant *Cannabis sativa*, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code. "Marijuana" includes "cannabis."

"Medical Marijuana Collective" means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate by written agreement, or form a cooperative in accordance with section 12300 of the Corporations Code within the unincorporated area of the County in order to collectively or cooperatively cultivate, store, and/or dispense marijuana for medical purposes, as provided

in Health and Safety Code section 11362.775. The term collective shall include "cooperative" unless the context clearly indicates otherwise.

"Mixed light" means the use of both natural and artificial or supplemental lighting sources during the growing cycle to cultivate marijuana. Included in this definition is the process of solely manipulating natural light to cultivate marijuana.

"Outdoors" or "outdoor cultivation" [means] any cultivation site that uses no artificial or supplemental lighting to cultivate marijuana. Use of supplemental lighting to maintain vegetative starts or immature plants prior to transplanting outdoors shall be considered consistent with this definition.

"Parcel" means a legal parcel as defined herein.

"Park" means an area of land used for community recreation owned or operated by a public entity or a private area of land recognized as a neighborhood park utilized by youth. State or Federal designated parks and forestlands as recognized within the Mendocino County General Plan are not included within this definition.

"Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, as defined in Health and Safety Code section 11362.7(d).

"Publically traveled private road" means a private roadway easement or access easement which serves, or has the potential to serve, more than four (4) lots or parcels. Such easement shall be considered a street as defined in Mendocino County Code section 20.008.052(26).

"Qualified patient" means a person who is entitled to the protections of section 11362.5 of the Health and Safety Code, but who does not have an identification card issued pursuant to Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code (Section 11362.7 et seq.).

"Residential Treatment Facility" means a State licensed residential facility that provides treatment for drug and/or alcohol dependency.

"School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any licensed preschool or child day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

"Sheriff" or "Sheriff's Office" means the Sheriff's Office of the County of Mendocino or the authorized representatives thereof.

"Wildlife Exclusionary Fencing" means fencing designed and installed to prevent the entry of wildlife into the enclosed area, such as cyclone or field fencing a minimum of six (6) feet high measured from grade that is installed into the ground and secured to prevent animals from burrowing underneath. The fence must include a lockable gate and the gate opening must include a solid step or apron installed into the ground and secured to prevent animals from burrowing underneath.

"Youth-oriented facility" means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

"Zip-ties" means plastic ties with individualized numbers stamped on them, issued by the Mendocino County Sheriff's Office for the purpose of identifying a legal marijuana plant. (Ord. No. 4383, § 2, 5-2-2017)

**Sec. 9.31.050 Intentionally Omitted.**

**Sec. 9.31.060 Limitation on Number of Plants.**

(A) The cultivation of more than twenty-five (25) marijuana plants on any legal parcel, either indoors or outdoors, within the unincorporated area of the County, regardless of whether the



person(s) growing the marijuana is/are a "qualified patient", "primary caregiver", or "collective", is hereby prohibited. This limitation shall include any adult use marijuana plants grown pursuant to Chapter 9.30.

(B) Wherever medical marijuana is grown, a copy of a current and valid, State-issued medical marijuana identification card or physician recommendation must be displayed in such a manner as to allow law enforcement officers to easily see the card without having to enter any building of any type.

(Ord. No. 4383, § 2, 5-2-2017)

**Sec. 9.31.070 Limitation on Location to Cultivate Marijuana.**

(A) The cultivation of marijuana, whether grown collectively or individually, in any amount or quantity, shall not be allowed in the following areas:

(1) Within one thousand (1,000) feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility as defined herein.

(2) Outdoors or using mixed light within one hundred (100) feet of any occupied legal residential structure located on a separate parcel.

(3) Outdoors or using mixed light in a mobile home park as defined in Health and Safety Code section 18214.1 within one hundred (100) feet of an occupied mobile home that is under separate ownership.

(4) In any location where the marijuana plants are visible from the public right of way or publicly traveled private roads.

(5) Outdoors or using mixed light within fifty (50) feet of a parcel under separate ownership or access easement (whichever is most restrictive).

(B) The distance between the above-listed uses in section (A)(1) and marijuana that is being cultivated shall be measured in a straight line from the nearest point of the fence required in section 9.31.080, or if the marijuana is cultivated indoors, from the nearest exterior wall of the building in which the marijuana is cultivated to the nearest

boundary line of the property on which the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs is located. The distance in sections (A)(2) and (A)(3) to any residential structure shall be measured from the fence required in section 9.31.080 to the nearest exterior wall of the residential structure.

(C) Any indoor cultivation sites that comply with paragraph (A)(1) shall also be subject to the following:

(1) Indoor cultivation sites shall comply with the building property line setback established by the zoning district in which the cultivation site is located.

(2) The cultivation of marijuana for medical use within an accessory structure shall be allowed subject to the development requirements of the zoning district in which it is located and to the accessory use regulations of the applicable zoning code.

(Ord. No. 4383, § 2, 5-2-2017)

**Sec. 9.31.080 Cultivation of marijuana.**

(A) It is declared to be unlawful for any person owning, leasing, occupying, or having charge or possession of any parcel of land within any unincorporated area of the County to cause or allow such parcel of land to be used for the outdoor or indoor cultivation of marijuana plants for medicinal purposes in excess of the limitations imposed within section 9.31.060 or in violation of the limitations on location imposed within section 9.31.070 or in violation of any of the following conditions contained in this section.

(B) The indoor cultivation of marijuana plants shall be limited to no more than one hundred (100) square feet per parcel.

(C) The outdoor, indoor or mixed light cultivation of medical cannabis shall not propagate objectionable odors which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public.

(D) The use of light assistance for the indoor or mixed light cultivation of medical cannabis shall not exceed a maximum of thirty-five (35) watts of lighting capacity per one (1) square foot of growing area. The indoor or mixed-light cultivation of medical cannabis shall rely on the electrical grid or some form of alternative energy source. The indoor or mixed-light cultivation of medical cannabis shall not rely on a generator as a primary source of power.

(E) All lights used for the indoor or mixed light cultivation of medical cannabis shall be fully contained within structures or otherwise shielded to fully contain any light or glare involved in the cultivation process. Security lighting shall be motion activated and all outdoor lighting shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed.

(F) All activities associate[d] with the cultivation of marijuana shall not exceed the noise level standards as set forth in the County General Plan Policies DE100, 101 and 103.

(G) All cultivation of marijuana shall not utilize water that has been or is illegally diverted from any stream, creek, or river.

(H) The activities associated with cultivation of marijuana shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water.

(I) All medical cannabis grown in Mendocino County (excluding indoor growing) must be within a secure, wildlife exclusionary fence of at least six (6) feet in height that fully encloses the immediate garden area. The fence must include a lockable gate that is locked at all times when the cultivator (or their agent) is not in the immediate area. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.

(J) All buildings where marijuana is cultivated or stored shall be properly secured to prevent unauthorized entry.

(K) Any fuel, fertilizer, pesticide, fungicide, rodenticide, herbicide or other substance toxic to wildlife, children, or pets, must be stored in a secured and locked structure or device.

(L) Prohibition on Tree Removal. Removal of any commercial tree species as defined by California Code of Regulations section 895.1, Commercial Species for the Coast Forest District and Northern Forest District, and the removal of any true oak species (*Quercus* sp.) or Tan Oak (*Notholithocarpus* sp.) for the purpose of developing a cannabis cultivation site is prohibited. This prohibition shall not include the pruning of any such trees for maintenance, or the removal of such trees if necessary to safety or disease concerns.

(M) Any person who is not the legal owner of a parcel and who is cultivating marijuana on such parcel shall obtain written permission to cultivate marijuana from the legal owner of the parcel prior to commencing cultivation of marijuana on such parcel.

(N) Nothing in this section shall be construed as a limitation on the County's authority to abate any violation which may exist from the cultivation of marijuana plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building. (Ord. No. 4383, § 2, 5-2-2017)

#### **Sec. 9.31.090 "Zip-Tie" Provision.**

(A) To assist in the enforcement of this Ordinance, and to avoid unnecessary confiscation and destruction of medicinal marijuana plants, marijuana grown for medicinal purposes in the unincorporated areas of Mendocino County subject to this Chapter may obtain "zip-ties" issued by the Mendocino County Sheriff's Office. For proper identification, such "zip-ties" should be securely attached to the base of individual flowering marijuana plants.

(B) "Zip-Ties" can be obtained through the Mendocino County Sheriff's Office. All applicants for "zip-ties" must present a State-issued medical marijuana identification card or a valid medical

recommendation. The fee for the "zip-ties" shall be set by the Mendocino County Board of Supervisors in accordance with all applicable laws and regulations and the Master Fee Policy. Any zip-tie fees may be discounted by fifty percent (50%) for Medi-Cal, SSI, and CMSP recipients, and equivalent income-qualified veterans.  
(Ord. No. 4383, § 2, 5-2-2017)

**Sec. 9.31.100 Medical Marijuana Collectives.**

Until such time as State law provides otherwise, medical marijuana collectives operating pursuant to Health and Safety Code section 11362.775 shall comply with all of the following:

(1) Operate on a non-profit basis as set forth in section IV B.1. of the Attorney General's Guidelines;

(2) Employ only persons who are at least twenty-one (21) years of age and comply with all applicable state and federal requirements relating to the payment of payroll taxes including federal and state income taxes and/or contributions for unemployment insurance, state workers' compensation and liability laws;

(3) Follow the membership and verification guidelines as set forth in Section IV B.3 of the Attorney General's Guidelines, except that whenever "should" appears it shall be replaced with "shall";

(4) Require all prospective members to complete and sign a written membership application acknowledging and agreeing to abide by all the rules of the collective and all applicable requirements of this section;

(5) Prohibit sales to non-members as set forth in section IV B.5. of the Attorney General's Guidelines;

(6) Allow reimbursements and allocations of medical marijuana as set forth in section IV B.6. of the Attorney General's Guidelines;

(7) Possess marijuana only in amounts consistent with the medical needs of the members of the collective; and only cultivate marijuana consistent with the limits set forth in this ordinance;

(8) Exterior signage shall not indicate or advertise the presence or availability of medical marijuana.  
(Ord. No. 4383, § 2, 5-2-2017)

**Sec. 9.31.110 Intentionally Omitted.**

**Sec. 9.31.120 Intentionally Omitted.**

**Sec. 9.31.130 Public Nuisance.**

Notwithstanding any other provision of the Mendocino County Code, including but not limited to section 10A.17.160, cultivating marijuana pursuant to and in compliance with the provisions of this Chapter shall not be deemed a public nuisance. A violation of any provision of this Ordinance shall be deemed to be a public nuisance and subject to the enforcement process as set forth in section 9.31.140.

(Ord. No. 4383, § 2, 5-2-2017)

**Sec. 9.31.140 Enforcement.**

The County may enforce this Chapter by using any applicable state or county law, including, but not limited to Mendocino County Code Chapters 1.08, 8.75 or 8.76, and may use either the administrative process to achieve code compliance or available civil remedies, such as injunctive relief.  
(Ord. No. 4383, § 2, 5-2-2017)

**Sec. 9.31.150 Attorneys' Fees.**

Pursuant to Government Code section 25845(c), in any action, administrative proceeding, or matter commenced by the County to abate a nuisance, or to collect the cost of abatement or any penalty or fee related thereto, the prevailing party shall recover its attorneys' fees. The recovery of attorneys' fees under this section is limited to those actions, administrative proceedings, or matters in which the County chooses at the initiation of the action, administrative proceeding, or matter to seek the recovery of its own attorneys' fees. In no event shall an award of attorneys' fees under

this Chapter exceed the reasonable amount of attorneys' fees incurred by the County in the action or proceeding.

(Ord. No. 4383, § 2, 5-2-2017)

**Sec. 9.31.160 Use of Money Collected Under This Chapter.**

All money collected for penalties for violations of this Chapter and all money collected for recovery of costs of enforcement of this Chapter shall be made available to the Department responsible for the enforcement action for training and further code enforcement actions.

(Ord. No. 4383, § 2, 5-2-2017)

**Sec. 9.31.170 Effectiveness.**

The provisions of this chapter shall not apply in the inland zoning areas of the County governed by Division 1 of Title 20 of this Code. Any entitlement that may be created by this Chapter shall exist only until such time as this chapter is superseded by a permitting program or otherwise repealed or replaced. Nothing in this Chapter 9.31 permits qualified patients or personal caregivers to cultivate in excess of the limits provided by State law.

(Ord. No. 4383, § 2, 5-2-2017)

## CHAPTER 9.32

### SMOKING POLLUTION CONTROL AND HEALTH PROTECTION ORDINANCE

#### Sec. 9.32.010 Title.

This Chapter shall be known as the "Smoking Pollution Control and Health Protection Ordinance." (Ord. No. 3864 (part), adopted 1993.)

#### Sec. 9.32.020 Findings and Purpose.

(A) The Mendocino County Board of Supervisors does hereby find that:

(1) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing environmental tobacco smoke is a cause of disease, including lung cancer in nonsmokers. At special risk are children, elderly people, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

(2) Health hazards induced by breathing environmental tobacco smoke include lung cancer, heart disease, respiratory infection, decreased respiratory function, bronchoconstriction and bronchospasm.

(3) The American Medical Association, former U.S. Surgeon Generals C. Everett Koop, M.D. and Antonia Novello, M.D. and former Secretary of the U.S. Department of Health and Human Services, Dr. Louis Sullivan, have publicly denounced the tobacco industry for targeting children, teens, women and members of racial and ethnic minority groups in its advertising and promotions and have called for local, State and Federal action to prevent the tobacco industry from targeting these individuals, especially youth.

(4) Based on weight of available scientific evidence, the U.S. Environmental Protection Agency (EPA) has concluded that the widespread exposure to environmental tobacco smoke in the United States presents a serious and substantial public health impact.

(B) Accordingly, the Mendocino County Board of Supervisors finds and declares that the purposes of this Chapter are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; (2) to guarantee the right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke, and (3) to reduce addiction to tobacco products by children and teenagers. (Ord. No. 3864 (part), adopted 1993.)

#### Sec. 9.32.030 Definitions.

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this Section:

(1) "Bar" means an area which is devoted to the serving of alcohol beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant dining area. A "bar" for the purpose of this definition does not include any establishment where tobacco smoke can filter into a restaurant through a passageway, ventilation system or any other means.

(2) "Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit making purposes, including retail establishments, service and professional offices.

(3) "Employee" means any person who is employed by any employer for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity or business.

(4) "Employer" means any person, partnership, corporation, including a municipal corporation, special district, local public agency or nonprofit entity, employing the services of one or more individual persons or utilizing the services of volunteers.

(5) "Enclosed area" means all space between a floor and ceiling which is enclosed on all sides by



solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures.

(6) "Place of employment" means any enclosed area under the control of an employer frequented by employees during the course of employment or providing volunteer services, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeteria and hallways. A private residence is not a "place of employment unless it is used as a child care or health care facility or institution as those terms are defined by State law.

(7) "Public place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a "public place."

(8) "Restaurant" means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, except that the term "restaurant" shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a "bar" as defined above.

(9) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(10) "Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

(11) "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, weed or plant in any manner or in any form.

(12) "Sports arena" means sports pavilions, gymnasiums, health clubs and spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports events.

(13) "Tobacco vending machine" means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper currency, or other things representative of value, which dispenses or release a tobacco product.

(14) "Tobacco product" means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.

(15) "Self-service merchandising" means open promotional displays of tobacco products and point-of-purchase tobacco promotional products that the public has access to without the intervention of an employee.

(16) "Vendor-assisted" means only a store employee has access to the tobacco product and assists the customer by supplying the product. The customer does not take possession of the product until it is purchased. (Ord. No. 3864 (part), adopted 1993.)

#### **Sec. 9.32.040 Application of Chapter.**

This Chapter shall apply to the unincorporated area of the County of Mendocino and to structures owned or leased by the County of Mendocino, wherever located. (Ord. No. 3864 (part), adopted 1993.)

**Sec. 9.32.050 Prohibition of Smoking in Public Places.**

(A) Smoking shall be prohibited in all enclosed public places within the County or Mendocino, including but not limited to, the following places:

- (1) Elevators;
- (2) Buses, taxicabs and other means of public transit and in the ticket, boarding and waiting areas of public transit depots, provided the County is not interfering with the regulatory authority of another local, State or Federal agency;
- (3) Public restrooms;
- (4) Service lines;
- (5) Retail stores;
- (6) All areas available to and customarily used by the general public in all businesses and non-profit entities or organizations patronized by the public;
- (7) Restaurants;
- (8) Public areas of galleries, libraries and museums;
- (9) Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except when smoking is part of a stage production;
- (10) Sports arenas and convention halls;
- (11) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the County or any political agency or subdivision of the State during such time as a public meeting is in progress;
- (12) Waiting rooms, hallways, wards and rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices and dentists' offices;
- (13) Lobbies, hallways and other common areas in buildings, condominiums, retirement facilities, nursing homes, apartment and other multiple-unit residential facilities;
- (14) Lobbies, hallways and other common areas in multiple-unit commercial facilities;

(15) Polling places.

(B) Notwithstanding any other provision of this Section, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment. (Ord. No. 3864 (part), adopted 1993.)

**Sec. 9.32.060 Regulation of Smoking in Places of Employment.**

(A) It shall be the responsibility of employers to provide a smoke-free workplace for all employees, but employers are not required to incur any expense to make structural or other physical modifications except for signs required to be posted by this Chapter.

(B) Within ninety (90) days of the effective date of this Chapter, each employer having an enclosed place of employment located within the County shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes, but is not limited to, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, and cafeterias, employee lounges, stairs, restrooms, and in company owned or leased vehicles.

(C) The smoking policy shall be communicated to all employees within three (3) weeks of its adoption.

(D) All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employees. (Ord. No. 3864 (part), adopted 1993.)

**Sec. 9.32.070 Regulating the Sale of Tobacco Products.**

(A) Any person, business, tobacco retailer or other establishment subject to this Chapter shall post plainly visible signs at the point of purchase



of tobacco products which state "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW. PHOTO ID IS REQUIRED." The letters of said signs should be at least one-quarter ( $\frac{1}{4}$ ) inch high.

(B) No person, business, tobacco retailer or owner, manager or operator of any establishment subject to this Chapter shall sell, offer to sell or permit to be sold any tobacco product to an individual without requesting and examining identification establishing the purchaser's age as eighteen (18) years or greater unless the seller has some reasonable basis for determining the buyer's age.

(C) It shall be unlawful for any person, business or tobacco retailer to sell, permit to be sold, offer for sale or display for sale tobacco products by means of self-service merchandising or any means other than vendor-assisted sales. Cartons of cigarettes, multicontainer packages of smokeless tobacco, cigars and pipe tobacco are exempt from this regulation.

(D) No person, business or tobacco retailer shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his, her or its premises any vending machine for the purpose of selling or distributing any tobacco product. Cigarette vending machines located in areas from which children under eighteen (18) years of age are prohibited shall be exempt from this restriction. Any cigarette vending machine located in such an area must be placed thirty (30) feet or greater from the entrance to such an establishment. Any tobacco vending machine in use on the effective date of this Chapter shall be removed within thirty (30) days after the effective date of this Chapter. (Ord. No. 3864 (part), adopted 1993.)

#### **Sec. 9.32.080 Where Smoking Not Regulated.**

(A) Notwithstanding any other provision of this Chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this Chapter:

(1) Bars. Bars attached to restaurants shall not be subject to smoking restrictions, provided the following:

(a) The bar area is not the principal waiting area for the restaurant, and

(b) Restaurant patrons do not have to walk through the bar to gain access into the restaurant, and

(c) The bar and the restaurant have separate ventilation systems, and

(d) Persons under twenty-one (21) years of age are prohibited from this bar area;

(2) Private residences, except during those hours of operation when used as a child care or health care facility. Sole proprietor businesses conducted from private residences shall not be subject to smoking restrictions;

(3) Retail tobacco stores;

(4) Restaurants, hotel and motel conference or meeting rooms and public and private assembly rooms while these places are being used for private functions and closed to the general public.

(B) Notwithstanding any other provision of this Section, any owner, operator, manager or other person who controls any establishment described in this Section may declare that entire establishment as a nonsmoking establishment. (Ord. No. 3864 (part), adopted 1993.)

#### **Sec. 9.32.090 Posting of Signs.**

(A) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other place where smoking is regulated by this Chapter, by the owner, operator, manager or other person having control of such building or place.

(B) Every restaurant shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited. (Ord. No. 3864 (part), adopted 1993.)

**Sec. 9.32.100 Enforcement.**

(A) Enforcement of this Chapter shall be implemented by the Mendocino County Department of Public Health, through its Director and designees as noted below.

(B) Any citizen who desires to register a complaint under this Chapter may initiate enforcement with the Mendocino County Department of Public Health.

(C) The Public Health Department shall require, while a facility, establishment, business or employer is undergoing otherwise mandated inspections, a "self-certification" from the owner, manager, operator or other person having control of such establishment that all requirements of this Chapter have been complied with.

(D) Any owner, manager, operator or employee of any facility, establishment, business or employer regulated by this Chapter may inform persons violating this Chapter of the appropriate provisions thereof.

(E) Notwithstanding any other provision of this Chapter, and if not otherwise prohibited by law, a private citizen may bring a legal action to enforce this Chapter.

(F) Pursuant to Ordinance No. 1415 adopted in 1975, any person holding a position in the Mendocino County Department of Public Health, who is also an environmental health specialist, is authorized to issue citations in the name of the County for violations of this Chapter. (Ord. No. 3864 (part), adopted 1993.)

**Sec. 9.32.110 Violations and Penalties.**

(A) It shall be unlawful for any person who owns, managers, operates or otherwise controls the use of any premises or establishments subject to regulation under this Chapter to fail to comply with any of its provisions.

(B) It shall be unlawful for any person to smoke in any area where smoking is prohibited by this Chapter.

(C) Any person who violates any provision of this Chapter shall be guilty of an infraction, punishable by:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation;

(2) A fine not exceeding two hundred dollars (\$200) for a second violation of this chapter within one (1) year,

(3) A fine not exceeding five hundred dollars (\$500) for each additional violation of this chapter within one (1) year.

(D) This section shall be self amending as Government Code Section 25132 is amended. (Ord. No. 3864 (part), adopted 1993.)

**Sec. 9.32.120 Nonretaliation.**

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to a smoke-free environment afforded by this Chapter. (Ord. No. 3864 (part), adopted 1993.)

**Sec. 9.32.130 Public Education.**

The Mendocino County Department of Public Health shall engage in a continuing program to explain and clarify the purposes and requirements of this Chapter to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such programs may include publication of a brochure for businesses and individuals explaining the provisions of this Chapter. (Ord. No. 3864 (part), adopted 1993.)

**Sec. 9.32.140 Other Applicable Laws.**

This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. No. 3864 (part), adopted 1993.)

**Sec. 9.32.150 Severability.**

If any provision, clause, sentence or paragraph of this Chapter or the application thereof to

any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this Chapter are declared to be severable. (Ord. No. 3864 (part), adopted 1993.)

**Sec. 9.32.160 Effective Date.**

This Chapter shall be effective thirty (30) days from and after the date of its adoption, and shall be reviewed within one (1) year of its effective date by the Board of Supervisors. (Ord. No. 3864 (part), adopted 1993.)



## CHAPTER 9.33

### OUTDOOR BURNING

#### Sec. 9.33.010 Findings and Declarations.

The Board of Supervisors of the County of Mendocino ("County") finds and declares as follows:

(A) Open burning of nonvegetative matter releases into the atmosphere unacceptable levels of pollutants, toxics, and other regulated substances which can include: respirable particulates, carbon monoxide, heavy metals, acids, oxides of nitrogen and sulphur, cyanide, and many organics including PCBs, hydrocarbons, furans, dioxins, and aldehydes. This burning produces ash frequently laden with toxics including heavy metals. The smoke and ash created by such fires exposes County residents to airborne contaminants because of the County's basin topography and frequent inversions. Significant potential for soil and water contamination would result from the inappropriate and illegal disposal of ash from such fires.

(B) Open burning of paper contributes to the County's air pollution problem because papers are being burned which contain a complex collection of chemicals. Additionally, burning of household wastes, construction wastes, commercial operations and other wastes, such as tires and petroleum products, are polluting the County's air.

(C) The County has a duty to assure clean air, and it is in the interest of the health, safety and welfare of all who live, work and do business in the County that air pollution be reduced.

(D) This Chapter is consistent with the legislative intent and findings in the Mulford-Carrell Air Resources Act (Division 26 of the Health and Safety Code, at Section 39001, et seq.) (Ord. No. 3746 Sec. 1 (part), adopted 1990.)

#### Sec. 9.33.020 Title.

The Ordinance codified in this Title 9 of the Mendocino County Code Sections 9.33.010 through 9.33.070 shall be referred to as the "County of

Mendocino Outdoor Burning Ordinance." (Ord. No. 3746 Sec. 1 (part), adopted 1990.)

#### Sec. 9.33.030 Purpose.

The purpose of this Chapter is to prohibit certain open burning in order to: (1) protect air quality and the ozone layer by reducing the amount of pollutants in the air; (2) protect soil and water quality by reducing the amount of pollutants in the soil and water; and (3) promote and protect the public health, safety and welfare. (Ord. No. 3746 Sec. 1 (part), adopted 1990.)

#### Sec. 9.33.040 Definitions.

For purposes of this Chapter the following words or phrases shall have the meanings set forth herein, unless the context appears otherwise:

(A) "Incinerator" means a device for disposing of combustible material with a cross-sectional area of not less than 7.5 square feet, equipped with a forced-draft or induced-draft fan and with an after-burner or scrubber or other pollution control device. The operator of any incinerator must have available for inspection a current permit from the Mendocino County Air Pollution Control District.

(B) "Fuels" means charcoal, firewood, charcoal starter fluid, and untreated, unpainted sawn lumber.

(C) "Newspaper" means black and white print newspapers without any chemical treatment or colored inks.

(D) "Outdoor fire" means any fire not confined within a building or incinerator. Fires conducted in 55-gallon drums or similar containers are considered outdoor fires.

(E) "Person" or "anyone" means any natural person, firm, corporation, partnership, or other organization or group however organized.

(F) "Vegetative matter" means leaves, brush, prunings, and trees. (Ord. No. 3746 Sec. 1 (part), adopted 1990.)

#### Sec. 9.33.050 Prohibited Burning.

(A) No person shall ignite or cause to be ignited or suffer, allow or maintain any outdoor fire in

Mendocino County, which fires burn any material except:

(1) Vegetative matter. Agricultural and rural nonagricultural burning of vegetative matter is regulated by Regulation 2 of the North Coast Air Basin, and this Chapter is not an abridgement of that regulation;

(2) Newspaper as necessary to start fires permitted by this Chapter;

(3) Fuels, as defined in Section 9.33.040(D), when burned for the purpose of preparing food or for recreation.

(B) No person shall ignite or cause to be ignited or suffer, or allow or maintain any outdoor fire on a day designated as a non-burn day by the California Air Resources Board or by the Mendocino County Air Pollution Control District, except as described in subsection A of this section. (Ord. No. 3746 Sec. 1 (part), adopted 1990.)

#### **Sec. 9.33.060 Exemptions.**

Fires set or permitted by any public officer are exempted when such fire is necessary for any of the following purposes:

(A) The prevention of an imminent fire hazard;

(B) The instruction of public employees in the methods of fighting fires;

(C) The instruction of employees in methods of fighting fire, when such fire is set pursuant to permit, on property used for industrial purposes;

(D) The setting of backfires necessary to save life, or valuable property pursuant to Section 4426 of the Public Resources Code;

(E) The abatement of fire hazards pursuant to Section 13055 of the Health and Safety Code (Any public agency authorized to engage in fire protection activities, including but not limited to a fire protection district, city, city and county, or county fire department, the Department of Forestry, and the United States Forest Service, may use fire to abate a fire hazard.);

(F) Disease or pest prevention, where there is an immediate need for and no reasonable alternative to burning; or

(G) Agricultural burning, as defined in Health and Safety Code Section 39011, of vegetative matter, conducted in accordance with Regulation 2 of the Mendocino County Air Pollution Control District. (Ord. No. 3746 Sec. 1 (part), adopted 1990.)

#### **Sec. 9.33.070 Liability and Enforcement.**

(A) A violation may be determined by the enforcing officer's visual observation of prohibited fires and/or visual observation of evidence of prohibited fires.

(B) Anyone violating or failing to comply with any of the requirements of this Chapter shall be guilty of an infraction as set forth in Section 1.04.110 of the Mendocino County Code.

(C) In addition to the above relief, the County Counsel may seek legal, or equitable relief to enforce this Chapter. Civil penalties shall be (1) a penalty not exceeding One Hundred Dollars (\$100) for the first violation; (2) a penalty not exceeding Five Hundred Dollars (\$500) for each additional violation of this Chapter within one (1) year.

(D) In addition to any other relief, the County shall recover the cost of enforcing this Chapter. The hourly fees to be imposed and recovered pursuant to this Section shall be set forth by resolution of the Board of Supervisors. (Ord. No. 3746 Sec. 1 (part), adopted 1990.)

#### **Sec. 9.33.080 Severability.**

If any part or provision of this Chapter or the application thereof to any person or circumstance is held invalid, the remainder of the Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable. (Ord. No. 3746 Sec. 1 (part), adopted 1990.)

**CHAPTER 9.34**  
**FIRST 5 MENDOCINO COUNTY**  
**ORDINANCE**

**Sec. 9.34.010 Title.**

This Chapter shall be known as the "FIRST 5 Mendocino" County Ordinance. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

**Sec. 9.34.020 Scope and Intent.**

It is the scope of this Chapter to provide for early childhood development services as set forth in the California Children and Families Act of 1998.

It is the intent of this Chapter to establish a Mendocino County Children and Families Commission and to establish a local Children and Families Trust Fund. Said Commission shall be a legal public entity separate from the County of Mendocino, and which shall be known as "FIRST 5 Mendocino." (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

**Sec. 9.34.030 Definitions.**

The following definitions apply for purposes of this Ordinance:

(A) "Act" means the California Children and Families Act of 1998.

(B) "County Commission" or "Commission" refers to FIRST 5 Mendocino established in accordance with Section 130140 of the Health and Safety Code.

(C) "County strategic plan" means the plan adopted by FIRST 5 Mendocino and submitted to the California Children and Families Commission pursuant to Section 130140 of the Health and Safety Code.

(D) "State Commission" means the California Children and Families Commission established in accordance with Section 130110 of the Health and Safety Code. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

**Sec. 9.34.040 Establishment of Commission.**

There is established, pursuant to authority contained in Health and Safety Code Section 130140, a Children and Families Commission known as "FIRST 5 Mendocino," which shall be a legal public entity registered with the California Secretary of

State separate from the County of Mendocino and said Commission shall file a statement as required by Section 53051 of the Government Code. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

**Sec. 9.34.050 Purpose and Authority.**

The Commission is established to promote, support and improve the early development of children from the prenatal stage to five (5) years of age. These purposes shall be accomplished through the establishment, institution, and coordination of appropriate standards, resources, and integrated and comprehensive programs emphasizing community awareness, education, nurturing, child care, social services, health care, and research. The Commission shall fulfill Mendocino County's obligations as set forth in California's Children and Families Act of 1998. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

**Sec. 9.34.060 Membership.**

The Commission shall consist of nine (9) members who are residents of Mendocino County, and appointed by the Board of Supervisors.

Two (2) members of the Commission shall be from among the county health officer and persons responsible for management of the following county functions: children's services, public health services, behavioral health services, social services, and tobacco and other substance abuse prevention and treatment services.

One (1) member of the Commission shall be a member of the Board of Supervisors.

The remaining members of the Commission shall be from the following categories: recipients of project services included in the County strategic plan; educators specializing in early childhood development; representatives of a local child care resource or referral agency, or a local child care coordinating group; representatives of a local organization for prevention or early intervention for families at-risk; representatives of community-based organizations that have the goal of promoting nurturing and early childhood development; representatives of local school districts; and representatives of local medical, pediatric, or obstetric associations or societies. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

**Sec. 9.34.070 Appointment, Removal, Compensation, Bylaws.**

All Commissioners shall be appointed by the Board of Supervisors upon nomination by any member of the Board of Supervisors. Each Commissioner serves at the will of the Board of Supervisors. The term of office of each member shall be for three (3) years and until the appointment of his/her successor.

Commissioners shall serve without compensation, except that they shall be paid reasonable per diem and reimbursement of reasonable expenses for attending meetings and discharging other official responsibilities. Said compensation shall be determined by the Commission.

The Commission shall adopt bylaws, not inconsistent with this Chapter and the State Act, within one hundred twenty (120) days of the adoption of this Ordinance. The bylaws shall include provisions related to staggered terms, vacancies and removal from office. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

**Sec. 9.34.080 Powers and Duties and Responsibilities as Independent Public Entity.**

The powers, duties and responsibilities of the Commission shall include, but not be limited to, the following:

(A) The power to employ personnel and contract for personal services required to meet its obligations; and to utilize the services of volunteers.

(B) The power to enter into any contracts necessary or appropriate to carry out the provisions of the Act.

(C) The power to acquire, possess, and dispose of real or personal property, as necessary or appropriate to carry out the provisions of the Act.

(D) The power to sue and be sued.

(E) The Commission shall be deemed to be a public agency that is a unit of local government for purposes of all grant programs and other funding and loan guarantee programs.

(F) Any obligations of the Commission, statutory, contractual, or otherwise, shall be obligations solely of the Commission.

(G) All claims or actions for money or damages against the Commission shall be governed by Part 3 (commencing with Section 900) and Part 4 (com-

mencing with Section 940) of Division 3.6 of Title 1 of the Government Code, except as provided by other statutes or regulations that apply expressly to the County commissions.

(H) The Commission, its members, and its employees, are protected by the immunities applicable to public entities and public employees governed by Part 1 (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code, except as provided by other statutes or regulations that apply.

(I) The Commission may solicit and accept funds from federal, state and local governmental agencies for carrying out the purposes outlined in this Chapter. The Commission may also accept gifts, donations and grant awards from any source for carrying out its functions. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

**Sec. 9.34.090 Powers, Duties and Responsibilities Under the California Children and Families Act of 1988.**

The powers, duties and responsibilities of the Commission shall be as follows:

(A) The Commission shall facilitate:

(1) The creation and implementation of an integrated, comprehensive, and collaborative system of information and services to enhance optimal early childhood development. This system should function as a network that promotes accessibility to all information and services from any entry point into the system. It is further the purpose of this Commission to emphasize local decision-making, to provide for greater local flexibility in designing delivery systems, and to eliminate duplicate administrative systems.

(2) Establishment of community-based programs to provide parental education and family support services relevant to effective childhood development. These services shall include education and skills training in nurturing and in avoidance of tobacco, drugs, and alcohol during pregnancy. Emphasis will be on the consolidation of existing programs and new services provided pursuant to this act into an integrated system from the consumer's perspective.

(3) Education of the public, using mass media, on the importance and the benefits of nurturing,



health care, family support, and child care; and inform involved professionals and the general public about programs that focus on early childhood development.

(4) Education of the public, using mass media, on the dangers caused by smoking and other tobacco use by pregnant women to themselves and to infants and young children, and the dangers of secondhand smoke to all children.

(5) Encouragement of pregnant women and parents of young children to quit smoking.

(B) The Commission shall adopt an adequate and complete County strategic plan for the support and improvement of early childhood development within the County.

The County strategic plan shall be consistent with, and in furtherance of the purposes of, this ordinance and any guidelines adopted by the State Commission that are in effect at the time the plan is adopted.

The County strategic plan shall, at a minimum, include the following: a description of the programs, services, and projects proposed to be provided, sponsored, or facilitated; and a description of how measurable outcomes of such programs, services, and projects will be determined by the County Commission using appropriate reliable indicators. The strategic plan shall be deemed adequate or complete when the plan describes how programs, services, and projects relating to early childhood development within the County will be integrated into a consumer-oriented and easily accessible system.

The County Commission shall, on at least an annual basis, be required to periodically review its County strategic plan and to revise the plan as may be necessary or appropriate.

The County Commission shall conduct at least one public hearing on its proposed County strategic plan before the plan is adopted.

The County Commission shall conduct at least one public hearing on its periodic review of the County strategic plan before any revisions to the plan are adopted.

The County Commission shall submit its adopted County strategic plan, and any subsequent revisions thereto, to the Mendocino County Board of Supervisors for the Board's information and to the State Commission as required by the Act.

(C) The County Commission shall prepare and adopt an annual audit and report pursuant to Section 130150. The County Commission shall conduct at least one public hearing prior to adopting any annual audit and report.

(D) The County Commission shall conduct at least one public hearing on each annual report by the State Commission prepared pursuant to Subdivision (b) of Section 130150 of the Health and Safety Code.

(E) The Commission shall study and investigate by means of meetings, conferences, public hearing or other appropriate means, conditions impacting services for early childhood development.

(F) The Commission shall recommend to the Board of Supervisors necessary programs, or legislation to promote, ensure and protect services which enhance early childhood development.

(G) The Commission shall render to the Board of Supervisors a report or reports of commission activities. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

#### **Sec. 9.34.100 Children and Families Trust Fund.**

Pursuant to Subparagraph (A) of Paragraph (2) of Subdivision (d) of Section 130105 of the Children and Families Act of 1998, the Mendocino County Board of Supervisors establishes a local Children and Families Trust Fund.

All moneys deposited in this fund shall be appropriated and expended only for the purposes expressed in the California Children and Families Act, and shall be used only to supplement existing levels of service and not to fund existing levels of service. No moneys in the California Children and Families Trust Fund shall be used to supplant state or local General Fund money for any purpose.

(A) The moneys allocated and appropriated to the County shall be deposited in the local Children and Families Trust Fund administered by the County Commission, and shall be expended only for the purposes authorized by the Act and in accordance with the County strategic plan approved by the County Commission and the Board of Supervisors.

(B) Any moneys allocated and appropriated to the Commission that are not encumbered or expended in any applicable period prescribed by law shall (together with the accrued interest on the

amount) revert to and remain in the local Children and Families Trust Fund for the fiscal period under the same conditions as set forth in Paragraph (A).

(C) All grants, gifts, or bequests of money made to or for the benefit of the County Commission from public or private sources used for early childhood development programs shall be sited in the local Children and Families Trust Fund expended for the specific purpose for which the grant, gift, or bequest was made.

(D) No moneys shall be expended to provide, sponsor, or facilitate any programs, services, or projects for early childhood development until and unless the County Commission has first adopted an adequate and complete County strategic plan that contains the provisions required by Clause (ii) of Subparagraph (c) of Paragraph (1) of Subdivision (a) of the Act and which is approved by the Board of Supervisors and the State Commission.

(E) For each fiscal year the County Commission shall receive the portion of the total moneys available to all County Commissions equal to the percentage of the number of births recorded in Mendocino County (for the most recent reporting period) in proportion to the number of births recorded in all of the counties participating in the California Children and Families Program (for the same period), provided that each of the following requirements has first been satisfied:

(1) The Commission has, after the required public hearings, adopted an adequate and complete County strategic plan conforming to the requirements of the State Commission;

(2) The Commission has conducted the required public hearings, and has prepared and submitted all audits and reports required pursuant to Section 130150.

(3) The Commission has conducted the required public hearings on the State Commission annual reports prepared pursuant to Subdivision (b) of Section 130150.

On or before October 15 of each year, the Commission shall conduct an audit of, and issue a written report on the implementation and performance of, their respective functions during the preceding fiscal year, including, at a minimum, the manner in which funds were expended, the progress toward, and the achievement of, program goals and objectives, and

the measurement of specific outcomes through appropriate reliable indicators.

(a) The audits and reports of the County Commission shall be transmitted to the State Commission and the Mendocino County Board of Supervisors.

(b) The County Commission shall make copies of its annual audits and reports available to members of the general public on request and at no cost. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

**Sec. 9.34.110. Meetings/Public Hearings.**

The Commission shall convene no fewer than four (4) meetings/public hearings annually at such time and place as shall be agreed upon by the Commission and such other special meetings as shall be required from time to time. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

**Sec. 9.34.120 Advisory Committees.**

The County Commission shall establish one (1) or more advisory committees to provide technical and professional expertise and support for any purposes that will be beneficial in accomplishing the purposes of this act. Each advisory committee shall meet and shall make recommendations and reports as deemed necessary or appropriate. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

**Sec. 9.34.130 Validity.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid. (Ord. No. 4106, Sec. 1 (part), adopted 2003.)

## Chapter 9.35

### IHSS PUBLIC AUTHORITY ORDINANCE

#### Sec. 9.35.010 Title.

The ordinance codified in this Chapter shall be known as the "IHSS Public Authority Ordinance." (Ord. No. 4093 (part), adopted 2002.)

#### Sec. 9.35.020 Findings and Purpose.

As required by Welfare and Institutions Code Section 12302.25, the Board of Supervisors of Mendocino County determines that the establishment of a public authority whose powers are derived from and consistent with the provisions of Welfare and Institutions Code Section 12301.6 is necessary for the public health and welfare. The public authority shall serve as the employer of providers of in-home supportive services for purposes of the Meyers-Milias-Brown Act. (Ord. No. 4093 (part), adopted 2002.)

#### Sec. 9.35.030 Definitions.

For purposes of this Chapter, the following definitions apply:

(A) "Authority" means the Mendocino County In-Home Supportive Services Public Authority.

(B) "Provider" means a person who provides authorized in-home supportive services.

(C) "Client" means a person eligible for and authorized to receive in-home supportive services.

(D) "IHSS" means the Mendocino County In-Home Supportive Services Program.

(E) "County" means Mendocino County.

(F) "Directors" means the governing body of the Public Authority. (Ord. No. 4093 (part), adopted 2002.)

#### Sec. 9.35.040 Public Authority Created.

The Board of Supervisors establishes a public authority whose powers and authority are derived from and consistent with the provisions of Welfare and Institutions Code sections 12300 et seq. The public authority shall be known as the Mendocino County In-Home Supportive Services Public Authority and

shall be referred to as the "Authority." (Ord. No. 4093 (part), adopted 2002.)

#### Sec. 9.35.050 Governing Body.

The governing body of the Authority shall be the Mendocino County Board of Supervisors. (Ord. No. 4093 (part), adopted 2002.)

#### Sec. 9.35.060 Advisory Committee.

The County's In-Home Supportive Services (IHSS) Advisory Committee was established by the Mendocino County Board of Supervisors in accordance with the requirements of Welfare and Institutions Code section 12301.6(b)(C), (D). The existing IHSS Advisory Committee shall serve as the advisory committee to the Authority and shall fulfill the roles and responsibilities required by Welfare and Institutions Code section 12301.6.

The IHSS Advisory Committee will be composed of eleven (11) members at least fifty percent (50%) of whom are current or past clients of personal assistance services paid for through public or private funds and shall be appointed by the Board of Supervisors. The term of service shall be two (2) years, but may be re-appointed to subsequent terms at the desire of the committee member and the approval of the Board of Supervisors.

(A) Membership on the IHSS Advisory Committee shall be as follows:

Six (6) members who are current or previous users of personal assistance services paid for through public or private funds who are representative of the Mendocino County IHSS caseload;

Two (2) members who are current or former IHSS providers;

Three (3) members with experience in program development, administration and fiscal management who represent or advocate for home care service delivery organizations and their consumers.

(B) The IHSS Advisory Committee shall provide ongoing advice and recommendations regarding in-home supportive services to the County Board of Supervisors, any administrative body in the County that is related to the delivery and administration of in-home supportive services, and the Directors and

administrative agency of the Authority. (Ord. No. 4093 (part), adopted 2002.)

**Sec. 9.35.070 Authority Duties.**

The duties and responsibilities of the Authority shall be as follows:

(A) To implement the goals and objectives of Welfare and Institutions Code section 12301.6, including, but not limited to:

(1) The provision of assistance to clients in finding in-home supportive services personnel through the establishment of a registry;

(2) The investigation of the qualifications and background of potential in-home supportive services personnel;

(3) The establishment of a referral system under which in-home supportive services personnel shall be referred to clients;

(4) The provision for training for providers and clients; addressing the special needs and making reasonable accommodations for accessibility for blind and hearing impaired, frail elderly, disabled; specialized training for caregivers;

(5) The performance of any other functions related to the delivery of in-home supportive services; and

(6) The assurance that the requirements of the personal care option pursuant to Subchapter 19 (commencing with section 1396) of Chapter 7 of Title 42 of the United States Code are met.

(B) To exercise all powers, duties and functions as are prescribed by statute, Ordinance of the Board of Supervisors and the Authority.

(C) Notwithstanding subdivision (A)(4), the Authority shall not be obligated to, but may provide training directly, to pay for training provided privately or in the community, to pay for the providers' time spent in training, to accompany clients to training, to pay for transportation to training or to pay for any materials required by the training. The Authority shall not be obligated to ensure that any provider or client attend or complete any training.

(D) Pursue and apply for available additional funding for IHSS services through grants and other non-profit sources of funding.

(E) The Authority shall not be responsible for:

(1) Authorizing services for an IHSS client;

(2) Determining a client's need for IHSS, the level and quality of services required and the eligibility of individuals to be served;

(3) Conducting the initial or any subsequent assessment of need for services;

(4) Terminating the client's participation in the IHSS program;

(5) Providing advice to clients with respect to client's hiring and firing of providers;

(6) Client problem solving;

(7) In-home monitoring of service delivery;

(8) In-home client IHSS orientation;

(9) The above-referenced services and functions shall be the exclusive responsibility of the County of Mendocino. (Ord. No. 4093 (part), adopted 2002.)

**Sec. 9.35.080 Powers.**

(A) The Authority shall be an entity separate from the County of Mendocino and shall file the Statement of Fact for the Roster of Public Agencies required by Government Code section 53051.

(B) The Authority shall be a corporate public body, exercising public and essential governmental functions with all powers necessary and convenient to carry out the powers conferred upon it by Welfare and Institutions Code sections 12300 et seq. and this Ordinance, including the power to contract for services pursuant to Welfare and Institutions Code sections 12302 and 12302.1, subject to any limitations set forth in this Chapter.

(C) The Authority shall have the power in its own name to do any of the following:

(1) To contract for the services of planners, financial consultants, and other experts and, separate and apart therefrom, to employ such other persons as it deems necessary;

(2) To sue and be sued in its own name;

(3) To incur debts, liabilities or obligations subject to any limitations herein set forth;

(4) To apply for, accept and receive state, federal or local licenses, permits, grants, loans or other aid from any agency of the United States of America, or of the State of California necessary for the Authority's full exercise of its powers;

(5) To perform all acts necessary and proper to carry out fully the purpose of this Chapter and not inconsistent with Welfare and Institutions Code sections 12300 et seq. or this Chapter.

(D) To promote administrative efficiencies and to avoid unintended duplication of resources prior to initiating delivery of IHSS through the Authority, as described in this Chapter, the County and the Authority shall enter into an agreement specifying the purposes, scope or nature of the agreement, the roles and responsibilities of each party including provisions that further compliance with all applicable County, State and Federal labor laws, and compliance with all statutory and regulatory provisions applicable to the delivery of IHSS.

(E) The Authority shall be deemed to be the employer of IHSS providers within the meaning of Chapter 10 (commencing with section 3500) of Division 4 of Title 1 of the Government Code, commonly known as the Meyers-Milias-Brown Act. However, clients shall retain the right to hire, fire and supervise the work of any in-home supportive services personnel providing services to them.

(F) In order to assure the preservation of the individual provider mode and limit the liability of the Authority, the Authority shall have no authority or jurisdiction to regulate, control, or limit the rights and responsibilities of clients of in-home supportive services to hire, fire or supervise providers. The right to supervise includes, but is not limited to, the right to determine matters such as work schedules, IHSS Program approved and authorized tasks and duties, assignments and direction of work, methods and standards of care and conduct, discipline, provisions for safety and security, control of premises, any in-home living or other accommodations and final resolution of concerns, problems and complaints relating to such supervision. Clients retain such rights and responsibilities independent of the Authority, just as they held such rights and responsibilities

independent of the County prior to the formation of the Authority.

(G) Nothing in these enumerated powers shall be construed to alter, require the alteration of, or interfere with the State's payroll system and other provisions of Welfare and Institutions Code section 12302.2 for independent providers of IHSS, or to affect the State's responsibilities with respect to unemployment insurance, or workers' compensation for providers of IHSS. (Ord. No. 4093 (part), adopted 2002.)

#### **Sec. 9.35.090 Liability of Authority.**

(A) Any obligation or legal liability of the Authority, whether statutory, contractual or otherwise, shall be the obligation or liability solely of the Authority and shall not be the obligation or liability of the County of Mendocino.

(B) All contracts, leases or other agreements of any nature, including collective bargaining agreements, between the Authority and any party, except those with the County, shall contain the following statement: "The Authority is an independent legal entity, separate and apart from the County of Mendocino. The Authority has no power to bind the County to any contractual or legal obligations. Nor may the obligees of the Authority seek recourse against the County of Mendocino for any financial or legal obligation of the Authority".

(C) The Authority shall not be deemed to be the employer of IHSS providers for purposes of liability because of the negligence or intentional torts of the IHSS providers.

(D) The County shall be immune from any liability resulting from its implementation of Welfare and Institutions Code sections 12301.6 et seq. in the administration of the In-Home Supportive Services Program.

Any obligation of the Authority, whether statutory, contractual, or otherwise, shall be the obligation solely of the Authority, and shall not be the obligation of the County.

(E) The Authority shall maintain all insurance coverage necessary in an amount to be determined adequate by the Directors. If the Authority purchases

its own insurance, the limits of liability shall be in an amount acceptable to the Directors and shall name the County, its elected and appointed officers, employees and agents, as an additional insured.

(F) The Authority shall indemnify, defend and hold harmless the County, its elected and appointed officers, employees and agents from and against any and all liability, including defense costs and legal fees, resulting from claims for damages of any nature whatsoever, including but not limited to personal injury or property damages arising from or connected with any act or omission of any officer, employee or agent of the Authority.

(G) The Authority shall require all third parties with whom it contracts, other than the County of Mendocino, to indemnify the Authority, to provide the Authority with written acknowledgment of such indemnification and to maintain adequate levels of insurance naming the Authority as an additional insured. (Ord. No. 4093 (part), adopted 2002.)

#### **Sec. 9.35.100 Staffing.**

The Directors of the Authority shall contract for a Public Authority Program Manager and staff necessary to administer the Public Authority through a contract with the Department of Social Services, and shall provide broad policy direction. (Ord. No. 4093 (part), adopted 2002.)

#### **Sec. 9.35.110 Labor Relations Program.**

(A) The Authority shall adopt rules and regulations for administration of employer-employee relations. Only those employee organizations recognized in accordance with the Authority's labor relations resolution shall be entitled to negotiate with the Authority on matters within the scope of representation and such other rights that may be granted to recognized employee organizations pursuant to sections 3500 through 3511 of the Government Code.

(B) Due to the special and critical health-care services provided through the IHSS program, the Board of Supervisors finds that any interruption of such services would pose an imminent threat to the health and safety of the clients of IHSS services and

to the community. In order to minimize the likelihood of such interruption and thereby protect the health and safety of clients and to promote harmony and productive labor relations between the Authority and any labor organization that seeks to represent or represents the providers of services to clients of IHSS services:

(1) The Authority shall have a non-strike clause in any and all collective bargaining agreements with providers of the Authority. The nonstrike clause shall continue at least one (1) year beyond the other provisions of any and all collective bargaining agreements; and

(2) The Authority shall take all legal action necessary to bar any strike or other concerted interruption of services to IHSS clients.

(C) The Authority shall establish rules and regulations respecting the labor relations responsibilities of the Authority, and such rules shall provide that a showing of interest of at least fifteen percent (15%) of the eligible providers, shall be a sufficient showing of interest for any labor organization to initiate any election or representation procedures established by the Authority for the purposes of certifying an exclusive representative for purposes of collective bargaining. A fifteen percent (15%) showing of interest is being used here, solely due to the unique aspects of the care providers. (Ord. No. 4093 (part), adopted 2002.)

#### **Sec. 9.35.120 Budget.**

The Authority shall adopt its budget under the same laws, rules and policies that control the County budget process. The Authority will be maintained as a separate budget entity. The budget will be submitted to and adopted through the Department of Social Services. (Ord. No. 4093 (part), adopted 2002.)

#### **Sec. 9.35.130 Fiscal Provisions.**

(A) The establishment and operation of the Authority or application of Government Code section 3500, et seq., shall not result in payments from the County's general fund beyond the County's annual

appropriation for the Authority, if any, which shall be an absolute limit on County cost.

(B) The total of all operating costs, wages and benefits proposed or established by the Authority shall be consistent with the provisions of the County budget. The Authority shall not establish a payment rate, including costs of wages, benefits and operation, until the Authority determines that the funds necessary for the payment rate are legally available. The annual appropriation for the Authority, if any, contained in the County's fiscal budget for any fiscal year shall be an absolute limit on County cost for that fiscal year.

(C) The Authority shall adopt its budget under the same laws, rules and policies that control the County budget process.

(D) The Authority shall submit annually a report to the Board of Supervisors detailing its functions and evaluating its operation for that year. In addition, such report shall present the Authority's specific goals and objectives for the coming year and its plan for meeting those goals and objectives. If, for any coming year, the Authority intends to expand its duties, the Authority shall present a detailed plan and budget for the implementation of that expansion of duties. Such plan shall be circulated to all interested County Departments and community groups prior to presentation to the Board of Supervisors. (Ord. No. 4093 (part), adopted 2002.)

#### **Sec. 9.35.140 Records.**

The Authority shall develop a record retention policy consistent with County, State, and Federal laws and policies. The Authority shall make any of the retained records available to all authorized County, State and Federal representatives. (Ord. No. 4093 (part), adopted 2002.)

#### **Sec. 9.35.150 Termination.**

By repeal of this Chapter, the Board of Supervisors may abolish the Authority. (Ord. No. 4093 (part), adopted 2002.)

#### **Sec. 9.35.160 Validity.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors declares that it would have passed the Ordinance codified in this Ordinance and every section, subsection, sentence, clause or phrase, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid. (Ord. No. 4093 (part), adopted 2002.)

## CHAPTER 9.36

### RESERVED\*

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\***Editor's note**—Measure B-2008, approved by the voters on June 3, 2008, repealed former Ch. 9.36, §§ 9.36.010—9.36.090, in its entirety which contained the Cannabis Personal Use Ordinance for Mendocino County. Former Ch. 9.36 was enacted by Measure G-2000, passed on Nov. 7, 2000.



**CHAPTER 9.37**

**THE REPEAL OF (MEASURE G)  
MENDOCINO COUNTY CODE CHAPTER  
9.36 CANNABIS PERSONAL USE  
ORDINANCE FOR MENDOCINO  
COUNTY/AND ADOPTION OF NEW  
GUIDELINES FOR MAINTENANCE AND  
POSSESSION OF MEDICAL MARIJUANA  
THAT DO NOT EXCEED THE MINIMUM  
STATE LIMITS**

**Sec. 9.37.010 Purpose.**

The purpose of this ordinance is to eliminate the abuses created by the increased and uncontrolled production of recreational and medical marijuana while protecting the rights of legitimate medical marijuana patients and primary caregivers. It does so by repealing Measure G and establishing guidelines for possession of medical marijuana for medical purposes that are consistent with state law.

(Measure B-2008, passed 6-3-2008)

**Sec. 9.37.020 Findings.**

1. On November 6, 1996, the people of the State of California enacted the Compassionate Use Act of 1996 known as Proposition 215, which permits seriously ill residents of the state, who have a doctor's recommendation, to use or possess marijuana for medical purposes without fear of criminal liability. Proposition 215 is codified in Health and Safety Code section 11362.5.

2. On November 7, 2000, the voters of Mendocino County approved an initiative known as Measure G (administratively codified as Mendocino County Code Chapter 9.36), the stated purpose of which was to establish a maximum limit of plants and weight for cultivation and possession of marijuana for personal medical and recreational use in Mendocino County, and prohibit the expenditure of public funds for enforcement of marijuana laws against cultivators and users in possession of quantities below that limit,

which was identified by the Measure as twenty-five (25) adult flowering female marijuana plants or the equivalent in dried marijuana.

3. On October 12, 2003, the Governor of the State of California signed SB 420. Codified in sections 11362.7 through 11362.83 of the Health and Safety Code, SB 420 was adopted to address implementation of Proposition 215 and to facilitate the prompt identification of qualified patients and their designated primary caregivers in order to avoid unnecessary arrest and prosecution of these individuals.

4. SB 420 establishes minimum guidelines for the maintenance and possession of medical marijuana. Health and Safety Code section 11362.77(a)-(f) provides that a qualified patient or primary caregiver may possess no more than eight (8) ounces of dried marijuana per qualified patient and that a qualified patient or primary caregiver may also maintain no more than six (6) mature or twelve (12) immature plants per qualified patient. If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's needs, the qualified patient or primary caregiver may possess an amount that is consistent with the qualified patient's needs.

5. Health and Safety Code section 11362.77(c) allows counties and cities to retain or enact medical marijuana guidelines allowing qualified patients or primary caregivers to exceed the state limits.

6. On August 7, 2007, the Board of Supervisors, in accordance with Health and Safety Code section 11362.77(c) and recognizing the stated purpose of Measure G as it related to medical use only, adopted a policy, which allowed qualified patients or primary caregivers to maintain twenty-five (25) plants and to possess no more than two (2) pounds dried marijuana per qualified patient.

7. The effect of Measure G has been to increase public safety issues surrounding the uncontrolled production of marijuana either for medical or recreational use, and has jeopardized the health, safety and welfare of the people of Mendocino County.

(Measure B-2008, passed 6-3-2008)

**Sec. 9.37.030 Repeal of Mendocino County  
Code Chapter 9.36.**

Mendocino County Code Chapter 9.36, Cannabis Personal Use Ordinance for Mendocino County, is hereby repealed.

(Measure B-2008, passed 6-3-2008)

**Sec. 9.37.040 Limits for Possession of  
Marijuana for Medical Purposes.**

A qualified patient or primary caregiver may possess or maintain for medical purposes only those amounts as set forth in Health and Safety Code section 11362.77 and as amended by State or Federal legislation.

(Measure B-2008, passed 6-3-2008)

**Sec. 9.37.050 Severability.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance.

(Measure B-2008, passed 6-3-2008)

**CHAPTER 9.40**  
**DISEASE PREVENTION**  
**DEMONSTRATION PROJECT**

**Sec. 9.40.010 Statement of Intent.**

The Board of Supervisors, through adoption of this Ordinance, intends to create the Disease Prevention Demonstration Project in accordance with Senate Bill 1159, codified in Business and Professions Code Section 4145.

(Ord. No. 4263, 7-13-2010)

**Sec. 9.40.020 Findings.**

The Board of Supervisors finds and declares the following:

A. The sharing of syringes is the leading source of AIDS in women and children and is also the leading cause of the transmission of the Hepatitis C virus.

B. Prior to adoption of Senate Bill 1159, California was one of five (5) states in the nation requiring a prescription for the purchase of a syringe; contributing to the high rate of HIV/AIDS and Hepatitis C.

C. Medical evidence has established that providing clean syringes to injection drug users prevents the transmission of HIV and other blood borne infections while not increasing drug abuse.

D. Sections 4145 and 4147 of the California Business and Professions Code and Section 11364 of the California Health and Safety Code have been amended, and Section 121285 et seq. of the Health and Safety Code has been added, to allow pharmacists participating in a local Disease Prevention Demonstration Project to sell or furnish ten (10) or fewer hypodermic needles or syringes at any one time to a person eighteen (18) years of age or older without a prescription during the period of January 1, 2005 and December 31, 2010. An extension of these provisions is in progress and the program is expected to be made permanent.

E. Under Section 11364 of the Health and Safety Code, as amended, no person within the physical boundaries of the unincorporated areas

of the County of Mendocino who has in their possession ten (10) or fewer needles or syringes for personal use obtained from an authorized source in compliance with Section 11364(c) shall be subject to Section 11364(a) of the Health and Safety Code.

(Ord. No. 4263, 7-13-2010)

**Sec. 9.40.030 Local Disease Prevention Demonstration Project.**

The Health and Human Services Agency, Community Health Services ("Agency") shall initiate a local Disease Prevention Project satisfying the requirements for such a program as set forth in Section 121285 et seq. of the Health and Safety Code. The Agency shall be responsible for the following:

A. Create and maintain a registry for pharmacies located within the physical boundaries of the unincorporated areas of the County of Mendocino desiring to participate in the Local Disease Prevention Demonstration Project, said registry to include:

1. A contact name and related information for each pharmacy.

2. Certification in the form of an attestation by an individual authorized to sign on behalf of the pharmacy that at the time of furnishing or sale of hypodermic needles or syringes, the pharmacy will provide customers with written or oral information on all the following:

(a) How to access drug treatment;

(b) How to access testing and treatment for HIV and Hepatitis C; and

(c) How to safely dispose of sharps waste.

B. Maintain a list of all pharmacies that have registered with the Agency's Disease Prevention Demonstration Project. Each such registered pharmacy shall also register with the County of Mendocino Safe Needle Disposal Program. Pharmacies registered with the Disease Prevention Demonstration Project shall notify the Agency of any changes to the registration information as soon as possible under the circumstances, including notification to withdraw from the program.

C. Registration information may be included in a resource directory for use by consumers and providers.

D. The Agency shall make available to participating pharmacies written information that may be provided or reproduced to be provided in writing or orally by the pharmacy at the time of furnishing or the sale of nonprescription hypodermic needles or syringes including information on how to access drug treatment; how to access testing and treatment for HIV and Hepatitis C and how to dispose of sharps waste.

E. The Agency shall pass policies and procedures as it deems necessary to implement the Disease Prevention Demonstration Project.

F. The Agency's obligations under these sections are subject to the budgetary and fiscal provisions of the Charter.

(Ord. No. 4263, 7-13-2010)

**Sec. 9.40.040 Limitation of Liability.**

By adopting this Chapter, the County of Mendocino is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such a breach proximately caused injury.

(Ord. No. 4263, 7-13-2010)

**Sec. 9.40.050 Enforcement and Penalties.**

Violation of this Ordinance shall be deemed an infraction.

(Ord. No. 4263, 7-13-2010)

**Sec. 9.40.060 Effective Date.**

The Clerk of the Board will publish the Ordinance codified in this Chapter as required by law. The Ordinance codified in this Chapter shall take effect thirty (30) days after passage.

(Ord. No. 4263, 7-13-2010)

**Sec. 9.40.070 Severability.**

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be

invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter.

(Ord. No. 4263, 7-13-2010)

## CHAPTER 9.41

### SINGLE-USE CARRYOUT BAGS BY RETAIL ESTABLISHMENTS

#### Sec. 9.41.010 Findings.

(A) The use of all single-use shopping bags (plastic, paper, biodegradable) has severe environmental impacts, including greenhouse gas (GHG) emissions, litter, harm to wildlife, water consumption and solid waste generation.

(B) There are retail establishments in the County of Mendocino ("County") which provide single-use, disposable carryout bags to their Customers.

(C) Many of these single-use carryout bags are made from plastic or other material that does not readily decompose.

(D) Billions of single-use plastic bags are used annually in California but only a small percentage are recycled.

(E) Studies have documented the prevalence of single-use plastic carryout bags littering the environment, blocking storm drains and fouling beaches.

(F) The County's taxpayers must incur clean-up costs of this litter.

(G) Plastic bags are a source of marine debris and are hazardous to marine animals and birds which confuse plastic fragments for a source of food resulting in injury and death to birds and marine animals.

(H) Of all single-use bags, single-use plastic bags have the greatest litter impacts.

(I) The use of single-use paper bags result in greenhouse gas emissions, atmospheric acidification, water consumption, and ozone production.

(J) From an overall environmental and economic perspective, the best alternative to single-use plastic and paper carryout bags is a shift to reusable bags.

(K) There are alternatives to single-use carryout bags which are readily available.

(L) An important goal of the County is to procure and use sustainable products and services.

(M) The County recognizes carryout bag regulation is a matter of statewide interest and concern that is best applied uniformly throughout the state; however in the absence of statewide regulation, the County finds that it is in the best interest of the County and its residents to regulate carryout bags as described herein.

(N) It is the desire of County to conserve resources, reduce the amount of waste, litter and marine pollution that are attributable to the use of single-use bags, and to protect the public health and welfare as well as to protect wildlife, all of which activities increase the quality of life for the County residents and visitors.

(O) Studies document that banning plastic bags and placing fees on paper bags will dramatically reduce the use of both types of bags.

(P) The Board of Supervisors finds that it will discourage the use of single-use paper bags and encourage the use of reusable carryout bags if a store is required to charge Customer who uses the single-use paper bag for the cost of the bag rather than spreading that cost among all of its Customers by including the cost in the prices charged for its merchandise. This Ordinance provides for such a charge solely for this reason and not to raise revenue for a general or special purpose of the County.

(Ord. No. 4297, 6-12-2012)

#### Sec. 9.41.020 Definitions.

For the purpose of this Chapter, the following definitions shall apply to the capitalized terms unless the context clearly indicates or requires a different meaning.

"Customer" means any person obtaining goods from a store.

"Prepared Food" means foods or beverages which are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. Prepared food does not include any raw, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.

"Public Eating Establishment" means a restaurant, take-out food establishment, or any other business that receives ninety (90) percent or more of its revenue from the sale of prepared food, including alcoholic beverages, to be eaten on or off its premises.

"Post Consumer Recycled Content" means material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Post Consumer Recycled Content does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

"Recycled-Content Paper Bag" means a paper carryout bag provided by a store to a Customer at the point of purchase that meets all of the following requirements:

(1) Contains a minimum of forty (40) percent post consumer recycled content, except a three-hundred fifty (350) cubic inch or smaller recycled-content paper bag shall contain a minimum of twenty (20) percent post consumer recycled content.

(2) Is accepted for recycling in the curbside program of the County.

(3) Has printed on the bag the name of the manufacturer and the minimum percentage of post consumer content.

"Reusable Carryout Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse, does not contain lead, cadmium, or any other heavy metal in toxic amounts as established by the United States Pharmacopeia Convention (USP), and is either:

(1) Made of cloth or other machine washable fabric, or

(2) Made of durable plastic that is at least two and one-quarter (2.25) mils thick and is specifically designed for multiple reuse, meaning manufactured to carry a minimum of twenty-two (22) pounds for at least one hundred twenty-five (125) times over a distance of at least one-hundred seventy-five (175) feet.

"Single-Use Carryout Bag" means a bag made of plastic, paper, or other material, that is provided by a store to a Customer at the point of purchase and that is not a Reusable Carryout Bag. A Single-Use Carryout Bag does not include:

(1) A bag provided by a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Cal. Business and Professions Code to a Customer purchasing a prescription medication;

(2) A bag used by Customers before the point of purchase to:

a. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;

b. Contain or wrap frozen foods, meat, or fish, whether prepackaged or not;

c. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;

d. Contain unwrapped prepared foods or bakery goods; or

e. Separate or protect individual items prior to placing them in a carryout bag; or

(3) A newspaper bag, door-hanger bag, laundry-cleaning bag, or bag sold in a multiple package of bags intended for use as garbage, pet waste, or yard waste bags.

"Store" means a retail establishment, other than a Certified Farmer's market, that sells perishable or nonperishable goods, licensed to do business in the County.

(Ord. No. 4297, 6-12-2012; Ord. No. 4325, § 2, 2-25-2014)

### **Sec. 9.41.030 Carryout Bag Regulations.**

A. A Store shall not provide a Single-Use Carryout Bag to a Customer at the point of purchase, except as provided in this section.

B. Plastic Single-Use Carryout Bags are prohibited.

C. A Store may provide Reusable Carryout Bags to Customers at no cost, until 18 months after the effective date of this Ordinance, only when combined with a time-limited Store promotional program to promote the use of Reusable Carryout Bags.

D. A Store may provide to a Customer a Recycled-Content Paper Bag or a Reusable Carryout Bag upon request but any Store except a Public Eating Establishment shall charge the Customer, except as provided in subdivision (F), not less than 10 cents per bag. Public Eating Establishments may elect to charge or not to charge customers for recycled-content paper bags or reusable carryout bags.

E. A Store will not be required to charge a customer for a Recycled-Content Paper Bag of less than 250 cubic inches capacity.

F. For any Recycled-Content Paper Bag or a Reusable Carryout Bag sold to a Customer, the amount of the sale of the bag shall be separately itemized on the sales receipt. No store shall rebate or otherwise reimburse a Customer any portion of the charge required for a Recycled-Content Paper Bag.  
(Ord. No. 4297, 6-12-2012; Ord. No. 4325, § 2, 2-25-2014)

**Sec. 9.41.040 Application to Different Classes of Stores.**

This Ordinance shall be and the same is hereby declared to be in full force and effect for different classes of Stores as follows:

(A) From and after one hundred eighty (180) days from the Effective Date for:

(1) A full-line, self-service retail Store with gross annual sales of three million (\$3,000,000.00) dollars or more and which sells a line of dry grocery, canned goods, nonfood items and some perishable items; and

(2) A Store with over ten thousand (10,000) square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and use Tax Law (Part 1.5 commencing with Section 7200 of Division 2 of the Revenue and Tax Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

(B) From and after five hundred forty-five (545) days from the Effective Date for all other Stores.  
(Ord. No. 4297, 6-12-2012)

**Sec. 9.41.045. Exemptions.**

(A) All other provisions of this Chapter notwithstanding, no full-line, self-service retail store with gross annual sales of between three and ten million dollars (\$3,000,000.00 to \$10,000,000.00) which sells a line of dry grocery, canned goods, nonfood items and some perishable items, located within twenty-five (25) miles of the city limits of the City of Willits, shall be required to levy the charge set forth in Section 9.41.030(E) for a Recycled-Content Paper Bag, provided that said store fully complies with all other provisions of this Chapter and makes available Reusable Carryout Bags for purchase by customers.

(B) Subsection (A) above shall be void and without effect at such time as all full-line, self-service retail stores, located within the city limits of the City of Willits, with gross annual sales of three million dollars (\$3,000,000.00) or more which sell a line of dry grocery, canned goods, nonfood items and some perishable items, institute a charge of not less than ten (10) cents for each carry-out bag of two hundred fifty (250) cubic inches or more capacity, whether the stores' adoption of this charge results from a City of Willits ordinance or voluntary action by the stores.  
(Ord. No. 4304, § 1, 1-22-13)

**Sec. 9.41.050 Violations and Penalties.**

(A) Any action to enforce this Ordinance must be preceded by delivery of a written warning to the Store where a violation has occurred. The warning shall be personally delivered to the Store manager or mailed by registered or certified U.S. Mail to the Store. No further enforcement action may be taken against the Store for that violation, if the Store cures the violation within thirty (30) days after receipt of the written warning and does not commit another violation within six (6) months after receipt of the written warning.

(B) Any person, firm or corporation who violates this Ordinance shall be guilty of an infraction, and upon conviction thereof, shall be punished by fine not exceeding:

- (1) \$100.00 for a first violation,
- (2) \$200.00 for a second violation within the same year, and
- (3) \$500.00 for each additional violation within the same year.

(C) Any violation of this Chapter may be enforced through any applicable administrative enforcement procedures contained in the Mendocino County Code. The Chief Executive Officer, or his or her designee, is authorized to take any and all other actions authorized by law which are reasonable and necessary to enforce this Chapter, including, but not limited to, investigating violations, and imposing administrative fines in amounts as may be established from time to time by ordinance.

(D) In addition to the administrative enforcement procedures described above, the County Counsel is authorized to pursue judicial enforcement of this Chapter through a civil action.

(E) A violation of any provision of this Ordinance by any person, firm or corporation shall be subject to a civil action in any court of competent jurisdiction, including the small claims court, by a Customer, public interest organization, or the County to recover any damages caused by the violation and a civil penalty of one thousand (\$1,000) dollars or ten (10) percent of actual damages, whichever is higher, for every such violation. For any willful violation, the Customer, public interest organization or County may recover treble damages. Nothing in this subsection shall prohibit the filing of an action as authorized herein as a class action. The prevailing party in any action filed pursuant to this subsection shall be entitled to recover its reasonable attorneys' fees to be determined by the court.

(F) No remedy contained in this section is intended to be exclusive of any other remedy contained herein and each and every such remedy

shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise.  
(Ord. No. 4297, 6-12-2012)

**Sec. 9.41.060 Severability.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors of the County of Mendocino hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one (1) or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.  
(Ord. No. 4297, 6-12-2012)

**Sec. 9.41.070 Publication.**

The Clerk of the Board will publish the Ordinance codified in this Chapter as required by law.  
(Ord. No. 4297, 6-12-2012)

**Sec. 9.41.080 Effective Date.**

The Ordinance codified in this Chapter shall take effect thirty (30) days after passage.  
(Ord. No. 4297, 6-12-2012)



## CHAPTER 9.42

### DISPOSABLE FOOD WARE

#### Sections:

- 9.42.010 Definitions.**
- 9.42.020 Prohibited Disposable Food Service Ware.**
- 9.42.030 Non-food Packaging Material.**
- 9.42.040 Biodegradable Disposable Food Service Ware.**
- 9.42.050 Enforcement and Penalties.**
- 9.42.060 Hardship Waiver.**
- 9.42.070 Effective Date.**
- 9.42.080 Severability.**

#### **9.42.010 Definitions.**

As used herein, the following definitions shall apply:

"Biodegradable" means that a material or substance has the ability to decompose into natural biological elements within a reasonable time as a result of bacterial action.

"County" means all that unincorporated territory within the County of Mendocino.

"County Facilities" means any building, structure, or vehicles owned or operated by the County of Mendocino, its agent, agencies, departments and franchisees.

"County Facility Food Provider" means any entity that provides Prepared Food in County facilities.

"County Contractors and Lessees" means any person or entity that has a contract with the County for public works or improvements to be performed, for a franchise, concession or lease of property, for grant monies or goods and services or supplies to be purchased at the expense of the County or to be paid out of monies deposited in the Treasury or out of trust monies under the control or collected by the County.

"Disposable Food Service Ware" or "Takeout Food Ware" includes all containers, bowls, plates, trays, cartons, cups, lids, straws, stirrers, forks,

spoons, knives, napkins, and other items designed for one-time use for prepared foods, including without limitation, service ware for food that may be removed from the premises for consumption elsewhere. The term "Disposable Food Service Ware" does not include items composed entirely of aluminum or glass, California Redemption Beverage Containers, or polystyrene foam coolers and ice chests that are intended for reuse.

"Food Provider" means any business, organization, entity, group or individual, including Retail Food Establishments, located in the unincorporated sections of the County that offers food or beverage to the public.

"Polystyrene Foam" means blown polystyrene and expanded and extruded foams which are thermoplastic, petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blown molding. Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons.

"Prepared Food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared on the Food Provider's premises or within the unincorporated sections of the County for individual customers. For purposes of this Ordinance, Prepared Food includes takeout food but does not include packaged raw, butchered meats, fish, and/or poultry sold from a butcher case or similar retail appliance. Prepared Food may be eaten either on or off the premises.

"Retail Food Establishment" means any sales outlets, stores, shops, vehicles, or other places of business located within the County which operates primarily to sell or convey foods or beverages directly to the ultimate consumer. Retail food establishment shall include, but is not limited to, any place where food is prepared, mixed, cooked, based, smoked, preserved, bottled, packaged, handled, stored, manufactured and sold or offered for sale, including any fixed or mobile restaurant, drive-in,

coffee shop, cafeteria, delicatessen, sandwich shop, hotel, motel, movie house, theatre, bed and breakfast inn, tavern, bar, cocktail lounge, nightclub, roadside stand, takeout prepared food place, industrial feeding establishment, catering kitchen, commissary, grocery store, public food market, produce stand, food stand or similar place in which food or drink is prepared for sale or for service; and any organization or individual which provides food or beverage as part of its service or in conjunction with a special event it sponsors.

(Ord. No. 4328, § 2, 7-22-2014)

**9.42.020 Prohibited Disposable Food Service Ware.**

(A) Retail Food Establishments and Food Providers may not sell, hand out, give away, distribute, or otherwise make available for public or customer use Prepared Food in Disposable Food Service Ware that contains Polystyrene Foam.

(B) County Facility Food Providers may not provide Prepared Foods in Disposable Food Service Ware that contains Polystyrene Foam.

(C) County Departments may not purchase, acquire, or use Disposable Food Service Ware that contains Polystyrene Foam.

(D) County Contractors and Lessees may not use Disposable Food Service Ware that contains Polystyrene Foam in County facilities and while performing under a County contract or lease.

(Ord. No. 4328, § 2, 7-22-2014)

**9.42.030 Non-food Packaging Material.**

It is the policy of the County to promote and encourage, on a voluntary basis, the use of alternatives to Polystyrene Foam in non-food applications such as cushioning in shipping boxes or packages.

(Ord. No. 4328, § 2, 7-22-2014)

**9.42.040 Biodegradable Disposable Food Service Ware.**

It is the policy of the County to promote and encourage, on a voluntary basis, the use of biodegradable Disposable Food Service Ware by Retail

Food Establishments in order to lessen the environmental harm of Disposable Food Service Ware that becomes litter.

(Ord. No. 4328, § 2, 7-22-2014)

**9.42.050 Enforcement and Penalties.**

(A) The Mendocino County Environmental Health Director or designee shall have primary responsibility for enforcement and shall have the authority to issue citations for violations of this Chapter. The Director, or his/her designee, shall issue a written warning for the first violation, and shall levy a fine not exceeding one hundred dollars (\$100.00) for the second violation within one (1) year of the first warning, and shall levy a fine not exceeding five hundred dollars (\$500.00) for each subsequent violation.

(B) Any "Food Provider" as defined herein, violating or failing to comply with the requirements of this Chapter shall be guilty of an infraction. If charged as an infraction, upon conviction thereof, said individual or entity shall be punished for the first offense by a fine of not more than one hundred dollars (\$100.00) for a first violation; not more than five hundred dollars (\$500.00) for each subsequent violation in the first year.

(C) The County Counsel may seek legal, injunctive, or any other relief to enforce this Chapter.

(D) The Mendocino County Environmental Health Director or designee may inspect any Retail Food Establishment premises to verify compliance with this Ordinance.

(Ord. No. 4328, § 2, 7-22-2014)

**9.42.060 Hardship Waiver.**

Any person may seek a waiver from the requirements of Section 9.42.020 of this Chapter by filing a request on a form specified by the Environmental Health Director, or his/her designee. The Director, or designee, may waive any specific requirement of Section 9.42.020 of this Chapter for a period of up to one (1) year if the person seeking the waiver has demonstrated that strict application of the specific requirement would create an

undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The Environmental Health Director's (or designee's) decision to grant or deny a waiver shall be in writing and shall be final.

(Ord. No. 4328, § 2, 7-22-2014)

**9.42.070 Effective Date.**

This Ordinance shall go into full force and effect March 1, 2015.

(Ord. No. 4328, § 2, 7-22-2014)

**9.42.080 Severability.**

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter.

(Ord. No. 4328, § 2, 7-22-2014)



**Title 9A**

**SOLID WASTE**

<b>Chapter 9A.04</b>	<b>General Provisions</b>
<b>Chapter 9A.08</b>	<b>Public Health and Safety Regulations</b>
<b>Chapter 9A.12</b>	<b>Collection Franchises and Permits</b>
<b>Chapter 9A.16</b>	<b>Containers</b>
<b>Chapter 9A.20</b>	<b>Collection Charges</b>
<b>Chapter 9A.24</b>	<b>Administration and Enforcement</b>



## CHAPTER 9A.04

### GENERAL PROVISIONS

#### Sec. 9A.04.010 Name.

This Title shall be known as the "Solid Waste Ordinance of Mendocino County." (Ord. No. 3893 (part), adopted 1994.)

#### Sec. 9A.04.020 Declaration of Intent and Findings.

(A) The storage, accumulation, collection and disposal of refuse, trash, rubbish, solid waste, debris, and other discarded material is a matter of great public concern, in that improper control of such matters creates a public nuisance, which may lead to air pollution, fire hazards, illegal dumping, insect breeding, infestation by vermin, and other problems affecting the health, welfare and safety of the residents of Mendocino County. The regulations contained in this Title are designed to eliminate or alleviate the above identified problems. It is the policy of the Board that the choice of whether a person hauls his/her own solid waste, or hires a franchised or permitted hauler to pick up and transport said person's solid waste, is at the sole discretion of that person.

(B) It is also the policy of the Board to provide for the efficient use of resources through waste reduction and waste diversion programs including those in the County's approved Source Reduction and Recycling Element required under AB 939. How a person utilizes the services that are provided by such programs is at the sole discretion of that person.

(C) Notwithstanding that sewage sludge and septage may under certain circumstances be defined as a solid waste or recyclable, this Title is not intended to regulate the collection of sewage sludge or septage, nor to alter the County's permit requirements or procedures for said collection. Nor is this Title intended to regulate the storage, collection, transportation and disposal of hazardous waste. (Ord. No. 3893 (part), adopted 1994.)

#### Sec. 9A.04.030 Definitions.

For the purposes of this Title, the following terms are defined:

(A) "Authorized recycling entity" means that person, partnership, joint venture or corporation authorized by a franchise agreement or permit with the County to collect discarded and/or nondiscarded recyclable materials pursuant to this Title. An authorized recycling entity may be a municipal collection service, private refuse hauler, private recycling enterprise, or private nonprofit corporation or association.

(B) "Bin" means a container designed for mechanical emptying with a close fitting cover and of a design approved by the Department.

(C) "Board" means the Board of Supervisors of Mendocino County.

(D) "Bulky waste" means and includes, but not by way of limitation, discarded white goods (i.e., major household appliances), furniture, tires, carpets, mattresses and similar large items which cannot be placed in a covered container.

(E) "Collection services area" means a portion of the County designated for refuse or recyclable material collection which is served by a franchised or permitted hauler.

(F) "Commercial entity" means any business, retail, office, professional or industrial facility including but not limited to motels, hotels and automobile courts. Such definition excludes nonprofit activities such as churches, synagogues, charitable and service organizations, fraternal, and social clubs.

(G) "Commercial location" means the premises or site of a commercial entity.

(H) "Composting" means a method of solid waste management whereby the organic component of the solid waste stream is biologically decomposed under controlled conditions to a state in which it can be handled, stored, and/or applied to the land without adversely affecting the environment.

(I) "County" means the County of Mendocino, State of California.

(J) "Customer" means any person receiving refuse and/or recycling service under the provisions of this Title.

(K) "Department" means the Division of Solid Waste in the Department of Transportation.

(L) "Designated collection location" means the place where a franchised waste hauler or an authorized recycling entity is to pick up solid waste or segregated, recyclable materials. The location is identified by a franchise agreement between the franchised waste hauler and the County, or the permit issued to the authorized recycling entity, and will customarily be the curbside of a residential neighborhood or the service alley of a commercial or institutional entity.

(M) "Discarded recyclable materials" means any recyclable materials, as defined in this Title, which the owner disposes of without selling or donating the materials.

(N) "Disposal site" means a site as defined in Public Resources Code Section 401.22.

(O) "Drop box" means a container designed for mechanical emptying by a vehicle used for transportation to the disposal site with a minimum capacity of ten (10) cubic yards and of a design approved by the Department.

(P) "Franchise area" means that territory designated by the County for refuse collection, by a franchised solid waste collector, and shown on a certain map entitled "Mendocino County Solid Waste Refuse Collection Areas" including all amendments and changes thereto, which map is incorporated in this Title as Appendix "A" attached to the ordinance codified in this Title and on file in the Office of the Clerk of the Board.

(Q) "Garbage" means and includes kitchen and table refuse, offal, swill and also every accumulation of animal and vegetable refuse, and other matter that attends the preparation, consumption, decay, or dealing in or storage of meats, fish, fowl, birds, fruits or vegetables. It also includes crockery, ashes and all refuse, save and excepting as defined as rubbish.

(R) "Green waste" means all forms of biodegradable plant materials which can be placed in a covered container, such as tree trimmings, grass

clippings, etc. Tree stumps and logs are not to be considered "green waste" unless they are reduced to a chipped form; they shall be considered bulky waste. Biodegradable plant material which is mixed with other kinds of refuse shall not be considered "green waste."

(S) "Group container" means a bin placed in a location, agreeable to the County, and assigned for the use of specified land owners or tenants.

(T) "Hard-to-handle waste" includes the following wastes that will not fit in a refuse container: household furniture, appliances, tree stumps and large limbs, telephone poles and timbers, styrofoam, transit pipe, large metal objects, cable, wire, concrete over one thousand pound (1,000 lb.) piece weight, and reinforced concrete.

(U) "Hazardous waste or materials" means any waste materials or mixture of wastes defined as such pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., or the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., and all future amendments to either of them, or as defined by the California Environmental Protection Agency or the California Integrated Waste Management Board, or either of them. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or solid waste, the term "hazardous waste" shall be construed to have the broader, more encompassing definition.

(V) "Industrial refuse" means refuse in an amount exceeding an average of five hundred pounds (500 lbs.) per operating day produced by any person principally engaged in the business of processing or manufacturing agricultural, animal or other products or materials whose principal outlet for such products is wholesale rather than retail, and by any person engaged in the business of building construction or demolition.

(W) "Inert wastes" means waste which includes, but is not limited to, rock, earth, construction rubble and asphalt chunks, and which contains insignificant amounts of decomposable wastes and no soluble pollutants, as approved by the Department.



(X) "Institutional entity" means any facility operated by a governmental entity, including City, County, State and/or Federal buildings, public schools, colleges, and public recreational sites.

(Y) "Institutional location" means the premises or site of an institutional entity.

(Z) "Multiresidential complex" means any residential building, boardinghouse, apartment building, condominium complex, stock cooperative complex consisting of two (2) or more independent dwelling units. "Multiresidential complex" does not include motel, hotel or automobile court.

(AA) "Nondiscarded recyclable materials" means any recyclable materials, as defined in this Title, the owner sells or donates.

(BB) "Occupant" means the person in possession or control of the premises, including but not limited to persons such as tenant, lessee, licensee, manager, custodian or caretaker.

(CC) "Owner" means the person having dominion of or title to premises.

(DD) "Person" means any individual, tenant, lessee, occupant or owner of real property, firm, corporation, partnership, joint venture, association, special district, school districts, group or combination thereof, and includes the plural as well as the singular.

(EE) "Premises" means a parcel of real property to the center of any alley adjacent thereto, located in the unincorporated area of the County, upon which is situated any dwelling house or other place of human habitation, including each unit of a multiple dwelling building, or of a mobile home park; or upon which is conducted any business, occupation, or activity which results in the production or accumulation of refuse.

(FF) "Recyclable materials" includes materials which are reused or processed or are in the future reused or processed into a form suitable for reuse through reprocessing or remanufacture, consistent with the requirements of the California Integrated Waste Management Act. The term "recyclables or recyclable material" includes but is not limited to paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass, aluminum, tin cans, PET

(Polyethylene Terephthalate), HDPE (High Density Polyethylene), and other plastics, beverage containers, compostable materials, used motor oil, automotive batteries, antifreeze, latex paint, brick and stone in reusable size and condition, and such other materials designated by County's AB 939 Coordinator, or designated as recyclables by the California Integrated Waste Management Board, or other agency with jurisdiction.

(GG) "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the market place. "Recycling" does not include transformation, as defined in Public Resources Code Section 40201.

(HH) "Recycling industry" means a properly zoned and licensed business that receives recyclable material for the purpose of converting or reprocessing said material into a new product.

(II) "Refuse" means and includes all bulky waste, solid waste and recyclable materials that have not been segregated as defined in this Chapter.

(JJ) "Residential unit" means any single-family dwelling, duplex, triplex, apartment house or condominium complex. For the purpose of this Title, each apartment, flat, or dwelling unit of a duplex, triplex, apartment house or condominium complex shall be considered as a separate residential unit.

(KK) "Rubbish" means nonputrescible waste, discarded or abandoned material, including but not limited to, tires, paper, cardboard, rugs, plastic and construction debris.

(LL) "Segregated recyclable materials" means those recyclable materials which:

- (1) Have been source separated by the person from whom they are being collected; or
- (2) Are physically separated from other waste material following collection.

(MM) "Single-family dwelling" means a dwelling unit which is the sole residential unit on a parcel.

(NN) "Solid waste" means and include all putrescible and nonputrescible solid and semisolid

wastes (including semi-liquid or wet wastes with insufficient moisture so as not to be free flowing) garbage, rubbish, ashes, recyclable materials that have not been source separated, demolition and construction wastes and other discarded materials resulting from domestic, institutional, commercial, industrial, agricultural and community operations and activities. Solid waste shall be expressly deemed to include bulky wastes as defined herein. Solid waste does not include hazardous wastes.

(OO) "Solid waste collector" means a person who collects or transports refuse under authority granted by the County including his/her agents and employees.

(PP) "Standard container" means a plastic or metallic can, or other container expressly approved by the Department, with close fitting cover, cover handle and/or side handles, of not less than ten (10) nor more than thirty-three (33) gallons capacity and not exceeding forty (40) pounds, in weight when filled. (Ord. No. 3893 (part), adopted 1994; Ord. No. 4084, Sec. 3, adopted 2002.)

## CHAPTER 9A.08

### PUBLIC HEALTH AND SAFETY REGULATIONS

#### **Sec. 9A.08.010 Provisions Declared Minimum Standards.**

The provisions of this Chapter shall be the minimum requirements for the protection of the public health, safety, convenience and general welfare. (Ord. No. 3893 (part), adopted 1994.)

#### **Sec. 9A.08.020 Refuse Deposition—Private Property.**

No owner or occupant shall throw, drop, leave, dump, bury, burn, place or otherwise dispose of any refuse upon his/her premises, or allow any other person to dispose of refuse upon his/her premises except in a disposal site, container site, materials recovery facility (MRF), transfer station, recycling industry or authorized recycling entity approved by or acceptable to the County or as provided in this Title and other County ordinances. Wood may be kept piled upon premises for household and/or agricultural use. Composting may be done provided it is done in a healthful manner and in conformance with guidelines published by the County. (Ord. No. 3893 (part), adopted 1994.)

#### **Sec. 9A.08.030 Refuse Deposition—Land Reclamation.**

No person shall throw or deposit or cause to be thrown or deposited, any refuse or abandon any material whatsoever, in or upon any public property, public right-of-way, watercourse, or banks of any watercourse, or upon the premises of any other person except at a disposal site, container site, materials recovery facility (MRF), transfer station, recycling industry or authorized recycling entity approved by or acceptable to the County or as provided in this and other County ordinances. However, a temporary permit for a land reclamation operation which utilizes inert wastes approved by the Department and which is designated for land reclamation may be issued by the County provided the intended use is au-

thorized by the basic zoning ordinance of the County. The permit shall be for a limited land area and subject to conditions set forth by the County. (Ord. No. 3893 (part), adopted 1994.)

#### **Sec. 9A.08.040 Refuse Removal Requirement.**

The owner or tenant of any premises, business establishment, or industry shall be responsible for the satisfactory removal of all refuse accumulated by him/her on his/her property or premises in accordance with State requirements. The County may require removals as it deems necessary. The owner or tenant shall effect the removal of solid waste by one of the following means:

(A) **Collection Service.** A person may elect to use the waste hauling services provided by a franchised or permitted collector in his/her collection area.

(B) **Self-Haul Refuse Removal.** A person may remove and dispose of refuse created, produced or accumulated without the necessity of a permit for that purpose; provided, however, that such removal and disposal is effected without compensation. (Ord. No. 3893 (part), adopted 1994; Ord. No. 4105, Sec. 1, adopted 2002.)

#### **Sec. 9A.08.050 Hazardous Materials.**

No person shall deposit in any container used for refuse any explosive, volatile, radioactive, toxic or other hazardous waste or materials. The disposal of hazardous materials shall be made in accordance with State and Federal law. (Ord. No. 3893 (part), adopted 1994.)

#### **Sec. 9A.08.060 Tires and/or Hard-to-Handle Waste.**

No person shall deposit in any container used for refuse any tires and/or hard-to-handle waste or substance without having first made special arrangements for the disposal thereof with the solid waste collector. No person shall knowingly deposit any tires and/or hard-to-handle waste or substance in or at any disposal site without having first made special

arrangements with the site operator. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.08.070 Use of Refuse.**

Notwithstanding the provisions of Sections 9A.08.020 and 9A.08.030, refuse may be used for animal feed, soil improvement, recycling or other beneficial purpose, provided such use complies with this Title and all other laws and does not create a health menace or nuisance. The County may require a person who collects refuse for a beneficial purpose and receives compensation for such collection to obtain a permit for that purpose if the Department determines the public health and safety necessitates the need to obtain a permit. The County shall issue or amend a permit upon such terms and conditions as are determined to be necessary to insure that the use or the proposed use complies with existing laws and regulations, existing franchises or permits, and does not create a health menace or a nuisance. Home and business maintenance services including landscape services are hereby excluded from this provision. (Ord. No. 3893 (part), adopted 1994; Ord. No. 4105, Sec. 2, adopted 2002.)

**Sec. 9A.08.080 Recyclable Material Disposal Requirements.**

It is unlawful for any person performing recyclable materials collection service as established herein to deposit, bury or dispose of any recyclable materials, except as in this Title provided. (Ord. No. 3893 (part), adopted 1994.)

**CHAPTER 9A.12**

**COLLECTION FRANCHISES AND PERMITS**

**Sec. 9A.12.010 Franchise or Permit—  
Required.**

No person shall collect, transport or use refuse or recyclables in the unincorporated area of the County without first receiving a franchise or permit to engage in such activity. However, the provisions of this Section shall not apply to any person or a cooperative of persons transporting refuse or recyclables without compensation from his/her/their own premises as provided in this Title. A person(s) engaged in collecting and transporting segregated industrial refuse which is not being disposed of at a disposal site, and home and business maintenance services including landscape services are excluded from this provision. (Ord. No. 3893 (part), adopted 1994; Ord. No. 4105, Sec 3, adopted 2002.)

**Sec. 9A.12.015 Assignment of Franchise  
Agreement.**

(A) A franchise hauler shall not assign, subcontract or otherwise delegate authority to perform any portion of the franchise agreement, unless to a subsidiary wholly owned by the franchise hauler, without the express written consent of the County, which shall not be unreasonably withheld.

In the event of any assignment duly authorized by the County, the assignee shall assume responsibility and liability of the franchise hauler.

(B) No sale, gift or transfer of stock of a franchise hauler which shall result in change in control of franchise hauler during the term of a franchise agreement shall be made without prior written approval of the Board, which shall not be unreasonably withheld.

(C) A violation of the provisions of this Section shall be a material breach of a franchise agreement and grounds for termination by County. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.020 Collection Service Provided.**

Through the issuance of franchise agreements or permits, the Board shall provide for refuse collection services to be available in all unincorporated areas of the County. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.030 Means of Collection.**

The Board shall provide for the collection of refuse by any means authorized by Public Resources Code Sections 40057 through 40059. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.040 Solid Waste and Discarded  
Recyclables Collection  
Franchises or Permits.**

The Board may, with or without having invited bids therefor, enter into, exclusive or nonexclusive, franchise agreements or permits to provide for the collection of solid waste and/or discarded recyclables in the unincorporated areas of the County. The term of agreement for franchises for the collection of solid waste shall be no longer than twenty-five (25) years. The County reserves the right to invite competitive bids for one or more franchises, provided that the franchisee(s) is notified pursuant to the terms of the franchise agreement(s). When considering the granting of a franchise or permit, the Board shall take into consideration, at a minimum, the following information supplied by the franchise or permit applicant: ability to perform the requirements of the franchise permit; legal status, within the last three (3) years, with respect to convictions, pleas of nolo contendere, permit revocations, fines, and noncompliance with court orders; and/or other legal issues. (Ord. No. 3893 (part), adopted 1994; Ord. No. 4105, Sec. 4, adopted 2002.)

**Sec. 9A.12.050 Special Arrangements for  
Refuse Removal.**

Owner(s) within a collection service area may request the County to approve a plan whereby special arrangements are made for effective and efficient refuse removal. The proposed plan shall include a statement of expected charges and such other comments as the solid waste collector whose services will be utilized considers appropriate. The



County is authorized to grant variances to any provision of this Title and to approve the proposed plan or alternative plan with such conditions as are deemed necessary. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.060 Nondiscarded Recyclables Collection Permits.**

The Board may, with or without having invited bids therefore, enter into a nonexclusive franchise agreement or permit with any responsible individual, association, firm, organization or other business entity, whether or not said entity is operated for profit, for the collection of nondiscarded recyclable materials within the County. Where such a franchise agreement or permit has been entered into between the County and a franchisee(s) or permittee(s) for the collection of nondiscarded recyclable materials as herein provided, said franchisee(s) or permittee(s) shall be an authorized recycling entity for the County as to those recyclable materials covered by the franchise agreement or permit, for the franchise agreement or permit term. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.070 Recyclables Collection Service.**

(A) The Board may, through issuance of franchise agreements and/or recyclables collection permits, establish recyclable materials collection programs available to persons, residences, businesses and institutions in the County for the purpose of providing for the orderly and regular collection of recyclable materials. Creation and operation of a recyclables collection program does not preclude the operation of certified recycling centers created pursuant to Division 12.1 of the Public Resources Code, commencing with Section 14500, or other provisions of State law.

(B) Recyclable materials for donation, sale, or collection by or to any person or entity other than the authorized recycling entity, may not be stored or transferred by use of the recycling containers described in this Title, or any other containers used for recycling provided by the authorized recycling enti-

ty. Storage of recyclable materials at the designated collection location other than for pick-up by the authorized recycling entity as defined herein, is prohibited. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.080 Authorized Recycling Entity—Duties.**

The County authorized recycling entity/entities must offer recyclable materials collection service to persons, residences, businesses and institutions within the franchise area or permit area requiring such services pursuant to the terms and conditions of any franchise agreement or permit for such service. The Board may establish standards and regulations for the method and manner of collection of recyclable materials, collection service charges, and frequency of pick-up. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.090 Recycling Entity—Rights.**

The granting of any franchise agreement or permit to collect recyclable materials, shall confer upon the entity or entities to whom the franchise agreement or permit is granted the right as an official authorized recycling entity of the County hereunder, during the term of the franchise agreement or permit, to collect, transport, process and sell specified recyclable materials collected within the designated franchise or permit area, as provided herein, and all provisions of this Title applicable to the authorized recycling entity shall constitute and be part of any franchise agreement or permit awarded thereunder. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.100 Disposition of Recyclable Materials.**

(A) Except as provided in Subsection B of this Section, any person, business or other entity transferring ownership of segregated recyclable materials without utilizing the official authorized recycling entity/entities, shall transfer the recyclable materials to a recyclable materials collection site or station, or end-use market.

(B) Any person, business or other entity may elect to transfer ownership of segregated recyclable materials, through donation or sale.

(C) The use of containers provided by the authorized recycling entity/entities or the pick-up of such recyclable materials from any designated collection location is prohibited by anyone other than the authorized recycling entity/entities.

(D) Nothing contained in this Title shall inhibit, regulate or restrict any recycling center, nonprofit drop-off program or recycling processor, or licensed individual, as permitted by the California Integrated Waste Management Act of 1989 or the California Beverage Container Acts 1986. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.110 Ownership of Recyclable Materials.**

(A) It is unlawful for any person, business or other entity, not otherwise excepted by the provisions of this Title, or by State or Federal law, to collect recyclable materials in the County.

(B) From the time of placement of recyclable materials in any container used for recycling provided by the authorized recycling entity/entities and placement of the container at curbside, or other appropriate designated collection locations, said recyclable materials shall be and become the property of the authorized recycling entity/entities. Upon being legally transferred to a processing facility or end-use market, all recyclable materials shall become the property of the operator of the processing facility or the purchaser at the end-use market.

(C) It shall be a violation of this Title for any person unauthorized by the Board to collect or pick-up or cause to be collected or picked up any recyclable material, except to the extent such matter has been discarded as litter on the public streets within the County. Any and each such collection in violation hereof from one or more locations shall constitute a separate and distinct offense punishable as hereinafter provided. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.120 Industrial Refuse Permits.**

The Board may, with or without having invited bids therefore, enter into exclusive or nonexclusive, franchise agreements or permits to provide for the

collection of industrial refuse in the unincorporated areas of the County. The term of a franchise agreement or permit for the collection of industrial refuse shall be as specified in Section 9A.12.140. The County reserves the right to invite competitive bids for one or more franchise after the five year term provided that the franchisee(s) is notified pursuant to the terms of the franchise agreement(s). When considering the granting of a franchise or permit, the Board shall take into consideration, at a minimum, the following information supplied by the franchise or permit applicant: ability to perform the requirements of the permit; legal status, within the last three years, with respect to convictions, pleas of nolo contendere, permit revocations, fines, and noncompliance with court orders; and/or legal issues. (Ord. No. 3893 (part), adopted 1994; Ord. No. 4040, Sec. 1, adopted 1999.)

**Sec. 9A.12.130 Wastestream Control.**

(A) The County has the right, at its option, to control the collection, disposal and diversion of all waste, and certain recyclables, generated within the unincorporated areas of the County, upon release of custody of ownership of the waste or recyclables by generator as follows:

(1) The County has the right to direct the wastestream to be disposed of at any solid waste facility or in any manner, respectively, the County may designate;

(2) The County has the right to direct the wastestream to be diverted to any transfer or processing station the County may designate; and

(3) The County has the right to direct discarded recyclables collected by a franchise hauler to be processed at, or marketed to, a specific facility when in the best interest of the County and provided the collector would receive a reasonable, competitive market value for the recyclables.

(B) Unless the County dictates wastestream direction as provided for in this Title, all refuse or recyclable collectors have the responsibility and duty to collect, transport, dispose, or use refuse or recyclables at a destination at his/her discretion in a safe manner and in compliance with all Federal,



State and local laws and regulations.  
(Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.140 Franchise and Permit Terms.**

(A) All terms and conditions of the franchise agreement, including the length of the contract and the conditions for contract renewal shall be included within the franchise agreement. The term of a franchise agreement shall be no longer than twenty-five (25) years. The County retains the right to require disclosure information from the franchisee as specified in the franchise agreement.

(B) Permits may be granted for any period not to exceed one (1) year unless specified otherwise within the permit. Permits may be renewed upon expiration thereof for a similar term provided the County finds that the permit holder is capable of continuing operation in conformity with the provisions of this Title and the rules and regulations of the County.

(C) Annual financial statements will be provided to the Department as required by and described in the franchise agreement.  
(Ord. No. 3893 (part), adopted 1994; Ord. No. 4105, Sec. 5, adopted 2002.)

**Sec. 9A.12.150 Permit Contents.**

Every permit granted by the County shall be subject to the provisions of this Title and the rules and regulations of the Board. The permit shall state:

- (A) The name and address of the person to whom the permit is issued;
- (B) The activity authorized;
- (C) The term for which the permit is granted;
- (D) The area in which the permittee is authorized to provide services;
- (E) Such other conditions as the County may provide.  
(Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.12.160 Permit Application Contents.**

Applicants for a permit or for the renewal of a permit to collect, transport or use refuse or recy-

clables shall file with the County a verified application in writing which shall give the following information:

- (A) Name and description of the applicant;
- (B) Permanent home and business address and full local address of the applicant;
- (C) Trade and firm name;
- (D) If a joint venture, a partnership or limited partnership, the names of all partners and their percentage of participation and the permanent addresses of all the stockholders and the officers and the percentage of participation of each;
- (E) A detailed explanation of the manner in which the applicant will conduct the activity for which the permit is requested;
- (F) The applicant's arrangements for the disposal of all refuse collected or transported by him/her at an approved disposal site or his/her arrangements for other authorized disposal;
- (G) Facts showing that the applicant is able to render efficient refuse service;
- (H) That the applicant owns or has under his/her control, in good mechanical condition, sufficient equipment adequate to conduct the business for which a permit is requested;
- (I) That his/her vehicles and equipment conform to all applicable provisions of this Title;
- (J) Such other facts or information as the County may require.  
(Ord. No. 3893 (part), adopted 1994.)

## CHAPTER 9A.16

### CONTAINERS

#### Sec. 9A.16.010 Requirements.

(A) All owners or occupants who have contracted with a franchised hauler or permitted collection service shall be provided with carts or bins for receiving and holding, without leakage or escape of odors, all refuse produced, created, deposited, or accumulated upon their premises, and all such refuse shall be deposited in such containers. Carts or bins shall be at all times kept in good, useful and sanitary condition and shall be kept continuously closed except when refuse is being placed therein or removed therefrom, and shall at all times be closed against the access of flies, rodents and other animals. Green waste may be deposited in containers that are provided by or acceptable to the franchise hauler.

(B) Refuse, green waste and recycling carts shall not be placed at the point of collection earlier than twelve (12) hours prior to the date and time of scheduled collection, nor left there longer than twelve (12) hours following collection, regardless of whether the point of collection lies on public or private property. When not set out for collection, the carts shall be removed not less than ten (10) feet away from the vehicular right-of-way. Under no circumstances may the carts be left continuously at the point of collection where the point of collection is at the edge of the vehicular right-of-way.

(C) A cart left in place by a customer in violation of the requirement for removal following collection may be tagged with a notice of violation. In case of repeated violation, the Director may instruct the franchised collector to cancel service and remove the cart.

(D) The restriction set forth in subsection (B) above shall not apply to those customers who subscribe to special service whereby the franchised collection enters their property, brings the cart to the road where it can be emptied, and then returns it to its original location.

(E) The Director may allow modifications on a case-by-case basis to the cart restrictions in subsection B upon finding that all feasible measures to comply have been taken.

(Ord. No. 3893 (part), adopted 1994; Ord. No. 4312, 8-13-2013)

#### Sec. 9A.16.020 Number.

(A) Except where provided by a collector, all premises for which a hauler has been contracted shall have sufficient standard containers or equivalent bin capacity to hold all refuse created, produced or accumulated on the premises between removals. In determining the sufficiency of the number of containers required, the following minimum standards shall apply:

(1) Single-family residential units: one (1) standard container, or equivalent, per dwelling unit;

(2) Multiple dwelling buildings: one (1) standard container per dwelling unit or one (1) bin of adequate size to serve each building;

(3) Motels, hotels and trailer or mobile home parks: one (1) standard container per unit or space or one bin of adequate size to serve the facility;

(4) Businesses: not less than one (1) standard container per business or one (1) bin of adequate size to serve the business or businesses;

Reduced service arrangements or other variances from these minimum standards may be authorized by the County.

(B) Owners may arrange for the use of bins instead of standard containers for refuse and may arrange for drop boxes instead of standard containers for rubbish. These arrangements shall be made with a solid waste collector on the basis of charges established by the terms of the franchise agreement or permit.

(Ord. No. 3893 (part), adopted 1994.)

#### Sec. 9A.16.030 Green Waste.

Green waste which is not containerized in carts provided by the collector shall be secured in bundles which will remain intact without separation while being removed by one (1) person. Bundles may not exceed three (3) feet in length, two (2) feet

in diameter or forty (40) pounds in weight. The maximum diameter of any limb shall not exceed four (4) inches. Garbage and rubbish shall not be deposited in any such green waste container.

(Ord. No. 3893 (part), adopted 1994; Ord. No. 4312, 8-13-2013)

**Sec. 9A.16.040 Location.**

Refuse carts or bins, segregated recyclables or green waste bundles shall be placed for collection as follows:

(A) Single-family residential units:

(1) Where alleys exist with well-maintained, all-weather surfaces, immediately adjacent to and accessible from the alley; or

(2) Where alleys do not exist or do not meet the criteria in Subsection (1) of this section, immediately adjacent to the nearest County or State maintained road, and accessible to the franchised collector or permittee without the necessity of entering a fenced yard; and further provided, that the County may approve an agreement between the customer and the franchised collector or permittee as to an alternate location for refuse, separated recyclables and green waste collection.

(B) Multiple dwelling buildings, businesses, motels, hotels and trailer and/or mobile home parks: Carts for service to multiple dwelling buildings, businesses, motels, hotels, and trailer and/or mobile home parks shall be placed immediately adjacent to and accessible from the nearest County or State maintained road, or in locations that are mutually agreed upon by the property owner and the franchised collector or permittee. Drop boxes and bins shall be located at an easily accessible location as agreed upon between the customer and the franchised collector or permittee. In case of dispute, the location shall be determined by the County.

(C) Exceptions: Carts or bins for required service may be placed on premises at a location other than as provided in Subsections (A) and (B) of this Section if the customer and hauler concur, and the customer agrees to pay an additional

charge, if applicable, as set forth in the schedule of charges established in the waste collector's franchise agreement or permit.

(Ord. No. 3893 (part), adopted 1994; Ord. No. 4312, 8-13-2013)

**Sec. 9A.16.050 Label.**

Standard containers for refuse which the owner thereof desires to have left on the premises by the solid waste collector shall have printed or marked thereon an agreed to symbol of designation of the premises to which the container belongs. The solid waste collector may collect and remove any container which does not have the agreed to symbol plainly marked thereon.

(Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.16.060 Recyclables.**

(A) Pursuant to the terms and conditions of any franchise agreement or permit between the County and any authorized recycling entity, each residential unit subscribing to the service shall be provided with suitable and sufficient carts to store segregated recyclable materials to be made available for pick-up. The color, style and markings of such containers shall be mutually agreed upon between the Department and the authorized recycling entity/entities.

(B) All such residential carts shall be and remain the property of the authorized recycling entity, and shall not be used for any purpose other than the segregation and curbside placement of recyclable materials.

(C) It is the duty of the occupant to maintain carts in a reasonably safe, clean and secure manner.

(D) Carts that have become unusable through normal wear and tear shall be replaced by the authorized recycling entity at no cost to the customer.

(Ord. No. 3893 (part), adopted 1994; Ord. No. 4312, 8-13-2013)

**Sec. 9A.16.070 Recyclables Separation.**

All persons who subscribe or voluntarily participate in the recyclable material collection pro-

gram established by this Title, shall prepare and separate those recyclable materials that the County has contracted/permitted for pick-up by the authorized recycling entity from other garbage, rubbish and refuse as required by this Title or any collection franchise agreement or permit entered into by the Board and thereafter have the segregated recyclable materials placed within containers as required by this Title, or within the designated collection location, which shall be collected by the authorized recycling entity.

(Ord. No. 3893 (part), adopted 1994; Ord. No. 4312, 8-13-2013)

**Sec. 9A.16.080 Inspection.**

The County may inspect or cause to be inspected, at regular intervals, refuse containers and shall be the sole judge of the condition of such containers as to their fitness for use.

(Ord. No. 3893 (part), adopted 1994; Ord. No. 4312, 8-13-2013)

## CHAPTER 9A.20

### COLLECTION CHARGES

#### **Sec. 9A.20.010 Charges—Franchise Holder.**

A franchise waste hauler may not charge industrial, residential and commercial customers at rates other than those specified in their franchise agreement, except that the County may authorize a customer to receive reduced service for a reduced charge and may approve an agreement between the customer and the franchise waste hauler to provide additional service for an additional charge. These authorized charges may be revised by the Board from time to time. The methods for revising authorized charges shall be specified in their franchise agreement. (Ord. No. 3893 (part), adopted 1994; Ord. No. 4040, Sec. 2, adopted 1999; Ord. No. 4105, Sec. 6, adopted 2002.)

#### **Sec. 9A.20.020 Industrial Refuse Franchise Holder.**

The holder of the franchise, for engaging in the business of collecting industrial refuse, shall pay quarterly to the County, a percentage of the gross receipts derived from the furnishing of such industrial refuse collection services within the County. The percentage amount of the fee and payment requirements shall be specified in the franchise. (Ord. No. 3893 (part), adopted 1994; Ord. 4040, Sec. 4, adopted 1999.)

#### **Sec. 9A.20.030 Charges—Authorized Recycling Entity.**

A charge may be collected by the County's authorized recycling entity/entities from the tenant, lessee, owner or occupant of each residential unit, as well as for each multiresidential, commercial and/or institutional entity situated within the County that subscribes to said service at rates which may be established by the Board and specified in the franchise agreement or permit. (Ord. No. 3893 (part), adopted 1994.)

#### **Sec. 9A.20.040 Fee—Franchise Refuse Collector.**

The holder of a franchise agreement for collection of refuse shall pay quarterly to the County a franchise fee based on gross revenues. The percentage amount of the franchise fee and payment requirements shall be specified in the franchise agreement. (Ord. No. 3893 (part), adopted 1994.)

#### **Sec. 9A.20.060 Fee—Other Activity.**

The fees for any other activity involving refuse or recyclable materials shall be determined by the Board. (Ord. No. 3893 (part), adopted 1994.)

#### **Sec. 9A.20.070 Fee—Deposit.**

Fees shall be paid to the County which shall deposit them to the General Fund. (Ord. No. 3893 (part), adopted 1994.)

**CHAPTER 9A.24****ADMINISTRATION AND ENFORCEMENT****Sec. 9A.24.010 Administration and Enforcement Responsibility.**

The administration and enforcement of this Title shall be the responsibility of the County. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.24.020 Establishment of Regulations.**

The Board may establish, by resolution, regulations for the administration and implementation of this Title. Such regulations, when adopted, shall become and thereafter be a part of this Title. A copy of the regulations established by resolution of the Board shall be filed with the Clerk of the Board. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.24.030 Penalty for Violation.**

Any person violating any provision of this Title is guilty of an infraction and subject to the penalties provided for by law for infractions unless declared to be a misdemeanor or felony under State law. In addition to the remedy available herein, the County may exercise any and all powers authorized by any other provision of law to enforce this Title including, but not limited to, the declaration of a public nuisance and the abatement thereof and injunctive remedies and the imposition of treble damages. The full costs of enforcement of this Title shall be recoverable by the County against persons who are in violation of provisions of this Title. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.24.040 Exceptions—Exemptions.**

Exceptions and/or exemptions from the regulations noted herein may be granted by the Board. A request for such exception and/or exemption must be in writing and submitted to the Board, in form and content as determined by the Board and is based upon a finding that such exception or exemption is in the public interest. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.24.050 Solid Waste Officials' Authority.**

(A) Pursuant to California Penal Code Section 836.5, any person holding a position in the Mendocino County Solid Waste Department as Director or Operations Manager, or that person's designated County employee, is authorized to cite and fine any person when there is reasonable cause to believe that person has committed a misdemeanor or infraction in the official's presence, which is a violation of any statute, ordinance or code relating to the enforcement of solid waste regulations.

(B) Those officials granted cite and fine authority pursuant to this Section may sign and certify proof of correction on a citation issued for violations of Mendocino County Solid Waste Regulations that have been corrected prior to the court appearance date.

(C) Those officials granted cite and fine authority pursuant to this Section shall have that authority only in the performance of their duties during their regular work hours.

(D) This Section is notwithstanding other violations which may also be redressed by civil action through the Office of County Counsel. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.24.060 Refuse Cleanup.**

The County is authorized and empowered to require the owner of any private property within the County to remove and to properly dispose of refuse located on such property, having determined that the accumulation of such refuse or improper disposal of such refuse is dangerous or injurious to public health and safety. The County is authorized and empowered to utilize all the provisions contained in the Mendocino County Code and State law to enforce the provisions of this Title. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.24.070 Interfering with Container Prohibited.**

No person other than the owner, the owner's agent, an employee of the County or an employee of the franchised collector or permittee shall tamper

with any refuse or recyclable container or the contents thereof. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.24.075 Unauthorized Person Placing Refuse in Container.**

No person other than the owner may place any refuse in a refuse container, bin or drop box without expressed permission of the owner. (Ord. No. 4105, Sec. 7, adopted 2002.)

**Sec. 9A.24.080 Interfering with Removal Prohibited.**

No person shall by any means hinder, obstruct or interfere with the removal or transportation of refuse or recyclables by a franchised collector or permittee. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.24.085 Placing Residential and Commercial Solid Waste in Street Side Litter Container Prohibited.**

No person shall place refuse generated in a residential unit or commercial entity in a street side litter container. Street side litter container means a container placed near or in the right-of-way for the public's convenient disposal of incidental refuse. (Ord. No. 4105, Sec. 8, adopted 2002.)

**Sec. 9A.24.090 Franchise Termination.**

(A) **Franchise—Revocation—Equipment Use By County.** In the event of suspension or revocation of a franchise, the County shall have the right forthwith to take possession of all trucks and other equipment of the franchisee for the purpose of collecting and disposing of the refuse and performing all other duties which the franchisee is obligated to perform. The County shall have the right to retain possession of such trucks and equipment until other suitable trucks and equipment can be purchased or otherwise acquired by the County for such purpose. The County shall pay the franchisee a reasonable rental for the use of such trucks and equipment.

(B) **Franchise Revocation—Grounds.** The County may suspend, amend or revoke any franchise granted by the Board if it finds that the franchisee has

demonstrated an inability to properly perform the franchised activity, failed to comply with one or more of the terms or conditions of the franchise agreement, failed to comply with any material Federal, State or local laws, ordinances, rules or regulations pertaining to the franchised activity, or when the franchised activity has become a nuisance or is detrimental to the public health, safety or welfare. If franchisee does not perform franchise services for a period in excess of ninety (90) days, the franchise may be revoked by the County.

Prior to suspending, amending or revoking a franchise granted by the Board, the County shall provide the franchisee with written notice of the proposed action and the reasons for it. The notice shall state that prior to the suspension, amendment or revocation, the franchisee is entitled to a hearing before the County if the franchisee requests such a hearing in writing and the request is received by the County not more than ten (10) days after notice of the proposed action has been mailed to the franchisee.

If the County does not receive a written request for a hearing within the time period prescribed above, the franchisee is deemed to have waived the right to a hearing and the County may immediately suspend, amend or revoke the franchise on the terms specified in the notice.

In the event of a serious violation, as determined by the Department, or in the event of repeated violations of this Chapter, a franchise shall be revoked by the Board.

(C) **Disclosure Statement.** A responsible party who currently holds or applies for a franchise from the County shall file a Disclosure Statement which contains the following information:

(1) A listing of all responsible parties to the franchise agreement. (If a responsible party is a natural person, the disclosure statement shall include the name, address, and social security or tax identification number (optional) of the responsible party);

(2) A listing of all felony convictions or pleas of nolo contendere of the responsible party by final judgement in any State or Federal court within the preceding three years;

(3) A listing of any instances in which a permit or contract held by the responsible party was revoked by a final judgement in any State or Federal court within the preceding three years;

(4) A listing of all final adjudications finding any responsible party in contempt of any State or Federal court order enforcing any State and Federal law within the preceding three years;

(5) A listing of all final convictions or pleas of nolo contendere of the responsible party, under State or local laws governing safety of operations, compliance with environmental and other franchise requirements in the County, whether misdemeanors or infractions.

If a responsible party is a chartered lending institution or a publicly held company or a wholly-owned subsidiary of such a company required to file annual or quarterly reports under the Securities Exchange Act of 1934 or the chartering body, as may be the case, an applicant/grantee may provide the above required information by submitting quarterly or annual reports for the preceding three (3) years. If these reports are incomplete or if they fail to contain the information requested in Subsection (C)(1) through (5) of this Section, the applicant/grantee shall make such information available to County. The County may also require, at applicant/grantees' expense, preparation and submittal of a Dunn and Bradstreet report.

A responsible party who holds a current franchise from the County for which a disclosure statement was submitted, shall file a supplemental disclosure statement only to the extent that the responsible parties or the status or events differ from those covered by the original disclosure statement.

**(D) General Standards of Responsibility.**

(1) The Board may refuse to issue or renew a franchise, or refuse to approve the transfer of such a franchise, if the Board finds by a preponderance of evidence that the responsible party has:

(a) Intentionally misrepresented or concealed any material fact in the disclosure statement;

(b) Obtained a license, permit, contract or franchise from the County by intentional misrepresentation or concealment of a material fact;

(c) Been convicted of a felony or pleaded guilty or nolo contendere to a felony involving the laws of any State or the Federal government within the three (3) years preceding the issuance of the license or permit, or execution of the contract or franchise agreement;

(d) Been adjudicated in contempt of an order of any court enforcing laws of this State or the Federal government within three (3) years preceding the issuance of the license or permit, or execution of the contract or franchise agreement; or

(e) Disregarded the public safety, as evidenced by convictions or pleas of nolo contendere to the violation of State and local law governing safety of operations, compliance with environmental and other franchise requirements within the County.

(2) In deciding whether to issue, renew or allow transfer of a franchise, the Board shall consider the facts and mitigating factors surrounding the foregoing including:

(a) The relevance of the offense to the business for which the license, permit, contract or franchise is issued;

(b) The nature and seriousness of the offense;

(c) The circumstances under which the offense occurred;

(d) The date of the offense; and

(e) The ownership and management structure in place at the time of the offense.

The Department shall recommend to the Board whether the responsible party is fit to obtain the franchise from the County within sixty (60) days following the responsible party's submittal of the disclosure form, in the case of transfer or renewal of a franchise, thirty (30) days prior to the expiration of an existing franchise agreement, whichever is earlier. Failure by the Department to make a recommendation regarding responsible party's fitness for renewal or transfer, within the time frame indicated above, shall in no case result in the revocation of the franchise, an order to cease operations, or a termination of the franchise agreement.

**(E) Opportunity to Demonstrate Rehabilitation.** In determining whether to recommend approval to the Board of a franchise or allow a renewal or



transfer of a franchise agreement, the Department shall first allow the responsible party to submit evidence of rehabilitation and shall consider the responsible party's efforts to prevent recurrence of unlawful activity. Items to be considered by the Department shall include:

- (1) The responsible party's record and history of implementing successful corrective actions undertaken to prevent or minimize the likelihood of recurrence of the offense;
- (2) Whether the offense was an isolated incident or a series of related incidents;
- (3) Whether the responsible party cooperated with government bodies during investigations;
- (4) The number and types of permits, contracts or franchises held by the responsible party;
- (5) Implementation by the responsible party of formal policies, training programs and management controls to substantially minimize or prevent the



occurrence of future violations or unlawful activities;

(6) Implementation by the responsible party of an environmental compliance auditing program to assess and monitor the adequacy of the internal systems to ensure compliance with environmental laws, regulations and conditions set forth in the franchise agreement;

(7) The responsible party's discharge of individuals, or severance of the interest of or affiliation with responsible parties, which would otherwise cause the County to deny the renewal, transfer or refuse to enter into the franchise agreement; and

(8) Consideration of the need for the franchise agreement in advancing the County's welfare, health and prosperity.

Where the Department determines that pursuant to the above, mitigating factors exist, or, pursuant to this Section, that the responsible party has demonstrated rehabilitation, the Department shall recommend to the Board issuance, renewal or transfer of the franchise agreement. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.24.100 Permit Revocation.**

Any permit issued pursuant to this Chapter may be suspended by the Department for a maximum of ten (10) days upon the permittee's violation of this Chapter. In the event of a serious violation as determined by the Department, or in the event of repeated violations of this Chapter such permit shall be revoked by the Board. Notice of hearing for suspension and revocation of the permit shall be given in writing by the Department to the permittee and shall state the grounds of the complaint and the time and place of hearing. Such notice shall be mailed to the permittee by first class mail at least five (5) days prior to the date set for hearing. Said hearing shall be conducted by the Director of the Solid Waste Division or the Director's designee. The permittee shall have the right to present evidence, cross-examine witnesses and to be represented by counsel. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.24.110 Appeals.**

Any person who is dissatisfied with any decision

or ruling of the Department on or with the directives or decisions of the Department may appeal to the Board, which shall have the power to hear and determine such appeal. Said appeal shall be taken by filing with the Clerk of the Board a Notice of Appeal within ten (10) days after the date of such decision or ruling. The notice shall be signed by the appellant or his/her attorney and shall be sufficient if it states in substance that the appellant appeals from a specified decision or ruling. A notice of appeal shall be liberally construed in favor of its sufficiency. No later than thirty (30) days after receipt of said notice of appeal, the Board shall set the matter for public hearing and shall cause public notice of such public hearing to be published once in a newspaper of general circulation in the County at least ten (10) days before the date of said hearing stating the time and place of hearing, the decision or ruling appealed from and the name of the appellant or appellants. At said hearing the appellant shall present a statement of the grounds for appeal and evidence in support of the appeal in such form as the Board may require. Appeals filed pursuant to this Section shall be accomplished by a fee in the amount set by resolution of the Board. (Ord. No. 3893 (part), adopted 1994.)

**Sec. 9A.24.120 Preemption—Severability.**

(A) This Title is not intended to preempt any provisions of State or Federal law governing the same subject. It is the intent of the Board to harmonize these requirements with State or Federal law.

(B) If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Title or any part thereof is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Title or any part thereof. The Board declares that it would have passed each section, subsection, subdivision, paragraph, sentences, clauses or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional. (Ord. No. 3893 (part), adopted 1994.)



**Title 10**

**ANIMAL CARE AND CONTROL\***

<b>Chapter 10.04</b>	<b>Department of Animal Care and Control</b>
<b>Chapter 10.08</b>	<b>Dogs, Cats and Other Animals— Prohibitions</b>
<b>Chapter 10.12</b>	<b>Licensing and Permits</b>
<b>Chapter 10.16</b>	<b>Rabies Control</b>
<b>Chapter 10.20</b>	<b>Large Domestic Animals</b>
<b>Chapter 10.24</b>	<b>Impoundment</b>

\* Prior ordinance history: Ord. No. 1745, adopted 1976; Ord. No. 1834, adopted 1976; Ord. No. 3332, adopted 1981; Ord. No. 3662, adopted 1987; Ord. No. 3675, adopted 1988.



## CHAPTER 10.04

### DEPARTMENT OF ANIMAL CARE AND CONTROL

#### Sec. 10.04.010 Title.

The Mendocino County Department of Animal Care and Control. (Ord. No. 4058 (part), adopted 2000.)

#### Sec. 10.04.020 Purpose.

The purpose of the Department of Animal Care and Control is to coordinate and supervise the activities of Animal Care and Control Officers in their efforts to protect livestock from predatory animals and the enforcement of all State and local laws relating to the care, control, treatment and licensing of dogs and other animals. (Ord. No. 4058 (part), adopted 2000.)

#### Sec. 10.04.030 Administration: General Powers and Authority.

(A) The Department of Animal Care and Control shall be under the general direction of the Director of Animal Care and Control, who shall be appointed by and report to the County Administrative Officer. The Director's deputies, Animal Care and Control Officers, and other employees so designated by the Director shall have the following power and authority.

(1) To enforce the provisions of the ordinance codified in this title and State laws pertaining to the care, treatment, impounding and destruction of animals.

(2) To exercise all enforcement powers granted by Food and Agricultural Code Section 7.

(3) The Director may formulate rules and regulations in conformity with and for the purpose of carrying out the provisions and intent of the ordinance codified in this title.

(B) There is hereby created within the Department of Animal Care and Control an Animal Care and Control Appeals and Advisory Board of five (5) persons appointed by the Board of Supervisors. One (1) member of said Board shall be a licensed veteri-

narian, one (1) member shall be a member of a recognized animal organization within the County, two (2) members shall be representatives of the livestock industry within the County and one (1) member of said Board shall be appointed from the public at large.

(1) Persons serving as Appeals and Advisory Board Members shall be reimbursed only for travel mileage to and from Board meetings or hearings at the same rate as regular County employees for use of their personal vehicles while on County business.

(2) The Appeals and Advisory Board, in addition to hearing all appeals from orders of animal seizure, impoundment, abatement, denials or revocation of any kennel license or permits issued pursuant to Sections 10.12.020 and 10.12.030 of this Title, shall convene as an administrative hearing board when so directed by the Department of Animal Care and Control.

(3) The Appeals and Advisory Board shall organize itself and shall select from its members a chairperson and vice-chairperson. The Director or a delegate shall serve as secretary of the Board. The Board shall meet from time to time as the chairperson shall designate.

(4) Upon appointment of the first members of the Appeals and Advisory Board, the Board shall meet and shall, by lot, select two (2) of its members to serve for a term of two (2) years and three (3) members to serve for a term of four (4) years.

(C) Pursuant to Penal Code Section 830.9, Animal Care and Control Officers are not Peace Officers but may exercise the powers of arrest of a Peace Officer as specified in Section 836 and the power to serve warrants as specified in Sections 1523 and 1530, and are authorized to carry firearms during the course and within the scope of their employment, if those officers successfully complete a course in the exercise of those powers pursuant to Penal Code Section 832. For the purposes of this subdivision, "firearms" includes capture guns, blowguns, carbon dioxide operated rifles and pistols, air guns, handguns, rifles, and shotguns. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.040 Penalties.****(A) Infractions.**

(1) Unless otherwise specifically provided in this title, every violation determined to be an infraction is punishable by a fine or penalty imposed by the court of appropriate jurisdiction.

(2) Each offense shall constitute a separate infraction. Any person cited for an infraction violation of this Title with three (3) prior convictions of the same section within a twelve (12) month period may be charged with a misdemeanor.

**(B) Misdemeanors.** Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a misdemeanor by this Title is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000), or by both. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.060 Definitions.**

Unless the context otherwise requires, the following definitions govern the construction of this Title in order for more effective interpretation and enforcement. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.062 Definition (A).**

(A) "Animal" means any member of the vertebrate subphylum other than homo sapiens.

(B) "Animal Care and Control" means that section of local government or contracting agency which is specifically charged with the regulation of, and the enforcement of, laws relating to animals within the jurisdiction of the County of Mendocino.

(C) "Animal Care and Control Officer" means any person duly appointed by the Director of Animal Care and Control to enforce all laws and regulations related to animal control and care or rabies control.

(D) "Animal shelter" means any facility operated by a local governmental agency, contracting agency, or Humane Society for the purposes specified in this Title.

(E) "Animal exhibition" means any display containing one or more live domesticated, wild or exot-

ic animals which are exposed to public view for entertainment, instruction or advertisement.

(F) "At large." Any animal, excepting a working animal, shall be deemed to be "at large" when off the premises of the owner and not under restraint by leash or physical control of its owner.

(G) "Assistance dog" means a dog that physically assists a person who has a physical disability.

(H) "Animal Enforcement Authority" means Animal Care and Control, Environmental Health, Public Health and/or Sheriff.

(I) "Animal Sanctuary" means any profit or non-profit organization where domestic birds or domestic animals are rehabilitated or protected from molestation. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.064 Definition (B).**

(A) "Bite" means any cut, laceration, tear, bruise, abrasion, or injury inflicted to the epidermis of a person or animal whether or not that bite is considered a rabies risk by the County or State Health Department.

(B) "Boarding kennel" means a commercially operated establishment for the care and keeping of dogs and cats, other than those belonging to the operator. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.066 Definition (C).**

(A) "Cat" means any member of the domestic feline species.

(B) "Certified agricultural kennel" means any place where five (5) or more dogs used solely for the herding or protection of farm animals or hunting dogs are actually kept, and the applicant signs a statement verifying proof of that status when applying for the certified agricultural license.

(C) "City" means any incorporated municipality within the County.

(D) "Commercial kennel" means any place where dogs or cats are kept for commercial purposes, including dog breeding business, boarding kennel, profit or non-profit dog and cat adoption agency, profit or non-profit animal sanctuary, profit or non-profit rescue organization; provided however, a commercial kennel shall not include any county



animal control shelter, a licensed veterinary hospital, licensed agricultural or non-commercial residential kennel.

The amendment to this Section shall be retroactive to any entity or organization existing or operating in Mendocino County as of September 15, 2000.

(E) "Contract agency" means any entity which has entered into a contract with the Board of Supervisors for the regulation and control of animals within the county and the duly designated officers of said contract agency shall have the authority to enforce the terms of this Title in all areas covered by said contract.

(F) "County" means the County of Mendocino and if the context so indicates County employees designated to carry out the provisions of this Title.

(G) "County veterinarian," through a recommendation by the County Health Officer, shall be annually appointed by the County Board of Supervisors. The County veterinarian serves with or without compensation in the furtherance of the Animal Care and Control program. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.068 Definition (D).**

(A) "Dangerous exotic animal" means any exotic animal which, because of its disposition, physical or inherent characteristics or size, behavior or propensity (without provocation) to inflict bodily harm or otherwise, demonstrate actions that would constitute a danger to any person, domestic livestock, other domestic animals or property.

(B) "Dog" means any member of the domestic Canine species and shall include all breeding crosses of dog with wolf (*Canis Lupus* or *Canis Rufus*) and coyote (*Canis Latrans*).

(C) "Domestic animal" means any animal other than wild or exotic animals, customarily confined or cultivated by humans for domestic or commercial purposes. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.070 Definition (E).**

(A) "Estray" means the act of any animal to wander or roam at large.

(B) "Exotic animal" means any wild animal not customarily confined or cultivated by humans for domestic or commercial purposes. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.072 Definition (F).**

(A) "Fence" means wire, wood, metal, masonry, electric, or other material, at least four feet (4') in height, used as an enclosure for a yard, lot, field, or pasture to effectively confine livestock within a specific area. Fences that are not solid and view-obscuring shall not be considered as effectively confining livestock unless the horizontal and vertical members (wires, rails and posts) are so securely fastened together and firmly anchored into the ground as to provide a barrier beyond which the livestock cannot readily penetrate.

(B) "Feral Cat" means a cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is totally unsocialized to people.

(C) "Feral dog" means a dog, without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral dog is totally unsocialized to people. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.074 Definition (G).**

(A) "Guard dog" means a dog trained specially for the protection of property and registered as a recognized guard dog with the local governing body.

(B) "Grooming shop/parlor" means a commercial establishment where animals are bathed, clipped, plucked, or otherwise conditioned. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.076 Definition (H).**

(A) "Health Department" means the Health Officer or authorized agents of the County Health Officer. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.078 Definition (I).**

(A) "Impoundment" means any taking custody, taking up, or confining of any animal(s) by the Animal Care and Control authority. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.080 Definition (J).**

(A) Reserved. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.082 Definition (K).**

(A) "Kitten" means any member of the domestic Feline species under four (4) months of age. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.084 Definition (L).**

(A) "Leash" means any rope, leather strap, chain, or other material not exceeding six feet (6') in length being held in the hand of the person capable of controlling the animal to which it is attached.

(B) "License" means the license issued for the specified licensing period within Mendocino County with all fees being paid as evidenced by a valid receipt.

(C) "Licensing Period" means that period of time for which a dog license is valid. The licensing period shall be set by a Resolution of the Board of Supervisors.

(D) "Livestock" means and includes all domestic bovine, equine, caprine, ovine, swine, avian, poultry, and rodent species. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.086 Definition (M).**

(A) Reserved. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.088 Definition (N).**

(A) "Noncommercial residential kennel" means a place where five or more dogs are kept by the owner for personal pleasure, and the owner has a valid noncommercial residential kennel license on file with the Department of Animal Care and Control. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.090 Definition (O).**

(A) "Owner" means any person who is the keeper, harbinger, possessor, or custodian, or who has control of an animal, or legal owner of any animal. Any occupant of premises upon which an animal is found shall be deemed prima facie the owner of said animal for the purposes of this title. In addition, it shall be evidence of ownership of any animal for any person to refuse to present that animal to an Animal Care and Control Officer for inspection or to refuse to permit such officer to impound any animal on the premises of such person when said animal is found in the violation of the provisions of this Title. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.092 Definition (P).**

(A) "Pet shop" means an establishment where live animals are kept for wholesale or retail sale, barter or hire.

(B) "Physical control" means confined or restrained by a chain, rope or leash, which is securely held or connected to the handler or inanimate object.

(C) "Protective custody hold" means a hold placed on any animal for protective purposes, which the animal enforcement authority determines should extend beyond the animal holding period, pending the completion of an investigation and determination of final disposition. Such hold shall be at the discretion of the Department of Animal Care and Control or Sheriff's Department.

(D) "Public Nuisance." An animal, including dog or cat, shall be considered a "nuisance" if any of the following are true:

(1) It damages, soils, defiles or defecates on private property other than the owner's or on public property.

(2) It repeatedly chases passing vehicles or bicycles on public highways or streets whether or not such chasing results in damage or injury to persons or private property.

(3) It interferes with or molests human beings on public property or private property other than the property of the owner of such animal.

(4) It engages in conduct that interferes in the reasonable and comfortable enjoyment of life and property.

This definition does not affect actions that may be remedied under Section 10.20.010 or by civil remedies at law.

(5) "Puppy" means any member of the domestic Canine species under the age of four (4) months. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.094 Definition (Q).**

(A) "Quarantine" means the act of strict isolation and confinement of any animal to prevent the exposure to and the spread of a contagious disease or to prevent the animal from causing injury to any person or other animal. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.096 Definition (R).**

(A) "Rescue Organization" means any profit or non-profit, paid or volunteer organization that rescues homeless, sick or abused animals and later adopts or provides them sanctuary. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.098 Definition (S).**

(A) "Severe injury" means any physical injury that results in broken bones, disfiguring lacerations, multiple sutures, or cosmetic surgery.

(B) "Stray" means any animal that is at large without an identification tag, license tag, rabies tag, brand, tattoo, or any apparent identification that would identify the true ownership of said animal, or an animal that may be lost or abandoned with or without such means of identification. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.100 Definition (T).**

(A) Reserved. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.102 Definition (U).**

(A) "Unconfined" means any animal not securely confined indoors or not confined in a securely enclosed and locked pen or structure upon the premises

of his or her owner. To be securely enclosed such pen or structure must have secured sides and secured top; if the pen or structure has no bottoms secured to the sides, the sides must be embedded into the ground no less than one (1) foot.

(B) "Uncontrolled" means any animal "at large."

(C) "Unlicensed" means the licensing fee has not been paid for the current licensing period in Mendocino County. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.104 Definition (V).**

(A) "Vaccination" means a rabies vaccination of a dog or cat with a vaccine approved by and in the manner prescribed by the State Department of Public Health.

(B) "Veterinarian" means a person licensed to practice veterinary medicine in the State of California.

(C) "Vicious animal" means any dog regardless of the breed when:

(1) It bites any person or animal without provocation; or

(2) It attacks, harasses, or scratches any person without provocation; or

(3) It has a disposition, behavior or propensity to attack, bite, harass or scratch any person or animal without provocation; or

(4) It constitutes an imminent threat of bodily harm to human beings or other animals in a place where such person or animal is acting peaceably and lawfully; or

(5) It is kept or maintained by its owner for the purpose of animal fighting or breeding to perpetuate the aggressive inherent genetic characteristics or any level of training to encourage an animal's innate aggressive behavior that may result in a menace to persons or other animals, or has been specifically trained to guard persons and/or property; or

(6) The owner of the dog has knowledge that the animal has a vicious propensity that it is likely to injure someone.

(D) A dog specifically trained and licensed as a "guard dog," "sentry dog" or a dog used in the official capacity of law enforcement activities when

registered as a recognized “guard dog” with the local governing body is exempt from the definition of a vicious animal. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.106 Definition (W).**

(A) “Wild animal” means any animal not actually confined or cultivated by humans.

(B) “Working animal” means animals under the control of humans used for the movement of livestock, fowl, tracking, obedience, show, or in the taking of wild animals or wild fowl during the season established by law or in the field trials. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.108 Definition (X).**

(A) Reserved. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.110 Definition (Y).**

(A) Reserved. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.04.112 Definition (Z).**

(A) Reserved. (Ord. No. 4058 (part), adopted 2000.)

**CHAPTER 10.08**

**DOGS, CATS AND OTHER ANIMALS—  
PROHIBITIONS**

**Sec. 10.08.010 Dogs.**

(A) It shall be unlawful and an infraction unless some other penalty is indicated, for any person who owns, harbors or keeps any dog:

(1) To permit or cause such dog to run at large, roam or run astray. To fail to keep the dog under physical control when the dog is upon any public property or private property without the express permission of the owner or the custodian of such property. Dogs permitted on public property must be on a leash not exceeding six feet (6') in length, and the person in charge of the dog must have physical control of the leash. Dogs may be permitted to run without a leash in designated areas which, from time to time, may be set aside by the County for the specific purpose of exercising a dog, so long as the owner or keeper of the dog maintains control of the dog at all times and does not permit the dog to go beyond the boundaries of the designated area.

(a) No person shall keep a noisy, vicious or dangerous dog or animal or one which is disturbing other persons or animals who are in the designated areas and remain therein after the owners have been asked by the County or law enforcement to leave;

(b) No person shall leave or deposit dogs, cats, or other animals, fowl or fish within the boundaries of the designated areas;

(c) No person shall bring a dog into, permit a dog to enter or remain, or possess a dog in the designated areas unless the person is able to present proof upon request that the dog has a valid rabies inoculation and the person presents a valid license for the dog.

The following purposes are permitted and accepted herefrom, provided the dog does not present a hazard to the public safety and welfare, does not

trespass upon private property, cause a nuisance or violate any other provisions of this Title or State law;

(d) Lawful hunting;

(e) Livestock herding and control;

(f) Organized field trials;

(g) Tracking, obedience training/or show and other recognized work activities when under the direct control of the owner or handler or assistance dogs for the physically handicapped when performing their duties.

(2) To permit the dog to defecate upon public property, including, but not limited to, any public sidewalk or public area commonly occupied or traversed on foot by members of the public, unless the person immediately removes the feces and properly disposes of it. Visually handicapped persons who use assistance dogs are exempt from this law.

(3) To permit any dog to be unlicensed.

(4) To permit any dog to remain unrestrained without an appropriate fence, chain or enclosure.

(5) To permit or take any dog into a restaurant, grocery store, meat market, supermarket, fruit store or any place where food is sold, dispensed or served to members of the public. Exempted from this law are assistance dogs under the immediate control of their owners.

(6) It shall be unlawful, a public nuisance and a misdemeanor for any person to keep, possess, maintain or harbor any vicious dog as defined in Section 10.04.104 of this Code or dangerous exotic animal unless the animal(s) is registered under an annual permit with the Department of Animal Care and Control.

(B) All owners of vicious dogs, in addition to the required permit, must within ten (10) days of the effective date of the ordinance codified in this Title, provide written proof (a true copy) of public liability insurance policy in the single incident amount of Fifty Thousand Dollars (\$50,000) for bodily injury or death of any person(s) or for damage to property which may result from the ownership or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy be made unless ten (10) days written

notice is first given to the Department of Animal Care and Control. Owners of dogs unable to meet the requirements of the aforementioned section shall forfeit ownership of such dog(s) to the Department of Animal Care and Control for further disposition.

(C) Owners of any vicious type dog shall not allow the animal freedom to:

(1) Remain unmuzzled, unconfined, unrestrained or unsupervised on the premises of its owner whether indoors or outdoors in a manner that would allow the dog to exit such structure(s) on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open, when screened windows or doors are the only obstacle preventing the dog from exiting the house or structure, or to allow or permit the dog to be so improperly leashed, chained or secured to a structure (i.e., dog house, building, etc.), in a manner that it is not adequately restrained from access to any child passing by, or to a child wandering into a yard, to be subjected to such unpredictable aggressive behavior by the offending dog that may result in injury or death to an unsuspecting victim.

(2) The owners of vicious dogs shall be required to post a permanent sign in letters no less than two (2) inches in height and width stating "Beware of Vicious Dog" in a prominent place easily legible by the public as well as posted on any pen or housing structure for that animal.

(3) Such vicious dog may be housed outdoors providing the pen/structure has passed prior approval through an inspection as to its sound structural strength and size, ability to be kept and maintained in a sanitary condition, and so constructed as to prevent and insure that all reasonable precautions are undertaken to prevent the vicious dog from escape.

(D) A dog declared to be vicious shall not be allowed to roam at large by its owner.

(E) This ordinance may be enforced by Mendocino Animal Care and Control and any

local or state law enforcement agency. (Ord. No. 4058 (part), adopted 2000.)  
(Ord. No. 4211, 11-18-2008)

**Sec. 10.08.011 Leash and Muzzle.**

No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet (4') in length and a person is in physical control of the leash. When off the premises of its owner in public places such aforementioned dogs must not be leashed to inanimate objects such as trees, posts, buildings, etc., or within a vehicle in such manner the dog can access someone passing by or otherwise left unattended, unrestrained or unsupervised. In addition, all vicious dogs must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.08.012 Reporting Requirements.**

All owners of vicious dogs and dangerous exotic animals must report the following information to the Department of Animal Care and Control.

(1) The removal from the county environs or the death of the animal;

(2) Birth of offspring from that animal, and they must be also registered under the annual permit;

(3) The new address of the owner should the owner move to a new location within the County or to another location within the State;

(4) The sale or other transfer of ownership of the animal. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.08.013 Identification—Photograph.**

All vicious dog owners or owners of dangerous exotic animals shall provide to the Department of Animal Care and Control two (2) current color photographs of their animals showing the color and the approximate size accompanied by the description of the animal along with their annual permit. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.08.014 Failure to Comply.**

It shall be a misdemeanor for the owner of a vicious dog(s) or dangerous exotic animal to fail to comply with the requirement and conditions set forth in this Title. Any animal found to be the subject of a violation of this Section shall be subject to immediate impoundment at the Department of Animal Care and Control Facility or in the case of exotic animals, in an appropriate designated facility and not released until a final disposition has been declared by an order of the court. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.08.015 Irrebutable Presumption.**

There shall be an irrebutable presumption that any dog registered as vicious under the annual permit required for a vicious dog or dangerous exotic animal is in fact an animal subject to the requirements of this Section where applicable. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.08.016 Owner Responsibility.**

An animal owner shall be held responsible for adverse actions of his dog(s) or animal and accountable for those damages inflicted by a vicious dog or a dangerous exotic animal. He may appear before the Animal Care and Control Appeals and Advisory Board to show cause why:

- (1) His/her animal should not be confined and/or leashed or muzzled in an approved fenced-in area;
- (2) Humanely destroyed. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.08.017 Disposition of a Vicious Dog.**

(A) If the vicious dog at any time presents a clear and present danger to the public safety, or if the dog cannot be impounded without undue risk to the officer, he may destroy the dog by the safest, most expeditious, and most humane method, which may include the use of firearm when deemed necessary.

(B) In the event a vicious dog is destroyed in this manner, a report shall be prepared and submitted by the officer dispatching the animal to the

Department of Animal Care and Control. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.08.020 Cats.**

It shall be unlawful and an infraction for any person who owns or harbors or keeps any cat:

- (1) To permit a cat to damage property, public or private, real or personal, or to bite, scratch, or claw any human being or other animal which is on the property of another.
- (2) To take a cat into any of the places set forth in Section 10.08.010(5). (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.08.030 Public Nuisance.**

It shall be unlawful and an infraction to permit dogs, cats or other animals to engage in any conduct which would constitute public nuisance. The Department of Animal Care and Control will investigate upon receiving a written or oral complaint(s) from any person residing or working in the surrounding neighborhood. If any of the alleged actions or conditions is found to exist, an "Order to Confirm" may be issued requiring said owner or custodian of the dog, cat or other animal to abate such nuisance immediately. Failure to comply with the notice to abate such nuisance shall be deemed in violation of this section and subject the violator to such penalties and fines as set forth in this title and may subject the animal to impoundment. The offending animal may be placed in protective custody hold status pending an investigation and determination of final disposition. The abatement or impoundment of said animal may be appealed by a written "Notice of Appeal" filed with the Department of Animal Care and Control Appeals and Advisory Board. The appeal hearing will be conducted pursuant to procedures as set forth in Chapter 10.24. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.08.040 Miscellaneous.**

- (1) It is unlawful and a misdemeanor to abandon any animal in Mendocino County.

(2) It shall be unlawful and an infraction for any person to display for sale, offer for sale, exchange, barter or give away any animal except in the following places:

(a) Pet shop, commercial kennel, private kennel, nonprofit incorporated pet adoption agency, pet grooming parlor, animal shelter, humane society facility, horse establishment, which have a valid permit or license as may be required by this title, may on occasion be permitted by the Department of Animal Care and Control to temporarily display animals at specialized locations other than their normal place of business, provided such animals are at all times under physical control and restrained, have adequate water, food and shelter;

(b) Private residence; or

(c) Veterinary clinic.

**EXCEPTION:** This provision does not apply to livestock at recognized auctions, fairs or expositions, nor does it preclude any advertisement of the sale of such animals through the media or radio, television or public posting of said offering.

(3) Any person who reports to the Department of Animal Care and Control any false information regarding animals, or causes any such report to be made, knowing that the report is false and with the intent to deceive, which false information causes the Department of Animal Care and Control to actively and substantially respond to such report is guilty of a misdemeanor. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.08.050 Impoundment.**

Any Animal Care and Control Officer or Peace Officer may impound any dog or cat for violations of this Title, or when deemed necessary to preserve public health and safety or to prevent needless suffering of animals. Impoundments shall be governed by Chapter 10.24 of this Title. (Ord. No. 4058 (part), adopted 2000.)



## CHAPTER 10.12

### LICENSING AND PERMITS

#### Sec. 10.12.010 Dog Licenses.

##### (A) General Requirements.

(1) Except as otherwise permitted, owners of dogs shall procure a valid Mendocino County dog license not later than thirty (30) days after the dog attains the age of four months or thirty (30) days after the dog comes into their possession. The licensing period shall be set by a Resolution of the Board of Supervisors, but in no instance shall a dog-licensing period be for a term that exceeds the period for which the rabies vaccination is valid. The license renewal shall be procured not later than sixty (60) days after expiration of the previously issued license.

Evidence of spaying and neutering when required shall be furnished by the owner and shall consist of certification from a licensed veterinarian. Any owner of the same dog so licensed may transfer a valid license and registration to another person.

In the event that the State of California establishes a program for the licensing of dogs through an electronic tag/implant identification process, the electronic tag may be accepted in lieu of the physical tag.

(2) No license or tag of any type shall be issued pursuant to this Chapter for any dog until a valid certificate of rabies vaccination is presented to the County agency responsible for the licensing program for each dog to be licensed.

(3) The current valid dog license tag shall be securely affixed to the dog's collar, harness or device and shall be worn at all times by said dog for whom the license registration is issued.

(4) Whenever a dog license tag is issued pursuant to this Chapter, the tag shall be issued for one-half or less of the fee required for a dog, if a certificate is presented from a licensed veterinarian that the dog has been spayed or neutered. The fee schedule shall be set by resolution of the Board of Supervisors.

(5) Any physically handicapped person using a dog as a recognized assistance dog or any person participating in any youth project for raising dogs for the physically handicapped and submitting documentary proof of such participation shall be issued a dog license without charge upon proof of a valid rabies vaccination.

(6) A dog owned and used exclusively for law enforcement purposes by a public agency requires a valid rabies vaccination and a valid dog license. The license requested shall be issued without charge upon documentary proof that such dog is certified for law enforcement activities only.

(B) **License Forms and Tags.** The County agency responsible for the licensing program shall provide forms for the licenses required herein. Such licenses when completed, shall state the age, sex, color, and breed of the dog for which a license is requested and the name and physical address of the owner thereof. Upon completion of license form by the applicant, payment of the fees required and presentation of a valid certificate of rabies vaccination as required herein, the County agency responsible for the licensing program shall issue the necessary license tags which shall be of a durable material and bear the name "County of Mendocino" or "Mendocino County," and the number of the license tag.

(C) **Notice to Public.** The County agency responsible for the licensing program shall at least semi-annually, cause to be published in a newspaper of general circulation, a notice addressed to all persons who own or harbor dogs. Said notice shall state the amount of the license fee and the penalty for failure to pay within the time prescribed by this Chapter.

The County agency responsible for the licensing program is also authorized and may require businesses which sell pet food or pet supplies to permit the posting of a notice next to such items reminding pet owners to comply with County licensing regulations, rabies vaccination requirements and County Animal Control laws. These notices will be supplied and posted by the County.

The cost of procuring the notices and other supplies mentioned herein are declared to be a charge

against the Livestock Indemnity Fund. The County Purchasing Agent is hereby directed to purchase such notices and supplies.

**(D) Late Procurement and Penalty.**

(1) An owner of a dog failing to obtain the necessary license within the time frames established in this Chapter, shall, in addition to the license fee, pay a penalty. The penalty shall be set by a Resolution of the Board of Supervisors.

(2) Notwithstanding the preceding paragraph, the Department of Animal Care and Control may establish a policy allowing the penalty to be waived or reduced by the Director of Animal Care and Control.

(3) An owner who initiates the licensing process and is unencumbered by outstanding licensing violations is not to be discouraged from voluntary compliance. No penalty fee shall be charged for failure to license under these circumstances.

**(E) Nonresidents.** Licensing requirements for county residents shall not apply to nonresident owners of dogs who are temporarily within the County with their dog for thirty (30) days or less, nor to dog owners whose dogs are brought into the County to participate in any dog show, field trial, or tracking activity, providing said dogs have a current valid dog license and rabies vaccination from a city or county or state of origin. Licensing requirements shall apply to residents of federally recognized rancherias or reservations if there exists a contract for animal control services between the County and the tribal government.

**(F) Imported Dogs.** Unless otherwise specified, when an owner brings into the County a dog that has a current and valid license in another jurisdiction of this State the owner shall, upon surrender of the license from the other jurisdiction, be issued a Mendocino County dog license at no charge. The owner shall procure their dog license(s) within thirty (30) days of obtaining residency. Said license shall be valid until the date of the license expiration from the other jurisdiction or the rabies vaccination expiration date whichever comes first. After which the dog owner shall pay Mendocino County dog licensing fees.

**(G) Lost Tags.** In the event a license tag issued to a dog is lost or destroyed, the owner shall within thirty (30) days thereafter procure a new license tag. If said owner shall fail to secure a new license within thirty (30) days from the loss of said tags, said owner or owners shall be subject to fines and penalties as set forth by resolution by the County Board of Supervisors.

**(H) Prohibitions.**

(1) Any person who secures, or evades securing a dog license, any type dog kennel license, vicious, or dangerous exotic animal permit any time by means of fraud or misrepresentation shall be guilty of a misdemeanor.

(2) Any person who owns or harbors or keeps any dog and fails, neglects or refuses to attach and keep a valid current license tag affixed to said dog in the manner prescribed by this Title and State law is guilty of an infraction. Such unlawful conduct may also result in the impoundment of the dog.

(3) Any person removing a dog license tag from any dog without the consent of the owner thereof, except in cases of emergency, is guilty of an infraction.

(4) It is an infraction for any person to place a dog license tag on any dog for which the tag was not issued or place an imitation or false dog license tag on any dog.

(5) Any person failing or refusing to show to the Animal Care and Control Officer or Peace Officer the dog license tag or license certificate or rabies certificate for any dog upon request is guilty of an infraction.

(6) It is an infraction to possess, own, keep or harbor any unlicensed dog or to maintain, conduct, or cause to be operated any unlicensed kennel, grooming shop/parlor, pet shop, commercial kennel and profit or nonprofit dog adoption agency.

**(I) Disposition of Funds.** All fees collected for the issuance of dog licenses and tag and all fines collected pursuant to this Chapter shall be paid into the County Treasury and shall be used for:

(1) First, to pay costs of materials and supplies incurred in the issuance of dog licenses and tags.

(2) Second, to pay fees, salaries, costs, expenses or any or all of them, for the enforcement of State laws and this Title pertaining to regulation, licensing and control of dogs.

(3) Third, to pay damages to owners of livestock which are killed by dogs. Each such claim for damages must meet the requirements of Food and Agricultural Code Sections 30653, 30654 and 30655.

(4) Fourth, to pay costs of any hospitalization or emergency care of animals pursuant to Section 597f of the Penal Code. (Ord. No. 4058 (part), adopted 2000.)

#### **Sec. 10.12.020 Kennel Licenses.**

No person shall conduct a commercial kennel without a current commercial kennel license, in addition to a County business license from the Treasurer-Tax Collector. No person(s) shall be issued a certified agricultural kennel license without verifying to the fact that their dogs (five (5) or more) are solely used for the purpose of herding or protection of farm animals, or hunting, and further agree that these dogs are not to be sold or traded for commercial purposes. Applicants will be required to complete and sign a statement attesting to the validity of this information as being true and correct.

The kennel license period shall be set by a Resolution of the Board of Supervisors, but in no instance shall a dog be included under the kennel license unless the dog's rabies vaccination is valid for the kennel-licensing period.

Kennel fees and penalties for non-compliance shall be set by a Resolution of the Board of Supervisors.

Exempt from the penalty provisions are premises where dogs are kept, harbored, or maintained for the sole purpose of raising, training and providing assistance dogs to the blind, deaf, or other physically handicapped persons. A non-profit dog adoption agency will likewise be exempt from this penalty. However, a special fee-exempt commercial kennel license is provided for and required of such non-profit adoption agencies as well as those persons raising and selling dogs for the physically handicapped. All dogs shall have a current individual

license in accordance with the provisions of Chapter 10.12 et seq.

The County agency responsible for the licensing program shall issue such owner individual tags for each of such dogs covered by the kennel license and, during the term of that license, shall, upon written application, issue to such owner without charge additional license tags for any additional dogs that came into the possession of the owner within that license year.

(A) **Application for License.** The application for above-mentioned licenses shall be in writing on a form approved by the Director of Animal Care and Control. The applicant shall furnish a list of the types of animals to be maintained or used for any purpose, together with the approximate number of animals of each type.

(B) **Regulations and Standards.** The Director may establish regulations and standards relating to:

(1) The maximum number and species of animals to be kept or maintained on the premises;

(2) The construction, sanitation, and maintenance of the facility; and

(3) Any other regulations and standards in conformity with and for the purposes of carrying out the intent of this Section. Compliance with such rules and regulations shall be prerequisite to the issuance and continued validity of any license provided pursuant to this Section.

The Licensee shall maintain a record of the names and addresses of persons from whom animals are received and to whom the animals are sold, traded or given. This shall be available to the Director of Animal Care and Control upon request.

(C) **Inspection.** The Director of Animal Care and Control or authorized representative shall have the authority to inspect any facility for which a non-commercial residential kennel or commercial kennel license is to be issued or renewed for the purpose of determining inhumane treatment of animals and/or violations of State and local health and sanitation laws.

**(D) Conditions Relating to Animal Facilities and Care.**

(1) Structural Strength. Housing facilities for animals shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.

(2) All animals shall be supplied with sufficient good and wholesome food and water as often as the feeding habits of the respective animals require.

(3) All animals shall be maintained in a clean and sanitary condition.

(4) All animals shall be so maintained as to eliminate excessive and nighttime noise.

(5) No animals shall be without attention more than eighteen (18) consecutive hours. Whenever an animal is left unattended at a commercial animal facility, the telephone number of the Department of Animal Care and Control or the name, address and telephone number of the person in charge of the facility shall be posted in a conspicuous place at the front of the property.

(6) Every reasonable precaution shall be used to insure that animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any person or means.

(7) No condition shall be maintained or permitted that is or could be injurious to the animals.

(8) Animal buildings and enclosures shall be so constructed and maintained as to prevent the escape of animals. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.

(9) Every animal establishment shall isolate sick animals sufficiently so as not to endanger the health of other animals.

(10) Every building or enclosure wherein animals are maintained, shall be constructed of material easily cleaned and shall be kept in a sanitary condition. The building shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling are to be provided as may be required, according to the physical need of the animals, with the sufficient light to allow observation of animals and sanitation.

(11) The kennel owner or his representative shall take any animal to a veterinarian for examination or treatment if the Department of Animal Care and Control or other enforcement agencies finds this necessary in order to maintain the health of the animal and orders the owner or custodian to do so.

(12) All animal rooms, cages, kennels and runs shall be of sufficient size to provide adequate and proper accommodations for the animals.

(13) Every violation of an applicable regulation shall be corrected when specified by the Department of Animal Care and Control or other enforcement agencies.

(14) The kennel operator shall:

(a) Provide proper shelter and protection from the weather at all times.

(b) Not give any animal any intoxicating substance, unless prescribed by a veterinarian.

(c) Not allow animals which are natural enemies, temperamentally unsuited, or otherwise incompatible, to be quartered together or so near each other as to cause injury or torment.

If two (2) or more animals are so trained that they can be placed together and do not attack each other or perform or attempt any hostile act to the others, such animals shall be deemed not to be natural enemies.

(d) Not allow the use of any equipment, device, substance or material that is injurious or causes pain or cruelty to any animal.

(e) Give working animals proper rest periods. Confined or restrained animals shall be given exercise proper for the individual animal under the particular conditions.

(f) Not work, use, or rent any animal which is overheated, weakened, exhausted, sick, injured, diseased, lame or otherwise unfit.

(g) Not display animals bearing evidence of malnutrition, ill health, unhealed injury, or having been kept in an unsanitary condition.

(h) Not display any animal whose appearance is or may be offensive or contrary to public decency.

(i) Not allow any animal to constitute or cause a hazard or be a menace to the health, peace or

safety of the community. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.12.030 Dangerous Exotic Animals.**

(A) **Permit Required.** No person shall keep, have, maintain, sell, trade, or let for hire a dangerous exotic animal without first obtaining a permit from the Department of Animal Care and Control. The application for a permit, permit conditions, inspection, denial, revocation, and appeal shall be the same as set forth in Sections 10.12.020 and 10.12.040 inclusive of this Chapter.

A permit shall be required of any private zoo, private university, private college, or private research agency, or other bona fide private scientific or public health research institution. For the purposes of this section, a zoo shall be considered any private organization which exhibits animals to the general public at regular specified hours, equaling at least thirty (30) hours a week for thirty-six (36) weeks a year, and whose animals, whether maintained for exhibit purposes or not, are not for sale to private individuals.

(B) **Permit Denial.** The Department of Animal Care and Control may deny or revoke a permit to keep or maintain any dangerous exotic animal when, in their opinion:

- (1) Any such animal may not be kept or maintained without endangering the safety of any person(s) or property;
- (2) The keeping of the animal would constitute a public nuisance; or
- (3) Such animal would be subject to suffering, neglect, cruelty, or abuse.

The Department of Animal Care and Control, in their discretion, may require any such animal to be properly caged, tethered, or restrained in zoo type facilities that meet or are in addition to, or more restrictive than, State guidelines issued under the provisions of Section 671 of Title 14 of the California Administrative Code and Federal standards issued under Chapter 1 of Title 9 of the Code of Federal Regulations. Nothing in this Section shall be construed to permit the keeping of dangerous

animals where zoning provisions or State law would prohibit such keeping.

(C) **Permit Fee.** The fee for a permit to keep or maintain one or more vicious dog(s) or dangerous animal(s) shall be set forth by resolution of the Board of Supervisors. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.12.040 Denial, Cancellation or Revocation of a License or Permit.**

(A) **General Provisions.** The Department of Animal Care and Control may deny, revoke or cancel any permit or license issued pursuant to this Chapter in the following situations:

(1) Whenever it is determined by inspection that any animal facility fails to meet any of the sanitary or health conditions or standards or any other requirements of any permit, license, this Title, or applicable State law.

(2) Whenever there is reason to believe that the applicant or permit holder has willfully withheld or falsified any information required for the permit or license.

(3) If the applicant or permit holder has been convicted by a court of law of two (2) or more violations in a twelve (12) month period of this Title or State laws relating to animals. For purposes of this Section, a bail forfeiture shall be deemed to be a conviction of the offense charged.

(B) **Appeal Provisions.** A denial, cancellation or revocation of a kennel license or permit shall become effective ten (10) days after written notice has been served in person by the issuing officer stating certain defective conditions or violations are found to exist or commencing from the date such notice was served by certified mail addressed to the person owning, managing, or operating the kennel. The aggrieved applicant, license or permittee has the right to an administrative hearing and review to be conducted upon request and stating the reasons for their action to the Animal Care and Control Appeals and Advisory Board within five (5) business days or receipt of said notice.

The appeal notice of a license or permit denial, cancellation or revocation shall be in a form as provided by the Director of Animal Care and Control and shall be filed with the Department of Animal Care and Control.

If an Administrative Hearing is requested, the Director of Animal Care and Control shall immediately set a time, date, and place for a hearing on said matter before the Animal Care and Control Appeals and Advisory Board. Said hearing shall be held not less than five (5), nor more than ten (10) days after the filing of the Notice of Appeal. Notice of such hearing shall be given to the appellant in writing at the address shown in the Notice of Appeal.

At the time, date and place set for said hearing, the Animal Care and Control Appeals and Advisory Board shall hold a hearing on the appeal. The aggrieved licensee, permittee or petitioner may appear in person and testify as to any matters relevant to the proceedings. The Health Department or the Department of Animal Care and Control shall present all evidence, oral and documentary, justifying license or permit denial, cancellation or revocation. Technical rules of evidence shall not apply to said proceedings, and the Board may hear and consider any evidence it deems relevant and upon which reasonable people would be likely to rely in the consideration of matters of a serious nature. The decision of the Board shall be supported by the weight of the evidence presented. Upon conclusion of the hearing, the Board shall determine whether to sustain or overrule the license or permit denial, cancellation or revocation action of the Animal Care and Control Officer or the Health Department. The Board's decision is final.

If no appeal hearing is requested within the time limits specified to the Animal Care and Control Appeals and Advisory Board, the license or permit denial, cancellation or revocation action shall be final. (Ord. No. 4058 (part), adopted 2000.)

#### **Sec. 10.12.050 Penalties Preserved.**

The power of the County to deny, cancel or revoke a permit or license does not diminish or otherwise limit the power of the County to enforce violations of this Title and State law by applying injunctive, infraction, misdemeanor or felony penalties as may be appropriate. (Ord. No. 4058 (part), adopted 2000.)

#### **Sec. 10.12.060 Fees.**

All license and permit fees, transfer fees, inspection fees, late charges and other costs and charges which are authorized herein shall be set by Resolution of the Board of Supervisors.

The foregoing fees or charges may be waived or reduced at the discretion of the Department of Animal Care and Control upon review of mitigating circumstances or factors presented by the party seeking redemption which justify such waiver. (Ord. No. 4058 (part), adopted 2000.)

## CHAPTER 10.16

### RABIES CONTROL

#### Sec. 10.16.010 Authority and Purpose.

For the purpose of the preservation of public health, safety, and welfare in connection with the protection of human beings from rabies, the following chapter is enacted:

Pursuant to H.&S. Section 121615 all peace officers and boards of health shall carry out the provisions of this Chapter. The Department of Animal Care and Control is empowered and authorized to assist and cooperate in the enforcement of the ordinance codified in this Title.

Pursuant to H.&S. Section 121625 any proper official within the meaning of this Chapter may examine and enter upon all private premises for the enforcement of this Chapter. (Ord. No. 4058 (part), adopted 2000.)

#### Sec. 10.16.020 County Veterinarian.

In furtherance of the program of the County of Mendocino for vaccination of dogs and cats against rabies, there is authorized and established a County Veterinarian who is appointed annually by the County Board of Supervisors and serves at the pleasure of the County Health Officer.

##### (A) County Veterinarian Duties.

(1) To approve such rabies and other vaccines for use in domestic animals.

(2) To assist and counsel Animal Care and Control staff on euthanasia, daily care, and treatment of animals that have been impounded.

(3) To prescribe the form or forms of certificates to be used by duly licensed veterinarians under the provisions hereof. Such form or forms will be provided to all duly licensed veterinarians practicing in the County at no charge upon request being made by them. As the county's licensing coding system is based upon the exclusive use of this form, no other type of form is authorized. (Ord. No. 4058 (part), adopted 2000.)

#### Sec. 10.16.030 Administrative Control.

(A) **Harboring Unvaccinated Dogs.** Any person owning or harboring any dog after such dog attains the age of four (4) months which has not been vaccinated for rabies by a duly licensed veterinarian is guilty of an infraction.

(B) **Certificate of Vaccination.** After vaccinating any dog, the veterinarian performing such vaccination shall sign a prenumerically coded certificate of vaccination in triplicate containing the following information:

- (1) The name and physical address of the owner or harbinger of the vaccinated dog.
- (2) The date of expiration of the vaccination.
- (3) The breed, color, sex, approximate size and age.

The County agency responsible for the licensing program or the Department of Animal Care and Control shall not issue license tags for any dog until it has been vaccinated with an antirabies vaccine by a licensed veterinarian in a manner approved by the County Health Officer. The owner of such dog shall exhibit to the County agency responsible for the licensing program or Department of Animal Care and Control a certificate of vaccination on the form provided by the Health Officer.

Every licensed veterinarian practicing veterinary medicine within the County of Mendocino shall submit to the Department of Animal Care and Control one (1) copy of each rabies vaccination certificate issued.

Veterinarians may, in lieu of submitting individual certificates, submit proof of each rabies vaccination given to a dog to the Department of Animal Care and Control via, electronic or U.S. Postal mail. The Department of Animal Care and Control must approve the reporting format, and the records shall be submitted at least monthly.

The Department of Animal Care and Control shall retain and file their copy of the certificate or veterinarian record for a period of no less than three (3) years. Vaccination and licensing records submitted to Animal Care and Control are confidential and not open to public inspection.

When a certificate of rabies vaccination is issued for the purpose of issuing a dog license, the vaccination must be valid for the entire licensing period.

(C) **Exemption from Rabies Vaccination.** Any dog may be exempted from antirabic vaccination during an illness or when the dog is not in physical condition to be vaccinated and the antirabic vaccination would be detrimental for a physiological reason to such dog's health if a licensed veterinarian has examined the dog and certified in writing within five (5) days of examination that such vaccination should be postponed because of a specific illness. Old age, debility, and pregnancy will not exempt a dog from rabies vaccination. Exemption statements shall be valid only for the duration of the illness. The temporary exemption from vaccination does not exempt a dog from the licensing requirements once its physical condition permits.

(D) **Stolen Certificate.** Any person making use of or having in his possession or his control, a stolen, counterfeit or forged vaccination certificate is guilty of a misdemeanor.

(E) **Presentation of Certificate on Demand.** Any person owning or harboring any dog who fails or refuses to exhibit the certificate required herein upon demand to the Health Officer, any Public Health Sanitarian, Peace Officer, or Animal Care and Control Officer is guilty of an infraction.

(F) **Time Limit for Vaccination.** Any person who owns or harbors any dog which has been brought into the County of Mendocino shall, in the event such dog has not been vaccinated as provided herein, have a period of thirty (30) days from and after the arrival of such dog into the County of Mendocino within which to comply with this Chapter.

(G) **Reporting of Bites.** It shall be the duty of any person having knowledge that any dog or other mammal has or is suspected of having bitten any human being, or other mammal, or in all cases of mammal bites treated by a physician to immediately report such occurrence or fact to the County Health Officer or to the Department of Animal Care and Control and to furnish complete information regarding the incident.

The report shall state the name and address, age and sex of the person bitten, and/or description of the mammal bitten, if any, location and extent of bite wound, address location where such attack occurred, and any other specific information relating to the biting animal or the biting incident so requested by the Health Department or the Department of Animal Care and Control and/or Animal Care and Control Officer.

In the event that the Animal Care and Control Officer secures information of the existence of any case of rabies or other animal diseases dangerous to human beings, he/she shall immediately report same to the Health Officer. The owner of any mammal which has or is suspected of having bitten any person or other mammal within the preceding ten (10) days for dogs and cats, and fourteen (14) days for all other mammals, shall immediately, upon demand, surrender such mammal to the Health Officer, Peace Officer, or Animal Care and Control Officer for purposes of quarantine or confinement pursuant to Section 10.16.040. (Ord. No. 4058 (part), adopted 2000.)

#### **Sec. 10.16.040 Quarantine.**

No person shall refuse to obey the conditions of a lawfully imposed quarantine and no dog which has been held under quarantine shall be released without having been properly vaccinated and licensed.

Once an area has been declared a rabies area, during the period for which the quarantine order is in force, any officer may kill or in his/her discretion, capture and hold for further action by the Health Department any mammal in a quarantine area, found on public highways, lands and streets, or not held in restraint on private premises as specified in this Section. The Health Department should be notified within twenty-four (24) hours.

Notwithstanding any other provision of this Chapter, an assistance dog serving the physically handicapped shall not be quarantined, in the absence of evidence that the dog has been exposed to rabies, unless its owner fails:



(1) To keep the dog safely confined to the premises of the master; and

(2) To keep the dog available for examination at all reasonable times.

Notwithstanding any other provisions of this Chapter, a dog used by any state, county, city, or city and county law enforcement agency, shall not be immediately quarantined after biting any person when such bite occurred while the dog was being used for any law enforcement purpose. After the particular assignment, the dog shall be quarantined for a period not to exceed ten (10) days from date of bite. The law enforcement agency shall make the dog available for examination at any reasonable time. The law enforcement agency shall notify the local health officer if the dog exhibits any abnormal behavior. (Ord. No. 4058 (part), adopted 2000.)

#### **Sec. 10.16.050 Epidemics.**

Either the Health Officer or the County Veterinarian may determine and declare that an epidemic or other unusually dangerous health situations exists among animals in the County. Upon the making of such a declaration, the Health Officer or the County Veterinarian shall prepare and promulgate, with the approval of the Board of Supervisors, such rules and regulations as are necessary for the conduct of all persons within the area where the dangerous condition exists. These rules and regulations may include, but are not limited to, quarantine, vaccination, and/or destruction of diseased, exposed or stray animals by humane methods. It shall be the duty of the Department of Animal Care and Control, the County Veterinarian, and the Health Officer to cooperate in the enforcement of such rules and regulations.

Notwithstanding the provisions of this chapter, the provisions of the Health and Safety Code and Administrative Code of the State relating to rabies shall prevail when such provisions are more stringent than those provided in this Chapter. (Ord. No. 4058 (part), adopted 2000.)

#### **Sec. 10.16.060 Penalty.**

It is unlawful and a misdemeanor for any person having control, custody or possession of the mammal, whether or not that person is the owner of the mammal, to fail to surrender such mammal to the Health Officer, Peace Officer, or Animal Care and Control Officer upon demand, or to in any way hinder, interfere with or delay the officers designated herein with the enforcement of this Chapter. (Ord. No. 4058 (part), adopted 2000.)

**CHAPTER 10.20**  
**LARGE DOMESTIC ANIMALS**

**Sec. 10.20.010 Purpose.**

In enacting this Chapter, it is the intent of the Board of Supervisors to insure reasonable control of large domestic animals by their owners and to protect life and property. This Title gives any peace officer the power to insure that negligent management practices are prevented. Except as otherwise provided by this Title, Chapter 9 of the Food and Agricultural Code commencing with 16301 et seq. shall govern this Chapter.

It is not the intent of this ordinance to resolve property line disputes between owners of adjacent properties, as there are adequate civil remedies at law.

For purposes of this Chapter, "Large Domestic Animal" is defined as those animals that live in or about the habitation of people such as to contribute to the support of a family or wealth of a community, and includes, but is not limited to, any bovine, caprine, equine, ovine, or suine animal except those animals commonly kept as household pets, such as, but not limited to, dogs, cats, ducks, geese, chickens, or domesticated exotic fowl. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.20.010A Prohibitions.**

No owner of any large domestic animal shall permit or suffer the animal to do any of the following:

- (1) Run estray;
- (2) Trespass upon public property or upon private property without the consent of the owner of the property. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.20.010B Owner to Provide Care.**

The owner of any large animal shall provide proper and adequate food, water, shelter, care and attention for such animal. No owner of such animal shall suffer or allow it to be left in a filthy, diseased or neglected condition, or fail to provide such adequate fencing as will prevent it to run estray.

Upon receiving a complaint of animal neglect, the Sheriff or the Department of Animal Care and Control shall investigate to determine if a violation exists and/or if the animals in question need to be impounded. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.20.020 Authority to Impound.**

Any Peace Officer or Animal Care and Control Officer in the County of Mendocino may summarily seize and impound any large domestic animal found in any condition prohibited by this Chapter. Such animal shall be impounded at such appropriate place as may be approved by the Sheriff's Office or the Department of Animal Care and Control.

This Section is not intended to require the Department of Animal Care and Control to impound stray large domestic animals. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.20.030 Due Process Rights.**

An owner of an animal which has been seized is entitled to a post-seizure hearing to challenge the animal's impoundment. These due process rights are contained in Chapter 10.24 of this Title. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.20.040 Natural Calamities—Relief from Fees.**

Upon the recommendation of the Sheriff or Animal Care and Control Director and the approval of the Board of Supervisors, the fees and penalties provided for by this Chapter may be waived when large domestic animals have been impounded because of civic disorganization, disruption, or other conditions of devastation within the County, due to fire, flood, earthquake, storm, other natural calamity, or vandalism. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.20.050 Absence of Liability.**

No liability shall be incurred by the County of Mendocino or its agents for the disposition of any animal made pursuant to the provisions of this Chapter. (Ord. No. 4058 (part), adopted 2000.)

**CHAPTER 10.24**  
**IMPOUNDMENT**

**Sec. 10.24.010**      **Repealed by Ord. No. 4186, adopted 2007.**

**Sec. 10.24.020**      **Persons Authorized to Impound Animals.**

(A) **Impoundment by Public Officer.** Any Animal Care and Control Officer or Peace Officer may impound any animal when the officer deems it necessary in the interest of public health and safety or to prevent needless suffering of any animal.

(B) **Citizen Impoundment.** Any person who finds any animal which has strayed or is running at large upon their property or any public place in violation of this Title may take possession of and hold the same; provided, however, that the person be obligated to notify the Department of Animal Care and Control within twenty-four (24) hours of securing possession or control of the animal and give the Department of Animal Care and Control complete information regarding the impoundment and shall surrender the animal to the Animal Care and Control Officer upon demand. The taker-up shall provide adequate, safe proper care to the animal in conformance with the provisions of Penal Code Sections 597, 597(a), 597(e) and 597(t).

If the taker-up of a stray retains the dog in his/her possession, he or she shall publish a Notice of Possession of such dog in a local newspaper or post such notice in a conspicuous place to which the public has access for a period of ten (10) days. An announcement on radio or television for the same period of time may be substituted for the publishing or posting requirement. The notice shall describe the animal found as to breed, size, color, sex and any other identifying marks or license and shall state the date and place where it was taken up, where currently confined and in whose possession. The taker-up of such stray dog may have a lien for all reasonable expenses which are incurred in taking up, keeping and caring for it and the cost of publication required by this section.

Failure to comply with the foregoing requirements constitutes a misdemeanor. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.24.030**      **Notification of Impoundment.**

The impounding officer shall, except as otherwise provided, prepare within twenty-four (24) hours after impounding any animal, legal notice to be mailed by certified mail to the owner, or keeper of such animal at their residence or regular place of business, if such owner or keeper is known. Such notice shall state that the animal has been impounded, shall give the date and place of impoundment, shall describe the animal, shall state that if the animal is not claimed within ten (10) days of the mailing of such notice, or a longer period if stated in such notice, and that such animal will be disposed of in accordance with county policy.

Upon the impounding of any bovine animal, horse, mule, or burro the Department shall notify the office of the Agricultural Commissioner and the state brand inspector, and the Commissioner's office shall take possession of any bovine for further disposition according to Fd. & Agr. Code Section 17003. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.24.040**      **Impoundment of Dogs Running at Large.**

An Animal Care and Control Officer shall not seize or impound a dog for running at large when the dog has not strayed from and is upon the private property of the dog owner or the person who has a right to control the dog, or upon private property to which the dog owner or person who has a right to control the dog has a right of possession.

An Animal Care and Control Officer shall not seize or impound a dog which has strayed from, but then returned to, the private property of his owner or the person who has a right to control the dog, but in such case, a citation may be issued. If the owner or person who has a right to control the dog is not at home, the dog may then be impounded. The Animal Care and Control Officer shall then post a notice of such impoundment on the front door of the residence

of the owner or person who has a right to control the dog. The notice shall state the following: (1) the dog has been impounded, (2) where the dog is being held, (3) the name, address, and telephone number of the agency or person to be contacted regarding the release of the dog, and (4) an indication of the ultimate disposition of the dog if no action to regain it is taken within a specified period of time by its owner or by the person who has a right to control the dog.

This Section shall not be construed as prohibiting any person from killing a dog in the situations authorized by Food and Agricultural Code Sections 31102, 31104, 31152. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.24.050 Summary Seizure and Post Seizure Hearing.**

An Animal Care and Control Officer may place in protective custody hold, seize or impound an animal for violation of any provision of this Title or State law prior to a hearing in any of the following situations where the owner is not present and where the officer reasonably believes it is necessary:

- (1) To protect public health, safety and property;
- (2) To protect an animal which is injured, sick, or starving and must be cared for; and
- (3) To protect an animal from injury which has strayed into public property or public right-of-way.

If the owner or person who has the right to control the animal wishes to challenge the impoundment, he/she shall personally deliver or mail a written request for a hearing, such that it is received by the Director of Animal Care and Control within seventy-two (72) hours of the seizure and impoundment. Whenever an animal is impounded without a prior hearing, the Department of Animal Care and Control shall notify the owner of such impoundment at the earliest possible opportunity.

The Director of Animal Care and Control, upon receipt of a Notice of Appeal, shall immediately set a time, date and place for a hearing on said matter before the Animal Care and Control Appeals and Advisory Board. Said hearing shall be held not less than five, nor more than ten days after the filing of the Notice of Appeal. Notice of such hearing shall im-

mediately be given to the owner at the address shown in the Notice of Appeal. During the pendency of any appeal from an order of impoundment or abatement, the animal impounded may be maintained in the County impound facility or other approved facilities in the case for large domestic animals.

The hearing shall be conducted as set forth in Section 10.24.070 of this Chapter.

In the case of animals being impounded pursuant to Penal Code 597.1 the Department shall follow the pre and post seizure hearing processes that are described therein. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.24.060 Hearing Prior to Animal Deprivation.**

Except as provided in Section 10.24.050 of this Chapter, a Peace Officer, agents of the Department of Public Health and the Department of Animal Care and Control may not seize or impound any animal, unless an appeal hearing is held as set forth in Section 10.24.070 of this Chapter.

If the owner or person who has a right to control an animal refuses to consent to an impoundment of his/her animal, the Animal Care and Control Officer may issue a notice commanding the person to appear before the Animal Care and Control Appeals and Advisory Board (Hearing Officers) at a set time. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.24.070 Appeal Hearing.**

At the time, date and place set for said hearing, the Animal Care and Control Appeals and Advisory Board shall hold a hearing at which the aggrieved owner may appear and testify as to any matters

relevant to the proceeding. The Animal Care and Control Officer, County Health Officer, or Sheriff shall present all evidence, oral and documentary, justifying said order of seizure and impoundment or abatement. Each party may call such witnesses as shall be necessary to present testimony on matters relevant to the hearing. Technical rules of evidence shall not apply to said proceedings, and the Board may hear and consider any evidence it deems relevant and upon which reasonable men would be likely to rely in the consideration of matters of a serious nature. The decision of the Board shall be supported by the weight of evidence.

Upon the conclusion of the hearing, the Board shall determine whether to sustain or overrule the Animal Care and Control Officer, Health Department or Sheriff Department's order of seizure and impoundment or abatement or whether the animal should be destroyed.

If the order of seizure and impoundment or abatement is not appealed or if such order is sustained after a hearing, in those cases where there is no order for destruction, the animal seized shall not be released to the owner until the owner pays all fees, charges or costs of the impounding and care for such animal, and said animal owner signs a written promise to control said animal and to prevent said animal from trespassing, or causing damage to property, or being vicious or demonstrating that it is potentially vicious or in any manner causing a public nuisance. If all fees, charges, fines, and penalties are not paid or the written promises to abate is not filed within five (5) days of the date that said order of abatement becomes final, the animal impounded shall be placed in a suitable home or humanely destroyed by the impounding agency.

If any seizure and impoundment or order for abatement is overruled by the Board, the animal impounded shall be released forthwith and the County shall bear all costs and expenses of such impoundment. Nothing in this Section shall be deemed to exempt any owner from any fines or penalties imposed by failure to have such animal duly and properly licensed or registered.

In the event any animal owner is ordered to abate a nuisance and the owner fails to take appropriate action which results in the animal continuing to be a nuisance, the animal will be impounded and placed in a suitable home or humanely destroyed by the impounding agency, the Board may order that no further kennel license or permit be issued to such kennel licensee or a vicious dog or dangerous exotic animal permittee pursuant to this Chapter for any such period of time, not to exceed one (1) year, as the Board may determine. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.24.080 Failure to Appeal  
Impoundment—Redemption.**

Any person who fails to appeal any seizure or impoundment or order of abatement by the Animal Care and Control Officer, the Department of Health or the Sheriff's Department, or their authorized agents, will forfeit all rights of ownership and control of the animal to the Department of Animal Care and Control. Final disposition of the animal shall be determined by that agency in accordance with the provisions of this Title and State law.

Subject to the due process rights described in this Chapter, any animal impounded by the Department of Animal Care and Control or placed in its custody at the request of any law enforcement agency or by a court shall at the expiration of ten (10) days following such initial impoundment or placement become the property of the County of Mendocino for disposition.

Where the impounded animal is in need of medical treatment for injury or illness not caused by the Department of Animal Care and Control, and the Department of Animal Care and Control does provide medical treatment for such injury or illness, the owner of such animal shall reimburse the Department of Animal Care and Control for all medical treatment charges incurred before such animal may be released from custody.

(A) **Redemption.** Upon proper identification or ownership or entitlement to possession of an impounded animal, such person may redeem the impounded animal after any applicable hearing and

unless an order for destruction has been entered after the hearing. Such proof of ownership or right to custody made to the Sheriff in the case of large impounded animals shall entitle such person to redeem the impounded large animal.

The same animal being redeemed from impoundment for a second or third time offense shall be redeemed by none other than its actual owner.

The owner of a nonspayed or unneutered dog or cat that is impounded once by a city or county Animal Care and Control agency or contracting agency, shall be fined thirty-five dollars (\$35) on the first occurrence, fifty dollars (\$50) on the second occurrence, and one hundred dollars (\$100) for the third or subsequent occurrences. These fines are for unaltered impounded animals only, and are not in lieu of any fines or impound or other fees imposed by any individual city or the county.

Upon the second or subsequent impoundment of a dog or cat, the Department of Animal Care and Control may not waive the impounding and penalty fees for any such unaltered animal. Prior to the release of this subsequently unaltered dog or cat, the Department of Animal Care and Control shall require that the animal be spayed or neutered and shall require the owner to pay the impounding fee established by resolution and to deposit the fees for spay/neutering in the account provided for such purposes.

No dog shall be redeemed without (1) a valid rabies vaccination certificate, (2) current valid dog license, and (3) payment of the fees or charges for impoundment, board and care, or veterinary services rendered. The foregoing fees or charges may be waived at the discretion of the Department of Animal Care and Control upon review of mitigating circumstances or factors presented by the party seeking redemption which justify such.

No large domestic animal shall be redeemed without payment of fees and charges to cover impoundment, capture, hauling and any other expenses incurred in taking up the animal.

The animal or dog impounded by an Animal Care and Control Officer or Peace Officer into his patrol vehicle prior to being impounded at the animal

shelter for reasons of violations of this Title, or for the health and safety of the animal, may be released to its owner, or the person entitled to custody upon proper identification, by the Animal Care and Control Officer at his/her discretion. However, a Notice of Warning or Citation may be issued to the owner or other person entitled to custody. It is a misdemeanor for any person to remove any animal from the custody of the impounding officer without the express permission of the officer.

(B) **Adoption/Sale.** Except as otherwise provided in this Chapter, the county shall not place for adoption any dog or cat that has not been spayed or neutered.

The County may transfer to a new owner a dog or cat that has not been spayed or neutered under the following circumstances:

(1) The new owner signs a written agreement acknowledging the dog or cat is not spayed or neutered and agrees to be responsible for ensuring the dog or cat will be spayed or neutered within thirty (30) business days after the agreement is signed. However, animals that are too young to be spayed or neutered at the time of adoption, may be granted an extension. The period of time shall be at the direction of the County Veterinarian, but in no case over eight (8) months of age will be allowed, otherwise the deposit shall be deemed unclaimed and forfeited.

(2) The new owner pays a deposit of not less than forty dollars (\$40) and not more than seventy-five dollars (\$75) the terms of which are part of the written agreement executed.

The County may extend the date by which spaying or neutering is to be completed at its discretion for good cause being shown. Any extension shall be in writing.

If a veterinarian licensed to practice veterinary medicine in this state certifies that the animal is too sick or injured or that it would otherwise be detrimental to the health of the animal to be spayed or neutered the adopter shall pay a spaying and neutering deposit.

The County may enter into cooperative agreements with non-profit organizations and veterinari-

ans in lieu of requiring spaying and neutering deposits to carry out this section.

Fees for adoption including spay and neuter deposits are set forth by resolution of the Board of Supervisors. All spay and neuter deposits shall be placed in the Spay and Neuter Trust Account that was established by the Board of Supervisors.

Spay and neuter deposits are refundable to the new owner if proof of alteration is presented to the County not more than thirty (30) business days after the date the animal was altered, otherwise the deposit is forfeited.

All spaying or neutering deposits forfeited or unclaimed under this section shall be retained by the County and expended only for the following purposes:

- (1) A program to spay or neuter dogs and cats.
- (2) A public education program to reduce and prevent overpopulation of dogs and cats, and the related costs.
- (3) A follow-up program to ensure that dogs and cats adopted or transferred are spayed or neutered in accordance with the adoption agreements.
- (4) Any additional costs incurred by the Department in the administration of the requirements of this Section.

All dogs and cats adopted or sold from nonprofit organizations shall be altered under the same terms and under the same conditions as for City or County.

As a condition of adoption, the adoptee shall agree in writing to provide proper and adequate care in accordance with the law. Any adoptee who is in violation of Penal Code Section 597(a) through (t), or who repeatedly allows an adopted dog to be at large, fails to obtain required vaccination and license, fails to spay or neuter the dog or cat, or allows such animal to become a nuisance or to be in three (3) repeated violations of this Title, or one (1) violation involving killing or critically wounding livestock, or it has been verified that such dog has bitten a human being, shall be prohibited from any further adoption of animals from any County Animal Shelter. Such animal shall then be taken up and impounded and not returned to the adoptee. The

offending dog(s) in the killing or wounding of livestock or biting persons may not be put up for further adoption and may be humanely euthanized. Such adoptee shall forthwith forfeit any right or title to the animal which will then become the property of the County. Adoptee may be subject to any fees, charges, penalties or citations or any other liabilities by the animal.

No person shall give false or misleading information to the Department of Animal Care and Control in the adoption of an impounded animal to avoid penalties, fees, or charges for impoundment and boarding care.

(C) **Sale.** Except for bovine animals, the Department of Animal Care and Control shall sell all large domestic animals not redeemed, securing for such animal the highest possible price. All sale shall be for cash. The Animal Care and Control Director shall deduct from the proceeds of any such sale all the proper fees and charges for taking-up, transporting and keeping such animal and all reasonable and proper demands made pursuant to the provisions of this Chapter. Any balance remaining after the payment of such fees, charges, and demands shall be paid into the County Treasury for the use of the prior owner of such animal. If such funds are not claimed by such owner within thirty (30) days thereafter, such funds shall be paid into the General Fund of the County.

The Animal Care and Control Department may reject any or all bids not deemed to be adequate. In the event any large domestic animal advertised for sale pursuant to this Section not be sold within ten (10) days after the date of the first notice of sale, the Director of Animal Care and Control may sell such animal to any person, or if such animal cannot be sold, the Director may order the animal destroyed in any humane manner. (Ord. No. 4058 (part), adopted 2000.)

**Sec. 10.24.090 Disposition of Impounded Dogs, Cats and Other Animals Excluding Large Domestic Animals.**

(A) **Dogs and Cats.** The required holding period for a stray dog or cat impounded pursuant to this Chapter shall be six (6) business days, not including the day of impoundment, except as follows:

(1) If the animal shelter has made the dog or cat available for owner redemption on one weekday evening until at least 7:00 p.m. or one weekend day, the holding period shall be four business days, not including the day of impoundment.

(2) If the animal shelter has fewer than three full-time employees or is not open during all regular weekday business hours, and if it has established a procedure to enable owners to reclaim their dog or cat by appointment at a mutually agreeable time when the shelter would otherwise be closed, the holding period shall be four business days, not including the day of impoundment.

Except as provided in Fd. & Agr. Code Section 17006, stray dogs and cats shall be held for owner redemption during the first three (3) days of the holding period, not including the day of impoundment, and shall be available for owner redemption or adoption for the remainder of the holding period.

Pursuant to Fd. & Agr. Code Section 17006, animals that are irremediably suffering from a serious illness or severe injury shall not be held for owner redemption or adoption. Newborn animals that need maternal care and have been impounded without their mothers may be euthanized without being held for owner redemption or adoption.

Any stray dog or cat that is impounded pursuant to this chapter shall, prior to the killing of that animal for any reason other than irremediable suffering, be released to a nonprofit, as defined in Section 501 (c) (3) of the Internal Revenue Code, animal rescue or adoption organization if requested by the organization prior to the scheduled killing of that animal. In addition to any required spay or neuter deposit, the County, at its discretion, may assess a fee, not to exceed the standard adoption fee, for animals released.

Notwithstanding Section 10.24.090 (A), if an apparently feral cat has not been reclaimed by its owner or caretaker within the first three (3) days of the required holding period, shelter personnel qualified to verify the temperament of the animal shall verify whether it is feral or tame by using a standardized protocol. If the cat is determined to be docile or a frightened or difficult tame cat, the cat shall be held for the entire required holding period specified in Section 10.24.090 (A). If the cat is determined to be truly feral, the cat may be euthanized or relinquished to a nonprofit, as defined in Section 501 (c) (3) of the Internal Revenue Code, animal adoption organization that agrees to the spaying or neutering of the cat if it has not already been spayed or neutered. In addition to any required spay or neuter deposit, the County, at its discretion, may assess a fee, not to exceed the standard adoption fee, for the animal release.

For the purposes of this Section, a “feral cat” is defined as a cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is totally unsocialized to people.

(B) **Other than Dogs, Cats, and Large Domestic Animals.** Holding periods for any rabbit, guinea pig, hamster, pot-bellied pig, bird, lizard, snake, turtle, or tortoise legally allowed as personal property impounded shall be held for the same period of time, under the same requirements of care, and with the same opportunities for redemption and adoption by new owners or nonprofit, as defined in Section 501(c)(3) of the Internal Revenue Code, animal rescue or adoption organizations as cats and dogs. Food and Agricultural Section 17006 shall also apply to these animals. In addition to any required spay or neuter deposit, the County, at its discretion, may assess a fee, not to exceed the standard adoption fee, for animals released to nonprofit animal rescue or adoption organizations pursuant to this Section.

(C) **Holding Periods for Relinquished Animals.** Except as provided in Fd. & Agr. Code Section 17006, any animal relinquished by the purported owner that is of a species impounded shall be held



for the same holding periods, with the same requirements of care, applicable to stray dogs and cats in 10.24.090 (A), except that the period for owner redemption shall be one (1) day, not including the day of impoundment, and the period for owner redemption or adoption shall be the remainder of the holding period.

The Department of Animal Care and Control may retain any dog, cat or animal under a protective custody hold beyond the holding period at no charge to the owner pending the completion of an investigation and determination of final disposition. It shall be limited to a period of ten (10) days unless a further extension of time is necessary and required at the discretion of the Department of Animal Care and Control or by a written order of the Court.

In lieu of destruction, any dog or cat, at the discretion of the Department of Animal Care and Control, may be returned to the Department of Animal Care and Control should such agency be unable to provide adoption for said animal.

Pursuant to Fd. & Agr. 17006, animals that are irremediably suffering from a serious illness or severe injury shall not be held for owner redemption or adoption. Newborn animals that need maternal care and have been impounded without their mothers may be euthanized without being held for owner redemption or adoption. (Ord. No. 4058 (part), adopted 2000.)



## **Title 10A**

### **AGRICULTURE**

<b>Chapter 10A.04</b>	<b>Aerial Application of Phenoxy Herbicides Prohibited</b>
<b>Chapter 10A.08</b>	<b>Protection Against Plant Pests</b>
<b>Chapter 10A.12</b>	<b>Agricultural Pest Control Advisors</b>
<b>Chapter 10A.13</b>	<b>Agricultural Nuisances and Consumer Disclosures</b>
<b>Chapter 10A.14</b>	<b>Prevention of Grapeleaf Infestation</b>
<b>Chapter 10A.15</b>	<b>Prohibition on the Propagation, Cultivation, Raising and Growing of Genetically Modified Organisms in Mendocino County</b>
<b>Chapter 10A.16</b>	<b>Device Registration and Inspection Fees</b>
<b>Division A.</b>	<b>Inspection and Testing of Weighing and Measuring Devices</b>
<b>Division B.</b>	<b>Penalties for Violations of Registration Provisions</b>
<b>Chapter 10A.17</b>	<b>Medical Cannabis Cultivation Ordinance</b>



**CHAPTER 10A.04****AERIAL APPLICATION OF PHENOXY  
HERBICIDES PROHIBITED****Sec. 10A.04.010 Findings.**

We find and declare that it is necessary to prohibit the aerial application of phenoxy herbicides because of the dangers of drift, contamination of food and water, and irrevocable harm to natural resources. The aerial application of phenoxy herbicides, in light of said dangers, threatens the right of the people of Mendocino County to be secure in their homes and to enjoy the peaceful, undisturbed use of private property and public lands. (Adopted by Initiative Election 6/5/79, and reorganized by Ord. No. 3332, adopted 1981.)

**Sec. 10A.04.020 Aerial Application of Phenoxy  
Herbicides Prohibited.**

Any aerial application, in any amount, of phenoxy herbicides, including, but not limited to 2, 4, 5-T, 2, 4, D; Silvex; or any matter containing the chemical Dioxin is prohibited. (Adopted by Initiative Election 6/5/79, and reorganized by Ord. No. 3332, adopted 1981.)

**Sec. 10A.04.030 Penalty.**

It shall be unlawful for any person, firm or corporation to violate any provision of the Chapter. Any violation of the provisions of this Chapter shall constitute and be a misdemeanor, and shall be punished by a fine of five hundred dollars (\$500.00) and by confinement in the county jail of Mendocino County for six (6) months. Each separate discharge of said prohibited substances shall constitute a separate offense, and upon conviction therefor, each sentence shall be served consecutively. (Adopted by Initiative Election 6/5/79, and reorganized by Ord. No. 3332, adopted 1981.)

**CHAPTER 10A.08****PROTECTION AGAINST PLANT PESTS****Sec. 10A.08.010 Construction and Applicability.**

The provisions of this Chapter and the remedies provided for herein are cumulative and additional to those provided by general law, and nothing herein provided shall be construed to restrict or limit in any way the rights provided by the general laws, and particularly by the Agricultural Code of the State of California. (Ord. No. 430, Sec. 7, adopted 1962, as amended by Ord. No. 3332, adopted 1981.)

**Sec. 10A.08.020 "Plant Pest" Public Nuisance.**

An infectious, transmissible or contagious disease or any form of animal or vegetable life which is, or is liable to be, dangerous or detrimental to commercial deciduous fruit trees growing or being raised in the County of Mendocino, shall be considered a "plant pest", and any such pest is hereby declared to be a public nuisance and subject to abatement as such. (Ord. No. 430, Sec. 1, adopted 1962, as amended by Ord. No. 3332, adopted 1981.)

**Sec. 10A.08.030 Powers and duty of the Agricultural Commissioner.**

It shall be the duty of the Agricultural Commissioner of Mendocino County hereinafter referred to as the Commissioner, to enforce the provisions of this Chapter. Whenever the Commissioner secures knowledge of the existence of any plant pest in Mendocino County, he may inspect any trees or shrubs which may be infected or infested thereby. If the Commissioner determines the same to be infected or infested by any plant pest, he may take such action to control, eradicate or destroy such plant pest as in his judgement may be required; provided that, in his judgement, the danger arising therefrom to commercial deciduous fruit trees in this County, or any part thereof, is sufficiently serious so that the expense of such control, eradication, or destruction thereof is reasonably justified. Such action by the Commissioner may include fumigation, spraying, dusting,

pruning, uprooting and/or destroying infected or infested trees, plants, or other property by chemical means or otherwise; and if in the opinion of the Commissioner it is necessary, he may cause the burning of the same, or any portion thereof, or any dead wood produced therefrom, or taking any such other measures as may be reasonably required for the proper control, eradication or destruction of such pest. (Ord. No. 430, Sec. 2, adopted 1962, as amended by Ord. No. 3332, adopted 1981.)

The Commissioner is hereby empowered to enter upon any premises upon which he may have reason to believe any such plant pest is located. (Ord. No. 430, Sec. 2, adopted 1962, as amended by Ord. No. 3332, adopted 1981.)

**Sec. 10A.08.040 Duty of Owner or Occupant.**

It shall be the duty of every person, firm or corporation who may find evidence of the existence of any plant pest on premises owned, occupied or controlled by him or on any trees, plants, dead wood, or other property located on said premises, to immediately notify the Commissioner with such fact and furnish said Commissioner with such further information in regard thereto as he may possess, and to observe and carry into effect any orders or directions which said Commissioner may give him for the control, eradication or destruction thereof. (Ord. No. 430, Sec. 3, adopted 1962, as amended by Ord. No. 3332, adopted 1981.)

**Sec. 10A.08.050 Abandoned, Neglected or Uncared for Fruit Trees or Shrubs.**

The initial call upon a property owner or person in control of property upon which there exists abandoned, neglected or uncared for fruit trees or shrubs that constitute a public nuisance under the terms of this Chapter, shall be made by

a representative of the County Department of Agriculture. (Ord. No. 430, Sec. 4, adopted 1962, as amended by Ord. No. 3332, adopted 1981.)

**Sec. 10A.08.060 Notice; Abatement.**

Whenever the Commissioner finds evidence of the existence of any plant pest in Mendocino County, and determines that action is necessary to control, eradicate or destroy the same, he thereupon shall give notice as hereinafter provided to the person or persons who may own, occupy or control the premises upon which said plant pest is situated, stating the character of the pest and setting out his direction for the treatment, removal or destruction, whichever shall be applied thereto. Such notice shall be served upon the person owning, controlling or occupying said premises, either personally, or by depositing a copy thereof in the United States Post Office, postage prepaid, addressed to said person at his last known address, or if the same be unknown and cannot be ascertained by the use of reasonable diligence, then addressed to him at: "Ukiah, California"; and by posting three (3) copies of said Notice in a conspicuous manner in three (3) places on said premises where it is likely to be seen by the occupant thereof, for the period of at least seven (7) days. (Ord. No. 430, Sec. 5, adopted 1962, as amended by Ord. No. 3332, adopted 1981.)

If the directions of said Commissioner as contained in said Notice are not commenced within the period of seven (7) days after such service or posting of such Notice, and completed within a period to be designated by the Commissioner, said Commissioner may cause all required work for the control, eradication and destruction of said plant pest to be done, and the expense of said work shall be a County charge, payable out of the general fund of said County, and from the date of payment, the amount so paid may be a lien on the land where said work is done and notice of such lien shall be recorded within thirty (30) days after the date of payment by the County of the last item of the cost of such work, and action to

foreclose said lien shall be commenced within ninety (90) days after the recording of said Notice of Lien; and the property subject to such lien may be sold at public sale in accordance with law, and enough of the proceeds thereof paid into the County Treasury to satisfy the amount of said lien together with penalties and costs; and the overplus, if any thereby, shall be paid to the person entitled to same.

Provided, however, that in case of any emergency where extreme danger to plant life of the County of Mendocino is liable to be created unless immediate measures for the control, eradication or destruction of said plant pests are taken, the Commissioner may dispense with said Notice and proceed forthwith to control, eradicate, or destroy the same. (Ord. No. 430, Sec. 5, adopted 1962, as amended by Ord. No. 3332, adopted 1981.)

**Sec. 10A.08.070 Penalty.**

It shall be unlawful for any person, firm or corporation to violate any of the provisions of this Chapter, or to fail to neglect to carry out any of the directions given to him by the Commissioner under the provisions of this Chapter within the time specified in said directions. Any violation of the provisions of this Chapter or of said directions or orders of said Commissioner shall constitute and be a misdemeanor, and shall be punishable by a fine of not more than two hundred dollars (\$200.00), or by confinement in the county jail of Mendocino County for not more than thirty (30) days, or by both such fine and imprisonment. (Ord. No. 430, Sec. 6, adopted 1962, as amended by Ord. No. 3332, adopted 1981.)

**Sec. 10A.08.080 Severability.**

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Supervisors hereby declares that it would have

passed this ordinance, and each section, subsection, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases is to be held invalid. (Ord. No. 430, adopted 1962, as amended by Ord. No. 3332, adopted 1981.)

**Sec. 10A.08.090 Urgency Measure.**

Whereas, the recent infestation of pear sylla

within certain portions of the County of Mendocino has become a menace to the orchardists in the County and immediate steps are necessary to control such insect, and it is necessary for the immediate preservation of the public peace, health and safety that this Chapter shall take effect immediately upon its passage. (Ord. No. 430, adopted 1962, as amended by Ord. No. 3332, adopted 1981.)



**CHAPTER 10A.12****AGRICULTURAL PEST CONTROL  
ADVISORS****Sec. 10A.12.010 Definition and Declaration.**

An agricultural pest control advisor means any person who, as a requirement of or incidental to his employment or occupation, offers a recommendation to a producer of an agricultural product or to any public or private agency concerning any agricultural use or who holds himself forth as an authority or general advisor on any agricultural use to a producer of an agricultural product. (Ord. No. 1028, adopted 1972, as amended by Ord. No. 3332, adopted 1981.)

1. Recommendation means the giving of any instruction or advice on any agricultural use as to any particular application on any particular piece of property. (Ord. No. 1028, adopted 1972, as amended by Ord. 3332, adopted 1981.)

2. Agricultural use means the use of any pesticide or method or device for the control of plants or animal pests, or any other pests, or the use of any pesticide for the regulation of plant growth or defoliation of plants. It excludes the sale or use of pesticides, improperly labeled packages or container which are intended for home use, use in structural pest control, industrial or institutional use, the control of an animal pest under the written prescription of a veterinarian, local district or other public agencies. (Ord. No. 1028, adopted 1972, as amended by Ord. No. 3332, adopted 1981.)

**Sec. 10A.12.020 Registration Fee  
Requirement.**

Annual registration fees for licensed pest control advisors shall be set by resolution. (Ord. No. 1028, adopted 1972, as amended by Ord. No. 3332, adopted 1981; Ord. No. 3781, adopted 1991.)

**CHAPTER 10A.13****AGRICULTURAL NUISANCES AND  
CONSUMER DISCLOSURES****Sec. 10A.13.010 Definitions.**

Unless the context otherwise requires, the following definition in this section govern the construction of this Ordinance in order for more effective interpretation and enforcement.

**AGRICULTURAL LAND.** Shall mean those land areas of the County specifically classified and zoned as Agricultural, Rangeland, Forestland, or Timberland Preserve within which agricultural, timber growing and related activities are to be encouraged and protected.

**AGRICULTURAL OPERATION.** Shall mean and include, but not be limited to, the cultivation and tillage of the soil, animal husbandry, the production, cultivation, growing, harvesting and processing of any agricultural commodity including horticulture, timber or apiculture, the raising of livestock, fish or poultry, and any acceptable cultural practices performed as incident to, or in conjunction with, such farming operations, including preparation for market, delivery to storage or market, or to carriers for transportation to market.

**FARM OPERATION.** Shall mean those activities normally conducted in the pursuit of agricultural operations which includes the farming of trees for commercial purposes. (Ord. No. 3414, adopted 1983.)

**Sec. 10A.13.020 Policy.**

It is the declared policy of this County to conserve, protect and encourage intensive agricultural production. Where nonagricultural land uses extend into agricultural areas or exist side by side, agricultural operations have often become the subject of nuisance complaints. As a result, agricultural operations are sometimes forced to cease or curtail operation, and many others are discouraged from making investments in farm improvements. It is the purpose and intent of this section to reduce the loss to the

County of its agricultural resources by limiting the circumstances under which agricultural operations may be considered a nuisance. This section is not to be construed as in any way modifying or abridging State law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 of the Water Code, relative to nuisances, but rather is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.

No existing or future agricultural operation or any of its appurtenances, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, shall become or be a nuisance, private or public, for adjacent land uses in or about the locality thereof after the same has been in operation for more than three (3) years, when such action was not a nuisance at the time it began; provided that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation or its appurtenances. (Ord. No. 3414, adopted 1983.)

**Sec. 10A.13.030 Findings.**

The Board of Supervisors of Mendocino County finds that it is in the public's interest to preserve and protect agricultural land and operations within the County of Mendocino and to specifically protect these lands for exclusive agricultural use. The Board of Supervisors of Mendocino County also finds that residential development adjacent to agricultural land and operations often leads to restrictions on farm operation to the detriment of the adjacent agricultural uses and economic viability of the County's agricultural industry as a whole. The purposes of this Chapter, therefore, are to promote the general health, safety and welfare of the County, to preserve and protect for exclusive agricultural use those lands zoned for agricultural use, to support and encourage continued

agricultural operation in the County, and to forewarn prospective purchasers and residents of property adjacent to or near to agricultural operation of the inherent potential problems associated with such purchase of residence including, but not limited to, the sounds, odors, dust, and chemicals that may accompany agricultural operations. (Ord. No. 3414, adopted 1983.)

**Sec. 10A.13.040 Disclosure.**

(A) CONSUMER DISCLOSURE BY SELLER. A person who is acting as an agent for the seller of real property which as long as it is zoned "Agricultural Land", or is located within 300 feet of land zoned "Agricultural Land", or the seller of real property if he or she is acting without an agent for as long as it is zoned "Agricultural Land", or is located within 300 feet of land zoned "Agricultural Land" shall disclose to the prospective purchaser that:

The property described herein is zoned as "Agricultural Land", or is located within 300 feet of such land and residents of the property may be subject to inconvenience or discomfort arising from use of agricultural chemicals, and from the pursuit of agricultural operations including, but not limited to, cultivation, plowing, spraying, pruning, harvesting, crop protection, which occasionally generate dust, smoke, noise and odor, and protecting animal husbandry from depredation. Mendocino County has established zoning for agricultural land which sets as a priority the agricultural use of the lands included therein, and residents of such property, or within zoned areas, should be prepared to accept such inconvenience or discomfort as normal and necessary to farm operation.

(Ord. No. 3414, adopted 1983, as amended by Ord. No. 3463, adopted 1983.)

(B) DISCLOSURE IN DOCUMENTS. The disclosure statement set forth in Section 10A.13.040(A) shall be included in a document

that a purchaser, lessee or transferee signs evidencing the sale, purchase, transfer, or lease of real property zoned "Agricultural Land", or is located within 300 feet of such land. (Ord. No. 3414, adopted 1983, as amended by Ord. No. 3463, adopted 1983.)

(C) DISCLOSURE IN BUILDING PERMITS. Where a building designed for residential occupancy is to be located on property which, as long as it is zoned "Agricultural Land", or on property which, is located within 300 feet of land zoned "Agricultural Land", the owners of the property shall, prior to issuance of a building permit, be required to sign a statement of acknowledgement on forms approved by Planning and Building Services containing the following statement:

The property described herein on which the proposed structure is to be built is zoned as "Agricultural Land", or is located within 300 feet of such land and residents of this property may be subject to inconvenience or discomfort arising from the use of agricultural chemical, and from the pursuit of agricultural operations including, but not limited to, cultivation, plowing, spraying, pruning, harvesting, which occasionally generate dust, smoke, noise and odor, and protecting animal husbandry from depredation. Mendocino County has established zoning for agricultural land which sets as a priority the agricultural use of the land included therein, and residents of such property, or within zoned areas, should be prepared to accept such inconvenience or discomfort as normal and necessary to farm operations.

In lieu of signing the statement required above, the owner may submit evidence that the statement set forth in Section 10A.13.040(A) has been made part of a document evidencing the sale, purchase, transfer, or lease of the property on which the building is to be constructed. (Ord.

No. 3414, adopted 1983, as amended by Ord. No. 3463, adopted 1983.)

**Sec. 10A.13.050 Installation of Signs.**

The County may install or permit the installation of signs at the entry or within established farming areas zoned as "Agricultural Land" to notify and explain to purchasers that some of the land in this area is being used for agricultural purposes and the producer's interests are protected by law. The prospective purchaser of such land or a residence is advised to check with local County agencies as to any regulation or requirements which may affect agricultural property

and of inherent potential problems associated with a purchase of such property or a residence in areas zoned as an "Agricultural Land" and of the likely effect of such agricultural operations. (Ord. No. 3414, adopted 1983.)

**Sec. 10A.13.060 Precedence Clause.**

It is the finding of the Board of Supervisors that this Ordinance is to take precedence over all ordinances or parts of ordinance or resolutions or parts of resolutions in conflict herewith and same are hereby repealed to the extent of such conflict and no further. (Ord. No. 3414, adopted 1983.)

## CHAPTER 10A.14

### PREVENTION OF GRAPELEAF INFESTATION

#### Sec. 10A.14.010 Name.

This Chapter shall be known as "Prevention of Grapeleaf Infestation." (Ord. No. 3822 (part), adopted 1992.)

#### Sec. 10A.14.020 Purpose.

Greengrowing grapevines within the County of Mendocino face a serious threat of damaging infestation from the pest described below. The intent of the provisions below is to prevent such infestation. (Ord. No. 3822 (part), adopted 1992.)

#### Sec. 10A.14.030 Definitions.

(A) "Area" means a specific property of a person/firm or a specific nursery stock growing ground or holding area and includes all the land within a one (1) mile radius.

(B) "GLS infested area" means that GLS described below, has been detected in the area and has not been eradicated.

(C) "Greengrowing grapevines" means grapevine plants with leaves. Dormant grapevines without leaves are not considered a pest risk.

(D) "Western grapeleaf skeletonizer," also described herein as "GLS", means the insect *Harrisina brillians*, a serious grape pest in some grape growing regions of California. (Ord. No. 3822 (part), adopted 1992.)

#### Sec. 10A.14.040 Intrastate Shipments.

(A) All greengrowing grapevines are prohibited entry into Mendocino County unless accompanied by an origin certificate or a treatment certificate as stated herein.

(B) Origin certificates may be issued when the regulatory official in the shipping county has surveyed for GLS and is confident that the pest does not occur in the growing area. The certificate shall include the statement "no GLS is known to exist in the area where the vines were grown or held."

(C) Greengrowing grapevines originating from unsurveyed or GLS infested areas shall be accompanied by a certificate affirming treatment by one of the following methods:

(1) Cryolite treatment treated with six (6) to eight (8) pounds cryolite per acre. Thorough coverage is essential;

(2) Other insecticidal treatments that meet with the approval of the destination County Agricultural Commissioner.

(D) All shipments of greengrowing grapevines destined to Mendocino County shall be held at destination for inspection by the County Agricultural Commissioner.

(E) The County Agricultural Commissioner may, at his discretion, require a grower receiving a shipment of greengrowing grapevines to treat such vines in a manner to prevent the introduction or spread of GLS. (Ord. No. 3822 (part), adopted 1992.)

#### Sec. 10A.14.050 Certificates.

A "Certificate of Quarantine Compliance," CDFA Form 66-079 issued by the California Food and Agriculture Department, shall be used to certify greengrowing grapevines. (Ord. No. 3822 (part), adopted 1992.)

#### Sec. 10A.14.060 Fees.

Fees to be charged by the County Agricultural Commissioner to administer this Chapter shall be as set by resolution of the Board of Supervisors. (Ord. No. 3822 (part), adopted 1992.)

#### Sec. 10A.14.070 Enforcement.

Any person, firm, partnership, association, or corporation in violation or causing the violation of any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the County jail for a period of not more than six (6) months, or by both such fine and imprisonment. (Ord. No. 3822 (part), adopted 1992.)

**CHAPTER 10A.15**

**PROHIBITION ON THE PROPAGATION,  
CULTIVATION, RAISING AND GROWING  
OF GENETICALLY MODIFIED  
ORGANISMS IN MENDOCINO COUNTY**

**Sec. 10A.15.010 Finding.**

The people of Mendocino County wish to protect the County's agriculture, environment, economy, and private property from genetic pollution by genetically modified organisms. (Measure H-2004, passed March 2, 2004.)

**Sec. 10A.15.020 Prohibition.**

It shall be unlawful for any person, firm, or corporation to propagate, cultivate, raise, or grow genetically modified organisms in Mendocino County. (Measure H-2004, passed March 2, 2004.)

**Sec. 10A.15.030 Definitions.**

(A) "Agricultural Commissioner" means the Agricultural Commissioner of Mendocino County.

(B) "DNA" or "deoxyribonucleic acid" means a complex protein that is present in every cell of an organism and is the "blueprint" for the organism's development.

(C) "Genetically modified organisms" means specific organisms whose native intrinsic DNA has been intentionally altered or amended with non-species specific DNA. For purposes of this Chapter, genetic modification does not include organisms created by traditional breeding or hybridization, or to microorganisms created by moving genes or gene segments between unrelated bacteria.

(D) "Organism" means any living thing. (Measure H-2004, passed March 2, 2004.)

**Sec. 10A.15.040 Penalties.**

(A) The Agricultural Commissioner shall notify any person, firm, or corporation that may be in violation of Section 10A.15.020 of this Chapter, that any organisms in violation of this Chapter are subject to confiscation and destruction.

(B) Any person, firm, or corporation that receives notification under subsection (A) shall have five (5) days to respond to such notification with evidence that such organisms are not in violation of this Chapter.

(C) Upon receipt of any evidence under subsection (B), the Agricultural Commissioner shall consider such evidence and any other evidence that is presented or which is relevant to a determination of such violation. The Agricultural Commissioner shall make such determination as soon as possible, but at least before any genetic pollution may occur.

(D) Upon making a determination that a violation of this Chapter exists, the Agricultural Commissioner shall cause to be confiscated and destroyed any such organisms that are in violation of this Chapter before any genetic pollution may occur.

(E) If the Agricultural Commissioner determines there has been a violation of this Chapter, in addition to confiscation and destruction of any organisms that are found to be in violation, the Agricultural Commissioner shall impose a monetary penalty on the person, firm, or corporation responsible for the violation, taking into account the amount of damage, any potential damage, and the willfulness of the person, firm, or corporation. (Measure H-2004, passed March 2, 2004.)

**Chapter 10A.16****DEVICE REGISTRATION AND  
INSPECTION FEES.****DIVISION A. INSPECTION AND TESTING  
OF WEIGHING AND MEASURING  
DEVICES****Sec. 10A.16.010 Purpose and Authority.**

The purpose of this Chapter is to establish a system for registering commercial weighing and measuring devices and to recover the costs of inspecting and testing such devices by the County Sealer pursuant to California Business and Professions Code Division 5, Section 12210 and to recover the cost of carrying out Section 12211.

(Ord. No. 4228, 9-1-2009)

**Sec. 10A.16.020 Definitions.**

(a) "Weighing and Measuring Devices" means all weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurements, and tools, appliances and accessories connected with any or all such instruments or measures, sold or used by any proprietor, agent, lessee or employee for commercial purposes.

(b) "Business Location" means, (1) Each vehicle containing one or more commercial devices. (2) Each business location that uses different categories or types of commercial devices that require the use of specialized testing equipment and that necessitates not more than one inspection trip by a weights and measures official.

(c) "Certified Producer" shall have the meaning assigned to it by Title 3 CCR Section 1392.2(e).

(d) "Certified Farmers Market" shall have the meaning assigned to it by Health and Safety Code Section 113740.

(e) "County Sealer" means the Mendocino County Agricultural Commissioner-Sealer and his or her duly authorized agents.

(f) "Commercial Purpose" includes any sale of a commodity or thing by a person to a con-

sumer. "Commercial Purpose" in this division does not include the sale of any item by a government entity.

(Ord. No. 4228, 9-1-2009)

**Sec. 10A.16.030 Device Registration.**

No person shall use any commercial weighing or measuring device without first registering the device with the County Sealer. The registration shall be in addition to any other certificate, license, or permit which may be required by the County or any other public entity.

(Ord. No. 4228, 9-1-2009)

**Sec. 10A.16.040 Fees.**

(a) The annual fee for registering weighing and measuring devices to be used for a fixed location throughout the term of the registration shall be set by the Board from time to time by ordinance.

(b) The annual fee for registering weighing and measuring devices set by the Board pursuant to Section 10A.16.040(a) shall be consistent with the provisions of Section 12240, Division 5, California Business and Professions Code, and its successor provisions.

(c) Should Section 12240 not be effective after January 1, 2011, the Sealer shall submit and the Board of Supervisors shall adopt by ordinance a schedule of registration fees for weighing and measures devices consistent with the provisions of applicable law and sufficient to cover the costs of carrying out Division 5, California Business and Professions Code.

(d) Annual Fee: An annual registration fee shall be charged for the calendar year (January 1 through December 31), or any part thereof, for all commercial weighing or measuring devices. For purposes of this Section, the annual registration fee for a business that uses a commercial weighing or measuring device or devices shall consist of a business location fee, and a device fee, as specified below, provided however that in no event shall the annual registration fee exceed one thousand dollars (\$1,000.00) for each business location. Pursu-

ant to the California Business and Professions Code, Section 12240, the annual registration fees are established as follows:

(e) Exemptions: 1) Business location fees will be waived for a County certified producer who uses weighing and measuring devices solely in conjunction with sales at a County certified farmers market. The annual device fees for such devices shall be fifty percent (50%) of the amount shown below. 2) All fees will be waived for devices used by non-profit youth clubs.

<b>DEVICE REGISTRATION FEES</b>	
Business Location Fee	\$90.00
<b>Device Fee</b>	
<b>METERS</b>	
Electric Sub-meter	\$2.00
Vapor Sub-meter	\$2.00
Water Sub-meter	\$2.00
Fabric/Cord/Wire Meter	\$20.00
Miscellaneous Meters	\$20.00
Retail Motor Fuel Meter	\$20.00
Retail Water Meter	\$20.00
Taxi Meter	\$20.00
Vehicle Meter	\$25.00
Wholesale Meter	\$25.00
Liquefied Petroleum Gas Meter	\$150.00
<b>SCALES</b>	
Computing Scale	\$20.00
Counter Scale	\$20.00
Hanging Scale	\$20.00
Platform Scale (< 2,000 lbs.)	\$20.00
Platform Scale (> 2,000 lbs.)	\$115.00
Animal Scale (< 2,000 lbs.)	\$20.00
Livestock Scale (> 2,000 lbs.)	\$100.00
Crane Scale (> 2,000 lbs)	\$75.00

<b>DEVICE REGISTRATION FEES</b>	
Vehicle Scale	\$170.00

(f) Billing. The County Sealer shall on or before January 1 of each year send a billing statement to each owner of a commercial weighing and measuring device requesting payment of the applicable fee set forth in Section 10A.16.040 above.

(g) Transfer. A device registration is transferable from one person to another, and is valid only for the specific devices and, if the devices are to be used at a fixed location for the specific location for which it is issued. Replacement of specific devices shall be allowed without a new registration fee being required.

(h) Delinquency. Any person failing to renew a device registration on or before February 15 of each year shall be required to pay an additional sum equal to fifty percent (50%) of the registration fee as a penalty for each year of delinquency. (Ord. No. 4228, 9-1-2009)

**DIVISION B. PENALTIES FOR VIOLATIONS OF REGISTRATION PROVISIONS**

**Sec. 10A.16.050 Penalties for Violations.**

(a) It shall be unlawful for any person, or any registrant, employee, or agent thereof to violate the provisions of this Chapter, and specifically it shall be unlawful to use unregistered weighing and measuring devices.

(b) Unless otherwise provided, any person failing to comply with the registration provisions of this Chapter shall be guilty of an infraction or misdemeanor as hereinafter specified:

(1) A first offense shall be charged as an infraction. If convicted, the offense shall be punishable by a fine not exceeding one hundred dollars (\$100.00). Notwithstanding the foregoing, if the violation appears to be unknowing and the offender corrects the violation promptly upon notification, the Sealer may, in lieu of recommending criminal prosecution, accept payment of the orig-



inal fee and late fee charge. A subsequent violation will be treated as a second offense, punishable as set forth in subsection (b)(2) of this Section.

(2) Any subsequent offense shall be charged as a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) and not less than five hundred dollars (\$500.00), or any other penalty imposed by a court, or both.

(c) Payment of any fine or other penalty imposed by a court shall not relieve a person from the responsibility of registering a weighing or measuring device and paying the applicable registration fee, as required by this Chapter.

(d) In addition to all other remedies provided by this Chapter or state law, the department may seek injunctive relief to restrain continuing violations of the provisions of this Chapter. Nothing in this Chapter shall preclude the Sealer from seeking civil penalties pursuant to Business and Professions Code Section 12015.3 or pursuing any other remedy available to the Sealer under Division 5 of the Business and Professions Code.

(Ord. No. 4228, 9-1-2009)

**Sec. 10A.16.060 Severability.**

It is the intent of the Board of Supervisors by adopting the ordinance codified in this Chapter to exercise its statutory authority to impose a fee as permitted by law. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application and to this end the provisions of this Chapter are severable.

(Ord. No. 4228, 9-1-2009)

**CHAPTER 10A.17**

**MEDICAL CANNABIS CULTIVATION  
ORDINANCE**

**Sec. 10A.17.010 Title, Purpose and Intent.**

This Chapter is known and may be cited as the Medical Cannabis Cultivation Ordinance ("MCCO"). Chapter 20.242 of the Mendocino County Code, titled Medical Cannabis Cultivation Site, is complementary to this Chapter and together the chapters may be cited as the Medical Cannabis Cultivation Regulation ("MCCR").

It is the purpose and intent of this Chapter, together with complementary regulations found in Chapter 20.242 of the Mendocino County Zoning Code, to regulate the cultivation of cannabis intended exclusively for medical use (which may also be referred to herein as medical cannabis) within the unincorporated areas of Mendocino County in a manner that is consistent with State law and which promotes the health, safety, and general welfare of the residents and businesses within those areas by balancing the needs of medical patients and their caregivers for enhanced access to medical cannabis, the needs of neighbors and communities to be protected from public safety and nuisance impacts, and the need to limit harmful environmental impacts that are sometimes associated with cannabis cultivation.

Adoption of this Chapter will protect the public health, safety and welfare of the residents of the County of Mendocino by adopting a local permitting structure that will operate in conformance with State licensing requirements for the cultivation of medical cannabis, once state licenses become available.

All cultivation of cannabis for medical use within the County of Mendocino shall comply with the provisions of the MCCR, as well as all applicable state and local laws, regardless of whether the cultivation site existed or occurred prior to the adoption of the MCCR.

Nothing in this Chapter is intended, nor shall it be construed, to:

1) Allow persons to engage in conduct that endangers others or causes a public nuisance,

2) Allow the use or diversion of cannabis for nonmedical purposes, or

3) Allow any activity relating to the cultivation, distribution or consumption of cannabis that is otherwise illegal under California State law.

Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of cannabis for medical use from compliance with all other applicable Mendocino County zoning and land use regulations, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

Nothing in this Chapter is intended, nor shall it be construed, to confer upon qualified patients and their primary caregivers the right to create or maintain a public nuisance in the course of cultivating cannabis plants for medical purposes.

Nothing in this Chapter is intended, nor shall it be construed, to exempt the cultivation of cannabis for medical use, as defined herein, from any and all applicable local and state construction, grading, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.

Nothing in this Chapter is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting the cultivation of cannabis for medical use.

All persons operating facilities and conducting activities associated with the cultivation of cannabis for medical use, as defined in this Chapter, are subject to possible federal prosecution, regardless of the protections provided by state or local law.

(Ord. No. 4381, § 1, 4-4-2017)

**Sec. 10A.17.020 Definitions.**

As used herein the following definitions shall apply:

"Agricultural Commissioner" or "Agricultural Commissioner's Office" or the "Department of Agriculture" means the Mendocino County Department of Agriculture or the authorized representatives thereof.

"Attorney General's Guidelines" means the document titled "Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use issued by the California State Attorney General in August 2008.

"Cannabis" means all parts of the plant Cannabis sativa, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

"Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

"Clone" means a portion of a stem that is cut from a parent plant and induced to form roots by chemical, mechanical, or environmental manipulation.

"Collective" means a medical marijuana collective, as defined below.

"Cultivation cycle" means each individual cycle where cannabis plants are grown to maturity from seeds, clones or nursery starts.

"Cultivation of cannabis for medical use" means the planting, growing, harvesting, drying or processing at a cultivation site of cannabis plants or any part thereof.

"Cultivation site" means one or more locations or facilities on one legal parcel subject to a single approved Permit where medical cannabis is planted, grown, harvested, dried, cured, graded, trimmed, processed or packaged for transport, or that does all or any combination of those activities. One or more areas of cannabis cultivation may exist on the legal parcel used for that purpose.

"Dwelling unit" means a legal residential structure providing complete, independent living facil-

ities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and having only one (1) kitchen.

"Greenhouse" means a completely enclosed structure whose structural members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass, that is fixed in place, and which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.

"Hoop House" means a structure with structural members are made of flexible and somewhat rigid construction materials, typically PVC pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently.

"Identification card" shall have the same definition as California Health and Safety Code section 11362.5 et seq., and as may be amended.

"Indoors" means within a fully enclosed and secure structure that complies with the California Building Code, as adopted by the County of Mendocino, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one (1) or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" x 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

"Legal parcel" or "Parcel" means a lot of real property which was created pursuant to the Subdivision Map Act prior to January 1, 2016, or for which a certificate of compliance was recognized and recorded prior to January 1, 2016; provided, however, for real property within Industrial zoning districts, subdivisions or certificates of compliance may be recognized and recorded after January 1, 2016

"Licensee" means a person issued a state license under the MCRSA to engage in commercial cannabis activity.

"Medical marijuana collective" means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate by written agreement, or form a cooperative in accordance with Section 12300 of the Corporations Code within the unincorporated area of the County in order to collectively or cooperatively cultivate, store, and/or dispense cannabis for medical purposes, as provided in Health and Safety Code Section 11362.775. The term collective shall include "cooperative" unless the context clearly indicates otherwise.

"Mixed light" means the use of both natural and artificial or supplemental lighting sources during the growing cycle to cultivate cannabis for medical use. Included in this definition is the process of solely manipulating natural light to cultivate cannabis for medical use.

"Nursery producer" means a Permittee that produces vegetative immature medical cannabis plants, through cloning, seed germination, or tissue culture. A nursery producer may also apply to be a "seed producer" as defined herein.

"Outdoors" means any cultivation site that uses no artificial or supplemental lighting to cultivate cannabis for medical use. Use of supplemental lighting to maintain vegetative starts or immature plants prior to transplanting outdoors shall be considered consistent with this definition.

"Park" means an area of land used for community recreation owned or operated by a public entity or a private area of land recognized as a neighborhood park utilized by youth. State or Federal designated parks and forestlands as recognized within the Mendocino County General Plan are not included within this definition.

"Permit" means a permit to cultivate medical cannabis in Mendocino County pursuant to this Chapter.

"Permittee" means a Person issued a permit to cultivate medical cannabis in Mendocino County pursuant this Chapter.

"Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

"Person with an identification card" means an individual who is a qualified patient who has applied for and obtained a valid identification card pursuant to Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code (Section 11362.7 et seq.).

"Plant canopy" or "square footage" or "total square footage of plant canopy" or "cultivation area" means the cumulative total of square footage occupied by growing cannabis plants as calculated by the Agricultural Commissioner's Office but does not include aisles or other open areas outside the canopy area of growing cannabis plants.

"Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, as defined in Health and Safety Code section 11362.7(d).

"Processing" means to harvest, dry, cure, grade, trim, or package for transport medical cannabis.

"Publically traveled private road" means a private roadway easement or access easement which serves, or has the potential to serve, more than four (4) lots or parcels. Such easement shall be considered a street as defined in Mendocino County Code section 20.008.052 (26).

"Qualified patient" or "Patient" means a person who is entitled to the protections of section 11362.5 of the Health and Safety Code, but who does not have an identification card issued pursuant to Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code (Section 11362.7 et seq.).

"Residential treatment facility" means a State licensed residential facility that provides treatment for drug and/or alcohol dependency.

"School" means an institution of learning for minors, whether public or private, offering a regu-

lar course of instruction required by the California Education Code, or any licensed child day care or preschool facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

"Seed producer" means a permitted nursery producer that has applied for and been approved to grow medical cannabis plants for the expressed purpose of producing specific breeds or varieties of cannabis seeds or to develop unique strains or varieties.

"Sheriff" or "Sheriff's Office" means the Sheriff's Office of the County of Mendocino or the authorized representatives thereof.

"Track and Trace" means a monitoring system providing traceability throughout the production and distribution lifecycle of permitted cannabis utilizing a unique identifier pursuant to section 11362.777 of the Health and Safety Code to assist government with enforcing regulations and preventing the illegal diversion of medical cannabis.

"Unique identifier" or "Unique ID" means individual, non-repeating identification issued to a permittee and attached to the base of each medical cannabis plant permitted at a cultivation site during the cultivation period or otherwise utilized in connection with an approved Track and Trace system.

"Wildlife exclusionary fence" means fencing that is designed to prevent the access of wild animals to the cultivation area by incorporating exclusionary measures designed to prevent the surface digging of wild animals under the upright portion of the fencing, the scaling of the fencing itself, and intrusion over the fencing. A number of methods are available to develop such fencing, including but not limited to: use of "no climb" wire fencing, addition of electrified "hot" wire(s) to the exterior of a solid fence, height extensions

to a standard fence (where permissible) using hot wire or barbed wire strung between the extensions, etc.

"Youth-oriented facility" means an elementary school, middle school, high school, public park, or any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. Youth-oriented facility shall include "day care center," as defined in Section 1596.76 of the California Health and Safety Code, as that section may be modified or superseded, and shall include "youth center" as defined in Section 11353.1 of the Health and Safety Code, as that section may be modified or superseded. (Ord. No. 4381, § 1, 4-4-2017; Ord. No. 4392, § 1, 8-29-2017)

**Sec. 10A.17.030 Cultivation Permit Required; Exemptions.**

(A) Except as provided for by paragraph (B) of this section, cultivation of cannabis for medical use shall be allowed only following the issuance of a Permit pursuant to the provisions of this Chapter, and the review of a permit pursuant to the provisions of Chapter 20.242 of the Mendocino County Zoning Code. Chapter 20.242 authorizes the cultivation of cannabis for medical use only in specifically enumerated zoning districts, as determined by permit type, subject either to a zoning clearance, administrative permit or minor use permit.

(B) Qualified patients, persons with an identification card or primary caregivers cultivating medical cannabis are exempt from the permit requirements of paragraph (A) of this section, subject to the following requirements:

(1) Registration with the Agricultural Commissioner on an annual basis and maintaining such registration.

(2) Compliance with the provisions of Section 10A.17.040.

(3) Any and all cannabis cultivated by a qualified patient or person with an identification card shall be for the sole and exclusive use by the patient only; such cannabis may not be provided, donated, sold or distributed to any other person. A maximum of one hundred (100) square feet of medical cannabis may be cultivated on a legal parcel by a qualified patient or patients.

(4) Any and all cannabis cultivated by a primary caregiver shall be for the sole and exclusive use of up to a maximum of two (2) patients which have provided written designation to the primary caregiver to provide those services; the primary caregiver may not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Health and Safety Code section 11362.765. A maximum of one hundred (100) square feet of cultivation area of medical cannabis may be cultivated by a primary caregiver for each patient they are cultivating for. A maximum total of two hundred (200) square feet may be cultivated on a legal parcel by a primary caregiver or caregivers.

(Ord. No. 4381, § 1, 4-4-2017; Ord. No. 4392, § 2, 8-29-2017)

**Sec. 10A.17.040 General Limitations on Cultivation of Medical Cannabis.**

The following limitations shall apply to all cultivation of cannabis for medical use in Mendocino County, whether pursuant to a Permit issued under this Chapter or the exemption provided for in Section 10A.17.030. Cultivation of cannabis for medical use shall also be subject to all applicable restrictions of Mendocino County Code Chapter 20.242.

(A) The cultivation of medical cannabis in Mendocino County, in any amount or quantity by any entity, shall not be allowed in the following areas:

(1) Within one thousand (1,000) feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility as defined herein that is in existence at the time a Permit is initially applied for.

(2) Outdoors or using mixed light within one hundred (100) feet of any occupied legal residential structure located on a separate legal parcel; provided, however, that on January 1, 2020, this setback shall be increased to two hundred (200) feet for all Permit applications but shall not apply to renewals of Permits originally issued before that date.

(3) Outdoors or using mixed light in a mobile home park as defined in Health and Safety Code Section 18214.1 within one hundred (100) feet of an occupied mobile home that is under separate ownership.

(4) In any location where the cannabis plants are visible from the public right of way or publicly traveled private roads.

(5) Outdoors or using mixed light within fifty (50) feet from any adjoining legal parcel under separate ownership or access easement (whichever is most restrictive); provided, however, that on January 1, 2020, this setback shall be increased to one hundred (100) feet for all Permit applications but shall not apply to renewals of Permits originally issued before that date.

(6) Any indoor cultivation sites that comply with paragraph (A)(1) shall also be subject to the following:

(a) Indoor cultivation sites shall comply with the building property line setback established by the zoning district in which the cultivation site is located.

(b) The cultivation of cannabis for medical use within an accessory structure shall be allowed subject to the development requirements of the zoning district in which it is located and to requirements of Chapter 20.164 — Accessory Use Regulations except, notwithstanding Section 20.164.010: (a) the cultivation of cannabis for medical use in an accessory structure is not permitted prior to the construction of the legal dwelling unit on the parcel, if a legal dwelling unit is required by this Chapter, and (b) cultivation of cannabis for medical use shall only be allowed on the same parcel as the dwelling unit, if required.

(B) The distance between the listed uses in the above paragraph (A)(1) and cannabis that is being cultivated shall be measured in a straight line from the nearest point of the fence required in section 10A.17.040(H), or if the cannabis is cultivated indoors, from the nearest exterior wall of the building in which the cannabis is cultivated to the nearest point of the exterior wall of the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs or to the nearest point of any fenced, maintained or improved area where the users of the facility are typically present during normal hours of operation, whichever is closest. The distance in paragraphs (A)(2) and (A)(3) to any residential structure shall be measured from the fence required in section 10A.17.040(H) to the nearest exterior wall of the residential structure. The distance in paragraph (A)(5) shall be measured from the fence required in section 10A.17.040(H) to the boundary line of a legal parcel or access easement.

Applicants may seek a reduction in the setback described in paragraph (A)(5) upon issuance of an administrative permit pursuant to Chapter 20.242.

(C) The outdoor, indoor or mixed light cultivation of medical cannabis shall not propagate objectionable odors which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public.

(D) The indoor or mixed-light cultivation of medical cannabis shall rely on the electrical grid or some form of alternative energy source. The indoor or mixed-light cultivation of medical cannabis shall not rely on a generator as a primary source of power.

(E) All lights used for the indoor or mixed light cultivation of medical cannabis shall be fully contained within structures or otherwise shielded to fully contain any light or glare involved in the cultivation process. Security lighting shall be motion activated and all outdoor lighting shall be shielded and downcast or otherwise positioned in

a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed.

(F) All activities associated with the cultivation of medical cannabis shall not exceed the noise level standards as set forth in the County General Plan Policies DE100, 101 and 103.

(G) All cultivation of medical cannabis shall not utilize water that has been or is illegally diverted from any spring, wetland, stream, creek, or river. The activities associated with the cultivation of medical cannabis shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water.

(H) All medical cannabis grown in Mendocino County (excluding indoor growing) must be within a secure, wildlife exclusionary fence of at least six (6) feet in height that fully encloses the immediate garden area. The fence must include a lockable gate that is locked at all times when a qualified patient, caregiver or permittee (or their agent) is not in the immediate area. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.

(I) All buildings where medical cannabis is cultivated or stored shall be properly secured to prevent unauthorized entry.

(J) Prohibition on Tree Removal. Removal of any commercial tree species as defined by Title 14 California Code of Regulations section 895.1, Commercial Species for the Coast Forest District and Northern Forest District, and the removal of any true oak species (*Quercus* sp.) or Tan Oak (*Notholithocarpus* sp.) for the purpose of developing a cannabis cultivation site is prohibited. This prohibition shall not include the pruning of any such trees for maintenance, or the removal of such trees if necessary to address safety or disease concerns.

(Ord. No. 4381, § 1, 4-4-2017; Ord. No. 4392, § 3, 8-29-2017)

**Sec. 10A.17.050 Medical Marijuana Collectives.**

Until such time as State law provides otherwise, medical marijuana collectives operating pursuant to Health and Safety Code section 11362.775 shall obtain any Permit or other approval required by the MCCR and shall also comply with the following:

(A) Operate on a non-profit basis as set forth in Section IV B.1. of the Attorney General's Guidelines.

(B) Employ only persons who are at least twenty one (21) years of age and comply with all applicable state and federal requirements relating to the payment of payroll taxes including federal and state income taxes and/or contributions for unemployment insurance, state workers' compensation and liability laws.

(C) Follow the membership and verification guidelines as set forth in Section IV B.3. of the Attorney General's Guidelines, except that wherever "should" appears it shall be replaced with "shall".

(D) Require all prospective members to complete and sign a written membership application acknowledging and agreeing to abide by all the rules of the collective and all applicable requirements of this Section.

(E) Prohibit sales to non-members as set forth in Section IV B.5. of the Attorney General's Guidelines. Allow reimbursements and allocations of medical cannabis as set forth in Section IV B.6. of the Attorney General's Guidelines.

(F) Possess cannabis only in amounts consistent with the medical needs of the members of the collective; and only cultivate cannabis consistent with the limits set forth in this Ordinance.

(G) Exterior signage shall not indicate or advertise the presence or availability of medical cannabis.

(Ord. No. 4381, § 1, 4-4-2017)

**Sec. 10A.17.060 Permit Types.**

The cultivation Permits that may be applied for under this Chapter are for the production of flowering medical cannabis plants and for nursery

and seed production, as defined in section 10A.17.020. A Permittee producing flowering medical cannabis plants may maintain an area scaled appropriately for their operation where they may propagate their own starts through cloning, seed germination or tissue culture. Starts produced in this manner shall be for the exclusive and personal use of the permittee only and the sale, trade, barter, etc. of such starts is prohibited. The square footage of cultivation area dedicated to propagation of starts will be included in measuring the cumulative total square footage allowed under a given Permit.

The following medical cannabis cultivation Permit types may be applied for and granted provided the applicant and the legal parcel that contains the cultivation site are determined to be in compliance with all applicable conditions of this Chapter and Mendocino County Code Chapter 20.242.

(1) "Type C" for small outdoor cultivation using no artificial lighting not to exceed a maximum of two thousand five hundred (2,500) square feet of total plant canopy.

(2) "Type C-A" for small indoor cultivation using exclusively artificial lighting not to exceed a maximum two thousand five hundred (2,500) square feet of total plant canopy within a structure or structures.

(3) "Type C-B" for small mixed light cultivation (using a combination of natural and supplemental artificial lighting) not to exceed a maximum of two thousand five hundred (2,500) square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle.

(4) "Type 1" for medium outdoor cultivation using no artificial lighting of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy on one (1) legal parcel not less than five (5) acres in size.

(5) "Type 1A" for medium indoor cultivation using exclusively artificial lighting of two thou-



sand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy within a structure or structures.

(6) "Type 1B" for medium mixed light cultivation (using a combination of natural and supplemental artificial lighting) of two thousand five hundred one (2,501) to a maximum of five thousand (5,000) square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle, on one (1) legal parcel not less than five (5) acres in size.

(7) "Type 2" for large outdoor cultivation using no artificial lighting of five thousand one (5,001) to a maximum of ten thousand (10,000) square feet of total plant canopy on one (1) legal parcel not less than ten (10) acres in size.

(8) "Type 2A" for large indoor cultivation using exclusively artificial lighting of five thousand one (5,001) to ten thousand (10,000) square feet of total plant canopy on one (1) legal parcel.

(9) "Type 2B" for mixed light cultivation (using a combination of natural and supplemental artificial lighting) of five thousand one (5,001) to a maximum of ten thousand (10,000) square feet of total plant canopy, all or a portion of which may be within a structure or structures during a cultivation cycle, on one (1) legal parcel not less than ten (10) acres in size.

(10) "Type 4" for the cultivation of medical cannabis nursery stock and/or seed production which shall not exceed a maximum of twenty-two thousand (22,000) square feet of total plant canopy on one (1) legal parcel, subject to the limitation of paragraph (C) below regarding seed production Nursery stock and/or seed production may only be sold to a Permittee, a qualified patient, person with an identification card or a primary caregiver. The nursery product may take the form of vegetative and non-flowering plant starts or may also be in the form of seeds, if the applicant also applies and is approved as a seed producer under this type of Permit. The legal parcel shall not be less than ten (10) acres in size, provided, however, that legal parcels in industrial zon-

ing districts are not subject to this parcel size restriction. Additional requirements for Type 4 Permits are as follows:

(A) The Permittee shall produce only vegetative immature medical cannabis plants through cloning, seed termination or tissue culture starts for the planting, propagation and cultivation of medical cannabis, provided, however, with the approval of the Agricultural Commissioner, plants may be grown to maturity for the purpose of verifying genetic expression. The Agricultural Commissioner's approval shall include a square footage limitation and the plants shall be included within the Track and Trace system. No consumable medical cannabis product of any kind shall be derived from the plants being cultivated.

(B) Intentionally Omitted.

(C) A maximum of five thousand (5,000) square feet of plant canopy may be dedicated to medical cannabis seed production if the Permittee applies and is approved as a seed producer. The square footage of plant canopy dedicated to seed production shall be counted towards the maximum square footage allowed under this type of permit and shall be entered into the approved Track and Trace system.

(D) Any on-site sales of nursery products which were produced on and occur on a parcel within the Timberland Production, Rangeland or Forestland zoning districts shall be limited to permitted cultivators only.

(E) At the time of sale, the nursery shall generate a manifest stating the date and time, nursery name, address, permit number (and license number, when applicable), buyers name, cultivation address, and permit number (and license number, when applicable). A copy of this manifest shall be retained by the purchaser and serve as a transport document for the purchaser to proceed directly from the nursery to the intended cultivation site. If the nursery is transporting nursery products to the cultivator's location, this manifest shall be filled-out and in possession of the nursery operator,

their employee or their designated transporter during transport. Both the nursery and the buyer shall retain these records for a period of two (2) years.

(F) The permittee shall agree to abide by the Mendocino Cannabis Nursery and Seed Manual established by the Mendocino County Agricultural Commissioner.

(Ord. No. 4381, § 1, 4-4-2017; Ord. No. 4392, § 4, 8-29-2017)

**Sec. 10A.17.070 Requirements for All Permits.**

Unless specifically exempted, in addition to compliance with all other requirements of this Chapter, all Permits shall comply with the following requirements:

(A) **Zoning Districts.** Cultivation of cannabis for medical use shall only be permitted on legal parcels that comply with the applicable zoning districts and parcel sizes as provided in Chapter 20.242.

(B) **Indoor Cultivation Permits.** The use or conversion of habitable space (i.e., kitchen, bedrooms, bathrooms, living room or hallways) in any structure shall not be allowed for the indoor cultivation of medical cannabis.

(C) Cultivation of cannabis for medical use is not permitted within any required parking space.

(D) A Person may apply for and obtain a maximum of two (2) Permits listed in section 10A.17.060 at any given time. Permits shall be granted at a maximum density of one (1) Permit per legal parcel; provided, however, that a Person may obtain two (2) separate Permits of different Permit types on a single legal parcel if the total square footage of the two (2) Permits does not exceed the largest maximum square footage permitted on a parcel for the relevant zoning district. A Person who applies for and obtains a Type 4 Permit in combination with any other Permit, shall not exceed a total square footage of twenty-two thousand (22,000) square feet per legal parcel, of which not more than ten thousand (10,000) square feet may be grown to maturity and entered into the Track and Trace system for commercial use. Plants may be grown to maturity by a Type 4

Permit holder for seed production or genetic expression, where the mature flowers are destroyed, and not used for commercial purposes, shall not require a separate cultivation permit.

(E) **Dwelling Unit Requirement.** Legal parcels with a cultivation site are also required to have a dwelling unit; provided, however, that this requirement shall not apply to legal parcels within the following zoning districts: Upland Residential (U-R), Agricultural (A-G), Rangeland (R-L), Forest Land (F-L), Timberland Production (TPZ), Limited Industrial (I-1), General Industrial (I-2), Pinoleville Industrial (P-I). In addition, legal conforming parcels in Rural Residential, lot size ten (10) acres (R-R:L-10), shall also be exempt from the dwelling unit requirement of this paragraph, upon issuance of an administrative permit pursuant to Chapter 20.242.

(F) **Generators.** The indoor or mixed-light cultivation of medical cannabis shall not rely on a generator as a primary source of power. If no grid power source is available and there is not an alternative power source supporting both any required legal dwelling unit and the indoor or mixed-light permit operations, a generator may be used only under the following conditions: (1) the permittee shall install an alternative power source that will meet at least one-half ( $\frac{1}{2}$ ) of the combined power requirements by the expiration of twelve (12) months from the date of initial application for a permit pursuant to this Chapter and (2) it will be a condition of the re-issuance of a permit that the cultivator commit, in writing, to expand their alternative power source to fully meet the combined needs of the cultivation operations and any required legal dwelling unit by the end of the second permitted year. See also section 10A.17.090 regarding application requirements related to generators.

(G) Permittees shall be required to enroll in and comply with all requirements of any Track and Trace system adopted and implemented by the County to track the production and distribution of cannabis for medical use. Permittees shall obtain and use unique identifies from an approved

source, maintain them in a readable state, comply with all data entry requirements (including, but not limited to, harvest dates, harvest data, and distribution or other disposition information), and pay all required Track and Trace fees. Non-compliance with Track and Trace requirements shall constitute a violation of the terms of the Permit.

(H) Fees. An annual application fee shall be paid at the time an application is submitted to the Agricultural Commissioner for initial review and prior to any annual renewal of the application. An annual Permit fee shall be paid prior to issuance of any Permit. No Permit shall issue without payment of the initial application fee or renewal fee.

(1) Fees prescribed by this Chapter shall be set by the Mendocino County Board of Supervisors in accordance with all applicable laws and regulations and the County's Master Fee Policy. Any fee prescribed by this Chapter shall be paid to the County Treasurer/Tax Collector and is non-refundable. A receipt for payment of the required fee shall be provided to the Agricultural Commissioner prior to the initial review and issuance or annual renewal of any application, permit or other program described herein where a fee has been established, including for required inspections.

(I) Inspections by Agricultural Commissioner. All applicants shall be subject to and shall facilitate an initial on-site pre-permit inspection and all Permittees shall be subject to and facilitate at least one (1) annual on-site compliance inspection (Type 4 Permits shall be subject to two (2) on-site compliance inspections annually), with additional inspections as required by this Chapter or as deemed necessary by the Agricultural Commissioner. All inspections will be scheduled with at least twenty-four (24) hours advance notice to the applicant or Permittee, and shall be conducted during regular business hours. Cancellation of scheduled inspections without notice to the Agricultural Commissioner shall result in the Permittee being invoiced for the actual travel time and mileage incurred by the Agricultural Commissioner.

(1) All site inspections conducted prior to issuance of a Permit for any indoor or mixed-light

cultivation Permit may include a representative from the Department of Planning and Building Services.

(J) Intentionally Omitted.

(K) Non-Transferability of Permits. All Permits are non-transferable to another person, except that the Permittee may transfer the Permit to a spouse/domestic partner, child, parent, or, for estate planning purposes, to a trust in which the permittee serves as a trustee, provided the trust existed on or before January 1, 2016, which transfer shall not be deemed a change in ownership for purposes of this Chapter.

(Ord. No. 4381, § 1, 4-4-2017; Ord. No. 4392, § 5, 8-29-2017)

**Sec. 10A.17.080 Permit Phases and Requirements Specific to each Phase.**

Unless specifically exempted, in addition to compliance with all other requirements of this Chapter, all Permits shall comply with the following requirements:

(A) Permits under the MCCO will be issued in the following three (3) phases:

(1) Phase One: Following the effective date of the MCCO, Permits will only be issued to applicants who provide to the Agricultural Commissioner pursuant to paragraph (B)(1) of this section proof of cultivation at a cultivation site prior to January 1, 2016 ("proof of prior cultivation"), and who comply with all other applicable conditions of this Chapter and Chapter 20.242. Applications for Permits during Phase One shall only be accepted until June 30, 2018. Applicants able to provide proof of prior cultivation may apply for a Permit on a relocation site pursuant to paragraph (B)(3) of this section.

(2) Phase Two: Starting January 1, 2018, the Agricultural Commissioner will begin accepting applications for Type 1A and Type 2A Permits for indoor cultivation in the following zoning districts, subject to compliance with all other applicable conditions of this Chapter and Chapter 20.242: Limited Industrial (I-1), General Indus-

trial (1-2), and Pinoleville Industrial (P-I). Proof of cultivation prior to January 1, 2016, is not required.

(3) Phase Three: Starting January 1, 2020, the Agricultural Commissioner will begin accepting Permit applications from any applicant in conformance with the conditions of this Chapter and Chapter 20.242. Proof of cultivation prior to January 1, 2016, is not required.

(B) Requirements specific to Phase One Permits.

(1) Proof of Prior Cultivation. Persons applying for a Permit during Phase One shall be required to provide to the Agricultural Commissioner evidence that they were cultivating cannabis on the cultivation site prior to January 1, 2016, which cultivation site shall have been, or could have been, in compliance with the setback requirements of paragraph (A) of section 10A.17.040. Evidence shall include:

(a) Photographs of any cultivation activities that existed on the legal parcel prior to January 1, 2016, including: (i) ground level views of the cultivation activities and (ii) aerial views from Google Earth, Bing Maps, Terraserver, or a comparable service showing: both the entire legal parcel and the cultivation site in more detail. The date these images were captured shall be noted.

(b) Photographs of any cultivation activities that currently exist on the legal parcel, including: (i) ground level views of the cultivation activities and (ii) aerial views from Google Earth, Bing Maps, Terraserver, or a comparable service showing: both the entire legal parcel and the cultivation site in more detail. The date these images were captured shall be noted.

(c) At least one additional document demonstrating cultivation on the legal parcel prior to January 1, 2016, which evidence may be used to substitute for evidence pursuant to clause (a). The Agricultural Commissioner shall prepare a list of the types of documentation that will be accepted to meet this requirement, and may accept other

similarly reliable documentary evidence showing that cannabis was cultivated for medical use prior to January 1, 2016.

(d) Proof of prior cultivation shall be assigned to the applicant relative to their prior cultivation site.

(e) Persons who participated in a permit program pursuant to the County's Chapter 9.31 in previous years may present evidence of such participation and payment of all required fees in order to provide proof of prior cultivation.

(2) Zoning Districts; Exceptions. Existing cultivation sites not located in zoning districts where Chapter 20.242 specifically allows cultivation may be issued a Type C, Type C-A, or Type C-B Permit, subject to the following requirements, in addition to all other applicable requirements of this Chapter:

(a) The zoning district is one where a dwelling unit is a principally permitted use and a dwelling unit is present.

(b) Sunset Provision for Residential Districts. Cultivation sites on legal parcels located in the Single-Family Residential (R-1), Two-Family Residential (R-2), Multiple-Family Residential (R-3), Suburban Residential (S-R), Rural Community (R-C), and Rural Residential (lot sizes one (1) acre, two (2) acres and five (5) acres [legal non-conforming parcels to minimum zoning size][R-R:L-1, R-R:L-2, and R-R:L-5 {legal non-conforming to minimum zoning size}]), as well as cultivation sites in any other zoning district where a dwelling unit is a principally permitted use and the legal parcel is less than two (2) acres in size, are subject to the following requirements:

(i) There is an occupied dwelling unit on the legal parcel with the cultivation site.

(ii) A Permit may be renewed and valid only until three (3) years following the effective date of the ordinance adopting this Chapter and any permits issued shall be void not later than three (3) years following said effective date.

(c) Cultivation sites on legal parcels located in the Rural Residential zoning district, lot size five (5) acres (conforming parcels of five (5) acres

or more only)(R-R:L-5), are subject to the following additional requirement that there is an occupied dwelling unit on the legal parcel with the cultivation site.

(d) If a Permit is granted pursuant to this paragraph (B)(2) in these zoning districts, any future revocation or lapse in renewal of such Permit shall extinguish the ability of any person to obtain a Permit for such cultivation site.

(3) Relocation. Persons able to show proof of prior cultivation pursuant to paragraph (B)(1) above may apply for a Permit not on the site previously cultivated (the "origin site") but on a different legal parcel (the "destination site"), subject to the following requirements:

(a) Persons may apply to relocate their cultivation site pursuant to this paragraph (B)(3) until three (3) years after the effective date of the ordinance adopting this Chapter.

(b) The location and operation of the proposed cultivation site on the destination parcel complies with all requirements and development standards that apply to a new cultivation site as of January 1, 2020, pursuant to this Chapter and Chapter 20.242; provided, however:

(i) An existing cultivation site shall not be transferred to a legal parcel located within the Forestland or Timber Production Zone zoning districts.

(ii) An origin site may relocate to a destination site in the Rangeland zoning district, so long as the destination site has an existing cultivation site and no new cultivation sites would be established.

(c) The origin site shall be restored. The application for a Permit on a destination site shall be accompanied by a restoration plan that is consistent with the standard conditions and best management practices listed in the North Coast Regional Water Quality Control Board Order No. 2015-0023, and which shall include the following:

(i) Remove or repurpose buildings, greenhouses, fences, irrigation equipment, water in-

takes, pumps, storage tanks and other materials brought to the origin site for the purpose of cannabis cultivation;

(ii) Remove illegal dams, ponds or other in-stream water storage to restore material stream flows, unless such features will continue in use;

(iii) Remove or compost agricultural wastes;

(iv) Remove trash and other debris; and

(v) Revegetate cleared areas with native plants typical of nearby natural areas, including groundcover, shrubs and trees.

(d) Unless the destination site is within the Agricultural zoning district, the application shall include either a water availability analysis pursuant to paragraph (C)(1)(b) below or a will serve letter pursuant to paragraph (C)(1)(c) below.

(e) Prior to the issuance of the Permit to cultivate cannabis for medical use at the destination parcel, the applicant shall provide the Agricultural Commissioner with an agreement, on a form approved by the Agricultural Commissioner and County Counsel, providing that the applicant releases any right to continue or resume cultivation of medical cannabis on the origin parcel.

(f) If a person is granted a Permit for a destination site, any claims of proof of prior cultivation on the origin site shall be effectively transferred to the destination site, and the ability to claim proof of prior cultivation at the origin site shall be extinguished.

(g) There shall be a two (2) acre minimum parcel size for all Type C, Type C-A or Type C-B Permits.

(4) Multiple Permits may be applied for and granted on a single legal parcel that is owned by multiple persons residing in separate habitable dwelling units on that legal parcel. Each owner may individually apply for a Permit to cultivate cannabis for medical use, provided that each owner must provide proof of prior cultivation pursuant to paragraph (B)(1) above. Each owner shall be limited to a Type C, Type C-A or Type C-B Permit, unless that owner was previously enrolled in a permit program pursuant to the County's Chapter 9.31, or unless the cumulative total square footage

of plant canopy applied for by all owners does not exceed the maximum square footage permitted on a parcel for the relevant zoning district.

(5) Persons eligible to apply for a Permit during Phase One may apply for a different and/or larger Permit type in subsequent years, subject to all requirements of this Chapter.

(C) Requirements specific to Phase Three Permits.

(1) **Watershed Assessment.** All Permit applications, except for legal parcels located in the Agricultural (A-G) zoning district, shall demonstrate there is adequate water to serve the cultivation site.

(a) If surface water (or groundwater influenced by surface water) will be used, applicants may demonstrate that there is adequate water by providing (i) a watershed assessment that establishes there is sufficient watershed supply to serve the proposed cultivation site and existing uses within the watershed, and (ii) a water right exists to serve the cultivation site. A watershed assessment shall consist of an established "In Stream Flow Policy" as prepared by the State Water Resources Control Board Division of Water Rights or an equivalent document approved by that agency.

(b) If groundwater not influenced by surface water will be used, the applicant may demonstrate that there is adequate water by providing a water availability analysis which will address the adequacy of the proposed water supply, the direct effects on adjacent and surrounding water users, and possible cumulative adverse impacts of the development on the water supply within the watershed and show there is a sustained yield to support the proposed level of use.

(c) If water will be provided by a mutual water company, municipal or private utility or similar community provider, the applicant may demonstrate that there is adequate water by providing a will serve letter from the proposed provider.

(Ord. No. 4381, § 1, 4-4-2017; Ord. No. 4392, § 6, 8-29-2017)

### **Sec. 10A.17.090 Cultivation Permit Application and Zoning Review.**

Any person or entity that wishes to engage in the cultivation of cannabis for medical use shall submit an application for a Permit to the Agricultural Commissioner's Office. Applications for Permits shall be made upon such forms and accompanied by such plans and documents as may be prescribed by the Agricultural Commissioner's Office. The application shall be reviewed by the Agricultural Commissioner's office and other agencies as described herein and renewed annually. Any referral to or consultation with an agency other than the County of Mendocino shall state that a response must be returned within thirty (30) days of the date of the referral.

The Agricultural Commissioner's Office shall refer each application to the Department of Planning and Building Services for a determination pursuant to Chapter 20.242 as to what type of clearance or permit is required. No application for a Permit shall be approved without clearance or final permit approval as required by Chapter 20.242.

The Agricultural Commissioner's Office shall consult with the Mendocino County Air Quality Management District (MCAQMD) prior to the issuance of the Permit to determine if a permit or other approval by the MCAQMD is necessary. The applicant shall obtain all approvals and permits required by the MCAQMD pursuant to state and federal laws, MCAQMD regulations, adopted air quality plans, MCAQMD policies and other applicable statutes prior to the issuance of a Permit. The required consultation with MCAQMD may be eliminated if MCAQMD authorizes County to determine when a permit or other approval by the District is necessary based on an objective set of criteria developed by MCAQMD for such purposes.

Applicants for a Permit shall provide the following information on, or as an attachment to, the application:

(A) The name, business and residential address, and phone number(s) of the applicant.

(B) If the applicant is not the record title owner of the legal parcel, written consent from the owner allowing the cultivation of medical cannabis on their property by the applicant with original signature of the record title owner.

(C) Written evidence that each person applying for the permit and any other person who will be engaged in the cultivation of cannabis for medical use is at least twenty-one (21) years of age.

(D) Site plan showing the entire legal parcel configuration with Assessor's Parcel Number(s), acreage, site address, including the location of:

(1) Easements (access and utility and all roadways public and private);

(2) Streams, springs, ponds and other surface water features, including the location of any flood plain or floodways;

(3) The location and area of the cultivation site on the legal parcel, with dimensions of the area for cultivation of cannabis for medical use and showing that all setbacks required by section 10A.17.040 are being met;

(4) All areas of ground disturbance or surface water disturbance associated with cultivation of medical cannabis activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features;

(5) All structures, which shall be clearly labeled; and

(6) All septic systems, leach fields and water wells.

(E) Applications submitted for any Permit during Phase One shall include proof of prior cultivation pursuant to section 10A.17.080

(F) A cultivation and operations plan which includes elements that meet or exceed the minimum legal standards for the following: water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides and other regulated products to be used on the legal parcel. Any fuel, fertilizer, pesticides, or other substance toxic to wildlife, children, or pets, must be stored in a secured and locked structure or device. The plan will also provide a description of culti-

vation activities including, but not limited to, permit type, cultivation area, soil/media importation and management, the approximate date(s) of all cannabis cultivation activities that have been conducted on the legal parcel prior to the effective date of this ordinance, and schedule of activities during each month of the growing and harvesting season.

If a generator is proposed to support any aspect of the cultivation site or related operations, the cultivation and operations plan shall identify any containment structure and dimensions necessary to contain any leak or spill that may develop or occur as a result of relying on any generator for backup power generation. The plan shall also include a maintenance plan for the generator, detailing how spent oil, used oil filters, expired batteries and other hazardous wastes generated from the operation of the generator will be handled, including fuel storage and delivery systems.

(G) Copy of the statement of water diversion, or other permit, license or registration filed with California Water Resources Control Board, Division of Water Rights, if applicable.

(H) An irrigation plan and projected water usage for the proposed cultivation activities, as well as a description of legal water source, if not covered by item (G).

(I) Copy of Notice of Intent and Monitoring Self-Certification and any other documents filed with the North Coast Regional Water Quality Control Board (NCRWQCB) demonstrating enrollment in and compliance with (or proof of exemption from) Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Mendocino or other responsible agency.

(J) If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing impacts the bed or bank of any stream or other watercourse, show proof they have notified the California Department of Fish and Wildlife (CDFW) pursuant to section 1602 of the Fish and Game Code and

provide a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife.

(K) If the source of water is a well, a copy of the County well permit, if available; applicant shall provide documentation showing the approximate date of installation.

(L) A unique identifying number from a State of California Driver's License or Identification Card for each person applying for the permit and any other person who will be engaged in cultivation of cannabis for medical use.

(M) Evidence that the applicant or any individual engaged in the management of, or employed by, the cultivator has not been convicted of a violent felony as defined in Penal Code section 667.5(c) within the State of California, or a crime that would have constituted a violent felony as defined in Penal Code section 667.5(c) if committed in the State of California and is not currently on parole or felony probation. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(N) A statement describing the proposed security measures for the facility that shall be sufficient to ensure the safety of members and employees and protect the premises from theft.

(O) If the applicant is organized as a non-profit corporation, the applicant shall set forth the name of the corporation exactly as shown in its Articles of Incorporation, and the names and residence addresses of each of the officers and/or directors. If the applicant is organized as a partnership, the application shall set forth the name and residence address of each of the partners, including the general partner and any limited partners. Copies of the Articles of Incorporation or a statement listing the members of the partnership shall be attached to the application.

(P) Intentionally Omitted.

(Q) A copy of a Board of Equalization Seller's Permit if applicant intends to sell directly to qualified patients or primary caregivers.

(R) Written consent for an onsite pre-permit inspection of the legal parcel pursuant to section 10A.17.070 by County officials or other appropriate agency representatives at a prearranged date and time in consultation with the applicant prior to the approval of a permit to cultivate medical cannabis, and at least once annually thereafter.

(S) For all indoor cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes. Also, provide documentation that addresses the handling of waste discharge from the grow location of items including, but not limited to nutrients, spent growing media, un-used containers and other associated hardware, supplies, and garbage.

(T) No application shall be approved which identifies or would require the removal of tree species listed in paragraph (I) of Section 10A.17.040 after May 4, 2017, for the purpose of developing a cultivation site. For applications where trees were removed prior to May 4, 2017, applicants shall provide evidence to the Department of Agriculture that no trees were unlawfully removed to develop a cultivation site; such evidence may include, but is not limited to, a less-than-three-acre conversion exemption or timberland conversion permit issued by the California Department of Forestry and Fire Protection ("CalFire") and trees were removed prior to May 4, 2017. If during review of an application County staff determine that trees were unlawfully removed to develop a cultivation site, the County shall deny the application. Notwithstanding the foregoing, for cultivation sites created prior to May 4, 2017, through prior unauthorized conversion of timberland as defined in Public Resources Code section 4526, a Permit may be approved if the applicant provides evidence that environmental impacts of the tree removal have been mitigated to the extent feasible or otherwise resolved, as required by the resource protection agencies including CalFire, the NCRWQCB and the CDFW. County staff shall defer to the resource protection agencies referenced herein for determinations as to the unlawful removal of trees or unauthorized conversion of



timberland or the sufficiency of any required remediation to address the environmental impacts. Nothing herein shall be construed to limit or condition in any way the regulatory or enforcement authority of the resource agencies listed herein.

(U) If applicable, clearance from CalFire related to compliance with the requirements of Public Resources Code Section 4290 and any implementing regulations.

(V) For activities that involve construction and other work in Waters of the United States, that are not otherwise exempt or excluded, including streams and wetlands, the application shall include a copy of a federal Clean Water Act (CWA) Section 404 permit obtained from the Army Corps of Engineers and a CWA Section 401 water quality certification from the NCRWQCB.

(W) Projects that disturb one (1) or more acres of soil or projects that disturb less than one (1) acre but that are part of a larger common plan of development that in total disturbs one (1) or more acres, are required to obtain coverage under the State Water Resources Control Board General Permit for Discharges of Storm Water Associated with Construction Activity Construction General Permit Order 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.

(X) The results of a "Cortese List" database search for sites known to be contaminated with hazardous materials. If the site is listed on the "Cortese List", the application shall include sufficient information to demonstrate that the cultivation is in compliance with any cleanup and/or abatement order that is established for the site.

(Y) If water or sewer services to the cultivation site will be provided by a community provider, a will-serve letter from the provider indicating adequate capacity to serve the cultivation site.

The Agricultural Commissioner is authorized to require in the permit application any other

information reasonably related to the application including, but not limited to, any information necessary to discover the truth of the matters set forth in the application.

(Ord. No. 4381, § 1, 4-4-2017; Ord. No. 4392, § 7, 8-29-2017)

#### **Sec. 10A.17.100 Permit Review and Issuance.**

(A) The Agricultural Commissioner's Office shall issue a Permit pursuant to this Chapter only:

(1) Following the referral to and clearance or permit approval pursuant to Chapter 20.242; and

(2) Following review by qualified County staff to review proposed permit locations and identify where habitat suitable for sensitive species may exist. The County shall consult with the California Department of Fish and Wildlife ("CDFW") to evaluate if there is a possibility for presence or habitat suitable for sensitive species on the parcel with a proposed Permit location. Upon consultation, CDFW may recommend approval of the proposed development, ask to conduct a site inspection or request additional studies in order to make the determination that no impacts to sensitive species will occur. A cultivator that cannot demonstrate that there will be a less than significant impact to sensitive species will not be issued a Permit. The County shall develop a policy in consultation with CDFW to define an objective set of criteria that applications can be checked against and when during Phases 1 and 2 a formal referral to CDFW is required to avoid impacts to sensitive species and natural communities. Following the development of the policy referred to in the previous sentence, consultation with CDFW shall not be required but be performed pursuant to the policy. During Phase 3 all applications will be referred to CDFW; and

(3) After the Agricultural Commissioner's Office, and other County and State agency staff, as appropriate, have reviewed the application and performed a pre-permit site inspection to confirm adherence to the requirements established in the MCCO; and

(4) Following receipt of evidence of payment of the required permit fee, pursuant to Section 10A.17.070.

(B) As a condition of approval for any cultivation permit, the owner or permittee shall indemnify and hold harmless the County of Mendocino and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation of cannabis for medical use.

(C) Discovery of any violation(s) of the Mendocino County Code during the Permit application process will be treated in a similar manner to violation(s) that are self-reported during an active amnesty program. That is, the discovered violation(s) will still need to be corrected, but any investigative and/or penalty fees associated with an after-the-fact County permit will be waived.

(1) If the discovered violation(s) are directly related to a Phase One Permit application, and/or if it is discovered that the Permit would authorize a particular use for which a separate County permit is required but has not yet been obtained, the applicant shall be required to agree in writing to a compliance plan prior to issuance of the Permit. Failure by applicant to agree in writing to a required compliance plan shall be grounds for denial of the Permit.

(a) The compliance plan will identify the violation(s) and may suggest corresponding remedial action(s) that may be taken to correct the violation(s), will identify the required permit(s) based on the uses identified in the Permit application, and will include timelines for achieving code compliance for all violations and/or for submitting completed applications for each required permit.

(b) In no event will more time be given to correct all violations, and/or submit a complete application for each required permit, than one (1) year after the date of issuance of the Permit.

(c) After the applicant has signed the compliance plan, as presented by the Agricultural Department in coordination with the appropriate County department(s), the Agricultural Department may issue a Permit restricted as indicated in the compliance plan, so long as no other barrier(s) to such issuance exists. Failure to abide by the compliance plan shall be grounds for Permit termination, or non-renewal, pursuant to section 10A.17.140.

(d) The compliance plan will be the primary mechanism to obtain code compliance from Permit applicants with respect to violations directly related to Phase One Permits applications. However, nothing in this section is intended to limit the use of any other applicable code enforcement provision or the ability of any County department with the appropriate authority from enforcing the Mendocino County Code.

(2) If the discovered violation(s) are not directly related to a Phase One Permit application, such violation(s) will not affect the processing of the Phase One Permit application. However, any County department with appropriate enforcement authority with respect to such violation(s) may make use of any applicable code enforcement mechanism as if the violation(s) were discovered as a result of self-reporting during an active amnesty program.

(D) Track & Trace unique identifiers will only be made available following the issuance of a Permit by the Agricultural Commissioner's Office. The Permittee will have seventy-two (72) hours to register with the County track & Trace system. Upon Track & Trace system registration, the system will provide unique identifiers. The unique identifiers shall be affixed to the individual plants within seventy-two (72) hours of being provided to the Permittee.

(E) Permits shall remain valid for one (1) year from the date of issuance, subject to any enforcement action or other action that may result in earlier suspension or revocation.

(Ord. No. 4381, § 1, 4-4-2017; Ord. No. 4392, § 8, 8-29-2017)

**Sec. 10A.17.110 Performance Standards.**

All Cultivation Permits issued by the Agricultural Commissioner's Office shall obligate the permittee to comply with the following performance standards:

(A) Cultivation shall be located as shown on the approved application site plan and in compliance with all provisions of this Chapter and any permit issued pursuant to Chapter 20.242.

(B) Once they become available, possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MCRSA, and regulations promulgated thereunder covering a similar cannabis activity.

(C) A unique identifier for compliance with the County's Track & Trace system shall be affixed to each permitted medical cannabis plant cultivated in Mendocino County. It shall be the responsibility of the permittee to ensure complete and accurate entry of information into the Track & Trace system within seventy-two (72) hours of the reportable activity occurring.

(D) Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, including obtaining and complying with any applicable and approved permit, license or registration or the annual filing of a statement of diversion and use of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101.

(E) If a generator is used to support any aspect of the permitted cultivation operations, (excluding the conditions set forth in section 10A.17.070(F)), it shall be as a secondary or back-up power source. The use of the generator is only allowed when the primary alternative power source is unable to provide its normal output and generate sufficient power to meet the needs of the cultivation operation and the legal dwelling unit. The Owner's Manual and/or Operation Manual (or operational fact sheet) providing the operational characteristics and maintenance schedule for the generator shall be on-site and available for review.

If a generator is being used pursuant to the conditions set forth in section 10A.17.070(F), the Permit shall be conditioned on the conducting of an analysis of the noise levels produced by the generator at full operational speed, performed by an accredited acoustical engineer, and such analysis shall show compliance with Mendocino County General Plan Policies DE100, 101 and 103. All generators shall be, at a minimum, equipped with the manufacturer's specified muffler; if compliance with Policies DE100, 101 and 103 requires additional measures, the generator shall be equipped with such measures, which may include a hospital-grade muffler and/or a structure to enclose the generator designed for sound suppression.

Any electrical wiring associated with the generator shall be of sufficient capacity and installed in such a way as to provide for the minimum installation and safety standards for the electrical service provided by that generator.

(F) Establish and maintain enrollment in Tier 1, 2 or 3 with the North Coast Regional Water Quality Control Board (NCRWQB) Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Mendocino or other responsible agency.

(G) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015-0023 is required, the site shall comply with the standard conditions set forth in that Order, as well as the applicable "Best Management Practices for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects" as presented in Appendix B of the Water Board Order.

(H) Maintain the applicable "Defensible Space" protocols and distances, as established by the California Department of Forestry and Fire Protection around structures located on the legal parcel.

(I) Comply with the terms of any applicable Streambed Alteration Permit obtained from the California Department of Fish & Wildlife.

(J) All weighing and measuring devices shall be type approved by the California Department of Food and Agriculture, Division of Measurement Standards and issued either a California Type Evaluation Program (CTEP) Certificate of Approval (COA) or a National Type Evaluation Program (NTEP) Certificate of Conformance (CC) before commercial use. All weighing and measuring devices shall be registered and inspected by the Agricultural Commissioner in accordance with Mendocino County Code Chapter 10A.16.

(K) Consent to at least one (1) annual on-site compliance inspection by the Agricultural Commissioner's office, as more specifically provided for in section 10A.17.070.

(L) Any guard dog(s) or guard animals kept at the cultivation site shall be restrained to a fixed point or contained in some manner to facilitate the inspections performed by any entity necessitating inspect as required by this Chapter. Animals considered family pets will be kept on a leash at all times and under control when any entity is performing a required inspection.

(M) All buildings, including greenhouses, used for the cultivation of medical cannabis pursuant to an "artificial light" permit (generally Type C-A, Type 1-A, Type 2-A and Nursery as applicable), shall be equipped with filtered ventilation systems, permitted by the Mendocino County Air Quality Management District (MCAQMD) which rely on Activated Carbon Filtration, Negative Ion Generation, Ozone Generation or other odor control mechanism demonstrated to be effective in reducing cannabis odors.

(N) Any use of pesticide products shall be consistent with State law and regulations enforced by the California Department of Pesticide Regulation and the Agricultural Commissioner's Office. All agricultural use pesticides and concentrated fertilizers, amendments, and similar materials shall be stored in a locked, hard-faced enclosure to prevent unauthorized entry by humans, to exclude large animals that may be attracted by odors, and to ensure that they will not enter or be released into surface or ground waters.

(O) Fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

(P) Comply with any conditions that may apply as a result of an administrative or conditional use permit approved pursuant to Chapter 20.242, or with a written remediation plan required by Section 10A.17.080(B)(3).

(Ord. No. 4381, § 1, 4-4-2017; Ord. No. 4392, § 9, 8-29-2017)

#### **Sec. 10A.17.120 Certifications.**

Permittees who demonstrate compliance with all of the requirements set forth in this Chapter and the additional guidelines to be established by the Agricultural Commissioner in a Mendocino Sustainably Farmed Operations Manual will be issued a "Certified Mendocino County Grown" certificate through the Agricultural Commissioner's Office. Cannabis labeled with this certification shall be produced following production standards used in the production of crops labeled as organic according to United States Department of Agriculture, National Organic Program. This certification shall be valid for one (1) year from the date of issuance and shall be renewed annually thereafter following annual inspection(s) of the registered cultivation site and continued compliance with all requirements. An annual fee shall be paid for participation in this certification program, pursuant to the provisions set forth in Section 10A.17.070(H)(1).

(Ord. No. 4381, § 1, 4-4-2017)

#### **Sec. 10A.17.130 Reserved.**

**Editor's note**— Ord. No. 4392, § 10, adopted August 29, 2017, repealed § 10A.17.130, in its entirety. Former § 10A.17.130 pertained to "Third Party Inspectors," and was derived from Ord. No. 4381, § 1, adopted April 4, 2017.

#### **Sec. 10A.17.140 Violations and penalties respecting permitted cultivation.**

(A) If at any time the Department of Agriculture determines that a law related to a Permit is being violated, the Department of Agriculture

may issue a notice of violation or an administrative citation(s) pursuant to Mendocino County Code Chapter 1.08 and notify other interested public agencies or County departments of such violations. After the violation(s) have been cured, the correction must be confirmed. Failure by the Permittee to schedule a re-inspection with the Department of Agriculture to confirm the correction will result in an unscheduled compliance inspection.

(B) **Inspection Fees.** After initial substantiation of a violation related to any law related to a Permit, inspection fees shall be charged to the Permittee for any additional compliance inspection undertaken by the Department of Agriculture, beyond those regularly scheduled and enumerated in section 10A.17.070, for the purpose of determining if the cited violations have been cured. All additional inspection fees shall consist of the hourly rate for an inspector from the Department of Agriculture for the travel and inspection time plus the standard IRS mileage rate for travel distance. The fees shall be paid pursuant to the provisions set forth in section 10A.17.070(H)(1).

(C) **Notice to Terminate Permit.** The Department of Agriculture may issue a Notice to Terminate Permit by personal service or by first class mail, postage prepaid and return receipt requested. If by mail, service will be deemed complete five (5) days after mailing. A Notice of Terminate Permit may be issued after:

(1) The Department of Agriculture discovers that the Permittee would not have otherwise qualified to obtain a permit but for false or misleading information contained in either the Permittee's application or subsequent submittals to the County pertaining to the Permittee's Permit application; or

(2) The Permittee has engaged in activity related to the Permit that creates an immediate threat to health or safety, or has allowed such activity to be carried out by one (1) or more of its employees or agents; or

(3) The Permittee has engaged in activity that is specified in a separate provision of the

Mendocino County Code as grounds for Permit termination, including but not limited to section 10A.17.100; or

(4) The Department of Agriculture determines that the Permittee is in violation of one (1) or more laws related to the Permit, and that the Permittee is unlikely or unable to correct such violation(s). The Department of Agriculture may make a determination that a Permittee is unlikely to correct a violation if:

(a) The Permittee has failed to correct any single code violation within ten (10) days of the initial notice, or such other time period otherwise specified in the pertinent notice of violation, administrative citation, or related writing; or

(b) The Permittee has received three (3) or more notices of violation or administrative citations, on separate occasions, within a twelve (12) month period, which may or may not pertain to the same violation, recurring violation, or different violation; or

(c) The extent of, severity of, or conditions surrounding one (1) or more violations make it clear that the Permittee was not acting in good faith to abide by the laws related to the Permit.

(D) **Termination of Permit.** After issuance of a Notice to Terminate Permit, the Permit shall be terminated upon a final determination after the hearing on the order to show cause affirming the determination to terminate the permit in question pursuant to section 10A.17.150. The County shall notify any state license authority, as defined by the MCRSA, whenever a Permit has been terminated.

(E) Nothing in this section is intended to limit the applicability of any other code enforcement provision or the ability of any other agency or department from enforcing the Mendocino County Code.

(Ord. No. 4381, § 1, 4-4-2017; Ord. No. 4392, § 11, 8-29-2017)

**Editor's note**— Ord. No. 4392, § 11, adopted August 29, 2017, amended § 10A.17.140, in its entirety. Previously § 10A.17.140 was titled "Cultivation Site Inspections: Violations and Penalties."

### **Sec. 10A.17.150 Administrative Order to Show Cause.**

(A) **Issuance of Order to Show Cause.** At the same time as issuance of a Notice to Terminate

Permit, or as soon as practicable thereafter, the Agricultural Commissioner's Office shall also issue a notice and order to show cause why the permit in question should not be terminated. Issuance may be completed by personal delivery, or by first class mail, postage prepaid and return receipt requested. The notice and order to show cause shall:

(1) Identify the permittee and the permit in question;

(2) Contain a statement describing the violations that caused the issuance of a Notice to Terminate Permit;

(3) Contain a description of the actions required to abate the violations;

(4) Notify the permittee that unless the owner or occupant abates the conditions, a hearing will be held to determine whether there is any good cause why the permit in question should not be terminated, which will be heard before a Hearing Officer, the Agricultural Commissioner, or the Commissioner's authorized designee within the Agricultural Commissioner's Office who did not also issue the Notice to Terminate Permit;

(5) Specify the date, time and location of the hearing to be held, or state that the date, time and location of the hearing will be specified in a subsequent notice, which will not be set for a date earlier than 5 days after personal delivery, or 10 days after mailing, of the notice specifying the date, time and location of the hearing;

(6) State that the permittee will be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether there is any good cause why the permit in question should not be terminated;

(7) Contain a statement that, unless the permittee abates the conditions causing the violations, or shows good cause why the conditions should not be abated, the permit in question shall be terminated.

(B) Use of Hearing Officers. Whenever the Agricultural Commissioner issues an order to show cause why a permit issued pursuant to this Chapter should not be terminated, the Agricultural

Commissioner is authorized to use the services of a Hearing Officer pursuant to Mendocino County Code Chapter 2.76. Such use of a Hearing Officer shall be made whenever a Hearing Officer is available, and the Agricultural Commissioner shall coordinate with County Counsel to appoint and maintain at least one Hearing Officer to the extent possible. In the event that a Hearing Officer is unavailable, the duty to hear the appeal shall remain with the Agricultural Commissioner.

(C) Hearing Procedure.

(1) The Hearing Officer shall hold an administrative hearing to determine whether the violations identified in the Notice to Terminate Permit created a sufficient basis on which to terminate the permit in question. The hearing shall be held at the date, time and location indicated on the notice to permittee, which shall be no less than five (5) calendar days after personal service, or no less than ten (10) calendar days after mailing of all the notices required by this section.

(2) Parties may choose to be represented by an attorney; however, formal rules of evidence or procedure shall not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Nonetheless, any failure to make a timely objection to offered evidence constitutes a waiver of the objection. The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(3) The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified as an interpreter by either the State of California or the County of Mendocino.

(4) The person who issued the Notice to Terminate Permit shall first describe the acts or conditions constituting the violations identifying in the Notice to Terminate Permit and present evidence to demonstrate how the identified viola-

tions form a basis for terminating the permit in question. Thereafter, the permittee shall be given an opportunity at the hearing to present and elicit testimony and other evidence to show good cause why the permit should not be terminated.

(5) In the event that the permittee does not appear and present evidence at the hearing, the Hearing Officer may base his or her decision solely upon the evidence submitted by the person issuing the Notice to Terminate Permit.

(D) Determination after Hearing. The Hearing Officer shall consider the evidence presented by the parties, and shall issue a written decision and order that either affirms or reverses the determination to terminate the permit in question. Such decision shall be delivered to the permittee by personal delivery or by first class mail, postage prepaid and return receipt requested. The decision shall become effective when signed by the Hearing Officer and on the day the decision is personally delivered to the permittee, or five (5) days after the decision is mailed to the permittee.

(Ord. No. 4381, § 1, 4-4-2017)

**Sec. 10A.17.160 Enforcement and Declaration of Public Nuisance.**

(A) All of the remedies provided for in this Chapter, or elsewhere in the law, shall be cumulative and not exclusive for violations of this Chapter. Violations of this Chapter include, but are not limited to failure to obtain and maintain in good standing any permit required by this Chapter, compliance with any required element on which a permit was issued pursuant to this Chapter, or any violation of the provisions of this Chapter where a permit is not required, such as a violation of section 10A.17.040 when a person is otherwise exempt pursuant to section 10A.17.030. The County may enforce this Chapter by using any applicable state or county law, including, but not limited to Mendocino County Code Chapters 1.08, 8.75 or 8.76, and may use either the administrative process to achieve code compliance or available civil remedies, such as injunctive relief.

(B) The cultivation of cannabis with a valid permit pursuant to this Chapter shall not be declared a public nuisance under County Code Chapter 8.75 or 8.76. Any cultivation of cannabis in the absence of a permit issued pursuant to this Chapter is a public nuisance and may be abated by the County as a public nuisance in accordance with the provisions of either County Code Chapter 8.75 or 8.76 unless such cultivation either: is exempt pursuant to County Code section 10A.17.030; is otherwise in compliance with State Proposition 64 and all regulations adopted by the County related to cannabis for adult use pursuant to Proposition 64; or is being cultivated by an entity whose application for a permit pursuant to this Chapter has been submitted, accepted and is currently pending, and who has also submitted a sworn affidavit to the Agricultural Commissioner on a form prepared by the Agricultural Commissioner that includes, but is not limited to, an affirmation that they have met the requirements to obtain a permit or are actively in the process of fulfilling the requirements.

(Ord. No. 4381, § 1, 4-4-2017)

**Sec. 10A.17.170 Attorneys' Fees.**

Pursuant to Government Code Section 25845(c), in any action, administrative proceeding, or matter commenced by the County to abate a nuisance, or to collect the cost of abatement or any penalty or fee related thereto, the prevailing party shall recover its attorneys' fees. The recovery of attorneys' fees under this Section is limited to those actions, administrative proceedings, or matters in which the County chooses at the initiation of the action, administrative proceeding, or matter to seek the recovery of its own attorneys' fees. In no event shall an award of attorneys' fees under this Section exceed the reasonable amount of attorneys' fees incurred by the County in the action or proceeding.

(Ord. No. 4381, § 1, 4-4-2017)

**Sec. 10A.17.180 Confidential nature of medical cannabis information — legislative intent.**

To the fullest extent authorized by State and Federal law, all use information received by and/or generated by the operation of this Chapter or prior iterations of cannabis cultivation ordinances of the County has always been intended to be treated and held by the County as confidential information. Notwithstanding the foregoing, information provided to the county may be released as required by law, judicial order, or subpoena, and could be used in criminal prosecution.

(Ord. No. 4381, § 1, 4-4-2017)

**Sec. 10A.17.190 Severability.**

If any provision of this Chapter, or the application thereof, is held invalid, that invalidity shall not affect any other provision or application of this Chapter that can be given effect without the invalid provisions or application; and to this end, the provisions or application of this Section are severable.

(Ord. No. 4381, § 1, 4-4-2017)



**Title 11**

**HOUSING**

**Chapter 11.04 Community Development Commission**

**Chapter 11.08 Redevelopment Agency**

**Chapter 11.10 Participation in the Alternative Voluntary  
Redevelopment Program**

**Chapter 11.12 Adoption of Redevelopment Plan**



**CHAPTER 11.04**  
**COMMUNITY DEVELOPMENT**  
**COMMISSION\***

\* Editor's Note Ord No 4030, adopted 1999, amended Sections 11 04 020, 11 04 030 and 11 04 040, repealed Section 11 04 050, 11 04 065 and 11 04 070, and renumbered Section 11 04 080 to be Section 11 04 060, Section 11 04 090 to be Section 11 04 070, Section 11.04 100 to be Section 11 04 080, Section 11 04 110 to be Section 11 04 090 and Section 11 04 120 to be Section 11 04 100

**Sec. 11.04.020 Need For Community  
Development Commission.**

The Board of Supervisors hereby declares there is a need for a Community Development Commission to function in the County of Mendocino. A Community Development Commission is established, which shall be known as the Community Development Commission of Mendocino County. (Ord. No. 4030, Sec. 1, adopted 1999.)

**Sec. 11.04.030 Authority.**

The authority for the Board of Supervisors to adopt this Chapter is set forth in Section 34115, et seq., of the California Health and Safety Code. (Ord. No. 1558, adopted 1975; Ord. No. 4030, Sec. 2, adopted 1999.)

**Sec. 11.04.040 History.**

This Chapter shall be construed in light of the history of Mendocino County laws and regulations concerning housing, said history being as follows:

(A) **Housing Authority.** In 1946, the Housing Authority of the County of Mendocino was organized and exercised its powers and transacted business pursuant to resolution of the Board of Supervisors of the County of Mendocino. In April 1971, by Resolution 17-181, the Board of Supervisors dissolved said authority upon finding that it had failed both to transact any business and to exercise any of its powers for at least two (2) preceding years.

(B) **Housing Authority, Reactivated.** On April 6, 1971, by Resolution 71-182, the Board of Supervisors reaffirmed and declared the continuing need for a Housing Authority to function Mendocino County

for the purpose of administering funds granted under the 1965 Housing and Urban Development Act. (Ord. No. 1558, adopted 1975; Ord. No. 4030, Sec. 3, adopted 1999.)

**Sec. 11.04.050 Housing Authority Powers.**

Upon the appointment and qualifying of a majority of the authorized membership of the Community Development Commission, said Commission shall, pursuant to Section 34130(c) of the California Health and Safety Code, be vested with all of the powers, duties, and responsibilities of the Commissioners of the Housing Authority of Mendocino County, and the Commissioners of said Housing Authority shall have no powers, duties, or responsibilities for such time and only for such time as the Community Development Commission is operative under the provisions of this chapter. (Ord. No. 1558, adopted 1975, as amended by Ord. No. 1608, adopted 1975; Ord. No. 4030, Sec. 5, adopted 1999.)

**Sec. 11.04.060 Commissioners.**

The Community Development Commission shall consist of five (5) resident electors of the community and two (2) Tenant Commissioners. Each member shall be appointed by the Chairman of the Board of Supervisors, subject to the approval of a majority of the Board of Supervisors. One (1) resident elector member shall be appointed from each supervisorial district. Resident electors from Supervisorial Districts 2 and 4 shall serve for a two (2) year term expiring on June 30 of odd-numbered years. Resident electors from Supervisorial Districts 1, 3 and 5 shall serve for a two (2) year term expiring on June 30 of even-numbered years. The Community Development Commission shall also consist of two (2) additional Commissioners who shall be tenants of the Housing Authority if the Housing Authority has tenants. One (1) Tenant Commissioner shall be over the age of sixty-two (62) years if the Housing Authority has tenants of such age. The term of the Tenant Commissioners shall be two years. Insofar as possible, one (1) Tenant Commissioner shall be appointed from the general coastal area and one (1) from the general inland area. If a Tenant Commissioner ceases to be a

tenant of the Housing Authority, that Commissioner shall be automatically disqualified from serving as a Tenant Commissioner, and another tenant of the Housing Authority shall be appointed to serve the remainder of the unexpired term. A Tenant Commissioner shall have all the powers, duties, privileges and immunities of any other Commissioner.

If any Commissioner leaves office before the expiration of the full two (2) year period due to loss of eligibility, resignation, or removal by the Board of Supervisors, a replacement Commissioner shall be appointed by the Board of Supervisors for the remainder of the uncompleted term. Commissioners may be removed from office by the Board of Supervisors for inefficiency, neglect of duty, or misconduct in office pursuant to the process set forth in Health and Safety Code § 34282. (Ord. No. 1951, adopted 1977; Ord. No. 3567, adopted 1985; Ord. No. 3568, Sec. 1, adopted 1985; Ord. No. 3648, Sec. 1, adopted 1987; Ord. No. 4030, Sec. 8, adopted 1999; Ord. 4130, adopted 2004.)

**Sec. 11.04.070 Employees.**

The Community Development commission may select, appoint, and employ such permanent and temporary officers, agents, counsel, and employees as it requires, and determine their qualifications, duties, benefits, and compensation, subject only to the conditions and restrictions imposed by the Board of Supervisors on the expenditure or encumbrance of the budgetary funds appropriated to the Commission. The Commission shall adopt personnel rules and regulations applicable to all its employees. Such rules shall contain procedures affecting conflicts of interest, use of funds, personnel procedures on hiring and firing, including removal of personnel for inefficiency, neglect of duties, or misconduct in office. Such rules and regulations shall be a public record. (Ord. No. 1558, adopted 1975; Ord. No. 4030, Sec. 9, 1999.)

**Sec. 11.04.080 Contracts, Staff.**

The Community Development Commission may contract with the California Department of Housing

and Community development and the United States Department of Housing and Urban Development, or any other agency or entity, for the furnishing by the department, agency, or entity of any necessary staff services associated with or required and which could be performed by the staff of the Commission. In addition to all other powers and authorities of the Community Development Commission, the Commission may hire, employ, or contract for staff contracts and consultants. (Ord. No. 1558, adopted 1975; Ord. No. 1608, adopted 1975; Ord. No. 4030, Sec. 10, adopted 1999.)

**Sec. 11.04.081 Community Development Committee.**

(Repealed by 3648, Sec. 2, adopted 1987.)

**Sec. 11.04.090 Powers.**

The nature, powers, authority, functions and jurisdiction of the Community Development Commission of Mendocino County shall include all of the nature, power, authority, functions and jurisdiction of the Housing Authority of the County of Mendocino. (Ord. No. 1558, adopted 1975; Ord. No. 1608, adopted 1975; Ord. No. 3567, adopted 1985; Ord. No. 3568, adopted 1985; Ord. No. 3658, Sec. 3, adopted 1987; Ord. No. 4030, Sec. 11, adopted 1999.)

**Sec. 11.04.100 Financial Assistance.**

Any grant or loans of money appropriated by the Board of Supervisors to the Community Development Commission are not to be construed as making the Commission a department of the County of Mendocino or placing the officers, agents, counsel, or employees under the Civil Service System of the County. The Commission may accept financial assistance from public or private sources. (Ord. No. 1558, adopted 1975; Ord. No. 4030, Sec. 12, adopted 1999.)

**CHAPTER 11.08****REDEVELOPMENT AGENCY****Sec. 11.08.010 Board of Supervisors Declaration.**

Pursuant to Health and Safety Code Section 33200(a), the Board of Supervisors of the County of Mendocino declares itself to be the Redevelopment Agency of Mendocino County. (Ord. No. 4029 (part), 1999.)

**Sec. 11.08.020 Findings in Support of Declaration.**

The Board of Supervisors makes the following findings in support of declaring itself the Redevelopment Agency of the County of Mendocino.

(A) The action will serve the public interest and promote the public safety in a more effective manner than retaining the designation of the Community Development Commission as the Redevelopment Agency of the County of Mendocino.

(B) A duly noticed public hearing has been held as required by Health and Safety Code Section 33200(b) and there has been full public disclosure of all reports and proposals relating to the intent of the Board of Supervisors to declare itself the Redevelopment Agency. (Ord. No. 4029 (part), 1999.)

**Sec. 11.08.050 Need For County Redevelopment Agency.**

Pursuant to the California Community Redevelopment Law, particularly Section 33101 of the Health and Safety Code, the Board of Supervisors declares there is a need for a redevelopment agency to function in the County of Mendocino, said redevelopment agency to be known as the Redevelopment Agency of the County of Mendocino. (Ord. No. 4050, adopted 1999; Ord. No. 4052, adopted 1999.)

**Sec. 11.08.070 Acquisition of Real Property by Eminent Domain for the Redevelopment Plan for the Mendocino County Redevelopment Project Area, and Approving Related Actions.**

The Board of Supervisors makes the following findings and support of the program for the acquisition of real property by eminent domain for the Redevelopment Plan for the Mendocino County Redevelopment Project Area, and approving related actions.

(A) The Board of Supervisors of the County of Mendocino adopted the Redevelopment Plan for the Mendocino County Redevelopment Project Area by Ordinance No. 4111 adopted on July 8, 2003 (the "Redevelopment Plan"), establishing the Mendocino County Redevelopment Project Area (the "Project Area").

(B) The Project Area is situated in the County of Mendocino, State of California, and is more particularly described on Exhibit A attached to the Redevelopment Plan for the Mendocino County Redevelopment Project Area, recorded as Document No. 2003-17702 on July 10, 2003, with the County Recorder of the County of Mendocino.

(C) The Redevelopment Plan authorizes the use of eminent domain under specified circumstances to acquire real property by the Redevelopment Agency of the County of Mendocino (the "Agency").

(D) SB 53 added Health and Safety Code Section 33342.7 to the Community Redevelopment Law, which requires the Board of Supervisors to adopt by ordinance a description of the Agency's program to acquire real property by eminent domain.

(E) The Agency has prepared the required description of its real property acquisition program (the "Acquisition Program"), which is incorporated in this Section.

(F) Staff has prepared and submitted and the Board of Supervisors has reviewed and considered the staff report on this Section.

(G) Staff has prepared and placed on file with the Clerk of the Board of Supervisors a CEQA Notice of Exemption for this Section.

(H) SB 1809 added Health and Safety Code Section 33373(c) to the Community Redevelopment Law, which requires the Agency to record a revised Statement of Institution of Redevelopment Proceedings, which includes a description of the Agency's program to acquire real property by eminent domain (the "Revised Statement").

(I) Agency staff has prepared the Revised Statement and placed it on file with the Clerk of the Board of Supervisors.

(J) The Board of Supervisors hereby finds and determines that the adoption of this Section is required by law is thus necessary and desirable. (Ord. No. 4187 (part), adopted 2007.)

**Sec. 11.08.080 Description of Agency's Acquisition Program.**

(A) In compliance with Health and Safety Code Section 33342.7, the Board of Supervisors hereby approves and adopts the description of the Agency's Acquisition Program for the Project Area, as follows:

Property Acquisition by Eminent Domain Policy.

Except as specifically limited herein (see subsections (A)(4)(a) through (g) of this Section regarding limitations on the agency's eminent domain power), the Agency may, but is not required to, acquire or obtain options to acquire all real property located in the Project Area by gift, devise, exchange, purchase, eminent domain or any other lawful method whatsoever. The Agency may also acquire any other interest in real property less than a fee interest.

Since it is in the public interest and is necessary for the elimination of those conditions requiring redevelopment, the power of eminent domain may be employed by the Agency to acquire real property in the Project Area. The power of eminent domain shall not be exercised, however, when the conditions described in either subsections (A)(1), (2), (3) or (4) of this Section exist:

(1) The property in question contains a structure or structures occupied at the time of proposed acqui-

sition as the residential dwelling unit of one or more persons; or

(2) The property in question is owned by a public body and that public body has not consented to the exercise of the power of eminent domain by the Agency; or

(3) The property in question is improved with a structure and, although not conforming to the Plan, the Agency has determined that the property and the structure can so conform pursuant to an owner participation agreement and that the owner is faithfully performing under the terms of the owner participation agreement; or

(4) The property in question is improved with a structure and, in the sole determination of the Agency, all of the following are true:

(a) The property is not needed for those specific activities outlined in the Plan, including for development by a master developer pursuant to Section C.2 of the Redevelopment Plan,

(b) The property is not needed for the development of replacement housing for those displaced by Agency activity, if any,

(c) The property is not needed for any other public improvement or facility,

(d) The property is not needed to promote historical or architectural preservation,

(e) The property is not needed to remove a blighting influence on surrounding properties which prevents achievement of the objectives of this Plan,

(f) The property is not needed for the elimination of environmental deficiencies including among other things, inadequate circulation, access or street layout, incompatible and mixed uses, overcrowding and small parcel size, and

(g) The property is not needed for the removal of impediments to land development and disposition through assembly of land into appropriately sized and shaped parcels served by improved circulation and utilities.

The Agency must commence eminent domain proceedings with respect to any property, which it intends to acquire by not later than July 8, 2015 (the twelfth (12th) anniversary of the date of adoption of the ordinance codified in this Section including such

property in the Project Area). This time limit for commencement of eminent domain proceedings may be extended only by amendment of the Redevelopment Plan. The Agency may acquire property by voluntary (e.g., non-eminent domain) means after the expiration of the time limit for eminent domain proceedings and prior to the expiration of the effectiveness of the Redevelopment Plan.

Prior to any acquisition through eminent domain the Agency shall adopt a resolution declaring a need to acquire any specific property and authorizing the acquisition by such method. (Ord. No. 4187 (part), adopted 2007.)

**Sec. 11.08.090 CEQA Exemption.**

This Section is exempt from CEQA and Notice of Exemption and directs the Chief Executive Officer and Agency Executive to file the Notice of Exemption with the County Clerk of the County of Mendocino. (Ord. No. 4187 (part), adopted 2007.)

**Sec. 11.08.100 Filing with the Redevelopment Agency.**

The Clerk of the Board of Supervisors is hereby directed to file a copy of this Section, the CEQA Notice of Exemption, with the minutes of this meeting, with the Agency. (Ord. No. 4187 (part), adopted 2007.)

**Sec. 11.08.110 Severability.**

If any provision, section, subsection, subdivision, sentence, clause or phrase of this Section is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion or portions of the ordinance codified in this Section. (Ord. No. 4187 (part), adopted 2007.)

**Sec. 11.08.120 Effective Date.**

This Section shall take effect and be in full force from and after thirty (30) days from the date of its final passage. (Ord. No. 4187 (part), adopted 2007.)

## CHAPTER 11.10

### PARTICIPATION IN THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM

#### Sec. 11.10.010. Participation.

Pursuant to Health and Safety Code Section 34193, the Board of Supervisors of the County of Mendocino elects and implements participation by the County of Mendocino and the Redevelopment Agency of the County of Mendocino in the Alternative Voluntary Redevelopment Program pursuant to Part 1.9 of the California Community Redevelopment Law.  
(Ord. No. 4283, 9-13-2011)

#### Sec. 11.10.020. Findings.

A. Pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the Board of Supervisors ("Board of Supervisors") of the County of Mendocino ("County") adopted Ordinance No. 4029 (adopted 1999), declaring the need for the Redevelopment Agency of the County of Mendocino ("Agency") to function in the County.

B. In accordance with the Redevelopment Law, the Board of Supervisors adopted Ordinance No. 4111 (adopted 2003), adopting the Redevelopment Plan (the "Plan") for the Mendocino County Redevelopment Project Area (the "Project Area"), and the Agency is responsible for implementing the Redevelopment Plan pursuant to the Redevelopment Law.

C. ABx1 26 (the "Dissolution Act") and ABx1 27 (the "Voluntary Program Act"; and together with the Dissolution Act, the "Redevelopment Restructuring Acts") have been enacted to significantly modify the Redevelopment Law generally as follows:

1. The Dissolution Act first immediately suspends all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011.

2. The Voluntary Program Act, through the addition of Part 1.9 to the Redevelopment Law (the "Alternative Voluntary Redevelopment Program"), then allows a redevelopment agency to avoid dissolution under the Dissolution Act by opting into an alternative voluntary redevelopment program requiring specified annual contributions to local school and special districts.

D. Section 34193(a) of the Redevelopment Law (as added to the Redevelopment Law by the Voluntary Program Act) authorizes the Board of Supervisors to enact an ordinance to comply with Part 1.9 of the Redevelopment Law, thereby exempting the Agency from the provisions of the Dissolution Act, and enabling the Agency to continue to exist and function under the Redevelopment Law, so long as the County and the Agency comply with the Alternative Voluntary Redevelopment Program set forth in Part 1.9 of the Redevelopment Law.

E. Through the adoption and enactment of this Ordinance, it is the intent of the Board of Supervisors to enact the ordinance described in Section 34193(a) of the Redevelopment Law and to participate for itself and on behalf of the Agency in the Alternative Voluntary Redevelopment Program set forth in Part 1.9 of the Redevelopment Law.

F. Pursuant to Section 34193.2(b) of the Redevelopment Law, the Board of Supervisors understands that participation in the Alternative Voluntary Redevelopment Program requires remittance of certain payments as set forth in the Voluntary Program Act (as further described below), and also constitutes an agreement on the part of the County, in the event the County fails to make such remittance payments, to assign its rights to any payments owed by the Agency, including, but not limited to, payments from loan agreements, to the State of California.

G. The Board of Supervisors does not intend, by enactment of this Ordinance, to waive any rights of appeal regarding the amount of any remittance payments established by the California Department of Finance, as provided in the Voluntary Program Act.



H. On August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts and issued an order granting a partial stay on specified portions of the Redevelopment Restructuring Acts (the "Stay"), including a stay of the provisions of the Voluntary Program Act.

I. Accordingly, the Board of Supervisors intends to adopt this Ordinance understanding that it will be effective only upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional.  
(Ord. No. 4283, 9-13-2011)

**Sec. 11.10.030. Enactment of Ordinance Pursuant to Redevelopment Law Section 34193(a).**

To the extent required by law to maintain the existence and powers of the Agency under the Redevelopment Law (including the Redevelopment Restructuring Acts), the Board of Supervisors hereby enacts the ordinance authorized by Section 34193(a) of the Redevelopment Law, whereby the County, on behalf of itself and the Agency, elects to and will comply with the provisions of Part 1.9 of the Redevelopment Law, including the making of the community remittance payments called for in Section 34194 of the Redevelopment Law (the "Remittance Payments"), and whereby the Agency will no longer be subject to dissolution or the other prohibitions and limitations of Parts 1.8 and 1.85 of the Redevelopment Law as added by the Dissolution Act.  
(Ord. No. 4283, 9-13-2011)

**Sec. 11.10.040. Additional Understandings and Intent.**

It is the understanding and intent of the Board of Supervisors that the County will enter into an agreement with the Agency as authorized pursuant to Section 34194.2 of the Redevelopment Law, whereby the Agency will transfer annual portions of its tax increment to the County in amounts not

to exceed the annual Remittance Payments (the "Agency Transfer Payments") to enable the County, directly or indirectly, to make the annual Remittance Payments. Unless otherwise specified by resolution of the Board of Supervisors, it is the Board of Supervisors' intent that the County's annual Remittance Payments shall be made exclusively from the Agency Transfer Payments or from other funds that become available as a result of the County's receipt of the Agency Transfer Payments. The Board of Supervisors does not intend, by enactment of this Ordinance, to pledge any of its general fund revenues or other assets to make the Remittance Payments, it being understood by the Board of Supervisors that any Remittance Payments will be funded solely from the Agency Transfer Payments and/or other assets transferred to the County in accordance with the Voluntary Program Act.  
(Ord. No. 4283, 9-13-2011)

**Sec. 11.10.050. Authorization of Implementing Actions.**

The County Chief Executive Officer or his/her designee is hereby authorized, on behalf of the County, to take any actions necessary to implement this Ordinance and comply with the Voluntary Program Act, including, without limitation, providing required notices to the County Auditor-Controller, the State Controller, and the Department of Finance, entering into any agreements with the Agency to obtain the Agency Transfer Payments, and making the Remittance Payments.  
(Ord. No. 4283, 9-13-2011)

**Sec. 11.10.060. California Environmental Quality Act.**

The Board of Supervisors finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project, but instead consists of the creation and continuation of a governmental funding mechanism for potential future projects and programs, and does not

commit funds to any specific project or program. The appropriate environmental review shall be completed in accordance with CEQA prior to the commencement of any future Agency-supported project or program. The Board of Supervisors therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Mendocino in accordance with the CEQA guidelines.

(Ord. No. 4283, 9-13-2011)

**Sec. 11.10.070. Severability.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, clauses or phrases be declared unconstitutional or invalid.

(Ord. No. 4283, 9-13-2011)

**Sec. 11.10.080. Enactment and Effective Dates.**

This Ordinance is deemed enacted as of August 16, 2011 for purposes of Section 34193(a) of the Redevelopment Law, and shall take effect and will be enforced thirty (30) days after its adoption, conditioned upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional.

(Ord. No. 4283, 9-13-2011)

**Sec. 11.10.090. Publication and Posting.**

The Clerk of the Board of Supervisors is directed to post and/or publish this Ordinance (or summary thereof) as required by law.

(Ord. No. 4283, 9-13-2011)

## CHAPTER 11.12

### ADOPTION OF REDEVELOPMENT PLAN

#### Sec. 11.12.010 Recitals and Background Information.

(A) Pursuant to the California Community Redevelopment Law (Health & Safety Code Section 33000 et seq. (the "Redevelopment Law"), the Redevelopment Agency of the County of Mendocino (the "Agency") has prepared and submitted to the Mendocino County Board of Supervisors (the "Board of Supervisors") for review and adoption the Redevelopment Plan (the "Plan") for the Mendocino County Redevelopment Project Area (the "Project Area"). The Plan consists of twenty-five (25) pages and four (4) exhibits. A copy of the Plan is on file with the Clerk of the Board and is incorporated in this Ordinance by this reference.

(B) The purpose and scope of the Plan are to authorize and implement a program of actions and accompanying legal authority to enable the Agency to promote the alleviation of adverse physical and economic conditions and encourage development and redevelopment of the Project Area consistent with the Mendocino County General Plan. The redevelopment program under the Plan is intended to facilitate both public and private development within the Project Area. Redevelopment activities for accomplishing the objectives of the Plan may include but are not limited to blight removal, building rehabilitation, public infrastructure improvement, economic development and revitalization, new affordable housing, housing rehabilitation and other new development.

(C) The Project Area is situated in the County of Mendocino, State of California, and is shown on Exhibit A and more particularly described in Exhibit B of the Redevelopment Plan.

(D) The Agency has made studies of the impact of the Plan on the physical condition of structures, environmental influences, land use and social, economic and cultural conditions in the Project Area, and has determined that the pro-

gram of redevelopment to be undertaken pursuant to the Plan will promote the proper redevelopment of the Project Area in accordance with the goals, objectives and policies of the County of Mendocino General Plan (the "General Plan"), any applicable specific plans, the Plan and the Redevelopment Law.

(E) The Mendocino County Planning Commission, which is the duly designated and acting official planning body of the County of Mendocino, has submitted to the Board of Supervisors its report and recommendation for approval and adoption of the Plan and has certified that the Plan conforms to the General Plan.

(F) The Plan incorporates the land uses for the Project Area which are determined by the County's General Plan. Implementation of the Plan may require, among other things, the vacating and removal of streets of record and other public rights of way, and the establishment of new street patterns, the location of sewers, water mains, lighting and utility lines and other public facilities.

(G) The Agency has prepared and submitted and the Board of Supervisors has reviewed and considered the Report on the Redevelopment Plan (the "Report") pursuant to Health and Safety Code Section 33352, a copy of which is on file with the Clerk of the Board. The Report is hereby incorporated in this Ordinance by this reference.

(H) As a part of the Report, the Agency has prepared and submitted to the Board of Supervisors a program for the relocation of individuals and families that may be displaced as a result of implementing the Plan, and a program for implementation of the projects contemplated to be undertaken pursuant to the Plan.

(I) The Board of Supervisors is cognizant of the conditions that are imposed in the undertaking and implementation of redevelopment projects under State law, including those prohibiting discrimination because of race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry.

(J) On June 10, 2003, the Board of Supervisors and the Agency conducted a joint public

hearing which was duly noticed in accordance with the requirements of the Redevelopment Law.

(K) The County and Agency staff have prepared and submitted to the Board of Supervisors for review the Notice of Preparation (the "Notice of Preparation"), and the Environmental Impact Report regarding the Plan (the "EIR"), which have been prepared pursuant to the California Environmental Quality Act of 1970, as amended ("CEQA"), the Official State Guidelines as amended for the implementation of CEQA (the "State EIR Guidelines") and the County of Mendocino and Agency local guidelines for administering CEQA. The EIR consists of the Draft EIR dated January 2003, and the Final Environmental Impact Report dated May 2003. The EIR was certified by the Board of Supervisors on July 8, 2003. Copies of the EIR and the Notice of Preparation are on file with the Clerk of the Board.

(L) By resolution adopted on July 8, 2003, the Board of Supervisors and the Agency have adopted mitigation measures and made certain findings and statements in compliance with Sections 15091, 15093 and 15168 of the State EIR Guidelines (the "CEQA Findings").

(M) At or prior to the joint public hearing on the Plan, the Board of Supervisors and Agency received certain written comments on the Plan. Prior to the introduction of this Ordinance, by Board of Supervisors resolution dated July 8, 2003, and pursuant to Health and Safety Code Section 33363, the Board of Supervisors prepared and adopted its responses and findings (the "Written Responses") in writing to all written comments its received in connection with consideration of adoption of the Plan. (Ord. No. 4111, adopted 2003.)

#### **Sec. 11.12.020 Findings and Determinations.**

In accordance with California Health and Safety Code Sections 33367, and based upon the evidence contained in the Report, the EIR, the Notice of Preparation, the CEQA Findings, the Written Responses and other documents prepared

in the Plan adoption process and on evidence presented at the public hearing, it is hereby found and determined that:

(A) The above recitals and background information are true and correct.

(B) The Project Area is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in, and it qualifies as an eligible area under, the Redevelopment Law (see particularly Sections II, IV and XVII of the Report regarding evidence with respect to this finding).

(C) The time limitations that are contained in the Plan are reasonably related to the proposed projects to be implemented in the Project Area and to the ability of the Agency to eliminate blight within the Project Area (see particularly Sections I, II, VI, VIII and XVII of the Report regarding evidence with respect to this finding). As indicated in Sections VI and VIII of the Report and accompanying tax increment projections, it will require a lengthy period to generate sufficient funds to pay for the identified programs and activities to alleviate blight in the Project Area, so that it will be necessary for the Agency to have twenty (20) years from the date of Plan adoption to incur debt to pay for the necessary programs and activities, thirty (30) years for the Plan to be effective and forty-five (45) years to receive tax increment revenue in order to repay the debt incurred for the necessary programs and activities.

(D) The Plan would redevelop the Project Area in conformity with the Redevelopment Law and would be in the interest of the public peace, health, safety and welfare; and the implementation of the Plan would promote the public peace, health, safety and welfare of the County of Mendocino and would effectuate the purposes and policy of the Redevelopment Law (see particularly Sections I, II, IV, V, VI, VIII and XIV of the Report regarding evidence with respect to this finding).

(E) The Plan conforms to the County of Mendocino General Plan including, but not limited to, the Housing Element of the General Plan,

which Housing Element substantially complies with the requirements of Article 10.6 (commencing with Section 65580 of Chapter 3 of Division 1 of Title 7 of the Government Code) (see particularly Sections I, II, IV, V, VI, VIII and XI of the Report and Section 14.1 of the Draft EIR regarding evidence with respect to this finding).

(F) The adoption and implementation of the Plan is economically sound and feasible (see particularly Section VII of the Report regarding evidence with respect to this finding).

(G) The Plan will afford maximum opportunity, consistent with the sound needs of the County of Mendocino, as a whole, for the redevelopment of the Project Area by private enterprise (see particularly Sections V, VI and VII of the Report and the Agency's adopted Rules for Owner Participation and Business Tenant Preference regarding evidence with respect to this finding).

(H) The Agency has a feasible method or plan for the relocation of families and persons which may be displaced from the Project Area if the Plan may result in the temporary or permanent displacement of any occupants of housing facilities in the Project Area (see particularly Section IX the Report and the Agency's adopted Relocation Guidelines regarding evidence with respect to this finding).

(I) There are, or shall be provided, in the Project Area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and persons who may be displaced from the Project Area, decent, safe and sanitary dwellings equal in number to the number of, and available to, such displaced families and persons and reasonably accessible to their places of employment. Families and persons shall not be displaced prior to the adoption of a relocation plan pursuant to Sections 33411 and 33411.1 of the Redevelopment Law. Dwelling units housing persons and families of low or moderate income shall not be removed or destroyed prior to the adoption of a replacement housing plan pursuant to Sections 33334.5,

33413 and 33413.5 of the Redevelopment Law (see particularly Sections IX and XIV of the Report regarding evidence with respect to this finding).

(J) Pursuant to Health and Safety Code Section 33367(e), the Board of Supervisors is satisfied that permanent housing facilities will be available within three (3) years from the time occupants of the Project Area, if any, are displaced and that pending the development of such facilities, there will be available to such displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement (see particularly Section IX of the Report regarding evidence with respect to this finding).

(K) The Project Area contains approximately seven hundred seventy-two (772) acres. All noncontiguous areas of the Project Area are either blighted or necessary for effective redevelopment, and are not included in the Project Area for the purpose of obtaining tax increment revenues from the area pursuant to Health and Safety Section 33670 without substantial justification for their inclusion (see particularly Sections II, IV, V, VI, VII and XVII of the Report regarding evidence with respect to this finding).

(L) The inclusion of any lands, buildings or improvements which are not detrimental to the public health, safety or welfare is necessary for the effective redevelopment of the Project Area of which they are a part; and these lands, buildings or improvements are not included for the purpose of obtaining the allocation of tax increment revenues from such area pursuant to Health and Safety Code Section 33670 without other substantial justification for their inclusion (see particularly Sections II, IV, V, VI, VII and XVII of the Report regarding evidence with respect to this finding).

(M) In order to implement and facilitate the effectuation of the Plan hereby approved and adopted, certain official action must be taken by this Board of Supervisors with reference to, among other things, the establishment of new street patterns, the location of sewer and water mains, light-

ing and utility lines and other public facilities and other public action, and accordingly, this Council hereby (i) pledges its cooperation in helping to implement the Plan; (ii) requests the various officials, departments, boards and agencies of the County having administrative responsibilities in the Project Area likewise to cooperate to such end and to exercise their respective functions and powers in a manner consistent with the Plan; (iii) stands ready to consider and take appropriate action upon proposals and measures designed to effectuate the Plan and (iv) intends to undertake and complete any proceedings necessary to be implemented by the community under the provisions of the Plan.

(N) The elimination of blight and the redevelopment of the Project Area could not reasonably be expected to be accomplished by private enterprise acting alone without the aid and assistance of the Agency (see particularly Sections IV, V, VI, VII, VIII and XVII of the Report regarding evidence with respect to this finding).

(O) The condemnation of real property, if any, is necessary to the execution of the Plan and adequate provisions have been made for payment of property to be acquired as provided by law (see particularly Sections IV, V, VI and VII of the Report regarding evidence with respect to this finding). As indicated in Section IV of the Report to Board of Supervisors, the Project Area is characterized by parcels of inadequate size and shape for modern reuse that are in separate ownership, and for which the Agency's land assembly authority is needed to facilitate such reuse. As indicated in Section VII, the Agency will have and can commit the resources necessary to provide full compensation for any land acquisition in accordance with the requirements of law. The Agency's use of eminent domain is limited by Section VI(B) of the Plan and generally the Plan prohibits the use of eminent domain by the Agency with respect to parcels on which persons reside that contain structures occupied as a residential dwelling at the time of the proposed acquisition.

(P) The development of the public improvements set forth in the Plan are of benefit to the Project Area and to the immediate neighborhood in which the Project is located; no other reasonable means of financing such improvements are available to the community; and the payment of funds for the acquisition of land for and the cost of such improvements will assist in eliminating one or more blighting conditions in the Project Area or provide housing for low- or moderate-income persons, and is consistent with the Agency's five-year implementation plan adopted pursuant to Health and Safety Code Section 33352(c). Based on these findings, the Agency is authorized to pay all or a part of the value of the land for and the cost of the installation and construction of the public improvements set forth in the Plan, as permitted by Health and Safety Code Section 33445 (see particu-

larly Sections IV, V, VI, VII, VIII and XVII of the Report regarding evidence with respect to this finding).

(Q) The Project Area is predominantly urbanized as defined by subdivision (b) of Section 33320.1 of the in the Redevelopment Law (see particularly Section III of the Report regarding evidence with respect to this finding).

(R) The Project Area contains no enforceably restricted agricultural land or open space land. The Project Area also contains no parcel of land larger than two (2) acres that is in current agricultural use, and consequently no finding of the Agency is required pursuant to Section 33321.5(b) of the Redevelopment Law (see particularly Sections II and III of the Report regarding evidence with respect to this finding). (Ord. No.4111, adopted 2003.)

#### **Sec. 11.12.030 Overruling of Objections.**

To the extent any written or oral objections have been received, all written and oral objections to the Plan are hereby overruled. In accordance with Health and Safety Code Section 33363, the reasons for overruling all written objections are more fully set forth in the Written Responses. (Ord. No.4111, adopted 2003.)

#### **Sec. 11.12.040 Approval of Redevelopment Plan.**

The Plan for the Project Area, having been duly received and considered, is approved and adopted and the Clerk of the Board is hereby directed to file a copy of the Plan with the minutes of this meeting. The Plan, which contains, among other elements, the statement of the purpose and intent of the Board of Supervisors with respect to the Project Area, is incorporated in this Ordinance by reference. The Plan is hereby designated as the official Redevelopment Plan for the Project Area. It is the purpose and intent of this Board of Supervisors that the Plan be implemented in the Project Area. A copy of this Ordinance shall be transmitted to the Agency and the Agency is vested with the responsibility of implementing the Plan. (Ord. No.4111, adopted 2003.)

**Sec. 11.12.050 Specific Purposes of Board of Supervisors.**

It is the specific purpose and intent of the Board of Supervisors that the Plan be implemented in order to:

- (A) Eliminate the conditions of blight in the Project Area;
- (B) Ensure, as far as possible, that the causes of the blighting conditions will be either eliminated or protected against;
- (C) Encourage and ensure the appropriate development of the Project Area; and
- (D) Encourage and foster the economic revitalization of the Project Area and the provision of affordable housing in or of benefit to the Project Area.

Neither the list of purposes set forth above nor the lists of goals and objectives set forth in the Plan and the Report are intended to reflect a particular priority order. Rather, it is the intention of the Board of Supervisors that the Plan be implemented in a manner that will achieve an appropriate balance of the listed purposes, goals and objectives taking into account redevelopment needs and opportunities that arise from time to time. (Ord. No.4111, adopted 2003.)

**Sec. 11.12.060 Severability.**

If any provision, section, subsection, subdivision, sentence, clause or phrase of this Ordinance or the Plan is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portion or portions of the Ordinance or the Plan. In the event that any portion of the Project Area shall be determined to have been invalidly or incorrectly included in the Project Area, such invalidly or incorrectly included portion of the Project Area shall be deemed severable from the remainder of the Project Area, and the remainder of the Project Area shall remain fully subject to the provisions of the Plan. (Ord. No.4111, adopted 2003.)

**Sec. 11.12.070 Recordation.**

The Executive Director of the Agency is hereby directed to record the Plan in compliance with the provisions of Health and Safety Code Section 33373 and Government Code Section 27295. (Ord. No.4111, adopted 2003.)

**Sec. 11.12.080 Publication; Effectiveness.**

This Ordinance shall be published once in The Ukiah Daily Journal, a newspaper of general circulation published in Mendocino County and circulated in Mendocino County, within fifteen (15) days from and after its adoption, and shall take effect and be enforced thirty (30) days after its adoption. (Ord. No. 4111, adopted 2003.)



**Title 12**  
**(RESERVED)**



**Title 13**

**CABLE TELEVISION\***

<b>Chapter 13.40</b>	<b>CABLE TELEVISION SYSTEMS</b>
<b>DIVISION I.</b>	<b>GENERAL PROVISIONS</b>
<b>Sec. 13.40.010</b>	<b>Short Title.</b>
<b>Sec. 13.40.020</b>	<b>Authority.</b>
<b>Sec. 13.40.030</b>	<b>Definitions.</b>
<b>DIVISION II.</b>	<b>PROCEDURES FOR GRANTING, RENEWING, TRANSFERRING AND ACQUIRING CABLE TELEVISION FRANCHISES</b>
<b>Sec. 13.40.040</b>	<b>A Franchise is Required to Operate a Cable System.</b>
<b>Sec. 13.40.050</b>	<b>The County may Grant a Cable Franchise.</b>
<b>Sec. 13.40.060</b>	<b>Franchise Duration and Renewal.</b>
<b>Sec. 13.40.070</b>	<b>Limitations of Franchise.</b>
<b>Sec. 13.40.080</b>	<b>Rights Reserved to the County.</b>
<b>Sec. 13.40.090</b>	<b>Transfers and Assignments.</b>
<b>Sec. 13.40.100</b>	<b>Franchise Area—Annexations.</b>
<b>Sec. 13.40.110</b>	<b>Application for Franchises—Contents of Application.</b>
<b>Sec. 13.40.120</b>	<b>Selection of Grantee.</b>
<b>Sec. 13.40.130</b>	<b>Franchise Renewal.</b>
<b>Sec. 13.40.140</b>	<b>Multiple Franchises.</b>
<b>Sec. 13.40.150</b>	<b>Franchise Application Processing Costs.</b>
<b>Sec. 13.40.160</b>	<b>Franchise Fee.</b>
<b>Sec. 13.40.170</b>	<b>Contents of Cable Television Franchise.</b>
<b>Sec. 13.40.180</b>	<b>Breach of Franchise—Grounds for Assessment of Penalties and Franchise Revocation.</b>

- Sec. 13.40.190**      **Procedure for Adjudication of Breaches of the Franchise.**
- Sec. 13.40.200**      **Board of Supervisors Hearing Procedures.**
- Sec. 13.40.210**      **Hearing Officer Procedures.**
- Sec. 13.40.220**      **Penalties for Breach of the Franchise.**
- Sec. 13.40.230**      **Alternative Remedies.**
- Sec. 13.40.240**      **Removal and Abandonment—Purchase of System.**
- Sec. 13.40.250**      **Receivership and Foreclosure.**

**DIVISION III.      DESIGN AND CONSTRUCTION**

- Sec. 13.40.260**      **Undergrounding.**
- Sec. 13.40.270**      **Use of Poles.**
- Sec. 13.40.280**      **Construction Standards.**
- Sec. 13.40.290**      **Approvals.**
- Sec. 13.40.300**      **Submission of Drawings.**
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**DIVISION IV.      MINIMUM CUSTOMER SERVICE STANDARDS**

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- Sec. 13.40.340**      **Identification Required.**
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**DIVISION V.      RATES**

- Sec. 13.40.390**      **Rate Regulation.**
- Sec. 13.40.400**      **Billing Procedures.**
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**Sec. 13.40.440**      **Written or Oral Notice to Enter Property.**

**Sec. 13.40.450**      **Notice Regarding Channel Scrambling.**

**DIVISION VI.      SERVICE PROVISIONS**

**Sec. 13.40.460**      **Tenant Rights.**

**Sec. 13.40.470**      **Continuity of Service Mandatory.**

**DIVISION VII.      OPEN VIDEO SYSTEMS**

**Sec. 13.40.480**      **Applicability.**

**Sec. 13.40.490**      **Application Required.**

**Sec. 13.40.500**      **Review of Application.**

**Sec. 13.40.510**      **Agreement Required.**

**DIVISION VIII.      OTHER VIDEO AND TELECOMMUNICATIONS SERVICES AND SYSTEMS**

**Sec. 13.40.520**      **Other Multichannel Video Programming Distributors.**

**Sec. 13.40.530**      **Video Providers—Registration—Customer Service Standards.**

**Sec. 13.40.540**      **Telecommunications Service Provided by Telephone Corporations.**

**Sec. 13.40.550**      **Severability of Provisions.**

\* **Prior ordinance history:** Ords 1769, 1892, 3547 and 4067.



## CHAPTER 13.40

### CABLE TELEVISION SYSTEMS

#### DIVISION I. GENERAL PROVISIONS

##### Sec. 13.40.010 Short Title.

This Chapter is known and may be cited as the "Cable, Video, and Telecommunications Service Providers Ordinance" of the County of Mendocino. (Ord. No. 4115 § 1 (part), adopted 2003.)

##### Sec. 13.40.020 Authority.

This Chapter is enacted by the County of Mendocino pursuant to the Cable Act, the County's police powers, its powers and rights to control the use of the public right-of-way, within the County, and all other applicable laws. (Ord. No. 4115 § 1 (part), adopted 2003.)

##### Sec. 13.40.030 Definitions.

For the purposes of this Chapter, the following terms, phrases, words and abbreviations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, and words in singular number include the plural number. Words not defined by this Section shall be given the meaning set forth in the Cable Act, and if not defined therein, their common and ordinary meaning.

(A) "Access," "peg access" or "peg use" refers to the availability or use of a cable system or open video system for public, educational or government use (including institutional network use) by public or private agencies, institutions, organizations, groups and individuals, including but not limited to Grantor and its designated access providers, to acquire, create and distribute programming not under Grantee's editorial control, including but not limited to the following:

(1) Public access or public use where members of the general public are the primary or designated programmers or users having editorial control over their programming;

(2) Educational access or educational use where educational institutions are the primary or designated programmers or users having editorial control over their programming;

(3) Government access or government use where Grantor or other governmental institutions designated by Grantor are the primary or designated programmers having editorial control over their programming.

(B) "Affiliate" means any person directly or indirectly controlling, controlled by, or under common control of Grantee.

(C) "Cable Act" means the Cable Communications Policy Act of 1984 (47 USCS 521 et seq.), as amended by the Cable Television Consumer Protection and Competition Act of 1992 (Public Law No. 102-385) and the Telecommunications Act of 1996 (Public Law No. 104-104) as hereinafter may be amended.

(D) "Cable service" constitutes the following:

(1) The one-way transmission to subscribers of (a) video programming, or (b) other programming service; and

(2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service, as hereinafter may be amended.

(E) "Cable system" or "system" means Grantee's facilities, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide video programming and which is provided to multiple subscribers within the County. Such term does not include:

(1) A facility that serves solely to retransmit the television signals of one or more television broadcast stations; or

(2) A facility that serves subscribers without using any public right-of-way; or

(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Subchapter II of Chapter 5 of Title 47 of the United States Code, except that such facility shall be considered a cable system (other than for purposes of 47 USC 541(c)) to the extent such facility is used in the

transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; or if such facility is used to provide cable service, whether on a common carrier or non-common carrier basis, directly to customers; or

(4) An open video system, as defined subsection V of this Section, that complies with 47 USC Section 573; or

(5) Any facilities of any electric utility used solely for operating its electric utility systems.

(F) "County" means the County of Mendocino.

(G) "County Administrator" means the County Administrator of the County of Mendocino, or his or her designee.

(H) "Communications Act" means the Communications Act of 1934 (48 Stat. 1064, 15 USCS § 21; 47 USCS §§ 35, 151—155, 201—221, 301—329, 401—416, 501—505, 601—609 (as subsequently amended and as hereinafter may be amended)).

(I) "Complete system construction" means the point in time when all transmission equipment, facilities and construction work is installed and completed, and when all appropriate tests have been completed such that applicable performance standards pertaining to or dependant upon such construction is verified. The term "complete system construction" does not include marketing and installation of subscriber service.

(J) "Control(ing/ed)" means the possession, directly or indirectly, of the power to direct, or to cause the direction of, the management and policies of a specified person, whether through the ownership of voting securities, by contract or otherwise.

(K) "Distribution facility(ies)" means cable equipment which is not specific to a subscriber, including trunk and distribution lines, but excluding drop lines to specific locations.

(L) "Drop lines" means the cable and related equipment connecting the cable system's plant to equipment at the subscriber's premises.

(M) "Educational access channel" means a channel on the cable system which designates educational

institutions as the primary providers of non-commercial programming.

(N) "FCC" means the Federal Communications Commission.

(O) "Franchise" means the right to construct, operate and maintain a cable system using the County's streets and rights-of-way pursuant to the terms and conditions of this Chapter and other relevant provisions of the County Code, the franchise agreement, any Resolution approving the transfer of the franchise and any agreement between the County and Grantee relating to the operation of the cable system.

(P) "Franchise agreement" means an agreement granting a franchise pursuant to the terms of the agreement and this Chapter. Any conflict between the terms of this Chapter and the franchise agreement shall be resolved in favor of the franchise agreement.

(Q) "Franchise area" means the geographic area within the County designated in a franchise where Grantee may operate a cable system, as defined in the franchise agreement.

(R) "Government access channel" means a channel on the cable system which is provided by Grantee to Grantor and other governmental institutions designated by Grantor on which non-commercial informational programming regarding government activities and programs may be presented.

(S) "Grantee" means any person to whom a valid franchise is granted by the County under this Chapter, and the lawful successor, transferee or assignee of such person.

(T) "Gross revenues" means any and all revenue which is received, whether directly or indirectly, by Grantee, from or in connection with the provision of cable services over the subject cable system, or any part of such system. Such revenue shall include but not be limited to the following:

(1) Any and all fees charged to subscribers for cable services including without limitation fees for any and all basic service, optional service, tier service, audio service, commercial service, premium service, pay television service, pay-per-view service and related per-event service, or for the distribution of any other cable services over the cable system;



(2) Any and all fees charged to subscribers for installation, disconnection, reconnection, change in service and similar fees;

(3) Any and all fees charged to subscribers for converters, remote controls or other equipment leased, rented or sold to subscribers in connection with the delivery of cable services;

(4) Any and all fees charged to subscribers for service charges and/or late fees attributable to delinquent accounts;

(5) Any and all revenue collected by Grantee from its subscribers for direct payment to a third party as a cost of doing business (including without limitation possessory interest tax, copyright fees, program license fees and subscriber payments for PEG access);

(6) Any and all revenue received from cable services related activities including without limitation any and all revenue received from leased access programmers and other users, or the use, license or lease of studio rental and production equipment, or the sale, exchange or cablecast of any programming developed on or for community service channels or institutional users, or the sale of advertising or the lease of channel capacity on a cable system, without deduction for any commission paid to an advertising agency in connection with the sale of advertising on a cable system. Any and all revenue of any person which is derived directly or indirectly from or in connection with the provision of cable services over the cable system, including but not limited to revenue or compensation which is paid by any of the following: (a) the subscribers or users of such cable system, or (b) the advertisers on such cable system, or (c) any other party; and is paid to any of the following: (a) the suppliers of programming on such cable system, or (b) home shopping services in connection with the sales of products or services derived from programming transmitted over such cable system, to the extent such revenue represents payment, in whole or in part, for the use of a channel on the system; or (c) leased access programmers for programming transmitted over such cable system;

(7) Refundable deposits that are not returned to subscribers following termination of service;

(8) Gross revenues shall include revenue derived from subscriptions to cable information services as defined by the Communications Act provided over the cable system in the franchise area should a final determination by Congress, a court of competent jurisdiction, or the FCC which classifies cable information service, or any other service offered by Grantee, as a cable services (as that term is defined in the Cable Act) beginning on the effective date of the final determination.

Gross Revenues shall not include any tax of general applicability imposed upon Grantee by the County, state, federal or any other governmental entity and required to be collected by Grantee and passed through to the taxing entity, provided such taxes are identified as a separate line item on subscriber statements. The franchise fee shall be included in gross revenues.

In computing gross revenues from sources other than subscribers, including but not limited to revenue from the sale of advertising, lists of the names and addresses of Grantee's subscribers, home shopping services, guide sales or the lease of channel capacity over its cable system, which revenue is attributable both to the operation of Grantee's cable system inside the County and in areas outside the County, the aggregate revenue received by Grantee from such other sources shall first be multiplied by a fraction, the numerator of which shall be the number of Grantee's subscribers in the County as of the last day of the relevant billing period and the denominator of which shall be the number of subscribers within all relevant areas served by Grantee for that specific service as of the last day of such period, and then assessed for franchise fees.

Gross Revenues shall include revenue received by any entity other than the Grantee where necessary to prevent evasion or avoidance of the obligation under this agreement to pay the franchise fees.

(U) "Multichannel video programming distributor" or "video programming distributor" means a person such as, but not limited to, a cable system operator, an open video system operator, as defined in subsection W of this Section, a multichannel multipoint distribution service, a direct broadcast satellite ser-

vice or a television receive-only satellite program distributor, who makes available multiple channels of video programming for purchase by subscribers or customers.

(V) "Open video system" means a facility consisting of a set of transmission paths and associated signal generation, reception and control equipment that is designed to provide cable services, including video programming, and that is provided to multiple subscribers within the County, provided that the FCC has certified that such system complies with 47 CFR § 1500 et seq., entitled "Open Video Systems."

(W) "Open video system operator" means any person or group of persons who provide cable services over an open video system and directly or through one or more affiliates owns a significant interest in that open video system, or otherwise controls or is responsible for the management and operation of that open video system.

(X) "Normal operating conditions" means service conditions that are within the control of Grantee. Those conditions that are ordinarily within the control of Grantee include, but are not limited to, special promotions, rate increases, regular peak or seasonal demand periods, and scheduled maintenance or upgrade of the cable system. Those conditions that are not in control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions.

(Y) "Person" means any individual, corporation, partnership, proprietorship or other organization authorized to do business in the State of California.

(Z) "Public access channel" means a channel on the cable system which is provided by Grantee for non-commercial programming produced by members of the public or a nonprofit corporation formed by the County to operate and manage such a channel.

(AA) "Public right(s)-of-way" means any of the following that are controlled, used or dedicated for use by the public and located within the County's jurisdictional limits: streets, roadways, highways, avenues, lanes, alleys, sidewalks, rights-of-way and similar public property within which Grantee may place its facilities for operating a cable system.

(BB) "Service interruption" means the loss or impairment of the cable services on one or more channels or frequency bands of the cable system used in connection with the provision of cable services to any subscriber.

(CC) "Subscriber" means any person who pays for cable services provided by Grantee by means of the cable system.

(DD) "Video provider" means any person, company or service that provides one or more channels of video programming to a residence, including a home, condominium, apartment or mobile-home, where some fee is paid for that service, whether directly or as included in dues or rental charges, and whether or not public rights-of-way are used in the delivery of that video programming. A "video provider" includes, without limitation, providers of cable television service, master antenna television, satellite master antenna television, direct broadcast satellite, multipoint distribution services and other providers of video programming, whatever their technology. (Ord. No. 4115 § 1 (part), adopted 2003.)

## DIVISION II. PROCEDURES FOR GRANTING, RENEWING, TRANSFERRING AND ACQUIRING CABLE TELEVISION FRANCHISES

### **Sec. 13.40.040 A Franchise is Required to Operate a Cable System.**

(A) It shall be unlawful for any person to establish, operate or carry on the business of distributing to any persons in the County any cable service, by means of a cable system, unless a franchise therefore is first obtained pursuant to the provisions of this Chapter, and unless such franchise is in full force and effect.

(B) It shall be unlawful for any person to construct, install or maintain within any public right-of-way in the County, or within any other public property of the County, or within any privately owned area within the County which has not yet become a public right-of-way but is designated or delineated as a proposed public right-of-way on any tentative subdivision map approved by the County, any equipment

or facilities for distributing any cable services, by means of a cable system, unless a franchise authorizing such use of such street or property or area has first been obtained pursuant to the provisions of this Chapter, and unless such franchise is in full force and effect.

(C) It shall be unlawful for any person to make any unauthorized connection, whether physically, electronically, acoustically, inductively or otherwise, with any part of a franchised cable system within this County for the purpose of enabling himself or herself or others to receive any cable services carried on a cable system, without the permission of Grantee.

(D) It shall be unlawful for any person, without the consent of Grantee, to willfully tamper with, remove or injure any cables, wires or equipment used in conjunction with a cable system.

(E) This Section shall be construed to require a franchise in every instance, except to the extent that such requirement is preempted by State or Federal law. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.050 The County may Grant a Cable Franchise.**

The County may grant a franchise to any person, whether operating pursuant to an existing franchise or not, who offers to provide a cable system pursuant to the terms and provisions of this Chapter. The franchise shall be subject to all ordinances and regulations of general application now in effect or subsequently enacted, including, without limitation, those concerning encroachment permits, business licenses, zoning and building. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.060 Franchise Duration and Renewal.**

(A) The term of the franchise or any franchise renewal shall be established in the franchise agreement.

(B) A franchise may be renewed by the County upon application of Grantee pursuant to procedures established by the County, subject to applicable Federal and State law. In the event the County does not establish such renewal procedures, the franchise re-

newal procedures set forth in the Cable Act shall apply. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.070 Limitations of Franchise.**

(A) Any franchise granted under this Chapter shall be nonexclusive and for the term specified by the franchise agreement.

(B) No privilege or exemption shall be granted or conferred by any franchise granted under this Chapter except those specifically presented herein.

(C) The grant of a franchise, right or license to use public right-of-way for purposes of providing cable service shall not be construed as a right or license to use such public right-of-way for any other purpose.

(D) Any privilege claimed by Grantee under a franchise in a public right-of-way or any other public property shall be subordinate to any prior or subsequent lawful occupancy or use thereof, or easement therein, by the County or other government entity.

(E) A franchise granted hereunder shall not relieve Grantee of any obligation related to obtaining pole space from any department of the County, utility company or from others maintaining poles in the public right-of-way.

(F) Any right or power in, or duty imposed upon any officer, employee, department or board of the County shall be subject to transfer by the County to any other officer, employee, department or board of the County. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.080 Rights Reserved to the County.**

(A) Subject to those restrictions, if any, that are mandated by State or Federal law, neither the granting of any franchise nor any of the provisions of this Chapter shall be construed to prevent the County from granting additional franchises.

(B) Grantee, by its acceptance of any franchise, agrees to be bound by all ordinances and regulations of general application now in effect or subsequently enacted (including without limitation those that concern encroachment permits, business licenses, zoning and building) and to comply with any action or requirements of the County in its exercise of such rights or power; provided, however, that such ordi-

nances and regulations shall not materially affect Grantee's rights or obligations under the franchise.

(C) Neither the granting of any franchise, nor any of the provisions of this Chapter, shall constitute a waiver or bar to the exercise of any governmental right or power of the County.

(D) This Chapter shall not be construed to impair or affect, in any way, the right of the County to acquire the property of Grantee through the exercise of the power of eminent domain, in accordance with applicable law.

(E) The Board of Supervisors may do all things which are necessary in the exercise of its jurisdiction under this Chapter and may determine any question of fact which may arise during the existence of any franchise granted under this Chapter. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.090 Transfers and Assignments.**

(A) No franchise shall be transferred, sold or assigned, nor shall any of the rights, privileges, interests or property related to the franchise be transferred, sold, hypothecated or assigned, either in whole or in part, directly or indirectly, voluntarily or involuntarily, to any person without the prior consent of the County granted by resolution of the Board of Supervisors. The granting of a security interest in any assets of the Grantee, or any mortgage or other hypothecation, will not be deemed a transfer for the purposes of this Section.

(B) Transfer of a franchise includes but is not limited to any transaction in which control of the franchise is transferred from one person or group of persons to another person or group of persons, or ownership or other interest in Grantee or its cable system is transferred from one person or group of persons to another person or group of persons, or the rights and obligations held by Grantee under the franchise agreement are transferred or assigned to another person or group of persons. In addition, a transfer of the franchise shall be deemed to have occurred upon the transfer on a cumulative basis of ownership or control of twenty percent (20%) of (1) the voting interest of Grantee; or (2) the person exercising management authority over Grantee.

(C) Grantee shall promptly notify the County in writing of a proposed transfer and shall file with the County Administrator an application requesting approval of the proposed transfer ("transfer application"). The transfer application shall meet the requirements of Section 13.40.110 of this Chapter (with the transferee being the applicant), and shall provide complete information on the proposed transaction, including a copy of the bona fide offer, and details on the legal, financial, technical and other qualifications of the transferee.

(D) In making a determination on whether to approve the transfer application, the Board of Supervisors shall consider the legal, financial, technical and other qualifications of the transferee to operate the system, whether the incumbent cable system operator is in compliance with its franchise agreement and this Chapter and, if not, the candidate transferee's commitment and plan to cure such noncompliance, whether operation by the transferee would adversely affect cable services to subscribers or otherwise be contrary to the public interest, and such other criteria provided for by applicable State and Federal law.

(E) A transfer application shall not be granted unless the proposed transferee agrees in writing that it will abide by and accept all terms of this Chapter, the franchise agreement and such other agreements, regulations or restrictions that pertain to the franchise, assume the obligations and liabilities of the previous Grantee under the franchise and assume such other conditions as may be prescribed by the Board of Supervisors resolution approving the transfer.

(F) Approval by the County of a transfer application does not constitute a waiver or release of any of the rights of the County under this Chapter or a franchise agreement, whether arising before or after the date of the transfer. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.100 Franchise Area—Annexations.**

(A) The franchise area shall be established by the franchise agreement.

(B) Territory annexed to the County ("annexed territory") which is not within the franchise area of an existing franchise may be added to Grantee's

franchise pursuant to a resolution by the Board of Supervisors.

(C) All rights acquired under a franchise or license granted by a public entity other than the County ("foreign franchise") shall terminate by operation of law as to annexed territory where Grantee of such franchise or license has not commenced installation of a cable system in the annexed territory before the date such annexation becomes effective. Where feasible, County shall provide notice to the holder of a foreign franchise of the County's intent to annex territory that may result in a termination under this Section. Failure to provide such notice shall not affect the termination of the foreign franchise.

(D) Where Grantee of a foreign franchise has commenced installation of a cable system in annexed territory on or before the date such annexation becomes effective. Grantee may continue to provide cable services to the annexed territory for the balance of the initial term of said franchise (exclusive of any renewal or extension not granted by the County), subject to the terms and conditions then in effect under such franchise, and the timely payment to the County of all franchise fees paid in connection with such service (or such other fees imposed by the County up to the maximum permitted by law). (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.110 Application for Franchises—  
Contents of Application.**

(A) Applications for the grant of a new franchise may be submitted by any person pursuant to the requirements of this Chapter. The County may, by advertisement or any other means, solicit applications for a new franchise pursuant to a request for proposal ("RFP").

(B) An application for a new franchise to construct, operate or maintain any cable system in the County shall be filed with the office of the County Clerk and shall be on forms prescribed by the County. The County reserves the right to waive all application formalities where the County determines that the best interests of the County would be served by such waiver. The County may, at its sole discretion, request new or additional proposals.

(C) Unless waived in writing by the County, all applications for a franchise shall at the minimum contain the following:

(1) The name, address and telephone number of the applicant;

(2) A detailed statement of the corporation or business entity organization of the applicant, including but not limited to, the following:

(a) The names, residence and business addresses of all officers and directors of the applicant,

(b) The names, residence and business address of all officers, persons and entities having an ownership interest of five percent (5%) or more in the applicant and the respective ownership share of each such officer, person or entity,

(c) The names and address of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity, including but not limited to cable systems owned or controlled by the applicant, its parent and subsidiary and the areas served thereby,

(d) A detailed description of all previous experience of the applicant in providing cable service or other similar or related communications services,

(e) A detailed and complete financial statement of the applicant, certified by an independent certified public accountant, for the fiscal year preceding the date of the application. The County may require a statement from an independent certified public accountant or a recognized lending institution, certifying that the applicant has available sufficient financial resources to construct and operate the proposed cable system in the County,

(f) A detailed financial plan (pro forma) for the operation of the proposed cable system, during the term of the proposed franchise, in the format required by the County, and

(g) A description of any other cable system franchise(s) awarded to the applicant, its parent or subsidiary, including the place and term of these franchises, the status of their completion, the total cost of completion of each cable system; and the amount of

applicant's and its parent's or subsidiary's resources committed to the completion of these cable systems.

(3) A detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:

(a) A detailed map indicating all areas proposed to be served, and a proposed time schedule for the construction of the cable system and the installation of all equipment necessary to become operational throughout the entire area to be serviced,

(b) A statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers, including installation charges and other service charges,

(c) A detailed statement describing the actual equipment and operational standards proposed by the applicant,

(d) A copy of the form of any agreement, undertaking or other instrument proposed to be entered into between the applicant and any subscriber, and

(e) A detailed statement describing any existing or proposed agreements and undertakings between the applicant and any person, which materially relates to the application and the granting of the franchise.

(4) A detailed description of the applicant's plan to provide public, educational and government access channel capacity services, facilities and equipment;

(5) A detailed description of the applicant's plans to address the institutional network needs of the County;

(6) A copy of any agreement covering the franchise area, if existing between the applicant and the local telephone and/or electric utilities providing for the use of any facilities of the utility including but not limited to poles, lines or conduits; and

(7) Any other details, statements or information pertinent to the subject matter of such application which shall be required or requested by the County. (Ord. No. 4115 § 1 (part), adopted 2003.)

#### **Sec. 13.40.120 Selection of Grantee.**

(A) The County may make such investigations as it deems necessary to determine the ability of an applicant to satisfactorily perform its obligations under

a franchise. The applicant shall timely furnish to the County all such information and data as the County may request. Failure to provide any such information shall constitute sufficient grounds for rejection of any application.

(B) Upon receipt of a complete application, with all information required by the County, and after the County staff completes its investigation and review of the application, the County Administrator shall prepare a report and make recommendations to the Board of Supervisors concerning the application.

(C) The Board of Supervisors shall hold a noticed public hearing on the application. Written notice shall be given at least ten (10) days prior to the hearing on the application. Within sixty (60) days after the close of the hearing, unless an extension of time is mutually agreed upon by the County and the applicant, the Board of Supervisors shall make a decision as to whether the franchise should be granted, and if granted, subject to what conditions. The Board of Supervisors may grant one or more franchises, or may decline to grant any franchise.

(D) In making its determination as to whether to grant an application for a new franchise, the County may consider any and all factors which affect the interests of the community including, but not limited to, the quality of the cable service proposed, the areas to be served, the rates to be charged, the amount of franchise fee to be generated, the experience, character, background, performance history and financial responsibility of an applicant (and its management and owners), the technical performance and quality of equipment, the applicant's willingness and ability to meet construction requirements and all other limitations and requirements pertaining to the franchise, and all other matters deemed pertinent by the County for protecting the interests of the County and the public.

(E) Any decision of the Board of Supervisors concerning the granting or denial of a franchise pursuant to this Chapter shall be final. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.130 Franchise Renewal.**

Franchise renewals shall be processed and reviewed in accordance with the applicable law. The County and Grantee, by mutual consent, may enter into renewal negotiations at any time during the term of the franchise. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.140 Multiple Franchises.**

(A) The County may, in its sole discretion, limit the number of franchises granted at any one time based upon its consideration of all appropriate criteria which shall include but not be limited to the following:

(1) The capability of the public rights-of-way to accommodate the facilities of any proposed additional cable systems;

(2) The advantages and disadvantages that may result from additional cable system competition.

(B) The County may require that any Grantee be responsible for its own underground trenching and any associated costs if, in the County's opinion, the public rights-of-way in any area do not feasibly and reasonably accommodate the additional cables, machinery, equipment or other items contemplated in connection with the construction, maintenance and operation of a proposed new cable system. In addition, Grantee shall comply with applicable Federal and State laws regarding pole attachments. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.150 Franchise Application Processing Costs.**

(A) In connection with any application for a new franchise, a franchise renewal or a franchise transfer, each applicant shall pay a filing fee equal to the estimated costs determined by the County in processing and analyzing the application. Such costs shall include all administrative, consultant, noticing and document preparation expenses. No application shall be considered without payment of such fee. If the County's actual costs in processing and reviewing the application are less than the amount of the fee, any remaining funds from the fee shall be refunded to the applicant within sixty (60) days after final approval

or denial of their application. In the event that the deposit is less than the County's actual costs, Grantee shall pay such additional costs to the County within thirty (30) days after written notice from the County that such additional payment is required.

(B) Any application fees are exclusive of Grantee's obligation to pay other costs and fees required by this Chapter, the franchise agreement or the franchise, including without limitation construction inspection fees, permit fees, and franchise fees. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.160 Franchise Fee.**

(A) As compensation for any franchise granted, and in consideration of permission to use the public right-of-way in the operation of its cable system, and because the County will incur costs (other than application fees) in regulating and administering the franchise, Grantee shall pay to the County a franchise fee in the amount equal to five percent (5%) of Grantee's gross revenues, or such other amount as the Board of Supervisors may set by resolution or specify in the franchise agreement.

(B) The franchise fee assessed shall be paid quarterly, to be received by the County Treasurer not later than forty-five (45) days after the close of each quarter of Grantee's fiscal year.

(C) On a quarterly basis, Grantee shall provide the County a complete and accurate statement verified by Grantee's chief financial officer stating all gross revenues for the past quarter, listing every revenue source, and depicting gross revenue computations.

(D) On an annual basis, Grantee shall, if requested by the County, file a complete and accurate statement certified by Grantee's chief financial officer, stating all gross revenues for said year, listing every revenue source, and depicting gross revenue computations. If the County has any concerns or objections relating to such report, the County shall have sixty (60) days to notify Grantee and request additional information. Grantee shall have sixty (60) days to provide additional information to resolve any concerns or objections to the County's satisfaction. Thereafter, the County may, at its sole discretion,

request that such statement be certified by an independent certified public accountant, at Grantee's sole cost; provided, however, that any such request shall be made within sixty (60) days after Grantee's response is received.

(E) At any time during the term of a franchise, the County shall have the right to conduct, or require Grantee to obtain, an independent audit by certified public accountants of any and all records of Grantee that are related to gross revenue reports or computations. Grantee shall pay the costs of such audit not more frequently than once every five (5) years or upon a proposed transfer or change of control of the franchise. Grantee shall cooperate with any such audit making readily available any and all information requested by the County. The certified public accountants shall be required to certify in the audit that the Grantee is in compliance with this Chapter and the franchise agreement. Grantee shall maintain in a readily accessible place all such records for a minimum of four (4) years after any payment period that such record pertains to. This right shall be in addition to County's right to conduct any other audit.

(F) In the event that any franchise fee payment is not paid by the due date, interest shall be charged monthly at a monthly rate of one and one-half percent (1½%). In addition, if any franchise fee is not paid in full within fifteen (15) days after receipt of notice from the County as to the delinquency of such payment, a late fee in amount of five percent (5%) of the delinquent amount shall be assessed.

(G) In the event Grantee claims to have overpaid by more than five percent (5%) the amount of franchise fee actually due during any given quarter, it shall file an application with the County within one (1) year after said payment was made. The failure to timely and properly make such claim shall constitute a waiver by Grantee of any right to such claimed overpayment, whether by refund, offset, credit or any other accommodation. All such applications shall state the amount of claimed overpayment, the reason for the claimed overpayment, and sufficient documentation to allow the County to verify Grantee's claim. Upon request by the County, Grantee shall provide any further information that is deemed rele-

vant by the County. All such applications shall be considered by the Board of Supervisors, and the Board of Supervisors' decision with respect to such applications shall be final. (Ord. No. 4115 § 1 (part), adopted 2003.)

#### **Sec. 13.40.170 Contents of Cable Television Franchise.**

(A) The terms and provisions of a franchise agreement for the operation of a cable system may include, without limitation, the following subject matters:

(1) The nature, scope, geographical area and duration of the franchise;

(2) The applicable franchise fee to be paid to the County, including the percentage amount, the method of computation and the time for payment;

(3) Requirements relating to compliance with and implementation of State and Federal laws and regulations pertaining to the operation of the cable system;

(4) Requirements relating to the construction, upgrade or rebuild of the cable system, as well as the provision of special services, such as outlets for public buildings, emergency alert capability and parental control devices;

(5) Requirements relating to the maintenance of a performance bond, a security fund, a letter of credit or similar assurances to secure the performance of the Grantee's obligations under the franchise agreement;

(6) Requirements relating to liability insurance, workers' compensation insurance and indemnification;

(7) Additional requirements relating to consumer protection and customer service standards, including the resolution of subscriber complaints and disputes and the protection of subscribers' privacy rights;

(8) Requirements relating to the Grantee's support of local cable usage, including the provision of public, educational and government access channels, the coverage of public meetings and special events, and financial or technical support for public, education and governmental access uses;



(9) Requirements relating to construction, operation and maintenance of the cable system within the public rights-of-way, including compliance with all applicable building codes and permit requirements, the abandonment, removal or relocation of facilities, and compliance with FCC technical standards;

(10) Requirements relating to record keeping, accounting procedures, reporting, periodic audits and performance reviews, and the inspection of Grantee's books and records;

(11) Acts or omissions constituting material breaches of or defaults under the franchise agreement, and the applicable penalties or remedies for those breaches or defaults, including fines, penalties, liquidated damages, suspension, revocation and termination;

(12) Requirements relating to the sale, assignment or other transfer or change in control of the franchise;

(13) The Grantee's obligation to maintain continuity of service and to authorize, under certain specified circumstances, the County's operation and management of the cable system;

(14) Such additional requirements, conditions, policies and procedures as may be mutually agreed upon by the parties to the franchise agreement and that will, in the judgment of the County, best serve the public interest and protect the public health, welfare and safety. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.180 Breach of Franchise—Grounds for Assessment of Penalties and Franchise Revocation.**

(A) In addition to all other rights and powers retained by the County under this Chapter or otherwise, the County reserves the right to terminate any franchise and all rights and privileges of Grantee, or assess damages or penalties against Grantee, in the event of any material breach of its terms and conditions. A material breach by Grantee shall include, but not be limited to the following:

(1) Violation of any material provision of this Chapter, the franchise agreement or any material rule, order, regulation or directive issued in connection with the franchise;

(2) Evasion of any material provision of this Chapter or the franchise agreement, or the practice of fraud or deceit upon the County or its subscribers and customers;

(3) Material misrepresentation of fact in an application for a new franchise, renewal or transfer of a franchise, whether by act or omission;

(4) Failure to pay any franchise fee when said payment is due;

(5) Failure to restore cable service after seventy-two (72) consecutive hours of interrupted cable service, except in the event that the County approves in writing a longer period of interruption after making a determination that there exists just cause for such longer period of interruption;

(6) Failure to provide at least eighty percent (80%) of subscribed cable services over the cable system for a period of five (5) days, except in the event that the County approves in writing a longer period of interruption after making a determination that there exists just cause for such longer period of interruption;

(7) Failure to substantially meet customer service standards established in the franchise over any consecutive three (3)-month period of time;

(8) Failure to initiate or complete system construction, or reconstruction within the time set forth in the franchise, unless the Board of Supervisors expressly approves the delay by motion or resolution, due to the occurrence of conditions beyond Grantee's control;

(9) Failure to provide or maintain in full force and effect at all times any insurance coverage, letter of credit or bonds required by the franchise agreement;

(10) Violation of orders or rulings of any regulatory body having jurisdiction over Grantee relating to the franchise;

(11) Failure to provide, upon written request, data, documents, reports or information; and

(12) Failure to pay debts and obligations as they mature in accordance with normal business practices; assignment of Grantee or its assets for the benefit of its creditors; dissolution, liquidation or ceasing to conduct business; application by Grantee for (or con-

sent by Grantee to) the appointment of a receiver, trustee, liquidator; or the filing of a bankruptcy petition by Grantee to the extent permitted by Federal law or the sale of all or substantially all of Grantee's assets. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.190 Procedure for Adjudication of Breaches of the Franchise.**

(A) Prior to imposing any liquidated damages, sanction or penalty upon Grantee, including termination of the franchise, the County Administrator, shall demand in writing that Grantee cure such breach within a specified period, which period shall not be less than thirty (30) days following notification. However, only fifteen (15) days notice shall be required in the case of failure to pay monies due. In addition, the County may, in an emergency, prescribe a notice less than thirty (30) days, consistent with the nature of the emergency. An emergency under subsection A of this Section means an occurrence or condition that creates an actual or imminent danger to life or property.

(B) Should Grantee fail to provide sufficient written proof within the specified cure period that corrective action has been taken, or that corrective action is being actively and expeditiously pursued by Grantee, then the County Administrator may, in his or her sole discretion, elect to either place the issue of termination or other penalty before the Board of Supervisors pursuant to Section 13.40.200 of this Chapter or refer the matter to an appropriate hearing officer for his or her determination pursuant to Section 13.40.210. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.200 Board of Supervisors Hearing Procedures.**

(A) The Board of Supervisors may hold a public hearing to determine whether Grantee materially breached the franchise and the appropriate penalty to be imposed, if any, as a result of such breach. The County shall cause to be served upon Grantee, at least ten (10) days prior to the date of such hearing, written notice of any intent to terminate the franchise and the time and place of the hearing. Grantee may appear at such hearing and present such evidence,

orally or in writing, that it deems relevant and appropriate to the Board of Supervisors' deliberations. Based on the evidence presented at the hearing, the Board of Supervisors shall determine in its discretion whether or not a material breach occurred and whether to terminate the franchise or take other appropriate action.

(B) Should the Board of Supervisors find that there has been a material breach of the franchise, but that termination of the franchise is inappropriate, then the Board of Supervisors may assess and levy or impose such other relief as the Board of Supervisors deems appropriate.

(C) The County shall cause Grantee to be served with written notice of any action taken by the Board of Supervisors following such public hearing. The decision of the Board of Supervisors as to such matters shall be final, but may be challenged by Grantee in a court of competent jurisdiction.

(D) Nothing herein is intended to limit the Board of Supervisors' right to make other determinations which are reasonably related to the franchise, or to seek any other appropriate relief to which the County may be entitled, at law or equity, as a result of any breach by Grantee of its obligations under the franchise. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.210 Hearing Officer Procedures.**

(A) The County Administrator may, at his or her sole discretion, refer to a hearing officer any controversy or claim arising out of or relating to the franchise or its existence, construction, interpretation, performance, enforcement, operation, breach, continuance or termination. Such hearing proceedings shall be initiated by the County Administrator by written notice to Grantee.

(B) Within ninety (90) days of referral of a controversy or claim, the hearing officer shall commence a hearing unless the parties and the hearing officer otherwise agree in writing.

(C) The hearing officer shall be vested with quasi-judicial authority, and shall be authorized to (1) order Grantee to undertake remedial action to cure any breach of its obligations under its franchise, (2) assess liquidated damages and/or levy a penalty upon

Grantee in accordance with the terms of this Chapter and the franchise agreement, (3) determine that Grantee has not violated any of its obligations under its franchise and/or (4) terminate the franchise. The hearing officer shall make findings in support of his or her determinations which must be supported by substantial evidence.

(D) Except as may be apportioned between the parties by the hearing officer in his or her discretion, each party shall bear one-half (1/2) of the fees and expenses of the hearing officer. Each party shall bear its own witness and attorneys' fees or other expenses.

(E) Failure of Grantee to fully and promptly comply with an order of a hearing officer shall be deemed a material breach of the franchise.

(F) The decision of the hearing officer shall be final and subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5. (Ord. No. 4115 § 1 (part), adopted 2003.)

#### **Sec. 13.40.220 Penalties for Breach of the Franchise.**

The Board of Supervisors or hearing officer may impose the following penalties for any breach of the franchise, including any breach of subscriber service standards:

(A) Up to One Thousand Dollars (\$1,000) for each day of each material breach, or such other amount provided in the franchise agreement.

(B) For a second material breach of the same nature occurring within twelve (12) months where a fine or penalty was previously assessed, up to twice the maximum penalty allowed for the first such breach.

(C) For a third or further material breach of the same nature occurring within twelve (12) months of the first such breach, where a fine or penalty was previously assessed, up to four times the maximum penalty allowed for the first such breach. (Ord. No. 4115 § 1 (part), adopted 2003.)

#### **Sec. 13.40.230 Alternative Remedies.**

The remedies provided in this Chapter are cumulative and in addition to all other rights the County may have at law or equity or under the franchise agree-

ment, including but not limited to liquidated damages, which remedies may be exercised at any time. In no event shall the amount of any bond or letter of credit be construed to limit Grantee's liability for damages. (Ord. No. 4115 § 1 (part), adopted 2003.)

#### **Sec. 13.40.240 Removal and Abandonment—Purchase of System.**

(A) Subject to applicable law, in the event that a franchise is terminated, revoked, or is not renewed upon expiration, then Grantee shall, upon demand of the County, and at its sole expense, promptly remove all or any portion of its cable system. In removing its cable system, Grantee shall restore all streets to the County's standard specifications and repair any damage to utilities or other infrastructure caused by such removal. The liability, indemnity, insurance, security fund and bonds required under the franchise shall continue in full force and effect until such removal is accepted as complete by the County.

(B) Subject to applicable law, in the event that a franchise is not renewed and the County acquires ownership of a cable system or effects a transfer of ownership of a cable system to another person, any such acquisition or transfer shall be at fair market value, determined on the basis of the cable system valued as a going concern, but with no value allocated to the franchise itself. If a franchise is revoked for cause and the County acquires ownership of the cable system or effects a transfer of ownership of the cable system to another person, any such acquisition or transfer shall be at an equitable price. The value of a cable system (fair market value or equitable price) shall be determined by an appraisal committee consisting of three (3) disinterested appraisers. The County and Grantee shall each select one (1) appraiser, and the two (2) selected appraisers shall agree upon and appoint a third appraiser.

(C) If a Grantee's plant, or a portion thereof, is deactivated for a continuous period of thirty (30) days, (except for reasons beyond the Grantee's control), and without prior written notice to and approval by County, then the Grantee must, at County's option and demand, and at the sole expense of the Grantee, promptly remove all of the Grantee's property from

any streets or other public rights-of-way. The Grantee must promptly restore the streets or other public areas from which its property, including distribution facilities, has been removed to the condition existing prior to the Grantee's use.

(D) County may, upon written application by a Grantee, approve the abandonment in place by a Grantee of any property, under such terms and conditions as County may approve. Upon County-approved abandonment in place of any property, the Grantee must cause to be executed such instruments as the County may prescribe in order to transfer and convey ownership of the abandoned property to the County. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.250 Receivership and Foreclosure.**

(A) Subject to applicable provisions of the United States Bankruptcy Code, any franchise shall, at the option of the County, cease and terminate one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

(1) Such receiver or trustee shall have, within one hundred twenty (120) days after his or her election or appointment, fully complied with all terms of the franchise and remedied all breaches of the franchise or provided a plan for the remedy of such breaches which is approved in writing by the County; and

(2) Such receiver or trustee shall, within said one hundred twenty (120) days, execute an agreement duly approved by the Court having jurisdiction, under which such receiver or trustee agrees to be bound by each and every term, provision and limitation of the franchise.

(B) Upon the foreclosure or other judicial sale of all or a substantial part of a cable system, Grantee shall notify the County of such fact, and such notification shall be treated as a notification that a change in ownership of Grantee has taken place and the pro-

visions of this Chapter governing such changes shall apply. (Ord. No. 4115 § 1 (part), adopted 2003.)

**DIVISION III. DESIGN AND CONSTRUCTION**

**Sec. 13.40.260 Undergrounding.**

(A) At no time shall Grantee place cable underground without appropriate conduit.

(B) The cable system shall be placed underground in all portions of the franchise area where either telephone or electric lines are underground. Whenever the poles on which the cable system is constructed are eliminated, Grantee shall concurrently replace its aerial facilities with underground facilities. At no time shall the cable system be the only aerial facility in any given area.

(C) Where the cable system is installed underground, line extenders, amplifiers, taps, power supplies, traps and related electronic equipment and components may be placed in appropriate housings above the surface of the ground to the extent that the method employed is compliant with any and all applicable County, State, Federal or other regulations, and consistent with any other generally applicable guidelines, policies or procedures which may from time to time be adopted by the County or other applicable government agency. Grantee shall provide a procedure for undergrounding taps and pedestals, the cost of which the subscriber will bear, and relocating the taps and pedestals within the technical constraints of the cable system. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.270 Use of Poles.**

Grantee shall be authorized to utilize existing poles, conduit and other facilities of a public utility, but shall not be authorized to construct or install any new, different or additional poles in any County streets without prior written approval by the County. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.280 Construction Standards.**

Grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with ap-

plicable California Public Utilities Commission pole attachment standards, electrical codes and industry standards of the cable television industry generally applicable to the type of cable system which Grantee has constructed, owns or operates any applicable pole agreements, and all franchise agreement requirements. Grantee shall adhere to all building and zoning regulations currently in force or hereafter enacted. Grantee shall repair and restore any cuts and/or trenching in the roadway or sidewalks to County standards. Grantee shall locate and maintain its lines, cables and other appurtenances, on public property, in such a manner as to cause no unreasonable interference with the use of such public property by any person. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.290 Approvals.**

The County Engineer shall approve the location and method of construction of all underground facilities and equipment located on public right-of-ways (including any above-grade portion of such facilities and equipment). The County Engineer also shall approve the location and installation of all new aerial facilities. All construction shall be subject to County permit and inspection fees as may be required by other applicable laws or regulations. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.300 Submission of Drawings.**

Grantee shall file with the County "as-built" drawings of the entire cable system, excluding technical specifications. Additionally, within thirty (30) days after completion of any material modification of the cable system (e.g., a system rebuild or distribution facility replacement), Grantee shall file with the County "as-built" drawings, excluding technical specifications, of the modified cable system. The County may require that the "as-built" drawings be submitted in an electronic format specified by the County. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.310 Relocation of Facilities and Equipment.**

(A) Grantee shall remove or relocate at its sole cost any facilities installed, used or maintained in

connection with the franchise if and when such removal or relocation is made necessary by any project. For purposes of this Section, the word "project" means any change of grade, alignment or width of any public street, way, alley or place, including but not limited to, the construction of any subway or viaduct, that the County may initiate, either by or through itself or any redevelopment agency, community facility district, assessment district, undergrounding district, reimbursement agreement or generally applicable impact fee program.

(B) In the event that such removal or relocation is required, Grantee shall commence physical fieldwork on the removal or relocation on or before one hundred twenty (120) days after written notice of such requirement is provided by the County. If, despite its reasonable efforts, Grantee is unable to commence removal or relocation within such period, Grantee shall provide the County Administrator with written notice explaining in detail the reasons for the delay and a date certain upon which such removal or relocation is expected to commence. Grantee shall diligently proceed and promptly complete all such removal or relocation after it is commenced. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.320 Maintenance.**

Should Grantee fail, refuse or neglect to properly perform any maintenance or construction work required by the franchise following due notice from the County and a reasonable opportunity to cure as provided for under this Chapter, or should Grantee fail to commence performance of such work within the required period of time, or fail to diligently proceed and promptly complete such work thereafter, the County may, upon five (5) days prior written notice to Grantee (except in cases of emergency), cause such work or other act to be completed in whole or in part by the County forces or others, and upon so doing shall submit to Grantee an itemized statement of the costs thereof. Grantee shall pay to the County the entire amount due, without offset or deduction, within thirty (30) days from the date of such statement. (Ord. No. 4115 § 1 (part), adopted 2003.)

## DIVISION IV. MINIMUM CUSTOMER SERVICE STANDARDS

### Sec. 13.40.330 Subscriber Service Standards.

Grantee shall comply with the FCC customer service standards set forth at Section 76.309 of Title 47 of the Code of Federal Regulations, and such additional standards that may be imposed by ordinance or the franchise agreement, and each of the following requirements:

(A) The Grantee shall maintain a local, toll-free or collect call telephone access line ("access line") which will be available to its subscribers twenty-four (24) hours a day, seven (7) days a week;

(B) Trained, knowledgeable and qualified customer service representatives will be available to respond to customer telephone inquiries during normal business hours. Normal business hours shall be a minimum of fifty-nine (59) hours weekly, from 7:00 a.m. to 6:00 p.m., Monday through Friday, and at least four (4) additional hours one (1) evening per week or on Saturdays (or such other times as are approved in writing by the County Administrator);

(C) During non-business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received during such hours must be responded to by a trained company representative during the next business day;

(D) A business and service office located within the County shall be open Monday through Friday from 7:00 a.m. to 6:00 p.m., and adequately staffed to accept subscriber payments and respond to service requests and complaints. Additionally, Grantee will staff the business and service office at least four (4) additional hours one (1) evening per week or on Saturdays. Other locations and hours are permissible if approved in writing by the County Administrator;

(E) Telephone answer time by Grantee's customer service representatives, including waiting time, shall not exceed thirty (30) seconds after a connection is made, and a busy signal shall not be obtained more than three percent (3%) of the time. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no

less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis;

(F) Grantee shall provide and maintain an emergency system maintenance and repair staff, capable of responding to and repairing major system malfunctions on a twenty-four (24) hour basis;

(G) Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system, preferably between midnight and 6:00 a.m.;

(H) Under normal operating conditions, Grantee shall respond to the following subscriber complaints or requests for service, within the time frame specified below, no less than ninety-five percent (95%) of the time (measured on a quarterly basis):

(1) System Outages. Within two (2) hours, including weekend days, of receiving subscriber calls reporting a system outage which, by number of calls, identify a cable system outage of sound or picture of one (1) or more channels, or a loss of any other cable service, affecting five percent (5%) or more of the subscribers of the cable system.

(2) Service Interruptions. Within twenty-four (24) hours, excluding Sundays and holidays, after the interruption becomes known.

(3) Inferior Reception Quality. Within forty-eight (48) hours after receiving a request for service identifying a problem concerning picture or sound quality.

(I) Grantee shall be deemed to have responded to a request for service under the provisions of this Section when a technician arrives at the service location, if necessary, or otherwise begins work on the problem. In the case of a subscriber not being home when the technician arrives, response shall be deemed to have taken place if the technician leaves written notification of arrival.

(J) The appointment window alternatives for installations, service calls and other installation activities offered to a subscriber will be either a specific time or, at a maximum, a four (4) hour time block

during normal business hours. A Grantee may schedule service calls and other installation activities outside of normal business hours or outside the parameters of response time outlined above for the express convenience of the subscriber. Further, the following additional requirements shall apply to service appointments:

(1) A Grantee shall, in accordance with Section 1722(b) of the California Civil Code, inform subscribers of their right to service connection or repair within a four (4)-hour period, if the presence of the subscriber is required, by offering the four (4)-hour period at the time the subscriber calls for service connection or repair. Grantee also agrees to notify all subscribers by mail of their rights under Section 1722(b) at least annually during each year of the franchise.

(2) If the service connection or repair is not commenced within the specified four (4)-hour period, except for delays caused by unforeseen or unavoidable occurrences beyond the control of a Grantee, the subscriber shall receive one (1)-month of free service at the service level subscribed to by the affected subscriber.

(K) Standard installations will be performed within seven (7) business days after an order has been placed. Standard installations are those that are located up to one hundred fifty (150) feet from the existing distribution system.

(1) If the Grantee cannot perform the standard installation within seven (7) business days of request by a subscriber, the subscriber shall receive one (1)-month of free service at the service tier subscribed to by the affected subscriber.

(2) In the event that any services to any subscriber are interrupted for forty-eight (48) or more hours in any seven (7)-day period, except for acts of God or other circumstances beyond Grantee's control and outside the cable system, and except in circumstances for which the prior approval of the interruption is obtained from the County Administrator, Grantee shall provide a twenty percent (20%) rebate of the monthly fees to affected subscribers.

(L) Grantee shall have equipment and perform surveys to measure compliance with the telephone

answering standards set forth in this Section. The results of the surveys shall be submitted to the County quarterly. After one (1) year of submitting telephone-answering surveys to the County, Grantee may request that it be relieved of the requirement of submitting such surveys. The County Administrator may relieve Grantee of the survey requirement if he or she finds, based on the surveys and the level of customer complaints, that Grantee is in full compliance with telephone answering standards. County reserves the right to reinstitute the survey reporting requirement if the County receives three (3) complaints in any twelve (12)-month period of Grantee failing to meet these telephone answering standards. (Ord. No. 4115 § 1 (part), adopted 2003.)

#### **Sec. 13.40.340 Identification Required.**

All personnel, agents and representatives of Grantee who have contact with subscribers and/or the public, including subcontractors, shall wear photo identification badges. Upon request by the County, Grantee shall provide a list of current employees, contractors and subcontractors performing work in the County. (Ord. No. 4115 § 1 (part), adopted 2003.)

#### **Sec. 13.40.350 Notification to Subscribers.**

Grantee shall provide written information on each of the following areas at the time of installation of service, and at least annually, to all subscribers and at any time upon request by any resident of the County:

- (A) Products and services offered;
- (B) Prices and options for programming services and conditions of subscription to programming and other services;
- (C) Installation and service maintenance policies;
- (D) Instructions on how to use the cable service;
- (E) Cable channel positions and identification;
- (F) Customer service telephone number and office hours;
- (G) Billing and complaint procedures, including how to resolve subscriber billing disputes;
- (H) Credit procedures;
- (I) Employee identifications;
- (J) Service call response time scheduling;
- (K) Time allowed to pay outstanding bills;

(L) Grounds for termination of service;

(M) Steps Grantee must take before disconnecting or terminating service, and the steps necessary to have service reconnected after involuntary termination;

(N) The subscriber's right to speak with a supervisor and, if none is then available, that a supervisor shall return the subscriber's call within one (1) working day;

(O) The appropriate regulatory authority with whom to register a complaint, including any rate complaint, and how to contact such authority;

(P) Instructions on the channel compatibility problems that occur when using a set-top channel converter to view scrambled or encrypted programming, including that subscribers may not be able to use special features and functions of their TV receivers and videocassette recorders;

(Q) Instructions regarding the availability of remote control equipment from other sources, such as retail outlets, and a list of the models of remote control units currently available from retailers that are compatible with Grantee's converters. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.360 Verification of Subscriber Service Standards.**

(A) Grantee shall demonstrate compliance within the County with all of the standards contained in (or referenced by) Section 13.40.330 by providing quarterly customer service reports to the County, unless otherwise provided by its franchise agreement. The reports shall provide the following information:

(1) Volume of telephone calls received by the customer service department;

(2) Percentage of time trunk lines were busy, and the abandonment rate;

(3) Average time to complete out-of-service calls, and all other service calls;

(4) Average time to complete new installations;

(5) Detailed customer complaint and outage reports.

(B) Grantee shall maintain a written log or an equivalent stored in computer memory and capable of access and reproduction, for three (3) years indi-

cating the time and date of all service interruptions, requests for cable service or repairs, and responses to request for cable service or repairs. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.370 Subscriber Complaints.**

(A) Grantee's complaint handling procedures shall be designed to accomplish the following:

(1) Receive and acknowledge any complaint made in person or by telephone within fifteen (15) minutes, regardless of the time the complaint is made;

(2) Acknowledge any complaint received by mail within three (3) business days of the date such complaint is received;

(3) Complaints not resolved within twenty-four (24) hours of receipt shall be listed in a log of "Delayed Action on Complaints" which shall give the detailed reasons for non-resolution within the twenty-four (24)-hour period;

(4) Provide the complainant access to the Grantee's management or supervisory personnel on a basis convenient to the complainant in the event resolution is not immediately obtained by Grantee's personnel normally assigned to handling complaints;

(5) Provide complete information to the complainant regarding his or her ability to take the complaint to the Grantor's representative if it is not resolved by the Grantee.

(B) Grantee shall establish procedures for receiving, acting upon and resolving subscriber complaints and shall submit such procedures to the County Administrator for review and approval. The Grantee shall furnish a notice of such procedures to each subscriber at the time of initial subscription to the system.

(C) Grantee shall maintain a written record, or "log" listing date and time of customer complaints, identifying the subscriber and describing the nature of the complaints and when and what action was taken by the Grantee in response thereto; such record shall be kept at Grantee's local office, reflecting the operations to date for a period of at least three (3) years, and shall be available for inspection during regular business hours without further notice or demand by the County Administrator.



(D) As subscribers are connected or reconnected to the cable system, the Grantee shall, by appropriate means such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of Grantee's employee or agent to whom such inquiries or complaints are to be addressed and furnish information concerning the County office responsible for administration of the franchise with the address and telephone number of the office.

(E) Grantee shall provide written notice to each subscriber at intervals not to exceed one (1) year of the procedure for reporting and resolving subscriber complaints, including the subscriber's right to complain in writing to the County of Grantee's failure to resolve a service complaint. The proper address of the County and Grantee to which complaints may be directed shall be included in said notice. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.380 Compatibility with Consumer Electronics Equipment.**

(A) The Grantee shall not scramble or otherwise encrypt signals carried on the basic service tier. Requests for waivers of this prohibition must demonstrate either a substantial problem with theft of basic tier service or a strong need to scramble basic signals for other reasons.

(B) The Grantee shall comply with equipment compatibility rules and commercial availability of navigation equipment rules of the FCC.

(C) The Grantee shall offer subscribers the option to receive an A/B switch at the time of initial cable service installation and shall provide subscribers with written information as to how to use such a switch. The Grantee may charge a reasonable price for said switch. Upon subscriber request, the Grantee shall provide an A/B switch after the initial installation of cable service. If the subscriber requests installation of such a switch (to receive broadcast television without cable hookup), the Grantee may charge reasonable fees for such installation and equipment. (Ord. No. 4115 § 1 (part), adopted 2003.)

**DIVISION V. RATES**

**Sec. 13.40.390 Rate Regulation.**

The County may regulate a Grantee's rates, charges and prices to the maximum extent permitted by law now or at a future time.

(A) **Filing of Rates and Charges.** Throughout the term of any franchise agreement entered into pursuant to this Chapter, Grantee shall maintain on file with the County a complete schedule of all rates and charges related to providing cable services under the franchise, in a form satisfactory to the County.

(B) **Changes in Rates and Charges.** Grantee shall provide written notice to the County and subscribers at least thirty (30) days in advance of any proposed changes in rates and charges within the control of Grantee. Such notice shall be provided in the subscriber's bill.

(C) **Regulation of Equipment for Hearing-Impaired.** To the extent authorized by law, the County reserves the right to require and regulate the installation or rental of equipment which facilitates the reception of cable service by hearing impaired individuals. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.400 Billing Procedures.**

Billing procedures shall be as follows:

(A) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including:

- (1) A list of each service or package received for that billing period;
- (2) The rate or charge for each service or package received;
- (3) The period of time over which said services are billed;
- (4) The total charges due for the monthly period, separate from any previous balance due;
- (5) Credits posted during the month. Credits for service will be issued no later than the subscriber's next billing cycle following the determination that a credit is warranted.

(6) A specific date by which payment is required; and

(7) The customer service telephone number to which billing inquiries or complaints can be directed.

(B) A Grantee's first billing statement after a new installation or service change shall be prorated as appropriate and shall reflect any security deposit.

(C) A Grantee's billing statement must show a specific payment due date, and no late payment fee may be imposed on a subscriber earlier than thirty (30) calendar days from the due date on the billing statement. Any balance not received within thirty (30) calendar days of the due date may be assessed a late fee consistent with this Chapter. Any late fee assessed must appear on the following month's billing statement.

(D) A Grantee must notify the subscriber that he or she can remit payment in person at the Grantee's office located in or near the County and inform the subscriber of the address of that office.

(E) Every customer who pays his or her bill directly shall have at least fifteen (15) days from the date of the bill for services is mailed to pay the listed charges. Customer payments shall be posted promptly. The Grantee shall not terminate any residential service for nonpayment of a delinquent account without fifteen (15) days prior written notice. Such notice shall not be mailed until after the sixteenth (16th) day from the time the bill for services was mailed to the customer. The Grantee may not assess a late charge earlier than the twenty-second (22nd) day from the time the bill for services has been mailed.

(F) In case of a billing dispute, the Grantee must respond to a written complaint from a subscriber within thirty (30) days.

(G) At the time of the initial complaint, Grantee shall provide written or verbal notice to customers that in the event of a billing dispute, the Grantee, upon resolution of the dispute when Grantee is at fault, shall waive a late fee.

(H) Subscribers shall not be charged a late fee or otherwise be penalized for any failure by the Grantee, its employees or contractors, including failure to timely or correctly bill the subscriber, or failure to

properly credit the subscribers for a payment made in a timely manner.

(I) Every notice of termination of service shall include name and address of subscriber whose account is delinquent, the amount of the delinquency, the date by which payment is required in order to avoid termination of service, the telephone number of the Grantee for additional information and/or to handle complaints or initiate an investigation concerning service and charges in question.

(J) Service may only be terminated on days and at times in which the subscriber can reach a customer service representative of the Grantee either in person or by telephone.

(K) The Grantee shall afford each subscriber of the cable system with a right to rescind the subscriber's ordering of service within three (3) days after ordering, provided that such right of rescission shall end upon activation of the service ordered.

(L) The Grantee will not pass-through franchise fees to subscribers which exceed five and one-quarter percent ( $5\frac{1}{4}\%$ ) of the amount shown on the bill for cable services and equipment.

(M) The Grantee shall assess any late fees in accordance with California law. In no event shall a late fee exceed the maximum amount permissible under California law.

(N) Any franchise agreement entered into pursuant to this Chapter may contain provisions for a discount on basic and cable programming tiers or any other cable services for persons with specific income and disability qualifications.

(O) Grantee will set rates for equipment deposits no higher than the actual replacement value of the equipment for which the deposit is applied. Equipment deposits shall be promptly returned to subscribers upon the return in good working condition to the Grantee of the equipment for which said deposit was required. (Ord. No. 4115 § 1 (part), adopted 2003.)

#### **Sec. 13.40.410 Refunds.**

(A) Refund checks will be issued promptly, but no later than either:

(1) The subscriber's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier; or

(2) In cases involving the return of the equipment supplied by the Grantee if service is terminated for any reason, by the subscriber's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier.

(B) If the Grantee does not mail a check for a refund to any subscriber disconnecting service with an outstanding credit within the next billing cycle or thirty days, whichever is earlier, the subscriber may request and is entitled to receive a ten dollar (\$10.00)-payment. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.420 Notice of Rate Increases.**

Grantee shall provide written notice to the County and subscribers at least thirty (30) days in advance of the implementation of changes in any of its rates and charges which are not subject to regulation by the County. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.430 Non-discrimination and Customer Privacy.**

(A) **Service Availability.** No person, firm or corporation in the existing service area of a Grantee shall be arbitrarily refused service; provided, however, that the Grantee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or monthly service charge hereby authorized.

A Grantee shall not deny any cable service or otherwise discriminate against subscribers or others on the basis of race, color, religion, national origin, sex, age or sexual preference. A Grantee shall strictly adhere to the equal employment opportunity requirements of Federal, State or local governments and shall comply with all applicable laws and executive and administrative orders relating to non-discrimination.

A Grantee may not require the subscription to any tier other than the basic service tier as a condition of access to video programming offered on a per channel or per program basis. A Grantee may not dis-

criminate between subscribers to the basic service tier and other subscribers with regard to the rates charged for video programming offered on a per channel or per program basis.

A Grantee will abide by all customer privacy requirements of Federal and State law. At least annually, a Grantee shall provide notice in the form of a separate, written statement to each subscriber, which clearly and conspicuously informs the subscriber of:

(1) The nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

(2) The nature, frequency and purpose of any disclosure, which may be made of such information, including the identification of the types of persons to whom the disclosure may be made;

(3) The period during which such information will be maintained by the Grantee;

(4) The times and place at which the subscriber may have access to such information in accordance with Federal and State law; and

(5) The limitations provided in Federal and State law with respect to the collection and disclosure of information by a Grantee and the right of the subscriber under law.

(B) **Data Collection.** A Grantee's data collection and dissemination practices regarding subscribers shall be in compliance with the Cable Act (including Section 631) and this Chapter.

(C) **Revealing Subscriber Preferences.**

(1) A Grantee shall not reveal individual subscriber preferences, viewing habits, beliefs, philosophy, creeds or religious beliefs to any third person, firm, agency, governmental unit or investigating agency without court authority or prior written consent of the subscriber.

(2) Such written consent, if given, shall be limited to a period of time not to exceed one (1) year or a term agreed upon by the Grantee and subscriber.

(3) A Grantee shall not condition the delivery or receipt of cable services to any subscriber on any such consent.

(4) Such a subscriber may revoke without penalty or cost any consent previously made by deliver-

ing to the Grantee in writing a substantial indication of his intent to so revoke.

(D) **Revealing Subscriber Lists.** A Grantee shall not reveal, or sell or permit the release or sale of its subscriber list without the prior affirmative written consent of each subscriber, provided that the Grantee may use its subscriber list as necessary for the construction, marketing and maintenance of the Grantee's services and facilities authorized by its franchise, and the related billing of subscribers for cable services. Consistent with applicable law, County may use Grantee's subscribers list for the purpose of communication with subscribers in connection with matters relating to operation, management and maintenance of the cable system.

(E) **Other Persons Affected.** This Section shall apply to all of the following as well as to any Grantee:

(1) Officers, directors, employees and agents of the Grantee;

(2) General and limited partners of the Grantee;

(3) Any person or combination of persons owning holding or controlling five percent (5%) or more of any corporate stock or other ownership interest of the Grantee;

(4) Any affiliated or subsidiary entity owned or controlled by the Grantee, or in which any officer, director, stockholder, general or limited partner or person or group of persons owning, holding or controlling any ownership interest in the Grantee, shall own, hold or control five percent (5%) or more of any corporate stock or other ownership interest;

(5) Any person, firm or corporation acting or serving in the capability of holding or controlling company of the Grantee. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.440 Written or Oral Notice to Enter Property.**

Under normal operating conditions, Grantee shall provide written or oral notice, in light of circumstances, prior to entering any private property. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.450 Notice Regarding Channel Scrambling.**

Subscribers shall be given at least thirty (30) days written notice of any scrambling of a channel, and any de-scrambling of a channel(s) containing R-rated or stronger programming. Subscribers do not need to be notified of blackout periods required of the Grantee by programmers. (Ord. No. 4115 § 1 (part), adopted 2003.)

**DIVISION VI. SERVICE PROVISIONS**

**Sec. 13.40.460 Tenant Rights.**

It is the County's intent that tenants not be discriminated against in the ability to subscribe to cable services. Grantee shall be required to provide service to tenants in individual units of a multiple housing facility with all services offered to other dwelling units within the franchise area, so long as the owner of the facility consents in writing, if requested by Grantee, to the following:

(A) Grantee's providing the service to units of the facility on such terms and conditions as are reasonable, provided that (1) the owner of the facility shall not seek to charge Grantee any fee or consideration for access to the facility or for the right of providing cable service to the dwelling units within the facility, (2) Grantee shall not seek to charge the owner of the facility any fee or consideration for installing such service other than its actual costs as provided for herein, and (3) such terms and conditions shall be in compliance with applicable law;

(B) Reasonable access to the premises by Grantee for installation, maintenance and inspection of the system on the premises;

(C) Reasonable conditions promulgated by Grantee to protect Grantee's equipment and to encourage widespread use of the system;

(D) The owner shall not discriminate in rental charges, or otherwise, between tenants who receive cable service and those who do not; and

(E) The owner shall provide all easements, rights-of-way and other rights of access deemed reasonably necessary or appropriate by Grantee for pur-

poses of providing cable television service to the facility. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.470 Continuity of Service  
Mandatory.**

(A) Subscribers shall have the right to continue to receive service so long as their financial and other obligations to Grantee are honored. Grantee shall at all times, and under all conditions, to the greatest extent economically and technically possible, maintain continuity of service. In the event of an assignment of the cable system, the assignor shall cooperate with the County and the assignee in order to maintain continuity of service to all subscribers.

(B) In the event Grantee willfully fails to operate the cable system for a period of five (5) consecutive days without prior approval of the County, the County may, in its sole discretion, elect to operate the cable system or designate an operator until Grantee restores service under conditions acceptable to the County, or until the County selects a permanent operator. During the entire period while the County operates the cable system on behalf of Grantee, or causes another party to do so, the County shall be entitled to collect any and all revenues from the operation of the cable system, and Grantee shall reimburse the County for all reasonable costs or damages in excess of the revenues collected by the County that are caused by Grantee's failure to perform. (Ord. No. 4115 § 1 (part), adopted 2003.)

**DIVISION VII. OPEN VIDEO SYSTEMS**

**Sec. 13.40.480 Applicability.**

The provisions of this Chapter apply to an open video system operator that intends to deliver video programming to consumers in the County over an open video system. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.490 Application Required.**

(A) Before commencing the delivery of video programming services to consumers in the County over an open video system, the open video system operator must file an application with the County.

That application must include or be accompanied by the following, as applicable:

- (1) The identity of the applicant, including all affiliates of the applicant;
- (2) Copies of FCC Form 1275, all "Notices of Intent" filed under 47 CFR § 76.1503(b)(1), and the order of the FCC, all of which relate to certification of the applicant to operate an open video system in accordance with Section 653(a)(1) of the Communications Act and the FCC's rules;
- (3) The area or areas of the County that the applicant desires to serve;
- (4) A description of the open video system services that will be offered by the applicant over its existing or proposed facilities;
- (5) A description of the transmission medium that will be used by the applicant to deliver the open video system services;
- (6) Information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the ownership and operation of the open video system described in the application;
- (7) Financial statements prepared in accordance with generally accepted accounting principles that demonstrate the applicant's financial ability to:
  - (a) Construct, operate, maintain and remove any new physical plant that is proposed to be constructed in the County,
  - (b) Comply with the County's public, educational and government access channel requirements as specified in Section 13.40.510(B)(4),
  - (c) Comply with the County's requirement that gross revenue fees be paid in the sum of five percent (5%), as specified in Section 13.40.510(B)(2).
- (8) An accurate map showing the location of any existing telecommunications facilities in the County that the applicant intends to use, to purchase or to lease;
- (9) If the applicant's operation of the open video system will require the construction of new physical plant in the County, the following additional information must be provided:
  - (a) A preliminary construction schedule and completion dates,

(b) Preliminary engineering plans, specifications and a network map of any new facilities to be constructed in the County, in sufficient detail to identify:

(i) The location and route requested for the applicant's proposed facilities,

(ii) The locations, if any, for interconnection with the facilities of other telecommunications service providers,

(iii) The specific structures, improvements, facilities and obstructions, if any, that the applicant proposes to remove or relocate on a temporary or permanent basis.

(c) The applicant's statement that, in constructing any new physical plant, the applicant will comply with all applicable ordinances, rules and regulations of the County, including the payment of all required permit and processing fees.

(10) The information and documentation that is required to be submitted to the County by a video provider, as specified in Section 13.40.530(B) of this Chapter;

(11) Such additional information as may be requested by the County Administrator;

(12) A nonrefundable filing fee in an amount established by resolution of the Board of Supervisors.

(B) If any item of information specified in subsection A of this Section is determined under paramount Federal or State law to be unlawful, the County Administrator is authorized to waive the requirement that such information be included in the application. (Ord. No. 4115 § 1 (part), adopted 2003.)

#### **Sec. 13.40.500 Review of Application.**

Within thirty (30) days after receipt of an application filed under Section 13.40.530 of this Chapter that is deemed to be complete, the County Administrator will give written notice to the applicant of the County's intent to negotiate an agreement setting forth the terms and conditions under which the operation of the proposed open video system will be authorized by the County. The commencement of those negotiations will be on a date that is mutually acceptable to the County and to the applicant. (Ord. No. 4115 § 1 (part), adopted 2003.)

#### **Sec. 13.40.510 Agreement Required.**

(A) No video programming services may be provided in the County by an open video system operator unless the operator and the County have executed a written agreement, which may be designated as a franchise, setting forth the terms and conditions under which the operation of the proposed open video system will be authorized by the County.

(B) The agreement between the County and the open video system operator may contain terms and conditions that relate to the following subject matters, to the extent that such terms, conditions and subject matters are not preempted by Federal statute or regulations:

(1) The nature, scope and duration of the agreement, including provisions for its renewal or extension;

(2) The obligation of the open video system operator to pay to the County, at specified times, fees on the gross revenue received by the operator, as authorized by 47 CFR § 76.1511, in accordance with the following standards and procedures:

(a) The amount of the fees on the gross revenue will be five percent (5%), and will be paid in lieu of the franchise fees authorized under Section 622 of the Communications Act,

(b) The term "OVS gross revenue" means (i) all gross revenue received by an open video system operator or its affiliates, including all revenue received from subscribers and all carriage revenue received from unaffiliated video programming providers, and (ii) all advertising revenue received by the operator or its affiliates in connection with the provision of video programming, where such revenue is included in the calculation of the cable franchise fee paid to the County by the franchised cable operator. The term "OVS gross revenue" does not include revenue, such as subscriber or advertising revenue, collected by unaffiliated video programming providers.

(3) The obligation of the open video system operator to comply with requirements relating to information collection and record keeping, accounting procedures, reporting, periodic audits and inspection of records in order to ensure the accuracy of the fees on the OVS gross revenue that are required to be paid

as specified above in subsection (B)(2) of this Section;

(4) The obligation of the open video system operator to meet the County's requirements with respect to public, educational and governmental access channel capacity, services, facilities and equipment, as provided for in 47 CFR § 76.1505. In this regard, the following standards and procedures are applicable:

(a) The open video system operator is subject to the same public, educational and governmental access channel requirements that apply within the cable television franchise service area with which its system overlaps,

(b) The open video system operator must ensure that all subscribers receive all public, educational and government access channels within the franchise service area in which the County's subscribers are located,

(c) The open video system operator may negotiate with the County to establish the operator's obligations with respect to public, educational and government access channel capacity, services, facilities and equipment. These negotiations may include the County's franchised cable operator if the County, the open video system operator, and the franchised cable operator so desire,

(d) If the open video system operator and the County are unable to reach an agreement regarding the operator's obligations with respect to public, educational and government access channel capacity, services, facilities and equipment within the County's jurisdiction, then the following obligations will be imposed:

(i) The open video system operator must satisfy the same public, educational and government access channel obligations as the County's franchised cable operator by providing the same amount of channel capacity for public, educational and governmental access and by matching the County's franchised cable operator's annual financial contributions in support of public, educational and government access services, facilities and equipment that are actually used by the County. For in-kind contributions, such as cameras or production studios, the open video system operator may satisfy its statutory obligation by

negotiating mutually agreeable terms with the County's franchised cable operator, so that public, educational and governmental access services to the County are improved or increased. If such terms cannot be agreed upon, the open video system operator must pay to the County the monetary equivalent of the franchised cable operator's depreciated in-kind contribution, or, in the case of facilities, the annual amortization value. Any matching contributions provided by the open video system operator must be used to fund activities arising under Section 611 of the Communications Act.

(ii) The County will impose upon the open video system operator the same rules and procedures that it imposes upon the franchised cable operator with regard to the open video system operator's use of channel capacity designated for public, educational and government access channel use when that capacity is not being used for such purposes.

(e) The County's franchised cable operator is required under Federal law to permit the open video system operator to connect with its public, educational and government access channel feeds. The open video system operator and the franchised cable operator may decide how to accomplish this connection, taking into consideration the physical and technical characteristics of the cable and the open video systems involved. If the franchised cable operator and the open video system operator cannot agree on how to accomplish the connection, the County has the right to decide. The County may require that the connection occur on County-owned property or on public rights-of-way,

(f) All costs of connection to the franchised cable operator's public, educational and government access channel feed must be borne by the open video system operator. These costs will be counted towards the open video system operator's matching financial contributions set forth in subsection (B)(4)(d)(i) of this Section,

(g) The County will not impose upon the open video system operator any public, educational or government access channel obligations that are greater than those imposed upon the franchised cable operator,

(h) If there is no existing franchised cable operator, the provisions of 47 CFR § 76.1505(d)(6) will be applicable in determining the obligations of the open video system operator.

(i) The open video system operator must adjust its system to comply with new public, education and access channel obligations imposed on the County's franchised cable operator following a renewal of the cable television franchise; provided, however, that the open video system operator will not be required to displace other programmers using its open video system to accommodate public, educational and government access channels. The open video system operator must comply with such new public, educational and government access channel obligations whenever additional capacity is or becomes available, whether it is due to increased channel capacity or to decreased demand for channel capacity.

(5) If the County and the open video system operator cannot agree on the application of the FCC's rules regarding the open video system operator's obligations to provide public, educational and government access channel under the provisions of subsection (B)(4) of this Section, then either party may file a complaint with the FCC in accordance with the dispute resolution procedures set forth in 47 CFR § 76.1514. No agreement will be executed by the County until the dispute has been finally resolved;

(6) If the open video system operator intends to maintain an institutional network, as defined in Section 611(f) of the Communications Act, the County will require that educational and government access channels be designated on that institutional network to the same extent that those channels are designated on the institutional network of the County's franchised cable operator. In addition, to the extent authorized by Federal law, the open video system operator may be required by the County to satisfy the same financial obligations and other requirements that are imposed upon the franchised cable operator to support data-transmission and related services that are provided by the institutional network;

(7) The authority of an open video system provider to exercise editorial control over any public, educational or government use of channel capacity

will be restricted in accordance with the provisions of 47 CFR § 76.1505(f);

(8) The obligation of the open video system operator to comply with all applicable Federal, State and local statutes, ordinances and regulations relating to customer service standards, including the Cable Television and Video Customer Service and Information Act (Government Code §§ 53054, et seq.), the Video Customer Service Act (Government Code §§ 53088, et seq.), and Section 18.04.050 of this Code;

(9) If a new physical plant is proposed to be constructed within the County, the obligation of the open video system operator to comply with the following rights-of-way use and management responsibilities that are also imposed by the County upon other telecommunications service providers in a nondiscriminatory and competitively neutral manner:

(a) Compliance with all applicable County codes, including applications for excavation, encroachment and construction permits and the payment of all required permit and inspection fees,

(b) The coordination of construction activities,

(c) Compliance with established standards and procedures for constructing lines across private property,

(d) Compliance with all applicable insurance and indemnification requirements.

(e) The repair and resurfacing of construction-damaged streets,

(f) Compliance with all public safety requirements that are applicable to telecommunications service providers using public property or public rights-of-way.

(10) Acts or omissions constituting breaches or defaults of the agreement, and the applicable penalties, liquidated damages and other remedies, including fines or the suspension, revocation or termination of the agreement;

(11) Requirements relating to the sale, assignment or transfer of the open video system;

(12) Requirements relating to the open video system operator's compliance with and implementation of State and Federal laws, rules and regulations pertaining to the operation of the open video system;



(13) Such additional requirements, conditions, terms, policies and procedures as may be mutually agreed upon by the County and the open video system operator and that will, in the judgment of the Board of Supervisors, best serve the public interest and protect the public health, welfare and safety. (Ord. No. 4115 § 1 (part), adopted 2003.)

## **DIVISION VIII. OTHER VIDEO AND TELECOMMUNICATIONS SERVICES AND SYSTEMS**

### **Sec. 13.40.520 Other Multichannel Video Programming Distributors.**

(A) The term “cable system” does not include a facility that serves subscribers without using any public rights-of-way. Consequently, the categories of multichannel video programming distributors identified below are not deemed to be “cable systems” and are therefore exempt from the County’s franchise requirements and from certain other local regulatory provisions authorized by Federal law, provided that their distribution or transmission facilities do not involve the use of the County’s public rights-of-way.

(B) Multichannel multipoint distribution service (“MMDS”), also known as “wireless cable,” which typically involves the transmission by an FCC-licensed operator of numerous broadcast stations from a central location using line-of-sight technology.

(C) Local multipoint distribution service (“LMDS”), another form of over-the-air wireless video service for which licenses are auctioned by the FCC, and which offers video programming, telephone and data networking services.

(D) Direct broadcast satellite (“DBS”), also referred to as “direct-to-home satellite services,” which involves the distribution or broadcasting of programming or services by satellite directly to the subscriber’s premises without the use of ground receiving or distribution equipment, except at the subscriber’s premises or in the uplink process to the satellite. Local regulation of direct-to-home satellite services is further proscribed by the following federal statutory provisions:

(1) 47 U.S.C. § 303(v) confers upon the FCC exclusive jurisdiction to regulate the provision of direct-to-home satellite services.

(2) Section 602 of the Communications Act states that a provider of direct-to-home satellite service is exempt from the collection or remittance, or both, of any tax or fee imposed by any local taxing jurisdiction on direct-to-home satellite service. The terms “tax” and “fee” are defined by Federal statute to mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax or any other tax, license or fee that is imposed for the privilege of doing business, regulating or raising revenue for a local taxing jurisdiction. (Ord. No. 4115 § 1 (part), adopted 2003.)

### **Sec. 13.40.530 Video Providers— Registration—Customer Service Standards.**

(A) Unless the customer protection and customer service obligations of a video provider are specified in a franchise, with the County, a video provider must comply with all applicable provisions of the following state statutes:

(1) The Cable Television and Video Customer Service and Information Act (Government Code §§ 53054, et seq.);

(2) The Video Customer Service Act (Government Code §§ 53088, et seq.).

(B) All video providers that are operating in the County on the effective date of this Chapter, or that intend to operate in the County after the effective date of this Chapter, and are not required under applicable law to operate under a franchise, license, lease or similar written agreement with the County, must register with the County. The registration form must include or be accompanied by the following:

(1) The video provider’s name, address and local telephone numbers;

(2) The names of the officers of the video provider;

(3) A copy of the video provider’s written policies and procedures relating to customer service stan-

dards and the handling of customer complaints, as required by California Government Code §§ 53054, et seq. These customer service standards must include, without limitation, standards regarding the following:

(a) Installation, disconnection, service and repair obligations, employee identification, and service call response time and scheduling,

(b) Customer telephone and office hours,

(c) Procedures for billing, charges, refunds and credits,

(d) Procedures for termination of service,

(e) Notice of the deletion of a programming service, the changing of channel assignments, or an increase in rates,

(f) Complaint procedures and procedures for bill dispute resolution,

(g) The video provider's written acknowledgement of its obligation under California Government Code § 53055.1 to provide to new customers a notice describing the customer service standards specified in subsections (B)(3)(a) through (B)(3)(f) of this Section at the time of installation or when service is initiated. The notice must also include, in addition to all of the information described in subsections (B)(3)(a) through (B)(3)(f) of this Section, all of the following:

(i) A listing of the services offered by the video provider that clearly describes all levels of service and the rates for each level of service,

(ii) The telephone number or numbers through which customers may subscribe to, change, or terminate service, request customer service or seek general or billing information,

(iii) A description of the rights and remedies that the video provider may make available to its customers if the video provider does not materially meet its customer service standards.

(h) The video provider's written commitment to distribute annually to its employees and customers, and to the County, a notice describing the customer service standards specified in subsections (B)(3)(a) through (B)(3)(f) of this Section. This annual notice must include the report of the video provider on its performance in meeting its customer service stan-

dards, as required by California Government Code § 53055.2.

(4) Unless a video provider is exempt under Federal law from its payment, a registration fee in an amount established by resolution of the Board of Supervisors to cover the reasonable costs incurred by the County in reviewing and processing the registration form;

(5) In addition to the registration fee specified above in subsection (B)(4) of this Section, the written commitment of the video provider to pay to the County, when due, all costs and expenses reasonably incurred by the County in resolving any disputes between the video provider and its subscribers, which dispute resolution is mandated by California Government Code § 53088.2(o);

(C) The customer service obligations imposed upon video providers by the Video Customer Service Act California (Government Code §§ 53088 et. seq.) consist of the following:

(1) Every video provider must render reasonably efficient service, make repairs promptly and interrupt service only as necessary;

(2) All video provider personnel contacting subscribers or potential subscribers outside the office of the provider must be clearly identified as associated with the video provider;

(3) At the time of installation, and annually thereafter, all video providers must provide to all customers a written notice of the programming offered, the prices for that programming, the provider's installation and customer service policies, and the name, address and telephone number of the County's office that is designated for receiving complaints;

(4) All video providers must have knowledgeable, qualified company representatives available to respond to customer telephone inquiries Monday through Friday, excluding holidays, during normal business hours;

(5) All video providers must provide to customers a toll-free or local telephone number for installation, service and complaint calls. These calls must be answered promptly by the video providers;

(6) All video providers must render bills that are accurate and understandable;

(7) All video providers must respond promptly to a complete outage in a customer's service. The response must occur within twenty-four (24)-hours of the reporting of such outage to the provider, except in those situations beyond the reasonable control of the video provider. A video provider will be deemed to respond to a complete outage when a company representative arrives at the outage location within twenty-four (24)-hours and begins to resolve the problem;

(8) All video providers must provide a minimum of thirty (30) days written notice before increasing rates or deleting channels. All video providers must make every reasonable effort to submit the notice to the County in advance of the distribution to customers. The thirty (30)-day notice is waived if the increases in rates or deletion of channels are outside the control of the video provider. In those cases, the video provider must make reasonable efforts to provide customers with as much notice as possible;

(9) Every video provider must allow every residential customer who pays his or her bill directly to the video provider at least fifteen (15) days from the date the bill for services is mailed to the customer, to pay the listed charges unless otherwise agreed to pursuant to a residential rental agreement establishing tenancy. Customer payments must be posted promptly. No video provider may terminate residential service for nonpayment of a delinquent account unless the video provider furnishes notice of the delinquency and impending termination at least fifteen (15) days prior to the proposed termination. The notice must be mailed, postage prepaid, to the customer to whom the service is billed. Notice must not be mailed until the sixteenth (16th) day after the date the bill for services was mailed to the customer. The notice of delinquency and impending termination may be part of a billing statement. No video provider may assess a late fee any earlier than the twenty-second (22nd) day after the bill for service has been mailed;

(10) Every notice of termination of service pursuant to the preceding subsection (B)(9) of this Section must include all of the following information:

- (a) The name and address of the customer whose account is delinquent,
- (b) The amount of the delinquency,

(c) The date by which payment is required in order to avoid termination of service,

(d) The telephone number of a representative of the video provider who can provide additional information and handle complaints or initiate an investigation concerning the service and charges in question,

(e) Service may only be terminated on days in which the customer can reach a representative of the video provider either in person or by telephone.

(11) Any service terminated without good cause must be restored without charge for the service restoration. Good cause includes, but is not limited to, failure to pay, payment by check for which there are insufficient funds, theft of service, abuse of equipment or system personnel or other similar subscriber actions;

(12) All video providers must issue requested refund checks promptly, but no later than forty-five (45) days following the resolution of any dispute, and following the return of the equipment supplied by the video provider, if service is terminated;

(13) All video providers must issue security or customer deposit refund checks promptly, but no later than forty-five (45) days following the termination of service, less any deductions permitted by law;

(14) Video providers must not disclose the name and address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video providers or their affiliates, unless the video providers have provided to the subscriber a notice, separate or included in any other customer notice, that clearly and conspicuously describes the subscriber's ability to prohibit the disclosure. Video providers must provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name and address.

(D) As authorized by California Government Code § 53088(q), the following schedule of penalties is adopted. These penalties may be imposed for the material breach by a video provider of the consumer protection and service standards that are set forth above in subsection C of this Section, provided that the breach is within the reasonable control of the

video provider. These penalties are in addition to any other remedies authorized by this Chapter or by any other law, and the County has discretion to elect the remedy that it will apply. The imposition of penalties authorized by this subsection will not prevent the County or any other affected party from exercising any other remedy to the extent permitted by law, including but not limited to any judicial remedy as provided below by subsection (D)(2) of this Section.

(1) Schedule of Penalties;

(a) For a first material breach, the maximum penalty is Two Hundred Dollars (\$200) for each day of material breach, but not to exceed a cumulative total of Six Hundred Dollars (\$600) for each occurrence of material breach, irrespective of the number of customers affected,

(b) For a second material breach of the same nature for which a monetary penalty was previously assessed within the preceding twelve (12)-month period, the maximum penalty is Four Hundred Dollars (\$400) per day, not to exceed a cumulative total of One Thousand Two Hundred Dollars (\$1,200) for each occurrence of the material breach, irrespective of the number of customers affected,

(c) For a third or further material breach of the same nature for which a monetary penalty was previously assessed within the preceding twelve (12)-month period, the maximum penalty is One Thousand Dollars (\$1,000) per day, not to exceed a cumulative total of Three Thousand Dollars (\$3,000) for each occurrence of the material breach, irrespective of the number of customers affected,

(d) For the failure of a video provider to distribute the annual notice required by California Government Code 53055.1, the maximum penalty is Five Hundred Dollars (\$500) for each year in which the notice is not distributed as required by State statute,

(e) The maximum penalties referenced above may be increased by any additional amount authorized by State law.

(2) Judicial Remedies Not Affected. The imposition of penalties in accordance with the provisions of subsection (D)(1) of this Section does not preclude any affected party from pursuing any judicial remedy that is available to that party;

(3) Administration, Notice, and Appeal;

(a) The County Administrator or the County Administrator's designee is authorized to administer subsection D of this Section. Decisions by the County Administrator to assess penalties against a video provider must be in writing and must contain findings supporting the decisions. Decisions by the County Administrator are final, unless appealed to the Board of Supervisors,

(b) If the video provider or any interested person is aggrieved by a decision of the County Administrator, the aggrieved party may, within ten (10) days of the written decision, appeal that decision in writing to the Board of Supervisors. The appeal letter must be accompanied by the fee established by the Board of Supervisors for processing the appeal. The Board of Supervisors may affirm, modify or reverse the decision of the County Administrator,

(c) The imposition of monetary penalties under subsection (D)(1) of this Section is subject to the following requirements and limitations:

(i) The County must give the video provider written notice of any alleged material breach and must allow the video provider at least thirty (30) days from receipt of that notice to remedy the breach,

(ii) For the purpose of assessing monetary penalties, a material breach will be deemed to have occurred for each day, following the expiration of the period for cure specified in subsection (D)(3)(c)(i) of this Section, that the material breach has not been remedied by the video provider, irrespective of the number of customers affected. (Ord. No. 4115 § 1 (part), adopted 2003.)

**Sec. 13.40.540 Telecommunications Service Provided by Telephone Corporations.**

(A) The Board of Supervisors finds and determines as follows:

(1) The Federal Telecommunications Act of 1996 preempts and declares invalid all State rules that restrict entry or limit competition in both local and long-distance telephone service;

(2) The California Public Utilities Commission ("CPUC") is primarily responsible for the implemen-

tation of local telephone competition, and it issues certificates of public convenience and necessity to new entrants that are qualified to provide competitive local telephone exchange services and related telecommunications service, whether using their own facilities or the facilities or services provided by other authorized telephone corporations;

(3) Section 234(a) of the California Public Utilities Code defines a “telephone corporation” as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state”;

(4) Section 616 of the California Public Utilities Code provides that a telephone corporation “may condemn any property necessary for the construction and maintenance of its telephone line”;

(5) Section 2902 of the California Public Utilities Code authorizes municipal corporations to retain their powers of control to supervise and regulate the relationships between a public utility and the general public in matters affecting the health, convenience, and safety of the general public, including matters such as the use and repair of public streets by any public utility and the location of the poles, wires, mains or conduits of any public utility on, under or above any public streets;

(6) Section 7901 of the California Public Utilities Code authorizes telephone and telegraph corporations to construct telephone or telegraph lines along and upon any public road or highway, along or across any of the waters or lands within this state, and to erect poles, posts, piers or abutments for supporting the insulators, wires and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters;

(7) Section 7901.1 of the California Public Utilities Code confirms the right of municipalities to exercise reasonable control as to the time, place and manner in which roads, highways and waterways are accessed, which control must be applied to all entities in an equivalent manner, and may involve the imposition of fees;

(8) Section 50030 of the California Government Code provides that any permit fee imposed by a

County for the placement, installation, repair or upgrading of telecommunications facilities, such as lines, poles or antennas, by a telephone corporation that has obtained all required authorizations from the CPUC and the FCC to provide telecommunications services, must not exceed the reasonable costs of providing the service for which the fee is charged, and must not be levied for general revenue purposes.

(B) In recognition of and in compliance with the statutory authorizations and requirements set forth above in subsection A of this Section, the following regulatory provisions are applicable to a telephone corporation that desires to provide telecommunications service by means of facilities that are proposed to be constructed within the County’s public rights-of-way:

(1) The telephone corporation must apply for and obtain, as may be applicable, an excavation permit, an encroachment permit or a building permit (“Ministerial Permit”);

(2) In addition to the information required by this Code in connection with an application for a Ministerial Permit, a telephone corporation must submit to the County the following supplemental information:

(a) A copy of the certificate of public convenience and necessity issued by the CPUC to the applicant, and a copy of the CPUC decision that authorizes the applicant to provide the telecommunications service for which the facilities are proposed to be constructed in the County’s public rights-of-way,

(b) If the applicant has obtained from the CPUC a certificate of public convenience to operate as a “competitive local carrier,” the following additional requirements are applicable:

(i) As required by Decision No. 95-12-057 of the CPUC, the applicant must establish that it has filed with the County in a timely manner a quarterly report that describes the type of construction and the location of each construction project proposed to be undertaken in the County during the calendar quarter in which the application is filed, which information is sufficient to enable the County to coordinate multiple projects, as may be necessary,

(ii) If the applicant's proposed construction project will extend beyond the utility rights-of-way into undisturbed areas or other rights-of-way, the applicant must establish that it has filed a petition with the CPUC to amend its certificate of public convenience and necessity and that the proposed construction project has been subjected to a full-scale environmental analysis by the CPUC, as required by Decision No. 95-12-057 of the CPUC,

(iii) The applicant must inform the County whether its proposed construction project will be subject to any of the mitigation measures specified in the negative declaration ["Competitive Local Carriers (CLCs) Projects for Local Exchange Communication Service throughout California"] or to the mitigation monitoring plan adopted in connection with Decision No. 95-12-057 of the CPUC. The County's issuance of a Ministerial Permit will be conditioned upon the applicant's compliance with all applicable mitigation measures and monitoring requirements imposed by the CPUC upon telephone corporations that are designated as "competitive local carriers."

(C) In recognition of the fact that numerous excavations in the public rights-of-way diminish the useful life of the surface pavement, and for the purpose of mitigating the adverse impacts of numerous excavations on the quality and longevity of public street maintenance within the County, the following policies and procedures are adopted:

(1) The County Director of Transportation is directed to ensure that all public utilities, including telephone corporations, comply with all local design, construction, maintenance and safety standards that are contained within, or are related to, a Ministerial Permit that authorizes the construction of facilities within the public rights-of-way;

(2) The County Director of Transportation is directed to coordinate the construction and installation of facilities by public utilities, including telephone corporations, in order to minimize the number of excavations in the public rights-of-way. In this regard, based upon projected plans for street construction or renovation projects, the County Administrator is authorized to establish on a quarterly basis one (1) or more construction time periods or "win-

dows" for the installation of facilities within the public rights-of-way. Telephone corporations and other public utilities that submit applications for Ministerial Permits to construct facilities after a predetermined date may be required to delay such construction until the next quarterly "window" that is established by the County. (Ord. No. 4115 § 1 (part), adopted 2003.)

#### **Sec. 13.40.550 Severability of Provisions.**

The Board of Supervisors hereby declares that the provisions of this Chapter are severable and if for any reason a court of competent jurisdiction shall hold any sentence, paragraph or Section of this Chapter to be invalid, such decision shall not affect the validity of the remaining parts of this Chapter. (Ord. No. 4115 § 2, adopted 2003.)

## **Title 14**

### **RECREATION AND PUBLIC LANDS**

<b>Chapter 14.04</b>	<b>Jurisdiction Over Cow Mountain Land</b>
<b>Chapter 14.08</b>	<b>Recreation Areas</b>
<b>Chapter 14.12</b>	<b>Regulation of Watercraft</b>
<b>Chapter 14.16</b>	<b>County Buildings and Grounds</b>
<b>Chapter 14.20</b>	<b>Animals Prohibited from County Buildings</b>
<b>Chapter 14.24</b>	<b>Political Advertising on County Property</b>
<b>Chapter 14.28</b>	<b>Use of County Parks and Camping Prohibition on Public and Private Property</b>





## CHAPTER 14.04

### JURISDICTION OVER COW MOUNTAIN LAND

#### Sec. 14.04.010 Declaration.

The Board of Supervisors of Mendocino County does hereby declare that it does hereby assume jurisdiction over all of the hereinafter described lands which lie within the territorial limits of Mendocino County, pursuant to that certain Act of the Congress of the United States as found in 44 Statutes Part II, page 1359, Chapter 381, Statutes of 1927." (Ord. No. 255, Sec. 1, adopted 1936.)

#### Sec. 14.04.020 Lands Described.

The property hereinabove referred to in Section 14.04.010 is described as being all of the following described property that lies within the territorial limits of Mendocino County, to-wit:

Beginning on the west line of the California National Forest at the northeast corner of section 33, township 16 north, range 10 west, Mount Diablo Meridian, and running thence west over two (2) miles to the southeast corner of section 30 in said township; thence south one (1) mile, then west one (1) mile to the township line, thence south about two and one-half miles (2 $\frac{1}{2}$ ), thence east through the center of section 7, township 15 north, range 10 west to section 8 of township 15 north, range 10 west; thence south about three (3) miles to the center line running east and west through section 29 of the said township; thence east to the west line of section 28 of said township; thence south one-half ( $\frac{1}{2}$ ) mile, thence east one-quarter ( $\frac{1}{4}$ ) mile, thence south one-quarter ( $\frac{1}{4}$ ) mile, thence east one-quarter ( $\frac{1}{4}$ ) mile, thence south one-quarter ( $\frac{1}{4}$ ) mile, thence west one-quarter ( $\frac{1}{4}$ ) mile, thence south one and one-half (1 $\frac{1}{2}$ ) miles, thence west one-quarter ( $\frac{1}{4}$ ) mile to the southeast corner of section 5, township 14 north, range 10 west;

thence south four and one-half (4 $\frac{1}{2}$ ) miles, thence east one (1) mile, thence south one-half ( $\frac{1}{2}$ ) mile, thence east to the southeast corner of section 34 of said township; thence south to the southeast corner of section 10 in township 13 north, range 10 west; thence west one (1) mile, thence south one-half ( $\frac{1}{2}$ ) mile, thence west one (1) mile, thence south one-half ( $\frac{1}{2}$ ) mile, thence west two (2) miles, more or less, to the range line between ranges 10 and 11; thence north one (1) mile, thence west one (1) mile, thence north one (1) mile, thence west one (1) mile, thence north one (1) mile, thence west one (1) mile, thence north one (1) mile, thence west one (1) mile, thence north one (1) mile, thence west one (1) mile, thence north one (1) mile, thence west one (1) mile, to the southwest corner of section 29, township 14 north, range 11 west; thence north one and one-half (1 $\frac{1}{2}$ ) miles, thence west one-half ( $\frac{1}{2}$ ) mile, thence north one-half ( $\frac{1}{2}$ ) mile, thence west one-half ( $\frac{1}{2}$ ) mile to the range line between ranges 11 and 12 west; thence north two (2) miles, thence east two (2) miles, thence north one (1) mile, thence west one-half ( $\frac{1}{2}$ ) mile, thence north one-half ( $\frac{1}{2}$ ) mile, thence west one-half ( $\frac{1}{2}$ ) mile, thence north one-quarter ( $\frac{1}{4}$ ) mile, thence west one (1) mile, thence north three-quarter ( $\frac{3}{4}$ ) mile, thence west one-half ( $\frac{1}{2}$ ) mile, thence north one-half ( $\frac{1}{2}$ ) mile, thence west one-half ( $\frac{1}{2}$ ) mile to the southwest corner of section 24, township 15 north, range 12 west; thence north about four (4) miles to the township line between townships 15 and 16; thence east about one (1) mile to the northwest corner of section 6, township 15 north, range 11 west; thence north about one and one-half (1 $\frac{1}{2}$ ) miles to the center of section 30, township 16, north, range 11 west; thence east one-half ( $\frac{1}{2}$ ) mile, thence north one-half ( $\frac{1}{2}$ ) mile, thence east two (2) miles, thence north about two and one-half (2 $\frac{1}{2}$ ) miles to the center line running east and west through section 10, township 16 north, range 11 west; thence east about four (4) miles to the west line of the

California National Forest at the east line of section 7, township 16 north, range 10 west; thence following the west boundary of said California National Forest east one (1) mile, more or less, thence south one-half (1/2) mile, thence east one (1) mile, thence south one (1) mile, thence west one (1) mile, thence south one (1) mile, thence east one (1) mile, and then continuing south on the west line of said California National Forest one (1) mile to the place of beginning.

(Ord. No. 255, Sec. 8, adopted 1936.)

**Sec. 14.04.030 Permission to Hunt, Fish, Camp, Walk and Ride.**

Permission is hereby given to all persons to hunt, fish, camp, walk and ride upon said lands or any part thereof, subject to the laws of the United States of America and to the laws of the State of California. (Ord. No. 255, Sec. 2, adopted 1936.)

**Sec. 14.04.040 Persons Camping—Duties.**

All persons camping within said area shall maintain said camp or camps in a clean and sanitary manner and shall, upon removing therefrom, leave said camp or camps in a similar condition and shall not leave said camp littered with papers, cans or other trash. No water thereon shall be polluted; and all springs of water, where the water is used by persons within said area, shall be by such persons maintained and left

in a clean and sanitary condition. (Ord. No. 255, Sec. 3, adopted 1936.)

**Sec. 14.04.050 No Exclusive Privilege.**

No person shall have or shall exercise any exclusive privilege for hunting, fishing or camping anywhere upon said territory. (Ord. No. 255, Sec. 4, adopted 1936.)

**Sec. 14.04.060 Certain Animals Running at Large or Herded—Prohibited.**

It shall be unlawful for any person, firm or corporation to permit any sheep, goats, hogs, cattle or horses, owned by them or under their control or in their possession to run at large upon or be herded upon any part or portion of said lands. (Ord. No. 255, Sec. 5, adopted 1936.)

**Sec. 14.04.070 Exception.**

It is hereby provided that the provisions of Section 14.04.060 hereof shall not apply to owners or lessees of land situate within, or abutting upon, said lands. (Ord. No. 255, Sec. 6, adopted 1936.)

**Sec. 14.04.080 Penalties.**

Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00), or by imprisonment not exceeding six (6) months in the County Jail, or by both such fine and imprisonment. (Ord. No. 255, Sec. 7, adopted 1936.)

**CHAPTER 14.08****RECREATION AREAS****Sec. 14.08.010 Recreation Areas Designated.**

The following areas shall be deemed "Recreation Areas" and shall be subject to each of the prohibitions and regulations set forth in this Chapter:

(A) Brooktrails. The Brooktrails Vacation Village Subdivision, which is located near Willits, as said subdivision is defined in and described by those certain tract maps and other maps identified as follows and located in the following case and drawer numbers of the Official Records of the County of Mendocino:

- (1) Tract No. 86, located in Case 2, Drawer 7.
- (2) Tract No. 126, located in Case 2, Drawer 13.
- (3) Tract No. 128, located in Case 2, Drawer 13.
- (4) Tract No. 129, located in Case 2, Drawer 14.
- (5) The Golf Course of Unit No. 2, located in Case 2, Drawer 2.

This area shall be known as the Brooktrails Area.

(B) Vichy Bridge Recreation Area. The Vichy Bridge Recreation Area is located at the Russian River crossing of the Vichy Springs Road adjacent to the river and Vichy Springs Road more particularly described as follows:

As depicted in the Settlement Agreement, Exhibits A and B (consisting of photograph and surveyor's description thereof), dated September 17, 1991 between Alexander R. Thomas III, Mary Leittem Thomas, John Thomas and the County of Mendocino as incorporated into the stipulated final judgments in Civil Cases No. 53289 and 53438.

For the purposes of the regulations set forth in Section 14.08.115, the designated parking area at the Vichy Bridge Recreation Area shall be deemed excluded from such regulations.

(Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 1 (part), adopted 1991.)

**Sec. 14.08.020 Firearms Prohibited.**

No person shall fire or discharge any firearm

within a recreation area. (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 1 (part), adopted 1991.)

**Sec. 14.08.030 Firearm Defined.**

A firearm is any item defined by Section 12001 of the California Penal Code or any rifle, shotgun, BB gun, air gun, pellet gun, cannon, or any other weapon of similar nature designed to be used as a weapon, from which is expelled projectile by the force of any explosion or other form of combustion. (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 1 (part), adopted 1991.)

**Sec. 14.08.040 Peace Officer Exempted.**

The prohibition against firearms set forth in Section 14.08.020 shall not apply to any peace officer, as defined by the California Penal Code, while in the lawful discharge of his duties nor to any person lawfully acting under the direction of such peace officer. (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 1 (part), adopted 1991.)

**Sec. 14.08.050 Vehicles Prohibited.**

Except as provided in Sections 14.08.070 and 14.08.080, no person shall operate or permit to be operated any vehicle within a recreation area. (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 1 (part), adopted 1991.)

**Sec. 14.08.060 Vehicle Defined.**

A vehicle is a device by which any person or property may be propelled, moved, or drawn upon a highway excepting a device moved by human power or used exclusively upon stationary rails or tracks shall not be deemed a vehicle for purposes of the prohibitions contained in Section 14.08.050 when used at any of the following designated recreation areas:

A. Brooktrails. (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 2 (part), adopted 1991.)

**Sec. 14.08.070 Utility Vehicles.**

The prohibition against vehicles set forth in Section 14.08.050 shall not apply to utility or public service vehicles required to restore or maintain

utility service or to protect public safety, health, and welfare. (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 2 (part), adopted 1991.)

**Sec. 14.08.080 Brooktrails.**

The prohibition against vehicles set forth in Section 14.08.050 shall apply in the Brooktrails Area only in that portion which has been dedicated to the Brooktrails Resort Improvement District, as such dedications are delineated on the aforesaid maps, said dedicated area being herewith designated by the term "green belt." (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 2 (part), adopted 1991.)

**Sec. 14.08.090 Peace Officer Exempted.**

The prohibition against vehicles set forth in Section 14.08.050 shall not apply to any peace officer, as defined by the California Penal Code, while in the lawful discharge of his duties nor to any person lawfully acting under the direction of such peace officer. (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 2 (part), adopted 1991.)

**Sec. 14.08.100 Dumping Prohibited.**

No person shall deposit, dump, or place, or cause to be deposited, dumped, or placed, any refuse, garbage, waste, soil, earth, rocks, tree stumps, or cuttings within a recreation area. (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 2 (part), adopted 1991.)

**Sec. 14.08.110 Overnight Camping Prohibited.**

No person shall camp between the hours of 12:01 a.m. and 5:00 a.m. of the same day within a recreation area not otherwise closed to use. (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 3, adopted 1991.)

**Sec. 14.08.115 Vichy Bridge Recreation Area/Dusk to Dawn Use Prohibited.**

No persons shall be present at the Vichy Bridge Recreation Area between dusk and dawn of the next day. (Ord. No. 3795 Sec. 4 (part), adopted 1991.)

**Sec. 14.08.120 Hunting Prohibited.**

No person shall hunt, by use of firearms, bow and arrow, trap, or by any other means, within a recreation area. (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 4 (part), adopted 1991.)

**Sec. 14.08.130 Swimming in Potable Water Supply.**

Except for those recreation areas set forth below in this section, no person shall enter, swim, or bathe in any lake or other body of water within a recreation area used for potable water supply, nor shall any person permit any animal which he owns, possesses, harbors, or controls to enter or swim in such lake or body of water:

A. Vichy Bridge Recreation Area. (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 5 (part), adopted 1991.)

**Sec. 14.08.140 Penalty.**

Any violation of this Chapter is hereby declared to be an infraction punishable by a fine not to exceed Five Hundred Dollars (\$500.00). (Ord. No. 1137, adopted 1973; Ord. No. 3795 Sec. 5 (part), adopted 1991.)

## CHAPTER 14.12

### REGULATION OF WATERCRAFT\*

\* Prior history: Ord. No. 698.

#### Sec. 14.12.010 Findings and Purpose.

A. Local use regulations of the coastal estuaries within Mendocino County relating to watercraft of various types are authorized by Sections 268 and 660 of the California Harbors and Navigation Code. Utilization of these resources should be done in a manner which protects the resource from degradation as an ecological, visual and recreational resource. The provisions of this Chapter relating to the use of watercraft are, therefore, necessary to the preservation of the public peace, safety, health and welfare.

B. The purpose of this Chapter is to exercise the police power in order to protect the coastal river estuaries within Mendocino County as an aesthetic, recreational and fish and wildlife resource so that it may be enjoyed by the citizens of this County.

C. In addition to the regulations contained in this Chapter, use of the coastal estuaries shall be governed by all applicable sections of the California Harbors and Navigation Code as the same may be from time to time amended, and all applicable regulations of the Department of Boating and Waterways and the United States Coast Guard as they may be from time to time amended. To the extent that a conflict might exist between this Chapter and any of the aforementioned statutes or regulations, enforcement shall be based on the most strict provision found within this Chapter, the statutes, or regulations. (Ord. No. 3783, adopted 1991.)

#### Sec. 14.12.020 Definitions.

The following words and phrases, for the purposes of this Chapter, shall have the meanings respectively ascribed to them by this section:

A. "Motorized vessel" means any boat or vessel whose principal means of propulsion is by an internal combustion, electrical or mechanical engine, either inboard or outboard.

B. "Personal watercraft" means any motorized vessel which has an internal combustion engine powering a water jet pump or a fully-covered propeller chamber as its primary source of motor propulsion, and which is designed to be operated by a person sitting, standing or kneeling on the vessel rather than the conventional manner of sitting or standing inside the vessel. The term shall include, but not be limited to, those vessels commonly known as "Jet-Skis," "Wet Bikes," "Surf Jets" and "Sea-Doo."

C. "Coastal estuaries" means all estuaries located within Mendocino County including but not limited to Big River, Caspar, Noyo, Navarro, Gualala, Ten Mile, and Albion, their bays from headland to headland and their rivers for a distance of seven (7) miles inland from the mouth of the rivers. (Ord. No. 3783, adopted 1991.)

#### Sec. 14.12.030 Speed.

No person shall operate any motorized vessel at a speed in excess of five (5) miles per hour in any coastal estuary. Speed of the motorized vessel shall be measured in relationship to any adjacent land mass, and may be measured by the utilization of a radar speed-measuring device. (Ord. No. 3783, adopted 1991.)

#### Sec. 14.12.040 Personal Watercraft Prohibition.

Personal watercraft are prohibited from operation in coastal estuaries. (Ord. No. 3783, adopted 1991.)

#### Sec. 14.12.050 Exceptions.

The regulations contained in this Chapter shall not apply to any motorized vessel or personal watercraft owned, operated or controlled by the United States, any California State agency or by any local governmental agency within Mendocino County engaged in bona fide emergency or rescue operations or other operations conducted solely to protect public health and safety. (Ord. No. 3783, adopted 1991.)

14.12.060

**Sec. 14.12.060 Violations—Penalties.**

Violations of this chapter are declared to be infractions and punished as prescribed in Government Code Section 25132. (Ord. No. 3783, adopted 1991.)

## CHAPTER 14.16

### COUNTY BUILDINGS AND GROUNDS

#### Sec. 14.16.010 Trespassing.

It shall be unlawful for any person or persons to trespass or to permit their dogs to trespass upon any grass plot or plots or flower beds surrounding any County buildings and standing, walking, running, sitting or reclining thereon. (Ord. No. 142, Sec. 1, adopted 1905; Ord. No. 3663, Sec. 2, adopted 1987.)

#### Sec. 14.16.020 Noise.

It shall be unlawful for any person, except personnel of law enforcement or governmental agencies acting in furtherance of a law enforcement or governmental objective, to wilfully make, continue to make, or cause to be made, or continued, any loud, unnecessary, unusually penetrating or boisterous noise, disturbance or commotion which unreasonably interferes with County governmental operations and personnel, provided such noise is generated upon property owned or occupied by the County of Mendocino. (Ord. No. 142, Sec. 2, adopted 1905; Ord. No. 3663, Sec. 3, adopted 1987.)

**Sec. 14.16.030** Repealed by Ord. No. 4086, adopted 2002.

#### Sec. 14.16.040 Handrails and Parapet Walls.

It shall be unlawful for any person to climb upon, stand, sit or slide upon any hand railing or parapet wall adjacent to stairway and stair landings located in the interior or on the exterior of all County buildings. (Ord. No. 142, Sec. 4, adopted 1905; Ord. No. 3663, Sec. 5, adopted 1987.)

#### Sec. 14.16.050 Penalty.

Any person who comes into any County building or onto any County grounds, street, sidewalk or public way adjacent thereto whose presence or acts interfere with the peaceful conduct of the activities of the County and members of the public conducting lawful business and who are in violation of any of the

provisions of this Chapter are guilty of a misdemeanor if he or she:

(1) Remains there after being asked to leave by the Chief Administrative Officer of the County or his or her designated representative or by a city police officer, sheriff or deputy sheriff, bailiff, constable or California Highway Patrol Officer; or

(2) Reenters or comes upon such place within seventy-two (72) hours of being asked to leave by a person specified in subsection (1) of this section; or

(3) Has otherwise established a continued pattern of unauthorized entry;

(4) Punishment of violation of this section shall be a misdemeanor.

(5) As used in this section: "Continued pattern of unauthorized entry" means that on at least two prior occasions within a calendar year the same person violated any of the provisions of this chapter and the unauthorized person is asked to leave by any of the persons identified in subsection (1) of this section. (Ord. No. 142, Sec. 5, adopted 1905; Ord. No. 3663, Sec. 6, adopted 1987.)

**Sec. 14.16.060** Repealed by Ord. No. 3663, adopted 1987.





## CHAPTER 14.20

### ANIMALS PROHIBITED FROM COUNTY BUILDINGS

#### Sec. 14.20.010 Declaration.

No person or persons shall bring, or permit to be brought, into any County building any animal belonging to them or under their control except for the following:

(A) Persons with disabilities utilizing a "service animal" as defined by the Americans with Disabilities Act.

(B) Canines utilized by or otherwise in the possession of the Sheriff's Department in the fulfillment of the responsibilities of the Sheriff's Department.

(C) Animals under the care and control of the County Department of Animal Care and Control in the fulfillment of the responsibilities of that Department.

(D) Dogs designated or approved by the Director of Mental Health for use in the Department of Mental Health as a "voluntary therapeutic pet partner". A "voluntary therapeutic pet partner" is a dog which is also a pet volunteered by its owner, approved and determined by the Mental Health Director to provide a positive influence on emotional conditions impacting Mental Health clients.

(E) Dogs designated or approved by the County Librarian or Branch Manager for use in the Mendocino County Public Libraries to participate in the special reading Library programs which are utilized to help children read. The dog's licensing and insurance information must be given to appropriate Library personnel before participating in the program. (Ord. No. 4092 (part), adopted 2002.)

(Ord. No. 4202, 5-20-2008)

#### Sec. 14.20.020 Penalties.

Any person violating any of the provisions of this Chapter shall be deemed guilty of an infraction. (Ord. No. 1011, adopted 1972; Ord. No. 4092 (part), adopted 2002.)

## **CHAPTER 14.24**

### **POLITICAL ADVERTISING ON COUNTY PROPERTY**

#### **Sec. 14.24.010 Prohibition of Political Advertising.**

It shall be unlawful for any person to affix or cause to be affixed to any property of the county any sign, picture, transparency, advertisement, or mechanical device which is used for the purpose of advocating the election or defeat of any individual or individuals seeking elective office or advocating the passage or defeat of any issue subject to ballot or of advertising any assembly, meeting, or other form of gathering in support of or in opposition to such individuals or issues. (Ord. No. 947, adopted 1972.)

## CHAPTER 14.28

### USE OF COUNTY PARKS AND CAMPING PROHIBITION ON PUBLIC AND PRIVATE PROPERTY

#### Sec. 14.28.010 Purpose.

This Chapter is enacted for the purpose of establishing general regulations governing the use of County parks by members of the public and to prohibit unauthorized camping on public and private property. The public areas within the County should be readily accessible and available to residents and the public at large. Private property within the County should be reserved for lawful use as approved of by the owner or person in lawful possession thereof. The unauthorized use of public and private property within the County for camping purposes or storage of personal property interferes with the rights of others to use the areas for their intended purpose. Such activity frequently lacks adequate provision for fire safety, sanitation and refuse disposal and therefore constitutes a public health and safety hazard and adversely impacts the environment. The purpose of this Chapter is to maintain public areas within the County in a clean, sanitary and accessible condition; to limit access to private property for camping purposes except as approved by the owner or person in lawful possession thereof; and to adequately protect the health, safety and public welfare of the community. Nothing in this Chapter is intended to interfere with the otherwise lawful and ordinary use of public or private property or to supersede other County ordinances regulating the use of public property, including, but not limited to, Chapters 14.04, 14.08, 14.16 and 14.20 of this Code.

This Chapter also authorizes the Mendocino County Director of General Services to provide sanitary facilities in County parks and on other real property. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)

#### Sec. 14.28.020 Definitions.

For the purposes of this Chapter, the following definitions shall apply:

(A) "Public property" means all real property owned, controlled, or managed by the County of Mendocino including, but not limited to, improved or unimproved land, roads, streets, sidewalks, alleyways, and as specifically set forth in Section 14.28.050 of this Chapter. "Public property" shall also include property owned by the State of California to the extent the State has provided its express or implied consent to the County's exercise of jurisdiction or has failed to regulate the use of its property.

(B) "Park" means any real property owned or leased or otherwise controlled by the County of Mendocino and which may legally be used for public recreation purposes, including camping. The term "park" is interchangeably used herein with the term "County park."

(C) "Camping" or "camp" means the activity of living temporarily in the outdoors including the erecting of a tent or shelter, or the arranging of bedding, for the purpose of, or in such a way as will permit, remaining overnight.

(D) "Camp facilities" include, but are not limited to, tents, huts, motor vehicles, recreational vehicles, vehicle camping outfits or temporary shelter or structures.

(E) "Camp paraphernalia" includes, but is not limited to, bedrolls, blankets, tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment. "Camp paraphernalia" also includes other personal effects, when used or stored with camp paraphernalia as described above.

(F) "Trailer" means any vehicle as defined in Health and Safety Code Sections 18009.3 and 18010 which is a vehicle other than a motor vehicle, used for human habitation and for carrying persons or property on its structure and which can be drawn by a motor vehicle. "Trailer" includes such vehicles commonly referred to as travel trailer, motor home, campers, park trailer, and used for travel, recreational or seasonal use.

(G) "Firearm" means any item defined by Section 12001 of the California Penal Code or any rifle, shotgun, BB gun, air gun, pellet gun, cannon, or any other weapon of similar nature designed to be used as

a weapon, from which is expelled projectile by the force of any explosion or other form of combustion.

(H) "Sanitary facility" means a toilet or other facility designed for the collection of human waste and refers to both "chemical toilet" buildings and to conventional "restroom" facilities with running water. "Sanitary stop" means an area in which the County of Mendocino maintains a sanitary facility or trash collection facility pursuant to any legal authority, including easements or licenses from private landowners.

(I) "Park Authority" means the Mendocino County Director of General Services or his authorized representative.

(J) "Structure" means that which is built or constructed and refers to a building of any kind and to any piece of work artificially built up or composed of parts joined together in some definite manner that it does not qualify as a residential dwelling.

(K) "Establish" means setting up or moving equipment, supplies or materials on to public or private property to "camp" or operate camp facilities.

(L) "Maintain" means keeping or permitting equipment, supplies or materials to remain on public or private property in order to camp or operate camp facilities.

(M) "Operate" means participating or assisting in establishing or maintaining a camp or camp facility.

(N) "Store" or "storage" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

(O) "Private property" means all private property including, but not limited to, improved or unimproved land, roads, streets, sidewalks and alleyways. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)

**Sec. 14.28.030            Conduct Prohibited in  
County Parks.**

It is prohibited, unlawful, and a misdemeanor for any person to do any of the following acts in, on, or into any portion of a County park:

(A) Discharge any firearm as described in Section 14.28.020(C) of this Chapter.

(B) Make a fire in any place except where specifically designated for such purpose by the Park Authority.

(C) Climb upon any shelter, building, sanitary facility, table, or other structure.

(D) Bring, land, or cause to descend or alight any airplane, dirigible balloon, parachute, or other apparatus designed or used for aviation without the express permission of the Park Authority in advance.

(E) Place, or cause to be placed, any litter, broken glass, ashes, garbage, trash, rubbish, waste, or filth of any kind except in receptacles provided for such purposes by the Park Authority. Such refuse or trash placed in said receptacles shall be only that generated in connection with normal activities conducted in any park area or recreation facility and associated with the proper usage thereof.

(F) Take up or replace any soil, earth, structure, pavement, tree, shrub, plant, grass, flower, or other plant without the express permission of the Park Authority.

(G) Disturb, pick, dig up, cut, mutilate, destroy, injure, move, molest, burn, or carry away any tree or plant or portion thereof.

(H) Bring, or cause to be brought, into any park for the purpose of sale or barter, or have for sale or sell, or exchange, or offer for exchange, any goods, wares, merchandise, or other property without first having obtained a written permit, concession, license, or lease to do so from the Park Authority.

(I) Post or affix any handbill, dodger, circular, booklet, card, pamphlet, sheet, or written or printed notice, or cause the same to be posted or affixed, to any physical object within any park without the prior written permission of the Park Authority.

(J) Molest, hunt, take, injure, trap, net, poison, harm, or kill any animal or fish of any kind, or attempt to do so, provided, however, that this Section shall not apply to the taking of fish for noncommercial purposes.

(K) Permit any dog within his or her possession, ownership, harbor, or control to be in a park except upon a leash no longer than six (6) feet.

(L) Ride or keep a horse except within an area expressly designated or such purpose by the Park Authority.

(M) Disturb, injure, or destroy any property owned, leased, or maintained by the County of Mendocino.

(N) No person under the age of eighteen (18) shall camp within a County park unless accompanied by an adult or with the written consent of a parent or legal guardian. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)

#### **Sec. 14.28.040 Vehicles and Traffic.**

All vehicles and pedestrian traffic in any park shall be subject to the provisions of the California Vehicle Code, which may be enforced by the California Highway Patrol and by the Mendocino County Sheriff. It is prohibited, unlawful, and a misdemeanor for any person to do any of the following acts in or on any portion of a County park:

(A) Operate any vehicle except upon such roads or rights-of-way as are expressly designated and posted by the Park Authority for such operation.

(B) Operate any vehicle except in a safe and prudent manner and at a speed not exceeding twenty-five (25) miles per hour unless otherwise posted by the Park Authority.

(C) Park any vehicle in any manner or at any location other than the manner and location designated for vehicle parking by the Park Authority;

(D) Operate or park any vehicle between the hours of 12:00 midnight and sunrise without permission of the Park Authority. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)

#### **Sec. 14.28.050 Camping.**

The following regulations and prohibitions shall apply to camping and the use of trailers in County parks, and on public and private property.

(A) It is prohibited and unlawful for any person to camp, build any structure, dwell in, inhabit any campsite area or engage in camping, or store any camp paraphernalia and related personal prop-

erty, in any County park or on public property for any period of time unless expressly authorized by this Section or Chapter 6.16 of this Code. The description of any park referred to in this Chapter shall be more particularly described by resolution of the Board of Supervisors and shall be available for public inspection at the office of the Clerk of the Board of Supervisors, Administration Center, 501 Low Gap Road, Rm. 1090, Ukiah, California.

(B) It is further unlawful to camp in, build any structure, dwell in, inhabit any campsite area, or store any camp paraphernalia and related personal property on private property other than with the implied or express consent of the owner or person in lawful possession thereof; however, nothing herein shall authorize a private property owner to operate an unauthorized campground, trailer park or recreational vehicle park or grant permission to anyone to camp on their property when such conduct would violate this Chapter, Chapter 6.16 of this Code or any other provision of law.

(C) Except as provided in subsections (E) and (F), it is prohibited and unlawful for any person or persons to park a vehicle, or trailer for purposes of camping in, sleeping in, dwelling in or otherwise inhabiting it for more than one (1) day on any public property other than a licensed campground, recreational vehicle park, mobile home park or in a governmentally controlled campground or County park for which camping is specifically an authorized public use.

(D) It is prohibited and unlawful for any person or persons to park a vehicle, or trailer for purposes of camping in, sleeping in, dwelling in or otherwise inhabiting it on any private property without the implied or express consent of the owner or person in lawful possession thereof. Nothing herein shall authorize a private property owner to operate an unauthorized campground, trailer park or recreational vehicle park or grant permission to anyone to park vehicles on their property when such conduct would violate this Chapter, Chapter 6.16 of this Code or any other provision of law.

(E) Camping or parking of a vehicle or trailer for purposes of camping in, sleeping in, dwelling in or otherwise inhabiting it, is specifically prohibited and unlawful between the hours of 10:00 p.m. and 6:00 a.m. in:

(1) South Kibesillah Gulch, in the vicinity of Ten Mile River and Westport;

(2) Seaside Beach, in the vicinity of Ten Mile River and Fort Bragg;

(3) McKee County Park, in the vicinity of Potter Valley;

(4) Mill Creek County Park, in the vicinity of Talmage Dam;

(5) Bower Park, in the vicinity of Gualala;

(6) Any public property between US 101 and the Russian River from the Mendocino County line north, to the Russian River Bridge;

(7) Any public property located within a radius of six hundred (600) feet from the center of span of the Russian River Bridge on Talmage Road (State Route 222);

(8) Any public property located within a radius of two hundred fifty (250) feet from the center of span of the Ackerman Creek Bridge on North State Street (County Route 104);

(9) Any public property located within a radius of four hundred (400) feet from the center of span of the West Fork of the Russian River Bridge on Lake Mendocino Drive (County Route 227B);

(10) All that portion of the unincorporated area of Mendocino County designated as the Mendocino Historical Preservation District, as described in section 20.760.010, subdivision (A) of the Mendocino County Code;

(11) In the public right-of-way along Heeser Drive in the Town of Mendocino, to the extent not covered by the preceding paragraph;

(12) North of the City of Ukiah in the public right-of-way along both sides of Lover's Lane, from its intersection with KUKI Road to its terminus near the western foothills.

(F) Camping, or parking of a trailer, is permitted in the following parks in such areas therein

as are expressly posted by the Park Authority for such purpose but only for a maximum of fourteen (14) nights:

(1) Indian Creek, in the vicinity of Philo. (Ord. No. 4171, Sec. 2 (part), adopted 2006.) (Ord. No. 4353, § II, 4-5-2016)

#### **Sec. 14.28.051 Added Regulations—Mill Creek Park.**

In addition to the regulations set forth in this Chapter, Mill Creek County Park, including the picnic area, dams and ponds shall be closed one (1) hour after sunset and shall reopen at sunrise. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)

#### **Sec. 14.28.055 Fees.**

Every person using any County park shall pay such fee as is required by resolution of the Board of Supervisors; provided, however, that such resolution be adopted pursuant to public hearing which has been noticed in a newspaper of general circulation for one time at least ten (10) days in advance of the hearing. In order for a fee to be validly collected at any park, the aforesaid resolution shall be posted at the entrance of such park. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)

#### **Sec. 14.28.060 Sanitary Facilities.**

Sanitary facilities shall be provided and maintained by the Park Authority within all County parks and sanitary stops maintained by it. Such maintenance shall include the pumping of chemical toilets. The Park Authority shall determine the particular location of such chemical toilets, buildings and all matters relating to their maintenance. To the extent authorized by resolution of the Board of Supervisors, the Park Authority may provide sanitary facilities on a loan basis to other governmental agencies, which may need such facilities and may maintain such facilities depending upon the agreement negotiated with the respective governmental agency. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)

**Sec. 14.28.070 Abatement of Nuisances.**

(A) Any structure found to be involved in or which constitutes a violation of this Chapter shall be considered a dangerous building and shall be dealt with in accordance with the nuisance abatement sections of this Code, or other applicable law.

(B) Any abandoned vehicle involved in a violation of this Chapter shall be dealt with in accordance with the Vehicle Code, or other applicable law.

(C) Abatement of a vehicle or structure found to be in violation of this Chapter may be undertaken by County employees or agents twenty-four (24) hours after service of the citation. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)

**Sec. 14.28.080 Enforcement.**

(A) Whenever any person commits any act that is declared by this Chapter to be a misdemeanor, he or she may be arrested by a peace officer legally empowered to enforce laws adopted by County ordinances pertaining to County parks. If such arrested person does not demand to be taken before a magistrate, such person may, instead of being taken before a magistrate, be released according to the procedure set forth in Sections 853.6 et seq., of the California Penal Code, which provide for the issuance and enforcement of citations for misdemeanors.

(B) If personal service on the individual found to be in violation of this Chapter is not possible, service of the citation will be valid and proper if the notice of citation is firmly affixed to a conspicuous object in the campsite, or to a vehicle or structure shall be considered proper service of the citation. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)

**Sec. 14.28.090 Violation and Penalties.**

A first offense of any violation of this Chapter shall be deemed an infraction and punished as prescribed in Government Code Section 25132. Any second or subsequent violations of this Chapter shall be a misdemeanor punishable by a fine of

not more than Five Hundred Dollars (\$500) or by imprisonment in the County jail for not more than six (6) months or both. Every day any violation of this Chapter shall continue shall constitute a separate offense. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)

**Sec. 14.28.100 Annual Review.**

This Board will review the implementation and enforcement of this Chapter six (6) months from the date of adoption and annually thereafter. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)

**Sec. 14.28.110 Severability.**

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this Chapter or the application thereof to any person, establishment or circumstances shall be held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of this Chapter. (Ord. No. 4171, Sec. 2 (part), adopted 2006.)





## **Title 15**

### **VEHICLES AND TRAFFIC**

- Chapter 15.04 Traffic Regulations**
- Chapter 15.08 Traffic Regulation Over Certain Bridges**
- Chapter 15.12 Parking Regulations**
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**CHAPTER 15.04**  
**TRAFFIC REGULATIONS**

**Sec. 15.04.010 Definitions.**

(A) Whenever any words or phrases used in this Chapter are not defined herein but are defined in the Vehicle Code of this State, such definitions are incorporated herein and shall be deemed to apply to such words and phrases used in this Chapter as though set forth herein in full.

(B) For the purpose of this Chapter the following words and phrases are defined and shall be construed as hereinafter set out unless it shall be apparent from the context that they have a different meaning.

(1) "California Maintenance Manual" shall mean that book of traffic engineering standards and instructions formulated and published by the Division of Highways of the Department of Public Works of the State of California, entitled "Manual of Instructions." Copies of said manual shall be kept available to the public in the Office of the Road Department.

(2) "Commissioner" shall mean the Road Commissioner of Mendocino County.

(3) "Local Authority" shall mean the Board of Supervisors of Mendocino County.

(4) "Traffic Article" shall mean Ordinance No. 512 of the County of Mendocino, as adopted November 29, 1966, and as amended from time to time by ordinance, article or resolution. (Ord. No. 512, Secs. 1—6, adopted 1966.)

**Sec. 15.04.020 Traffic Control Devices.**

(A) **Authorized Installations.** Whenever by any provision of this Chapter the Local Authority is authorized to install any traffic control devices and such authority is made dependent upon their determination of the need therefor, it shall be their duty to make such determination only upon the basis of traffic engineering principles and traffic investigations and in accordance with such stan-

dards, limitations and rules as are hereinafter in this Chapter laid down with reference to the particular kind of installation under consideration.

(B) **Directed Installations.** It shall be the duty of the Commissioner to install traffic control devices whenever directed by the Local Authority or by any provision of this Chapter and to do so at any particular location specified.

(C) **Installations Essential to Effectiveness of Traffic Laws.** Whenever any traffic law of this State or any traffic regulation set forth in this Chapter requires for its effectiveness that traffic control devices be installed to give notice to the public of the operations or application of such law or regulation, the Commissioner is hereby authorized to install the necessary devices, subject to any limitations or restrictions set forth in the law or regulation involved.

(D) **Additional Installations.** Subject to the requirements of subsection (A) of this Section, the Local Authority is hereby authorized to install by resolution such additional traffic control devices not expressly provided for in this Chapter as it determines are necessary to regulate, warn or guide traffic and to remove such devices by resolution when it determines they are no longer necessary to regulate, warn or guide traffic.

(E) **Authority of Local Authority Exclusive.** No other officer, board or department of this County, and no private agency or person shall install, place, maintain or remove any traffic control devices within the purview of this Chapter except as provided in this Chapter.

(F) **Road Markings.** The Commissioner shall mark center lines, lane lines, symbols and words and install raised devices or other devices to indicate upon the surface of the pavement the course to be traveled by vehicles at any place where the Commissioner determines that such markings or devices are necessary for the orderly and safe movement of traffic. Said markings and installations shall be made consistent with State law and in accordance with those standards and methods set forth in the California Maintenance Manual.

(G) **Removal of Unauthorized Signs, Signals and Lights.** The Commissioner may, without notice, remove any unofficial sign, signal or device, placed, maintained or displayed upon any County road, contrary to the provisions of the Vehicle Code.

(H) **Off-center Lane Movement—Establishment.** The Commissioner is hereby authorized to install signs or markers, temporarily designating lanes to be used by traffic moving in a particular direction on any County road, regardless of the center line of that road or markings thereon, whenever the Commissioner determines that such designation will promote the orderly movement of traffic or reduce congestion.

(I) **Temporary Traffic Controls.** Upon those streets or at those locations where the Commissioner determines that an unusual hazard exists to life or property, or that unusual congestion or impedece to traffic movement exists or is likely to occur, the Commissioner shall install such official traffic control devices as are required by his findings to control such hazard, congestion, or impedece to traffic movement. Such devices shall be effective for a period not to exceed thirty (30) days and shall be appropriately marked "temporary." (Ord. No. 512, Secs. 20—24, 30—33, adopted 1966.)

**Sec. 15.04.030 Speed Zoning on County Roads.**

(A) **Authority to Change Prima Facie Limits.** Pursuant to Sections 22348, 22357, and 22358 of the Vehicle Code, the Local Authority hereby determines, upon the basis of an engineering and traffic investigation, that a speed greater than twenty-five (25) miles per hour would be reasonable and safe upon the streets designated which are otherwise subject to a prima facie speed limit of twenty-five (25) miles per hour under the said Vehicle Code, and that the maximum limit as designated by the Vehicle Code is more than is reasonable and safe upon the streets designated which are otherwise subject to a maximum speed limit of fifty-five (55) miles per hour under the said Vehicle Code. The Commissioner is hereby authorized

and directed to establish appropriate signs giving notice of the prima facie speed limits established. When signs are erected giving notice thereof, the prima facie speed limits set forth shall be in effect.

(B) **Speed Zone Schedules/Twenty-Five (25) Miles Per Hour Prima Facie Speed Limit.** Upon the streets designated in this subsection, a prima facie speed limit of twenty-five (25) miles per hour is hereby declared to be reasonable, safe and more appropriate to facilitate the orderly movement of traffic.

- (1) On Mill Creek Drive (CR 425), full length.
- (2) On Ward Avenue (CR 425B), from 0.70 miles northwest of State Route 1 to terminus.
- (3) On Lovers Lane (CR 222), full length.
- (4) On Petaluma Avenue (CR 422), from Pudding Creek Road (CR 421) to Johnson Lane (CR 442A).
- (5) On Marina Drive (CR 226), from mile post 1.05 to mile post 2.05 (State Route 20).
- (6) On Sanford Ranch Road (CR 200), from mile post 0.00 to mile post 0.70 (Knob Hill Road).
- (7) On Knob Hill Road (CR 204), full length.
- (8) On Vichy Hills Drive (CR 204I), full length.
- (9) On Watson Road (CR 204A), full length.
- (10) On Gibney Lane (CR 412E), from mile post 0.00 to mile post 0.4.
- (11) On Deerwood Drive (CR 215B), full length.
- (12) On Deerwood Drive Extension (CR 215BX), from mile post 0.00 to Wildwood Road (CR 215J).
- (13) On North Harbor Drive (CR 415A), from State Route 1 to Fort Bragg City Limits.
- (14) On Redemeyer Road (CR 215A), from mile post 2.40 to terminus.
- (15) On East Cedar Street (CR 420), from the Fort Bragg City Limits to Monsen Way (CR 420C).
- (16) On Monsen Way (CR 420C), full length.
- (17) On Sunnycrest Drive (CR 239A), full length.
- (18) On Mill Creek Road (CR 203), from mile post 0.10 to mile post 1.20.
- (19) On Della Avenue (CR 312), full length.

(20) On Little Lake Road (CR 408), from mile post 0.00 to mile post 1.18 (one mile easterly of State Route 1).

(21) On Holquist Lane (CR 412), from mile post 0.00 to mile post 0.15.

(22) Repealed.

(23) On East Side Calpella Road (CR 227), from mile post 0.00 to mile post 1.50 and from mile post 2.75 to mile post 3.30.

(24) On Lake Mendocino Drive (CR 227B), from 0.75 miles easterly of North State Street to terminus.

(25) On Pinoleville Drive (CR 225), full length.

(26) On Black Bart Drive (CR 370), from mile post 1.51 to terminus.

(27) On Blackhawk Drive (CR 371), full length.

(28) On Ridgeview Road (CR 372), full length.

(29) On Baywood Way (CR 373), full length.

(30) On Bluejay Lane (CR 374), full length.

(31) On Comptche-Ukiah Road (CR 223), from mile post 14.13 to mile post 14.64.

(32) On Branscomb Road (CR 429), from mile post 25.00 to mile post 25.31.

(33) On the entire length of Brooktrails Drive (CR 311B).

(34) On Birch Street (CR 601), between Brooktrails Drive (CR 311B) mile post 0.00 and Clover Road (CR 603) mile post 0.13.

(35) On North State Street, CR 104 from mile post 4.57 to mile post 5.11.

(36) On Moore Street, CR 229B from mile post 0.10 to mile post 0.42.

(37) On Pomo Lake Drive (CR 551), full length.

(38) On Sea Cypress Drive (CR 568), full length.

(39) On Laytonville Dos Rios Road (CR 322), from mile post 11.22 to mile post 12.00.

**(C) Speed Zone Schedule/Thirty (30) Miles Per Hour Prima Facie Speed Limit.** Upon the streets designated in this subsection a prima facie

speed limit of thirty (30) miles per hour is hereby declared to be reasonable, safe and more appropriate to facilitate the orderly movement of traffic.

(1) On Fort Bragg-Sherwood Road (CR 419), from the Fort Bragg City Limits easterly approximately, 0.50 miles to California Way.

(2) On Airport Road (CR 424), from the Fort Bragg City Limits mile post 0.00 to mile post 0.64.

(3) Repealed.

(4) On Little Valley Road (CR 426), full length.

(5) On Burris Lane (CR 243), from mile post 0.00 to mile post 0.80.

(6) On Simpson Lane (CR 414), from mile post 0.00 to mile post 1.50.

(7) On Albion Ridge Road (CR 402), from mile post 0.00 to mile post 2.00.

(8) On Black Bart Drive (CR 370), from mile post 0.00 to mile post 1.51.

(9) On East Side Calpella Road (CR 227), from mile post 1.50 to mile post 2.75.

(10) On Birch Street (CR 601), from Clover Road (CR 603) mile post 0.13 to Sherwood Road (CR 311) mile post 0.76.

(11) On Primrose Drive (CR 604), from Sherwood Road (CR 311) mile post 0.00 to Clover Road (CR 603) mile post 1.04.

(12) On Center Valley Road (CR 303), from the Willits City Limit mile post 0.00 to Bray Road (CR 305) mile post 0.52.

**(D) Speed Zone Schedule/Thirty-Five (35) Miles Per Hour Prima Facie Speed Limit.** Upon the streets designated in this subsection, a prima facie speed limit of thirty-five (35) miles per hour is hereby declared to be reasonable, safe and more appropriate to facilitate the orderly movement of traffic.

(1) On East Road (CR 230), from mile post 1.34 to mile post 1.79.

(2) On Heeser Drive (CR 407FF), full length.

(3) On Simpson Lane (CR 414), from mile post 1.50 to mile post 3.60.

(4) On Vichy Springs Road (CR 215), from the Ukiah City Limits mile post 0.00 to mile post 1.35.

(5) On Ward Avenue (CR 425B), from mile post 0.00 to mile post 0.7.

(6) On Laytonville Reservation Road (CR 319F), full length.

(7) On Airport Road (CR 424), from mile post 0.64 to terminus.

(8) On North Road (CR 319E), full length.

(9) On Lakeside Drive (CR 319B), full length.

(10) Repealed.

(11) Repealed

(12) On Little Lake Road (CR 408), from mile post 1.18 (State Highway 1) to mile post 4.0.

(13) On Lansing Street (CR 500), from Heeser Drive (CR 407FF) northerly to State Route 1.

(14) On East Side Calpella Road (CR 227), from mile post 3.30 to mile post 3.88 (terminus).

(15) On Tomki Road (CR 237D), from mile post 0.00 to mile post 3.90.

(16) On Lake Mendocino Drive (CR 227B), from North State Street (CR 104) to 0.75 miles easterly thereof.

(17) Repealed.

(18) On Caspar-Little Lake Road (CR 409), from mile post 1.80 to mile post 3.32.

(19) On Hensley Creek Road (CR 225A), from mile post 0.00 to mile post 0.17.

(20) On Orr Springs Road (CR 223), from North State Street (CR 104) to 0.84 miles westerly thereof.

(21) On Central Avenue (CR 229), full length.

(22) On South State Street (CR 104A), from mile post 0.63 to mile post 1.41.

(23) On Ocean Drive (CR 436), from mile post 0.25 (Mitchell Creek) northerly to terminus.

(24) On Uva Drive (CR 239), from mile post 0.00 (the end of Central Avenue) to mile post 2.05.

(25) On Branscomb Road (CR 429), from mile post 23.00 to mile post 25.00.

(26) On Powerhouse Road (CR 248A), from mile post 0.00 (Main Street, CR 245) to mile post 1.23 (Gibson Lane, CR 246).

(27) On Road N (CR 238A), full length.

(28) Repealed.

(29) On Gielow Lane (CR 206), full length.

(30) On Crispin Road (CR 511), full length.

(31) On Little River Airport Road (CR 404), from the intersection of State Highway 1, mile post 0.00, to mile post 1.85 and from mile post 3.45 to the end of the road at its intersection with Comptche Ukiah Road.

(32) On Navarro Ridge Road (CR 518) from the intersection of State Highway 1, mile post 0.00, to mile post 3.37.

(33) On Pudding Creek Road (CR 421), from the intersection of State Highway 1, mile post 0.00, to mile post 0.55.

(34) On Clover Road (CR 603), from Birch Street (CR 601) mile post 0.00 to Primrose Drive (CR 604) mile post 0.38.

(35) On Daphne Way (CR 608), from Sherwood Road (CR 311) mile post 0.0 to Poppy Drive (CR 623) mile post 0.85.

(36) On Airport Road (CR 126), from Estate Drive (CR 126A) mile post 0.23 to the end of Airport Road (CR 126) mile post 0.63.

(37) On North State Street (CR 104), from mile post 0.00 to mile post 0.44.

(E) **Speed Zone Schedule/Forty (40) Miles Per Hour Prima Facie Speed Limit.** Upon the streets designated in this subsection, a prima facie speed limit of forty (40) miles per hour is hereby declared reasonable, safe and more appropriate to facilitate the orderly movement of traffic.

(1) On Hearst-Willits Road (CR 306), from Valley Road (CR 309) to 2.7 miles northeasterly thereof.

(2) On Pudding Creek Road (CR 421), from the Fort Bragg City Limits to 1.55 miles east of State Route 1.

(3) On West Road (CR 237), from School Way (CR 236) northerly to terminus.

(4) On Redemeyer Road (CR 215A), from mile post 0.39 (Vichy Springs Road) to mile post 1.68.

(5) On East Hill Road (CR 301), from the Willits City Limits to 0.25 miles east of Center Valley Road (CR 303).

(6) On Caspar-Little Lake Road (CR 409), from mile post 0.00 to mile post 1.80.

(7) Repealed.

(8) Repealed.

(9) On Little River Airport Road from mile post 1.85 to mile post 3.45.

(10) On Pudding Creek Road (CR 421), from mile post 0.55 to the end of the road.

(11) On Sherwood Road (CR 311), from Primrose Drive (CR 604) mile post 2.17 to Crow Place (CR 699) mile post 3.89.

(12) On North State Street, CR 104 from mile post 5.11 to mile post 5.25.

(13) On Old Stage Road (CR 502), from Old State Highway, (CR 501A) mile post 0.00 to the northerly intersection of Gualala Court (CR 502A) mile post 1.06.

(14) On Pacific Woods Road (CR 524), full length.

(15) On Comptche-Ukiah Road, CR 223, one-half mile southerly of intersection of Little River Airport Road mile post 5.77.

(16) On Mountain House Road (CR 111), from mile post 7.99 to mile post 8.89.

**(F) Speed Zone Schedule/Forty-Five (45) Miles Per Hour Prima Facie Speed Limit.** Upon the streets designated in this subsection, a prima facie speed limit of forty-five (45) miles per hour is hereby declared to be reasonable, safe and more appropriate to facilitate the orderly movement of traffic.

(1) On East Side Potter Valley Road (CR 240), from State Route 1 to 3.85 miles north of Burris Road.

(2) Repealed.

(3) On the Eel River Road (CR 240B), from mile post 0.00 to mile post 2.57.

(4) On Vichy Springs Road (CR 215), from mile post 1.35 and mile post 2.58.

(5) On South State Street (CR 104A), from mile post 0.00 to mile post 0.63.

(6) On Ruddick Cunningham Road (CR 205), full length.

(7) On Sherwood Road (CR 311), from the Willits City Limits mile post 0.00 to Primrose Drive (CR 604) mile post 2.17.

(8) On Center Valley Road (CR 303), from mile post 1.45 to the end of the road at East Hill Road (CR 301) mile post 2.07.

(9) On North State Street (CR 104), from mile post 0.44 to mile post 2.45.

(10) On Old Stage Road (CR 502), from the northerly intersection of Gualala Court (CR 502A) mile post 1.06 to mile post 2.35.

(11) On Point Cabrillo Drive (CR 564), from milepost 0.00 to milepost 0.75.

**(G) Speed Zone Schedule/Fifty (50) Miles Per Hour Prima Facie Speed Limit.** Upon the streets designated in this subsection, a prima facie speed limit of fifty (50) miles per hour is hereby declared to be reasonable, safe and more appropriate to facilitate the orderly movement of traffic.

(1) On East Road (CR 230), from mile post 0.08 to mile post 1.34.

(2) On East Road (CR 230), from mile post 1.79 to mile post 5.39.

(3) On Center Valley Road (CR 303), from Bray Road (CR 305) mile post 0.52 to mile post 1.45.

(4) On North State Street (CR 104), from mile post 2.45 to mile post 4.57.

(5) On Old Stage Road (CR 502), mile post 2.35 to mile post 3.20. (Ord. No. 512, adopted 1966; Ord. No. 515, adopted 1967; Ord. No. 522, adopted 1967; Ord. No. 533, adopted 1968; Ord. No. 560, adopted 1969; Ord. No. 565, adopted 1969; Ord. No. 591, adopted 1969; Ord. No. 669, adopted 1970; Ord. No. 756, adopted 1971; Ord. No. 805, adopted 1971; Ord. No. 889, adopted 1972; Ord. No. 919, adopted 1972; Ord. No. 961, adopted 1972; Ord. No. 998, adopted 1972; Ord. No. 1469, adopted 1975; Ord. No. 1601, adopted 1975; Ord. No. 1900, adopted 1977; Ord. No. 1901, adopted 1977; Ord. No. 1922, adopted 1977; Ord. No. 2004, adopted 1977; Ord. No. 2031, adopted 1977; Ord. No. 3239, adopted 1978; Ord. No. 3256, adopted 1979; Ord. No. 3261, adopted 1979; Ord. No. 3262, adopted 1979; Ord. No. 3289, adopted 1980; Ord. No. 3333, adopted 1981; Ord. No. 3390, adopted 1982; Ord. No. 3402, adopted 1982; Ord. No. 3411, adopted 1982; Ord.

No. 3492, adopted 1984; Ord. No. 3553, adopted 1985; Ord. No. 3564, adopted 1985; Ord. No. 3613, adopted 1986; Ord. No. 3660, adopted 1987; Ord. No. 3732, adopted 1990; Ord. No. 3748, adopted 1990; Ord. No. 3750, adopted 1990; Ord. No. 3824, adopted 1992; Ord. No. 3835, adopted 1992; Ord. No. 3894, adopted 1994; Ord. No. 3966, adopted 1997; Ord. No. 3976, adopted 1997; Ord. No. 4041, adopted 1999; Ord. No. 4042, adopted 1999; Ord. No. 4056, adopted 2000; Ord. No. 4081, adopted 2002; Ord. No. 4089, adopted 2002; Ord. No. 4109, adopted 2003; Ord. No. 4133, adopted 2004; Ord. No. 4173, adopted 2006; Ord. No. 4196, adopted 2008) (Ord. No. 4265, 7-13-2010; Ord. No. 4276, 5-17-2011; Ord. No. 4306, 3-26-2013; Ord. No. 4316, 12-10-2013; Ord. No. 4339, 6-16-2015; Ord. No. 4351, 3-1-2016; Ord. No. 4389, 8-1-2019)

**Sec. 15.04.031 is hereby repealed** (Ord. No. 3289, adopted 1980.)

**Sec. 15.04.032 is hereby repealed** (Ord. No. 3289, adopted 1980.)

**Sec. 15.04.033 is hereby repealed** (Ord. No. 3289, adopted 1980.)

**Sec. 15.04.034 is hereby repealed** (Ord. 3289, adopted 1980)

**Sec. 15.04.040 Speed Limit Changes.**

Any person who requests a change in a prima facie speed limit on any County road shall make application to the Commissioner, who, upon finding the application meritorious, shall conduct an engineering and traffic survey to determine the appropriate amendment to this Chapter shall be presented to the Local Authority for their consideration and determination pursuant to Section 15.04.030 (A) of this Chapter. (Ord. No. 512, Section 102, adopted 1966.)

**Sec. 15.04.050 Speed Zoning on Bridges and Structures.**

**(A) Authority to Establish the Maximum Limits on Bridges and Structures.** Pursuant to Sections

22403 and 22404 of the Vehicle Code, the Local Authority is hereby authorized to determine, upon the basis of an engineering and traffic investigation and properly noticed public hearing, the maximum speed which can be maintained with safety on any bridge or structure under its jurisdiction. (Ord. No. 512, Sec. 120, adopted 1966.)

**(B) Posting of Speed Signs for Bridges and Structures.** When such determination has been made, the Local Authority by resolution shall designate the maximum speed limit on such bridge and structures. The Commissioner is hereby authorized and directed to establish appropriate signs giving notice of the maximum speed limits established. When signs are erected giving notice thereof, the maximum speed limits set forth shall be in effect. (Ord. No. 512, Sec. 121, adopted 1966.)

**(C) Speed Limit Changes on Bridges and Structures.** Any person who requests a change in a maximum speed limit on any County bridge or structure shall make application to the Commissioner, who, upon finding the application meritorious, shall conduct an engineering and traffic survey to determine the appropriate maximum speed limit. Said engineering and traffic survey together with the recommendations of the Commissioner shall be presented to the Local Authority, who shall hold a public hearing. Notice of the time and place of the public hearing shall be posted upon the bridge or structure at least five (5) days prior to the date fixed for said hearing. Upon the conclusion of said hearing, a determination of the maximum speed limit shall be made pursuant to Section 15.04.050 (A) of this Chapter. (Ord. No. 512, Sec. 122, adopted 1966.)

**Sec. 15.04.060 Speed Zoning on Private Property.**

**(A) Authority to Establish Maximum Limits on Private Roads.** Any affected property owner who requests a change of an established maximum limit on a private road or the establishment of a maximum limit on a private road shall file with the Commissioner a petition signed by a majority of the affected property owners, setting



forth a description of the private road, the maximum limit desired and the reasons therefor. The Commissioner shall determine if the petition is in compliance with this section. If the petition is in compliance, the matter shall be set on the agenda of the Local Authority on the second Tuesday following the filing of the petition. The Clerk of the Board shall notify by mail all known affected property owners. When the matter is heard, the Local Authority may receive and consider testimony from the proponents and the opponents prior to the establishment of a maximum limit. (Ord. No. 512, Sec. 130, adopted 1966.)

**Sec. 15.04.070 Stop Signs.**

(A) **AUTHORITY TO ERECT STOP SIGNS.** Subject to the provisions of Sections 21353 and 21355 of the Vehicle Code, the local authority is hereby authorized to determine those County roads, intersections or railroad grade crossings at which there is a special hazard to life or property by reason of the volume of traffic upon such roads or at such intersections, or over such railroad grade crossings, or because of the lack of visibility to the drivers of the vehicles approaching such roads, intersections or railroad grade crossings, or because the number of reported accidents or the apparent probability thereof, or by reason of physical conditions which render any such roads, intersections or railroad grade crossings exceptionally dangerous or hazardous to life or property, and where the factors creating the special hazard are such that, according to the principles and experience of traffic engineering, the expectancy of accidents and that the use of warning signs would be inadequate. (Ord. No. 512, Sec. 140, adopted 1966.)

(B) **POSTING OF STOP SIGNS.** When such determination has been made, the Local Authority by resolution shall designate any such road as a through road between specified limits, or designate any such intersection as a stop intersection, or designate any such railroad grade crossing as a stop railroad grade crossing, subject to the approval of the Public Utilities Commission of this

State, pursuant to the provisions of Section 21110 of the Vehicle Code; and it shall post such stop signs as are necessary to give effect to such designation. Stop signs at any intersection may be so posted as to stop either or any or all of the streams of traffic entering such intersection as the needs of the particular location may require. (Ord. No. 512, Sec. 141, adopted 1966.)

(C) **ADDITION OR REMOVAL OF STOP SIGNS.** Any person who requests the addition or removal of stop signs authorized by this Chapter shall make application to the Commissioner who, upon finding the application meritorious, shall conduct an engineering and traffic survey to determine the need for any such addition or removal. Said engineering and traffic survey together with the recommendations of the Commissioner and an appropriate resolution shall be presented to the Local Authority for their consideration and determination, pursuant to Section 15.04.070 (A) of this Chapter. (Ord. No. 512, Sec. 142 adopted 1966, as amended by Ord. No. 592, adopted 1969.)

**Sec. 15.04.071 Simpson Lane a Through Street.**

Simpson Lane C.R. 414 between M.P. 0.00 to M.P. 3.60 is hereby designated as a through street and such stop signs may be posted as are necessary to establish this roadway as a through street. (Ord. No. 3262, adopted 1979.)

**Sec. 15.04.080 Yield Right of Way Signs.**

(A) **AUTHORITY TO ERECT YIELD RIGHT OF WAY SIGNS.** The Commissioner is hereby authorized to determine those approaches to intersections of streets and highways which are not through streets and which there is special hazard to life and property by reason of the volume of traffic at such intersections, or because of the lack of visibility to the drivers of the vehicles approaching such intersections, or because of the number or reported accidents or an apparent probability thereof, or by reason of physical conditions which render such intersections exceptionally dangerous or hazardous to life and property, and where the factors creating the special hazard are such that,

according to the principles and experience of traffic engineering, the installation of "yield right of way" signs is reasonably calculated to reduce the expectancy of accidents, and that the use of warning signs would be inadequate. (Ord. No. 512, Sec. 150, adopted 1966.)

(B) **POSTING YIELD RIGHT OF WAY SIGNS.** When such determination has been made, the Commissioner is directed to designate any such approaches as "yield right of way" approaches and shall post such "yield right of way" signs as are necessary to give effect to such designation. (Ord. No. 512, Sec. 151, adopted 1966.)

**Sec. 15.04.090 Repealed by Ord. No. 3680, adopted 1988.**

**Sec. 15.04.100 Penalties.**

(A) It is unlawful for any person to do any act forbidden or fail to perform any act required in this Chapter.

(B) Any person violating any of the provisions of this Chapter shall be guilty of an infraction. (Ord. No. 512 Sec. 170, adopted 1966; Ord. No. 3550, adopted 1985.)

**Sec. 15.04.110 Existing Signs Ratified.**

All speed restriction signs, stop signs, yield right of way signs, and traffic control devices in place on the effective day of this Chapter (December, 1966) are hereby ratified and confirmed and shall constitute the applicable law until changed pursuant to this Chapter. (Ord. No. 512 Sec. 182, adopted 1966.)

## CHAPTER 15.08

### TRAFFIC REGULATION OVER CERTAIN BRIDGES

#### **Sec. 15.08.010 Declaration (Boonville Road-Feliz Creek Bridge).**

That the Boonville Road-Feliz Creek Bridge is suitable for one (1) lane traffic only and therefore will be posted a one (1) lane bridge. (Ord. No. 410, Sec. 1, adopted 1961.)

#### **Sec. 15.08.020 Stop Signs—Posted.**

It is necessary that an arterial stop sign be posted at the southwest corner of the intersection of the Feliz Creek Road and the Boonville Road. (Ord. No. 410, Sec. 2, adopted 1961.)

#### **Sec. 15.08.030 Penalties.**

Any person who may be convicted of violating Section 15.08.010 of this Chapter shall be punished by a sentence of not more than thirty (30) days in the County jail, or fined not more than Two Hundred Fifty Dollars (\$250.00) or by both such fine and imprisonment. (Ord. No. 410, Sec. 3, adopted 1961.)

#### **Sec. 15.08.040 Duty of County Road Commissioner.**

The County Road Commissioner is hereby authorized and directed to erect and maintain a suitable sign upon the Feliz Creek Bridge, stating that it is a "One Lane Bridge" and a suitable stop sign at the intersection of the Feliz Creek Road and the Boonville Road. (Ord. No. 410, Sec. 4, adopted 1961.)

#### **Sec. 15.08.050 Declaration (Steel Truss Bridge Across North Fork of the Gualala River).**

(A) The steel truss bridge across the North Fork of the Gualala River situated one and one-half (1½) miles easterly from the State Highway near the town of Gualala, is hereby declared to be in a dangerous condition for heavy travel and

unsafe for transporting over and upon said bridge any load, including vehicle, in excess of ten (10) tons in weight per vehicle, or in excess of eighteen (18) tons per semi-trailer combination, provided that such vehicle is operated at a speed in excess of five (5) miles per hour. (Ord. No. 344, Sec. 1, adopted 1953.)

(B) Sections 15.08.050 to 15.08.060, inclusive, are hereby declared to be necessary for the immediate preservation of the public safety for the reason that if loads in excess of the weight and excess of the speed herein provided for said bridge are carried or transported or attempted to be transported across or over said bridge, there is grave danger that said bridge, if so overloaded, may give way and result in injury to persons or property. (Ord. No. 344, Sec. 3, adopted 1953.)

#### **Sec. 15.08.060 Duty of County Engineer.**

It is hereby made the duty of the County Engineer, and he is hereby directed, to post and keep posted in a conspicuous place upon said bridge mentioned in Section 15.08.010 hereof and at each end thereof a sign warning people of the dangerous condition for heavy travel on said bridge, of the weight limit and speed limit of said bridge upon which the notice is so posted and the penalty for violation of Sections 15.08.050 to 15.08.060, inclusive, as herein provided. (Ord. No. 344, Sec. 2, adopted 1953.)

#### **Sec. 15.08.070 Repealed by Ord. No. 3852, adopted 1993.**

#### **Sec. 15.08.080 Repealed by Ord. No. 4071, adopted 2001.**

## CHAPTER 15.12

### PARKING REGULATIONS

#### Sec. 15.12.010 Angle Parking on County Roads.

In accordance with the provisions of Motor Vehicle Code Section 22503 of the State of California, angle parking is hereby permitted on the County roadways known as follows:

##### (A) Calpella Area.

(1) On the south side of Moore Street (CR 229B) beginning at North State Street (CR 104) and extending one hundred fifty (150) feet east.

(2) On the east side of North State Street (CR 104) beginning at Moore Street (CR 229B) and extending seven hundred fifty (750) feet south.

(3) On the west side of North State Street (CR 104) between mile post 4.53 and mile post 4.60.

##### (B) Covelo Area.

(1) On Howard Street (CR 334D) between Dingman Street (CR 335E) and Perry Street (CR 335C).

(2) On Main Street (CR 335D) between Grange Street (CR 334B) and Howard Street (CR 334D).

##### (C) Forks Area.

(1) On the west side of North State Street (CR 104) between mile post 1.78 and mile post 1.82.

##### (D) Redwood Valley Area.

(1) On both sides of School Way (CR 236) between mile post 1.03 and mile post 1.08.

(2) On the south side of Uva Drive (CR 239) between mile post 1.46 and mile post 1.54.

(3) On the west side of East Road (CR 230) beginning at the south line of School Way (CR 236) and extending two hundred (200) feet south.

##### (E) Town of Mendocino.

(1) On both sides of Lansing Street (CR 500) between Little Lake Street (CR 407A) and Albion Street (CR 407D).

(2) On the west side of Lansing Street (CR 500) between Albion Street (CR 407D) and Main Street (CR 407E).

(3) On the north side of Main Street (CR 407E) between Lansing Street (CR 500) and Woodward Street (CR 407J).

(4) On both sides of Ukiah Street (CR 407C) between Lansing Street (CR 500) and William Street (CR 407K).

##### (F) Ukiah Area.

(1) The west side of Laws Avenue (CR 253B) beginning at the south line of Tedford Avenue (CR 253) and extending three hundred (300) feet south. (Ord. No. 3680 § 2 (part), adopted 1988)

(Ord. No. 4299, § 1, 8-28-2012)

#### Sec. 15.12.020 "No Parking Zone" in Front of the Post Office.

It shall be unlawful for the operator of a vehicle to stop or park such vehicle on the U.S. Highway 101 (commonly known as the Redwood Highway) adjacent, near, parallel or diagonally to the curb of said highway located west of the building known as the Hopland Post Office; said curb is officially designated as being that portion of the curb extending along the said highway from Station 16+38.67 northerly to Station 16+50.17. (Ord. No. 3680 § 2 (part), adopted 1988.)

#### Sec. 15.12.030 Duty of Sheriff.

The Sheriff of the County of Mendocino shall mark such curbing and the space reserved therefor by red paint upon the entire curb surface extending between the stations hereinabove referred to. (Ord. No. 3680 § 2 (part), adopted 1988.)

#### Sec. 15.12.040 Parking.

(A) **Prohibited Parking on County Roads.** The Road Commissioner of the County shall implement provisions prohibiting the parking or stopping of vehicles under this Chapter by placing appropriate signs or markings at the following locations:

(1) Any place where the stopping or parking of vehicles is determined by the Road Commissioner to constitute a hazard to traffic, life or property, or any obstruction to vehicular or pedestrian traffic.

(2) On the east side of South State Street (CR 104-A) between mile post 0.82 and mile post 0.86 and on the west side of CR 104-A between mile post 0.83 and mile post 0.86.

(3) On the south side of Simpson Lane (CR 414) between mile post 0.443 and mile post 0.546.

(4) On both sides of North State Street (CR 104) between Orr Springs Road and Ackerman Creek Bridge, a distance of 0.19 miles.

(5) On both sides of Low Gap Road (CR 212), between the Ukiah City Limits on the east and a point 0.15 miles westerly thereof.

(6) On the east side of Basin Street (CR 417) between mile post 0.07 and mile post 0.32.

(7) On the west side of Basin Street between mile post 0.09 and mile post 0.32, between the hours of 10:00 p.m. and 4:00 a.m., for periods longer than two (2) hours.

(8) On the west side of Ward Avenue (CR 425B) mile post 0.90 between the hours of 10:00 p.m. and 6:00 a.m.

(9) On that portion of Holquist Lane (CR 412) between the Gibney Lane intersection and a point .142 miles easterly thereof.

(10) On East Side Potter Valley Road (CR 240) between mile posts 0.87 to mile post 0.98.

(11) On the south side of Main Street (CR 407E) in the Town of Mendocino between mile post 0.300 and mile post 0.311(60 feet) for the purpose of a bus stop."

(12) On the south side of Main Street in the Town of Mendocino (CR 407E) between mile post 0.257 to mile post 0.254 (20 feet) for the purpose of emergency access and attended vehicle loading.

(13) On both sides of Center Street, CR 546, in the unincorporated Community of Gualala, between mile post 0.0 and mile post 0.06 (300 feet)

**(B) Prohibited Parking on State Highway.** The parking of vehicles on the State Highway is prohibited at any of the following locations, at any time:

(1) On State Highway 01-MEN-101 from mile post 69.49 to mile post 69.58 (a section of curbs and driveways on the west side of said highway commencing one hundred fifty (150) feet north of

the centerline of Branscomb Road and extending for four hundred sixty (460) feet north from that point) in the community of Laytonville.

(2) On U.S. Highway 101 from the Sandelin Memorial Bridge to mile post 7.26 on both sides of said highway between the hours of 10:00 p.m. and 6:00 a.m.

(3) On the north shoulder of State Route 20, from the Boatyard Drive intersection to one hundred fifty-five (155) feet east of the Boatyard Drive intersection.

**(C) Parking on Private Property — Prohibited.** No person shall park a vehicle in a private driveway or private property without the direct or implied consent of the owner or person in lawful possession of such driveway or property.

**(D) Angle Parking.** The Road Commissioner is hereby authorized to determine and, upon approval of the Board of Supervisors, designate those streets and portions of streets along which angle parking of vehicles will reduce parking congestion to the benefit of the public and where the surrounding conditions are such that the free movement of traffic will not be interfered with by that method of parking. The Road Commissioner is hereby directed to mark all places so designated by white lines upon the surface of the roadway, indicating the angle at which parking is permitted; provided, however, that angle parking shall not be permitted:

(1) At any place where passing traffic would thereby be caused or required to drive upon the left side of the highway.

(2) Upon any street where that method or parking is prohibited by the Vehicle Code.

**(E) Prohibited Parking on County Operated Off-Street Parking Facilities.** No person shall park, stop, or leave standing a vehicle on any County-owned or County-operated off-street parking facility except upon compliance with each of the following conditions:

(1) Such person has been issued a valid vehicle parking permit by the Chief Executive Officer, said permit to bear the number of a particular parking space which has been properly marked.

(2) Such person has affixed to his vehicle parking permit so as to be clearly visible from the outside, preferably at the lower left-hand corner of the rear window.

(3) Said vehicle utilizes only the particular parking space or spaces whose number corresponds with the number on the permit.

(F) **Numbering Spaces and Posting Notice.** The Chief Executive Officer is hereby authorized and directed to post all County-owned or County-operated off-street parking facilities with the appropriate signs giving notice:

(1) That the facility is an official County parking lot,

(2) That parking in the lot is by permit only,

(3) Vehicles parked in violation of this Chapter are subject to removal,

(4) That the regulations governing parking in the lot are set forth in this Chapter and

(5) Other information the Chief Executive Officer deems appropriate.

The Chief Executive Officer is hereby further authorized and directed to properly mark, delineate, and individually number all parking spaces in each such facility.

(G) *Removal of Illegally Parked Vehicles.* Any vehicle parked or left standing in violation of this Section 15.12.040 and where signs are posted giving notice of vehicle removal, may be removed upon order of any regularly employed and salaried deputy of the Mendocino County Sheriff or a member of the California Highway Patrol. Such removal may be in addition to whatever other penalties may result. The costs of removal and storing of such vehicle shall be a lien against such vehicle and a personal obligation against its owner. (Ord. No. 3680 § 2 (part), 1988; Ord. No. 4114 § 1, 2003; Ord. No. 4165 § 1, 2006; Ord. No. 4201 § 1, 2008) (Ord. No. 4233, § 1, 2-23-2010; Ord. No. 4305, § 1, 2-12-2013; Ord. No. 4388, 8-1-2017)

**Sec. 15.12.041 Limited Time Parking.**

(A) The parking of vehicles shall be limited to the total time indicated at the following locations:

(1) On the south side of Ukiah Street (CR 407C) between Lansing Street (CR 500) and Howard Street (CR 407N), one parking space shall be designated and marked by the County Department of Transportation for short-term parking limited to twenty minutes between the hours of 8:00 a.m. and 6:00 p.m. except on Sundays. (Ord. No. 4138, adopted 2005.)

**Sec. 15.12.042. Americans With Disabilities Act (ADA) Parking.**

(A) One parallel on-street parking space shall be limited to ADA parking at the following location:

(1) On the east side of Highway 128, at mile post 28.78 adjacent to 14125 Highway 128, one parking space shall be designated and marked by the County Department of Transportation. (Ord. No. 4234, 2-23-2010)

**Sec. 15.12.050 Repealed by Ord. No. 4002, adopted 1998.**

**Sec. 15.12.060 Repealed by Ord. No. 4002, adopted 1998.**

**Sec. 15.12.070 "No Parking" Zones in Front of Schools.**

No person shall stop, park or leave standing any vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a peace officer in any of the following places at any of the following specified times:

(A) **River School.** On East Side Road (CR 201), between paddle markers 14.18 and 14.28 on the easterly side and paddle markers 14.23 and 14.28 on the westerly side, between the hours of 7:30 a.m. and 3:30 p.m. (Ord. No. 3680 § 2 (part), adopted 1988.)

**Sec. 15.12.080 Markings.**

The Road Commissioner shall place or erect and maintain such signs and pavement and curb markings on County maintained roads as he deems necessary to adequately designate the areas of parking restrictions. (Ord. No. 3680 § 2 (part), adopted 1988.)

**Sec. 15.12.090 Prohibition of Parking of Commercial Vehicles.**

No person shall stop, park or leave standing during the hours of 8:00 p.m. through 6:00 a.m. any commercial vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic, in a designated residential area if such commercial vehicle has or exceeds an unladen weight rating of ten thousand (10,000) pounds or more. Such prohibition shall not apply to any commercial vehicle making pickups or deliveries of goods, wares or merchandise from or to any building or structure located on the restricted streets or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon the restricted streets for which a building permit has previously been obtained. Such parking described above shall be prohibited in the following residential areas:

(A) In the Hopland area, on County Road 114-B also known as MacMillan Drive, and on County Road 114-C, also known as St. Mary's Avenue;

(B) In the Meadowbrook area, south of Ukiah on County Road 252-E, also known as Meadowbrook Drive. (Ord. No. 3680 § 2 (part), adopted 1988.)

**Sec. 15.12.091 Seventy-two (72) Hour Parking Limitation.**

No person shall park or leave standing a vehicle upon a street or highway within the unincorporated territory of the County for seventy-two (72) or more consecutive hours. Exempted from this Section are passenger vehicles and pickup trucks which are not recreational vehicles parked

upon a street or highway in front of the site location appearing on the registration of these vehicles.

Any member of the State Highway Patrol or any regularly employed and salaried deputy of the Sheriff's Office of the County is hereby authorized to remove to the nearest garage or other place of safety, or to a garage designated or maintained by this County, any vehicle which has been parked or left standing upon a street or highway within the unincorporated area in the County for seventy-two (72) or more consecutive hours. (Ord. No. 3779, adopted 1991.)

**Sec. 15.12.100 Penalties.**

Violation of any parking regulation contained in this Chapter is an infraction punishable pursuant to Vehicle Code Section 42001(a). (Ord. No. 3680 § 2 (part), 1988; Ord. No. 4114 § 2, 2003; Ord. No. 4165 § 2, 2006; Ord. No. 4201 § 2, 2008) (Ord. No. 4233, § 2, 2-23-2010; Ord. No. 4305, § 2, 2-12-13)

## CHAPTER 15.14

### RESERVED\*

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\***Editor's note**—Ord. No. 4353, § I, adopted April 5, 2016, repealed ch. 15.14, §§ 15.14.010—15.14.030, in its entirety. Former ch. 15.14 pertained to "Parking of Vehicles, House Cars, Campers and Trailer Coaches for Human Habitation," and was derived from Ord. No. 2003, adopted 1977; Ord. No. 3598, §§ 1—3, adopted 1986 and Ord. No. 4002, § 3, adopted 1998.



## CHAPTER 15.16

### PROTECTION OF COUNTY ROADS

#### **Sec. 15.16.010 Non-Rubber-Tired Tractors; Permit Required on Unimproved County Highways and Roads.**

No tractor of any kind or description, excepting rubber-tired tractors, shall be operated or driven over or along any unimproved County highway or road in the County of Mendocino, except upon permit issued by the County Road Commissioner, except that the foregoing provisions shall not apply to the performance of any road maintenance work of and by the County of Mendocino. (Ord. No. 249, Sec. 2, adopted 1936, Ord. No. 343, adopted 1953; Ord. No. 3859, adopted 1993.)

#### **Sec. 15.16.020 Definition.**

For the purposes of Sections 15.16.010 to 15.16.050, inclusive, an unimproved highway is hereby defined to be any road or highway which is not paved with cement, concrete or asphaltic concrete, or a highway not having a hard surface and distinct roadway of at least four (4) inches thick, made up of a mixture of rock, sand or gravel, bound together by an artificial binder other than natural soil; and an unimproved County highway is hereby defined as being an unimproved highway which is under the jurisdiction of Mendocino County and is being maintained thereby. (Ord. No. 249, Sec. 3, adopted 1936.)

#### **Sec. 15.16.030 Highways Closed to Commercial Vehicles.**

Pursuant to Section 35712 of the California Vehicle Code, the use of all highways hereinafter designated by any commercial vehicle exceeding a gross weight of fourteen thousand (14,000) pounds is hereby prohibited.

(A) The foregoing prohibition shall apply to each of the following designated highways, which have been officially accepted into the Mendocino

County road system, each of which is deemed located in an unincorporated residential or subdivision area:

(1) Each highway located within the Brooktrails Vacation Village Subdivision, which is located near Willits, as said subdivision is defined in and described by those certain Tract Maps identified as follows and located in the following case and drawer numbers of the Official Records of the County of Mendocino.

- a. Tract No. 55, located in Case 2, Drawer 2.
- b. Tract No. 86, located in Case 2, Drawer 7.
- c. Tract No. 126, located in Case 2, Drawer 13.

(B) "Highway" is a way or place of whatever nature, publicly maintained, and open to the use of the public for purposes of vehicular travel. Highway includes street.

(C) A "commercial vehicle" is a vehicle of a type required to be registered under the California Vehicle Code used or maintained for the transportation of persons for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property. Passenger vehicles which are not used for the transportation of persons for hire, compensation, or profit and house cars are not commercial vehicles.

(D) The foregoing prohibition shall not apply to any commercial vehicle coming from an unrestricted highway having ingress and egress by direct route to and from the restricted highway when necessary for the purpose of making pickups or deliveries of goods, wares, and merchandise from or to any building or structure located on the restricted highway; nor shall the foregoing prohibition apply to any of the other vehicles or uses specifically exempted by Section 35714 of the California Vehicle Code. (Ord. No. 1100, adopted 1973.)

#### **Sec. 15.16.040 Penalties.**

Any person violating any of the provisions of Sections 15.16.010 to 15.16.040, inclusive, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding

Five Hundred Dollars (\$500.00), or by imprisonment in the County jail not to exceed the term of six (6) months, or by both such fine and imprisonment. (Ord. No. 249, Sec. 4, adopted 1936.)

**Sec. 15.16.050 Certain Tires Prohibited.**

No vehicle shall be driven or moved upon any public highway or County road, except the California State Highway, in the County of Mendocino, which has a tire thereon, the periphery of which has any block, stud, flange, cleat, ridge, bead or any other protuberance of metal or wood which projects beyond the tread of the traction surface of the tire, as a part thereof or attached thereto; but this section shall not be construed as to prohibit the use of tire chains of reasonable proportions on vehicles when required for safety because of snow or ice or other conditions tending to cause such vehicle to slip or skid. The provisions of this section shall not apply to vehicles actually engaged in the construction or repair of such public highways and County roads, and this section shall not apply to traction engines or tractors, or any other vehicles when such traction engines or tractors or other vehicles are moved or operated under the conditions of a permit first obtained from the Board of Supervisors of Mendocino County. (Ord. No. 228, Sec. 1, adopted 1930.)

**Sec. 15.16.060 Penalties.**

Any person, firm, company, association or corporation who violates any of the provisions of Section 15.16.050 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by confinement in the County jail of Mendocino County for a period not to exceed six (6) months, or by a fine not to exceed Five Hundred Dollars (\$500.00), or by both such fine and imprisonment. (Ord. No. 228, Sec. 1, adopted 1930.)

**CHAPTER 15.20**  
**ENCROACHMENT UPON COUNTY**  
**HIGHWAYS**

**Sec. 15.20.010 Title.**

This Chapter shall be known as the "Mendocino County Encroachment Chapter." (Ord. No. 319, Sec. 1, adopted 1950, as amended by Ord. No. 423, adopted 1961.)

**Sec. 15.20.020 Declaration.**

The purpose of this Chapter shall be deemed to supplement Sections 1480 to 1496, inclusive, of Chapter 6, Division 2 of the Streets and Highways Code. (Ord. No. 319, Sec. 2, adopted 1950, as amended by Ord. No. 423, adopted 1961.)

**Sec. 15.20.030 Permit Required for Certain Construction.**

(A) No person shall construct new road or driveway approaches to any County highway, install any culvert or pipe within the right of way of any County highway, or perform any other work within the right of way of any County highway, without first securing a permit for that purpose, from the Road Department of the County of Mendocino. Where the construction of any road or driveway approach will obstruct the normal drainage of any County highway, culverts or drain pipes shall be installed under the approach.

(B) The cost of the culvert or drain pipe and the installation thereof shall be borne by the person or persons making the application, but the installation will be done under the supervision of the Road Department.

(C) The size and location of any culvert or drain pipe shall be determined by the County Road Department.

(D) The penalties for violation of this Chapter are the same as provided in Chapter 6, Division 2 of the Streets and Highways Code.

(E) Before granting a permit pursuant to the provisions of this Chapter, the County Road Department shall require each applicant to file with

the department a certificate showing the maintenance of insurance, and naming the County as an additional insured, to cover the liability of the permittee for property damage and injuries to persons in connection with the work sought to be done under the permit. The liability limit of such insurance shall be in an amount no less than one million dollars (\$1,000,000.00), combined single limit, which limit may be increased for a permit in the discretion of the County Road Department, and upon final approval by the Chief Executive Officer or his or her designee, based on the costs and hazards involved in the work sought to be performed, and which may be decreased by the County Road Department, and upon final approval by the Chief Executive Officer or his or her designee, for a permit pursuant to County policies to be adopted by the Board of Supervisors. (Ord. No. 319, Sec. 3, adopted 1950, as amended by Ord. No. 423, adopted 1961.) (Ord. No. 4393, 9-12-2017)

**Sec. 15.20.040 Inspection.**

All work projects conducted under the provisions of this Chapter shall be subject to inspection by the County Road Commissioner and the County Surveyor, or any other person duly authorized by the Board of Supervisors. The cost for said inspection shall be chargeable to the district and/or contractor who is authorized in accordance with this Chapter to encroach upon County highways. Said district and/or contractor shall post a bond in an amount recommended by the County Road Commissioner and County Surveyor as approved by the Board of Supervisors, which shall be effective from the time of the issuance of the permit of encroachment, until one (1) calendar year after the date of the filing of the Notice of Completion for said work project. (Ord. No. 319, Sec. 4, adopted 1950, as amended by Ord. No. 423, adopted 1961.)

## CHAPTER 15.24

### ADVERTISING ADJACENT TO LANDSCAPED FREEWAYS

#### Sec. 15.24.010 Definitions.

As used in this Chapter, certain terms are defined as follows:

(A) **ADVERTISING STRUCTURE.** Refers to a structure of any kind or character erected or maintained for outdoor advertising purposes on which any poster, bill, printing, painting or other advertisement of any kind whatsoever may be placed, including statuary.

(B) **SIGN.** Refers to any card, cloth, metal, painted or wooden sign of any character, placed for outdoor advertising purposes, on or to the ground, or any tree, wall, bush, rock, fence, building, structure or thing, either publicly or privately owned, other than an advertising structure.

(C) Neither "advertising structure" nor "sign," as used in this Chapter includes:

(1) Official notices issued by a court or public body or officer;

(2) Notices posted by any public officer in performance of a public duty, or by any person in giving legal notice;

(3) Directional, warning, or information signs or structures required or authorized by law or by Federal, State or municipal authority.

(D) **ADVERTISING DISPLAY.** Refers to advertising structures and to signs.

(E) **FREEWAY.** The term "freeway" shall be deemed to mean a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement or access, and which is declared to be such in compliance with the Streets and Highways Code of the State of California.

(F) **TO PLACE.** The term "to place" and any of its variants as applied to advertising displays includes the maintaining and the erecting, constructing, posting, painting, printing, tacking, nailing, gluing, stitching, carving or otherwise fasten-

ing, affixing or making visible any advertising display on or to the ground, or any tree, bush, rock, fence, post, wall, building, structure or thing.

(G) **LANDSCAPED FREEWAY.** The term "landscaped freeway" shall be deemed to mean a section or sections of a freeway which is now, or hereafter may be, improved by the planting, at least on one (1) side of the freeway right of way, of lawns, trees, shrubs, flowers or other ornamental vegetation which shall require reasonable maintenance.

Planting for the purpose of soil erosion control, traffic safety requirements, reduction of fire hazards or traffic noise abatement shall not change the character of a freeway to a landscaped freeway. (Ord. No. 418, Sec. 1, adopted 1961.)

#### Sec. 15.24.020 Location of Landscaping.

That portion of the freeway to be subject to the provisions of this Chapter is in Mendocino County between Robinson Creek and 0.8 mile south of Forsythe Creek on State Highway Route 1. (Ord. No. 418, Sec. 2, adopted 1961.)

#### Sec. 15.24.030 Advertising Display Adjacent to Landscaped Freeways.

No advertising displays shall be placed or maintained on property adjacent to a section of freeway which has been, or hereafter may be, landscaped as defined herein, if the advertising display is designed to be viewed primarily by persons traveling on such landscaped section of a freeway. (Ord. No. 418, Sec. 3, adopted 1961.)

#### Sec. 15.24.040 Exempt Advertising Displays.

The provisions of Section 15.24.020 of this Chapter shall not apply to any of the following listed advertising structures or signs used exclusively:

(A) To advertise the sale or lease of the property on which said advertising display is placed;

(B) To designate the name of the owner or occupant of the premises upon which said advertising display is placed or to identify such premises;

(C) To advertise the business conducted or goods manufactured or produced, or services rendered upon the property upon which said advertising display is placed. (Ord. No. 418, Sec. 4, adopted 1961.)

**Sec. 15.24.050 Removal of Prohibited Displays.**

Any advertising structure or sign which is now, or hereafter may be, in violation of the provisions of Section 15.24.030 shall be removed within three (3) years from the effective date of this Chapter [July, 1961] or within three (3) years from the date when the project for the landscaping of a section or sections of a freeway shall have been completed or accepted, and the character of said section or sections shall have been changed from a freeway to a landscaped freeway, whichever is later. (Ord. No. 418, Sec. 5, adopted 1961.)



## CHAPTER 15.28

### ABANDONED VEHICLES

#### **Sec. 15.28.010 Vehicle Abandonment Prohibited.**

It shall be unlawful and an infraction for any person to abandon, park, store, or leave or permit the abandonment, parking, storing, or leaving of any licensed or unlicensed vehicle or part thereof which is in an abandoned, wrecked, dismantled, or inoperative condition upon any private property or public property for a period in excess of ten (10) days unless such vehicle or part thereof is completely enclosed within a building in a lawful manner or is located behind a solid fence six (6) feet in height where it is not plainly visible from the street or other public or private property or, unless such vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, or a junkyard. (Ord. No. 3770, adopted 1991.)

#### **Sec. 15.28.020 Removal of Abandoned Vehicle.**

The presence of an abandoned, wrecked, dismantled, or inoperative vehicle or part thereof on private or public property is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the public health, safety and general welfare. Therefore, the presence of such vehicles, or a part thereof, on private or public property as defined in this Chapter, and except as expressly permitted in this Chapter, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this Chapter and Sections 22660 and 22661 of the California Vehicle Code. (Ord. No. 3770, adopted 1991.)

#### **Sec. 15.28.030 Designation of Enforcing Officer.**

Except as otherwise provided in this Chapter, the provisions of this Chapter shall be administered and enforced by the Director of Planning and Building Services of Mendocino County or other officials of the Planning and Building Services Department as designated by the Director. (Ord. No. 3770, adopted 1991.)

#### **Sec. 15.28.040 Initiation of Proceedings.**

When the enforcing officer has reason to believe or observes that the accumulation and the storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on public or private property constitutes a public nuisance as described in Section 15.28.020, he shall immediately investigate the same. In the performance of such investigation, the enforcing officer may enter upon private or public property to examine a vehicle or parts thereof and to obtain information as to the identity and the ownership thereof. (Ord. No. 3770, adopted 1991.)

#### **Sec. 15.28.050 Notice of Vehicle Abatement.**

If the enforcing officer determines from an investigation that a public nuisance exists, then the enforcing officer shall serve or cause to be served, either by personal service or by registered or certified mail, a copy of a notice of vehicle abatement upon every person concerned, including the owner of the property on which the alleged public nuisance exists, as shown on the last equalized assessment roll, and the last known registered and legal owner of the subject vehicle if the identification numbers are available to determine ownership. If a notice sent by registered or certified mail is returned unclaimed, a subsequent notice sent by first-class mail, postage prepaid, to the last known address of the party concerned shall be sufficient and such notice shall be effective upon mailing. The failure of any person to receive such notice shall not affect in any manner the validity of the proceedings taken under this chapter. (Ord. No. 3770, adopted 1991.)

**Sec. 15.28.060 Contents of Notice of Vehicle Abatement.**

The notice of vehicle abatement served pursuant to Section 15.28.050 shall contain the following information:

(A) The findings, in brief, that the vehicle constitutes a public nuisance;

(B) That it is the intention of the enforcing officer to abate the vehicle(s) on the premises, as described, fifteen (15) days from service of the notice of vehicle abatement, and that the costs of removal may be assessed against the owner or other person in possession of the parcel of land on which the vehicle or parts thereof are located or against the last registered owner of the vehicle, or against them jointly;

(C) A common description of the premises by address or assessor's parcel number and a description of the vehicles, including license numbers and identification numbers if these are available on the vehicles;

(D) That the owner of the property or any owner of the vehicles may, within ten (10) days of receipt of the notice, file a written request for a hearing before the Board of Supervisors, or such person as the Board of Supervisors may designate to hear the matter, to show any cause why the vehicles should not be abated by the enforcing officer;

(E) That the owner of the property on which the vehicles are located may either appear at a hearing or present a sworn statement denying responsibility for the presence of the vehicles and giving the reasons for the denial, and that such statement shall be deemed a request for a hearing not requiring the presence of the requestor. (Ord. No. 3770, adopted 1991.)

**Sec. 15.28.070 Hearing.**

(A) All hearings under this Chapter shall be held before the Board of Supervisors, or any person designated to hear the matter, who may hear all the relevant evidence pertaining to the alleged public nuisance, including testimony on the condition of the vehicle or parts thereof, the circumstances concerning its location on the private or public

property, and the costs of removal and disposal. The Board of Supervisors shall not be limited by the technical rules of evidence.

After the conclusion of the hearing, the Board of Supervisors may:

(1) Impose such conditions and take such other action as it deems appropriate under the circumstances to carry out the purposes of this Chapter;

(2) Delay the time for removal of the vehicle or parts thereof;

(3) Find that the vehicle or parts thereof has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided; and determine the administrative costs and the cost of removal and charge the same against the owner or other person in possession of the parcel of land on which the vehicle or parts thereof is located, or against the owner of the vehicles, or against them jointly. Any such order requiring removal shall include a description of the vehicle or parts thereof, and the correct identification number and license number of the vehicles if available at the site.

(B) If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that the landowner has not subsequently acquiesced in its presence, the Board of Supervisors shall not charge the costs of administration or of removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such landowner. (Ord. No. 3770, adopted 1991.)

**Sec. 15.28.080 Entry Powers.**

When the Board of Supervisors has contracted with or granted a franchise to any person or persons such person or persons in addition to the enforcing officer shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance under this Chapter. (Ord. No. 3770, adopted 1991.)



**Sec. 15.28.090 Physical Removal.**

After a finding has been made by the enforcing officer that any vehicle or parts thereof is a public nuisance under this Chapter and if no hearing has been requested pursuant to Section 15.28.060(D), or if the Board of Supervisors after a hearing so orders, the vehicle or parts may be disposed of by removal to a scrap yard or automobile dismantler's yard, or to any suitable site operated by a local agency for processing as scrap, or other final disposition consistent with this section. After removal, a vehicle shall not be reconstructed or made operative unless it is a vehicle that qualifies as a horseless carriage or historic vehicle pursuant to Section 5004 of the California Vehicle Code. (Ord. No. 3770, adopted 1991.)

**Sec. 15.28.100 Notice to Department of Motor Vehicles.**

Within five (5) days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the same time, there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificate, certificate of title, and license plates. (Ord. No. 3770, adopted 1991.)

**Sec. 15.28.110 Collection Costs.**

(A) The Board of Supervisors may from time to time determine and set an amount to be assessed as administrative costs, excluding the actual cost of removal of a vehicle or parts thereof under this Chapter. The enforcing officer shall determine the cost of removal and charge the same against the owner or other person in possession of the parcel of land on which the vehicle or parts thereof are located or against the last registered owner of the vehicle, or against them jointly. If the administrative costs and the cost of removal which are charged against the owner of a parcel of land, pursuant to this section or to Section 15.28.080, are not paid within sixty (60) days of the date of the order, such costs shall be assessed against the parcel of land

pursuant to Section 25845 of the Government Code and shall be transmitted to the County Tax Collector for collection. The assessment shall have the same priority as other county taxes. The administrative costs and the costs of removal which are charged against the person in possession of the parcel of land on which the vehicle or parts thereof are located or against the last registered owner shall be paid within sixty (60) days of the date of the order.

(B) A property owner who clearly establishes that they were not responsible for the presence of the vehicles or parts on the property pursuant to Section 15.28.070(B) shall not be liable for the costs.

(C) A last registered owner who can satisfy the requirements of Vehicle Code Section 22524(b) shall not be personally liable for the costs. (Ord. No. 3770, adopted 1991.)

**Sec. 15.28.120 Definitions.**

As used in this Chapter:

(A) The term "vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway except a device moved by human power or used exclusively upon stationary rails or tracks.

(B) The term "highway" means a way or place, of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. "Highway" includes "street."

(C) The term "public property" means any property owned by a public agency, but does not include highways. (Ord. No. 3770, adopted 1991.)

**Sec. 15.28.130 Interference Prohibited.**

Any person who obstructs, impedes or interferes with the enforcing officer, contractor or other authorized representative in the performance of nuisance abatement duties pursuant to this Chapter shall, in addition to any other penalty prescribed by law, be guilty of an infraction. (Ord. No. 3770, adopted 1991.)

**Sec. 15.28.140 Violation and Penalties.**

Any person violating any of the provisions of this

15.28.140

Chapter may be guilty of an infraction, and upon conviction shall be punishable by fines as specified in Government Code Section 25132 or any successor statute. A separate offense shall be deemed to have occurred for each and every week after the first citation is issued, and shall be punishable as herein provided. Further, these violations may be redressed by civil action through the Office of County Counsel. (Ord. No. 3770, adopted 1991.)

## CHAPTER 15.32

### CONTROL OF VEHICULAR USE ON PUBLIC BEACHES, DUNES AND SENSITIVE WILDLIFE HABITAT AREAS

#### Sec. 15.32.010 Purpose.

This Chapter implements policies 3.1-15, 3.1-18 and 3.1-30 of the Mendocino County General Plan, Coastal Element by prohibiting vehicular traffic on public beaches, dunes and in sensitive wildlife habitat areas except for areas expressly designated for such use by this Chapter. Utilization of these resources should protect these resources from degradation as an ecological, visual and recreational resource. The provisions of this Chapter, therefore, are necessary for the preservation of the public peace, safety, health and welfare.

#### A. Policy 3.1-15 reads as follows:

Dunes shall be preserved and protected as environmentally sensitive habitats for scientific, educational and passive recreational uses. Vehicle traffic shall be prohibited. Where public access through dunes is permitted, well-defined footpaths or other means of directing use and minimizing adverse impacts shall be developed and used.

New development on dune parcels shall be located in the least environmental damaging location and shall minimize the removal of natural vegetation and alteration of natural landforms. No new parcels shall be created entirely within sand dune habitat. One housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate access, water, and sewage disposal capacity exists and that the proposed development is consistent with all other applicable policies of this Coastal Element and meets all applicable health standards.

#### B. Policy 3.1-18 reads as follows:

Public access to sensitive wildlife habitats such as rookeries or haulout areas shall be regulated, to insure that public access will not signifi-

cantly adversely affect the sensitive resources being protected.

Development within buffer areas recommended by the California Department of Fish and Game to protect rare or endangered wildlife species and their nesting or breeding areas shall meet guidelines and management practices established by the Department of Fish and Game, and must be consistent with other applicable policies of this plan.

#### C. Policy 3.1-30 reads as follows:

Vehicle traffic shall be prohibited from all public beach areas except for emergency purposes and maintenance unless specifically designated for vehicular use.

(Ord. No. 3799 (part), adopted 1991.)

#### Sec. 15.32.020 Definitions.

1. "Dunes" means sand formed in hills or ridges by the wind and sometimes stabilized by vegetation. Dunes are distinct ecosystems made up of various community types, ranging from open unvegetated sand hills to stabilized dune forests. This highly specialized habitat can be extremely unstable and sensitive to the continued interplay of surf, sand, and wind.

2. "Public beach" means that area of land between the mean low tide line and the toe of the bluff or first line of vegetation that is owned, operated, or controlled by the state, any state agency, or any local government or agency. Included are lateral easements granted by private property owners for passive recreational use.

3. "Vehicle" means a device by which any person or object may be propelled, moved or drawn across land, excepting a device moved exclusively by human power.

4. "Wetlands" means lands covered periodically or permanently with shallow water, including salt-water marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. Wetlands are extremely fertile and productive environments. Tidal flushing from the ocean and/or nutrient-rich freshwater runoff mix to form a deli-

cate balance responsible for their productivity. They function as nurseries for many aquatic species and serve as feeding and nesting areas for water fowl, shorebirds and wading birds, as well as a few rare and endangered species such as the Peregrine Falcon.

5. "Rookeries and haulout areas": Five of the major seabird rookeries are Cape Vizcaino, Goat Island, Devil's Basin Rocks, White, and Fish Rock. Sea lion and harbor seal rookeries use Laguna Rock, Goat Island, Sea Lion Rock and Fish Rock. These mammals also use the offshore rocks near Caspar Headlands, Buckhorn Cove and Devil's Basin as haulout areas. (Ord. No. 3799 (part), adopted 1991.)

#### **Sec. 15.32.030 Prohibition.**

No person may operate a vehicle on, over or in any public beach area, dunes or sensitive wildlife habitat areas except when engaged in a bona fide emergency or rescue operation or repair activity conducted solely to protect public health and safety, or in an area specifically designated for such use by this chapter. (Ord. No. 3799 (part), adopted 1991.)

#### **Sec. 15.32.040 Exemptions.**

Exempted from the operation of this Chapter are those uses recognized by Coastal Element policies 3.1-4, 3.1-6, 3.1-10, 3.1-12, 3.1-16, 3.1-17 and 3.1-19 as set forth below:

##### **A. Policy 3.1-4 reads as follows:**

As required by the Coastal Act, development within wetland areas shall be limited to:

1. Port facility construction or expansion, Section 30233(a)(1).
2. Energy facility construction or expansion, Section 30233(a)(1).
3. Coastal-dependent industrial facilities such as commercial fishing facilities, construction or expansion, Section 30233(a)(1).
4. Maintenance or restoration of dredged depths or previously dredged depths in: navigational channels, turning basins, vessel berthing and mooring areas, and associated with boat launching ramps.

5. In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that in a degraded wetland, other boating facilities may be permitted under special circumstances, Section 30233(a)(3). New or expanded boating facilities may be permitted in estuaries, Section 30233(a)(4).

6. Incidental public services purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

7. Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

8. Nature study purposes and salmon restoration projects.

9. Aquaculture, or similar resource dependent activities excluding ocean ranching.

In any of the above instances, the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes, shall be permitted in accordance with all other applicable provisions of this plan. Such requirements shall include a finding that there is no feasible less environmentally damaging alternative and shall include mitigation measures required to minimize adverse environmental effects, in accordance with Sections 30233 and 30607, and other provisions of the Coastal Act.

##### **B. Policy 3.1-6 reads as follows:**

In the wetland portions of Ten Mile River, Big River, development shall be limited to wetland restoration and nature study and salmon restoration projects.

##### **C. Policy 3.1-10 reads as follows:**

Areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses which are dependent of the riparian resources. All such areas shall be protected against any significant disruption of habitat values by requiring mitigation for those uses which are permitted. No struc-

ture or development, including dredging, filling, vegetation removal and grading, which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the Riparian Corridor except for:

1. Channelizations, dams, or other substantial alterations of rivers and streams as permitted in Policy 3.1-9.

2. Pipelines, utility lines and road crossings, when no less environmentally damaging alternative route is feasible.

3. Existing agricultural operations.

4. Removal of trees for disease control, public safety purposes, or for firewood for the personal use of the property owner at his or her residence. Such activities shall be subject to restrictions to protect the habitat values.

D. Policy 3.1-12 reads as follows:

Vehicle traffic, exclusive of that necessary for conducting timber harvest plans and farm implements, in wetlands and riparian areas shall be confined to roads. Multi-use non-motorized trails and access to riparian areas are permitted if no long-term adverse impacts would result from their construction, maintenance and public use. Trails should be made from porous materials.

E. Policy 3.1-16 reads as follows:

All dune landowners whose property is subject to dune encroachment shall be allowed to take reasonable actions which are deemed necessary to protect existing structures after obtaining a Coastal Development Permit.

Such actions may include removal of sand, construction of fences or walls to impede sand movement and planting of vegetation for dune stabilization. These projects shall be subject to provisions regarding sand extraction, and shall be processed under conditional use procedures. Appropriate public agencies that either own large portions of the dunes or that can provide soil conservation advice and assistance should be invited to participate in necessary dune stabilization projects.

F. Policy 3.1-17 reads as follows:

All applications for sand removal, mining or gravel extraction operations on land or in stream beds within the Coastal Zone shall be subject to a Coastal Development Permit. Detailed extraction and restoration plans shall be submitted as part of all required applications. Responses shall be obtained from appropriate referral agencies, including the State Lands Commission, California Department of Fish and Game, Regional Water Quality Control Board and U. S. Army Corps of Engineers, and this data considered in developing any necessary conditions for approval. All approved operations shall be adequately monitored to ensure protection of wildlife and plant habitats and to prevent any degradation of coastal resources. Time limits of up to five years shall be placed upon all such permits to allow for periodic public and agency review of mining operations. Performance bonds shall be required to ensure proper restoration of the sites.

All mining, gravel extraction and sand removal operations in the coastal zone shall be subject to the following standards:

1. Shall prevent siltation and other sources of pollutants that might enter streams by requiring silt traps or other approved methods for controlling potential pollutants and runoff from each operation.

2. Shall be conducted during times of the year which will have the least adverse impacts on fish and wildlife resources.

3. Shall not be conducted on vegetated bars or dunes.

4. Shall minimize disturbance to stream banks and shall incorporate measures necessary to prevent increased erosion as a result of the project.

5. For all projects larger than the removal of 1,000 cubic yards cumulatively, a reclamation plan of the project site shall be prepared and submitted and shall be carried out at such time as designated on the permit. For projects involving the removal of less than 1,000 cubic yards, a reclamation plan shall not be required. In both cases, the applicant shall protect coastal resources

by mitigating for adverse impacts on the affected coastal resources. If a categorical exclusion has been granted to the County by the Coastal Commission, the specifics of that exclusion shall apply to those developments.

G. Policy 3.1-19 reads as follows:

The following activities and facilities shall be permitted in estuaries, consistent with applicable policies of this plan:

1. Expansion of existing port or harbor facilities on the Noyo and Albion Rivers.
2. Expansion of coastal dependent industrial facilities, such as commercial fishing facilities on the Noyo and Albion Rivers.
3. Existing navigational channels may be maintained to existing depths.
4. Expansion of dredged areas in either length, width or depth shall be contingent upon the finding that the proposed expansion will have only minimal adverse environmental effects and that the expansion is necessary to support a coastal dependent use.
5. Existing dredged areas shall be allowed to be maintained to designed conditions.
6. New or expanded boating facilities shall be limited to entrance channels in wetlands, upon the finding that they are required by a coastal dependent use.
7. Continued maintenance of dredge disposal sites and continued use of Noyo Spoil disposal site should be permitted.
8. New or expanded energy facilities except those related to offshore oil development, petroleum production or processing.
9. New or expanded boating facilities.
10. Incidental public service purpose, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
11. Restoration purposes.
12. Nature study, aquaculture, or similar resource dependent activities except ocean ranching of anadromous fish.

(Ord. No. 3799 (part), adopted 1991.)

**Sec. 15.32.050 Violations/Penalties.**

Violations of this Chapter are declared to be infractions and punished as prescribed in Government Code Section 25132. (Ord. No. 3799 (part), adopted 1991.)

**CHAPTER 15.36****SKATEBOARDS****Sec. 15.36.010 Use Prohibited in Business Districts.**

No person shall use or operate a skateboard upon any sidewalk or path open for pedestrian travel in a business district during business hours. The term "business district" shall have the meaning given to it by Sections 235 and 240 of the Vehicle Code. "Business hours" means that period between 8:30 a.m. and 7:00 p.m. (Ord. No. 3615, adopted 1986).

**Sec. 15.36.020 Reflective Clothing Required.**

Except as otherwise prohibited by Section 15.36.010 of this Chapter, no person shall use or operate a skateboard upon any sidewalk, street or public way open for vehicular or pedestrian travel during any period of "darkness," as that term is defined by Vehicle Code Section 280, without wearing reflective clothing. (Ord. No. 3615, adopted 1986).

**Sec. 15.36.030 Skating Prohibited on Public Thoroughfares and Publicly Owned Property.**

(A) No person shall use or operate a skateboard, roller skates, or in-line skates on any public street, sidewalk, sidewalk space, park, public pedestrian walkway, publicly owned building, publicly owned property, publicly owned facility, or publicly owned parking facility, including property within city limits that is owned by the County of Mendocino, when such street, sidewalk, space, park, walkway, public building, property, facility, or parking facility is posted with appropriate signs or markings prohibiting the use of skateboards, roller skates, or in-line skates. The places subject to the prohibition and the posting of such signs or markings shall be first established by a resolution of the Board of Supervisors.

(B) The provisions of the preceding Subsection shall be in addition to, and shall not supersede, the prohibition of skateboarding in business districts

provided for in Section 15.36.010. (Ord. No. 3967 § 2, adopted 1997.)

**Sec. 15.36.040 Penalty for Violation.**

Any person who violates any provision of this Chapter is guilty of an infraction. In addition, the operation of a skateboard, roller skates, or in-line skates as prohibited by this Chapter is declared to be a public nuisance which may be summarily abated by any peace officer, or by any public officer employed by the County of Mendocino, by impounding the skateboard, skateboards, roller skates, or in-line skates used in the offense. Any items impounded under this Chapter shall be held for disposition as may be ordered by the court which hears and disposes of the infraction charge against the offender, or by any other court of competent jurisdiction. (Ord. No. 3967 § 3, adopted 1997.)





**Title 16**

**WATER AND SEWAGE**

**Chapter 16.04 Water, Monitoring and Cathodic  
Protection Wells**

**Chapter 16.08 On-site Sewage Systems**

**Chapter 16.12 Ukiah Sanitation District**

**Chapter 16.16 Meadowbrook Manor Sanitation District**

**Chapter 16.20 County Water Works District No. 2**

**Chapter 16.24 Water Conservation**

**Chapter 16.30 Stormwater Runoff Pollution Prevention  
Procedure**



## CHAPTER 16.04\*

### WATER, MONITORING AND CATHODIC PROTECTION WELLS

#### Sec. 16.04.010 Purpose.

It is the purpose of this Chapter:

(A) To provide for the construction, repair and destruction of water wells, monitoring wells and cathodic protection wells;

(B) To provide for the destruction of abandoned wells and the abatement of wells found to be public nuisances or hazards;

(C) To preserve and protect the groundwaters of Mendocino County from contamination or pollution. (Ord. No. 3895 (part), 1994.)

#### Sec. 16.04.020 Definitions.

The following definitions shall apply in the interpretation of this Chapter:

(A) Abandoned Well. A well is considered "abandoned" or permanently inactive if it has not been used for one year, unless the owner demonstrates intention to use the well again. In accordance with Section 24400 of the California Health And Safety Code, the well owner shall properly maintain an inactive well as evidence of intention for future use in such a way that the following requirements are met:

(1) The well shall not allow the impairment of quality of water within the well and groundwater encountered by the well.

(2) The top of the well or well casing shall be provided with a cover that is secured by a lock or by other means to prevent its removal without the use of equipment or tools, to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes in the well. The cover shall be watertight where the top of the well casing or other surface openings to the well are below ground level, such as in a vault or below known levels of flooding. The cover shall

be watertight if the well is inactive for more than five consecutive years. A pump motor, angle drive or other surface feature of a well, when in compliance with the above provisions, shall suffice as a cover.

(3) The well shall be marked so as to be easily visible and located, and labeled so as to be easily identified as a well.

(4) The area surrounding the well shall be kept clear of brush, debris and waste materials.

(B) "Abatement" means the construction, repair or destruction of a well which is ordered under these regulations so as to eliminate a nuisance or safety hazard caused by a well which pollutes or contaminates groundwater or otherwise jeopardizes the public health.

(C) "Abatement order" means either written mandatory or prohibitory orders of the Health Officer requiring or prohibiting one or more acts. Said term to include those orders effective for a limited as well as an indefinite period of time, and to include modification or restatements of any order.

(D) "Appurtenances" means well casing, screens, filter pack, annular seal and well pit.

(E) "Cathodic protection well" means a well developed to house devices to minimize electrolytic corrosion of metallic pipelines, tanks, and other facilities in contact with the ground.

(F) "Contamination" means an impairment of the quality of water to a degree which creates a nuisance or hazard to the public health.

(G) "Enforcing agency" means the Mendocino County Health Department.

(H) "Health officer" means the Mendocino County Health Officer or an authorized representative.

(I) "Monitoring well" means any artificial excavation by any method for the purpose of monitoring fluctuations in groundwater levels, quality of underground waters, or the concentration of contaminants in the underground waters including exploration (boring) holes.

(J) "Person" means an individual, public or private corporation, political subdivision, agency, board, department or bureau of the State, municipality, partnership, copartnership, firm, association,

\* Prior ordinance history: Ords. 489, 1135 and 3590.

trust or estate, or any other legal entity which is recognized in law as the subject of right or duties.

(K) "Pollution" means an alteration of the quality of water to a degree which unreasonably affects such waters for beneficial uses or affects facilities which serve such beneficial uses. Pollution may include contamination.

(L) "Repair" means any work on a water, monitoring or cathodic protection well that would include deepening, changes and/or additions to appurtenances.

(M) "Spring" means a flow of water from the earth which occurs spontaneously where the water table stratum emerges to the surface of the earth. This term includes gravity springs, artesian springs, seepage springs, tubular springs and fissure springs as defined in the "Sanitarians's Handbook," 1959 edition. The term does not include horizontal wells developed by boring or drilling into the earth or any other developmental activity beyond properly enclosing the source for protection of water potability and conveying to a water system without a mechanical pump.

(N) "Water well" means any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground. The definition shall not include: (1) oil and gas wells, or geothermal wells constructed under the jurisdiction of the Department of Conservation, except those wells converted to use as water wells; or (2) wells used for the purpose of (a) dewatering excavations during construction, or (b) stabilizing hillsides or earth embankments.

(O) "Wells" means a water well, monitoring well or cathodic protection well.

(P) "Well driller" means a contractor possessing a current C-57 License in accordance with the provisions of the Contractors License Law (Chapter 9, division 3, of the Business and Professions Code).

(Q) "Well pit or vault" means any excavation constructed over a well for the purpose of containing well appurtenances or well casing below the natural ground contour. (Ord. No. 3895 (part), 1994.)

#### **Sec. 16.04.030 General Prohibitions.**

It is unlawful and prohibited for any person within the unincorporated area of the County to:

(A) Construct, repair or destruct a well without a written permit first being obtained from the Health Department and all work conforms to the conditions of such permit and these regulations;

(B) Undertake to construct, repair or destruct a well unless the person responsible for the construction, repair or destruction possesses a C-57 Water Well Contractor's License;

(C) Allow the existence of an abandoned well;

(D) Maintain a well in such condition that it becomes a trap for persons or animals;

(E) Maintain a well in such condition as to allow it to become a conduit for pollution or contamination of the groundwater. (Ord. No. 3895 (part), 1994.)

#### **Sec. 16.04.040 Permit Application.**

(A) Application for a well permit shall be made on forms provided for that purpose and in accordance with procedures established by the Health Department. The application shall be signed by a person possessing a current C-57 Water Well Contractor License. Plans, specifications, maps, location of drainages, and other such information may be required by the Health Department.

(B) Each application shall be accompanied by a filing fee set by resolution of the Board of Supervisors. No part of the fee shall be refundable. (Ord. No. 3895 (part), 1994.)

#### **Sec. 16.04.050 Issuance of Permits.**

(A) Within five (5) business days after receipt of a complete application, the Health Department shall either grant, conditionally grant, or deny the permit. If the permit is not acted upon within the five (5) day period, the permit shall be deemed granted. If additional information is required, the five (5) day period shall commence from the date of receipt of the additional information. A permit shall not be issued if, in the judgement of the Health Officer, the well may jeopardize the health, safety, or welfare of the people of Mendocino County.

(B) Any permit issued under these regulations may be modified, revoked or suspended by the Health Officer if the Health Officer determines a violation of these regulations exists, provided that written notice has been directed to the permittee specifying the violation and that the permittee has failed or neglected to make necessary adjustments within thirty (30) days of receiving such notice. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.060 Inspections: Construction, Repair and Destruction.**

The Health Officer shall have the right to inspect all permitted wells as follows:

(A) Upon receipt of an application, an inspection of the well location by the Health Officer may be required prior to issuance of a well permit.

(B) The Health Officer may inspect any permitted work prior to completion.

(1) The Well Driller shall notify the Health Officer prior to placement of an annular seal or the destruction of a well.

(a) Water well notification minimum notice shall be twenty-four (24) hours.

(b) Monitoring and cathodic protection well notification minimum notice shall be five (5) working days.

(C) A State of California well completion report shall be submitted to the Health Department within fifteen (15) days of completion as a requirement of final approval of construction, modification, repair or destruction. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.070 Inspection.**

The Health Officer, during reasonable hours (between 8 a.m. and 5 p.m.), for the purpose of enforcing or administering these regulations, or any order, regulation or rule prescribed pursuant thereto, may enter any building, premises or other place except a private residence. Every person is guilty of a misdemeanor who in any denies, obstructs or hampers such entrance. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.080 State Reporting.**

Nothing contained in this Chapter shall be deemed to relieve any person from compliance with the provisions of Article 3, Chapter 10, Division 7, of the California Water Code or any other applicable State legislation. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.090 Expiration of Permit.**

Any permit issued pursuant to these regulations shall expire and become null and void if the work authorized thereby has not been completed within one (1) year following the date of issuance. Upon expiration of any permit issued pursuant to these regulations, no further work may be done in construction, repair, reconstruction or destruction of a water, monitoring or cathodic protection well unless and until a new permit for such purpose is secured in accordance with the provisions of these regulations. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.100 Cleaning of Wells.**

This Chapter shall not apply to the cleaning of wells by the owner or person authorized by the owner. No permit shall be required to clean out a well unless such action requires changing the physical construction of the well or well appurtenances. No chemical other than chlorine may be used to clean a well unless approved by the Health Officer. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.110 Exclusions.**

Springs are excluded from these regulations. Exploration holes for determining suitability of on-site domestic sewage disposal that are less than ten (10) feet in depth are excluded from these regulations. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.120 Change of Use of Well.**

Before a change of use is made of a well, compliance shall be made with the requirements for the new use as specified in these regulations. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.130 Exemption Due to Unusual Conditions.**

If the Health Officer finds that compliance with any of the requirements in these regulations is impractical for a particular location because of unusual conditions and would result in construction of an unsatisfactory well, the Health Officer may prescribe alternative requirements which are equivalent to the standards set forth in these regulations in terms of protection obtained. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.140 Special Permit Areas.**

At all times during the progress of well construction, reconstruction, repair or destruction, the well shall be protected in such a manner as to prevent tampering with the well, the entrance of foreign material into the well, or the entrance of drilling mud into streams or other surface waters. Water and drilling mud used in drilling shall be free from contamination or rendered free from contamination by chlorination or other approved methods. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.150 Protection of Wells.**

At all times during the progress of well construction, reconstruction, repair or destruction, the well shall be protected in such a manner as to prevent tampering with the well, the entrance of foreign material into the well, or the entrance of drilling mud into streams or other surface waters. Water and drilling mud used in drilling shall be free from contamination or rendered free from contamination by chlorination or other approved methods. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.160 Well Construction, Repair and Destruction Standards.**

Materials and methods used in the construction, repair, reconstruction or destruction of water, monitoring and cathodic protection wells shall be as specified in this Chapter and in the above-referenced California Well Standards. Materials and methods not specifically described therein shall receive written approval by the County Health Department prior to use. The applicant shall bear the burden of proof

in establishing suitability of materials or methods if other than those described in these regulations. (Ord. No. 3895 (part), 1994.)

**16.04.170 Construction Requirements.**

Materials and methods used in the construction, repair, reconstruction or destruction of water, monitoring and cathodic protection wells shall be as specified in this Chapter and in the above-referenced California Well Standards. Materials and methods not specifically described therein shall receive written approval by the County Health Department prior to use. The applicant shall bear the burden of proof in establishing suitability of materials or methods if other than those described in these regulations. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.180 Order to Abate Nuisance or Safety Hazard.**

Whenever the Health Officer determines that an abandoned well is causing a nuisance or safety hazard by polluting or contaminating groundwater or otherwise endangering the public health, the Health Officer may issue a written order setting forth the required corrective measures and requiring that the conditions causing the nuisance or safety hazard be abated within ten (10) days. Thereafter, the Health Officer shall forthwith serve the order upon the person occupying the premises, if any, and, if no person occupies the premises, the order shall be posted upon said premises in a conspicuous place. In addition, a copy shall be mailed, first class postage paid, to the owners of the premises as their names and addresses appear on the last equalized assessment roll. The Health Officer may for good cause extend the time specified in the order or otherwise modify or rescind the order. The order of abatement shall advise the possessors and owners of the property of their right to appeal to the Board of Supervisors and to stay the order of abatement pending such appeal. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.190 Abatement by the County.**

In the event that a nuisance or hazard is not abated in accordance with an order of abatement, or order resulting from the Board of Supervisors' hearing, pursuant to Section 16.04.220 the Health Officer may, upon securing approval of the Board of Supervisors, proceed to abate the nuisance by force account, contract or any other method deemed most expedient by the Board. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.200 Appeal from Denial, Modification, Revocation or Suspension of Permit and from Order of Abatement.**

Any person whose application for a permit has been denied or whose permit once issued has been modified, revoked or suspended, or who has been given an order of abatement, may within ten (10) County working days following the receipt of the notice of such denial, modification, revocation or suspension, or of the order of abatement, file an appeal in writing to the Board of Supervisors. Said appeal shall be accompanied by a filing fee as set forth by the Board of Supervisors, and shall specify the grounds upon which the appeal is taken. The Clerk of the Board shall then proceed to set the matter for hearing, not later than twenty (20) days thereafter, and such appeal shall stay the effect of any order or action until the Board hears the appeal and issues its order either to affirm, overrule or modify the action of the Health Officer. The Board decision must be rendered within ten (10) days of the public hearing. Notice of hearing shall be mailed to the appealing party at least five (5) County working days prior to the hearing. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.210 Abatement of Safety Hazard.**

These regulations in no way shall affect the right of the County to abate a public nuisance, pursuant to Government Code Sections 50230 through 50257, any abandoned well which presents a safety hazard. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.220 Payment of Cost by Owner.**

Any work carried out under Section 16.04.190 or 16.04.210 shall be the responsibility of the property owner. If such costs are not paid within thirty (30) days of the determination of the Board of Supervisors, said costs shall be assessed upon the property involved. The special assessment shall be collected at the same time and in the same manner as County taxes are collected and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as is provided for ordinary County taxes. All laws applicable to the levy, collection and enforcement of County taxes shall be applicable to such special assessment. (Ord. No. 3895 (part), 1994.)

**Sec. 16.04.230 Penalties.**

(A) Any person who violates any provision of this Chapter shall be guilty of an infraction punishable by (1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one (1) year; (3) a fine not exceeding five hundred dollars (\$500) for each additional violation of this Chapter within one (1) year.

(B) Any violation of the provisions of this Chapter may cause to be filed with the County Recorder a notice of such violation and a lien of estimated permit costs and penalties (such fees shall be further evaluated at the time of restitution.) The notice shall specify the names of the record owners and particularly describing the real property, provided that at least thirty (30) days prior to recording such notice the owner of the parcels or units to be affected by the notice of violation shall be advised in writing of the intention to record the notice specifying the time, date and place at which the owner may present evidence to the Division of Environmental Health as to why such notice should not be recorded. The decision of Environmental Health may be appealed to the Board of Supervisors. (Ord. No. 3895 (part), 1994.)

16.04.240

**Sec. 16.04.240 Construction and Validity.**

If any provision of these regulations shall be declared void or unconstitutional by judicial or other determination, all other parts of the regulations which are not expressly held to be void or unconstitutional shall continue in full force and effect. (Ord. No. 3895 (part), 1994.)



## CHAPTER 16.08

### ON-SITE SEWAGE SYSTEMS\*

\* Prior ordinance history Ord No 3421, adopted 1983

#### Sec. 16.08.010 Definitions.

The terms used in this Chapter are defined as follows:

(A) "Community sewage disposal system" means a sewage disposal system operated by a public entity or by a sewage system corporation as defined in Section 216 of the Public Utilities Code, consisting of collection, treatment, and disposal works, and which serves all lots or parcels of a subdivision.

(B) "On-site sewage system" means a sewage system utilizing a treatment unit and a soil absorption field.

(C) "Nonstandard sewage system" means any method of sewage treatment which does not use a septic tank and/or uses treatment processes in addition to the septic tank and/or does not use a gravity soil absorption field.

(D) "Standard sewage system" means a method of sewage treatment which includes a septic tank, and a gravity soil absorption field.

(E) "Alternative sewage system" means a non-standard sewage system that has demonstrated satisfactory operation and maintenance under the innovative systems monitoring program, as specified in the Division of Environmental Health publication "Non-Standard On-Site Sewage Systems Program" and/or the North Coast Regional Water Quality Control Board "Policy on the Control of Water Quality with Respect to On-Site Waste Treatment and Disposal Practices."

(F) "Innovative sewage system" means any non-standard sewage system other than an approved alternative system. Innovative system approval must be supported by adequate technical specifications and research documentation acceptable to the Mendocino County Division of Environmental Health as specified in the Division of Environmental Health publication "Non-Standard On-Site Sewage Systems Program" and/or the North Coast Regional Water Qual-

ity Control Board "Policy on the Control of Water Quality with Respect to On-Site Waste Treatment and Disposal Practices." (Ord. No. 1107 (part), adopted 1973; Ord. No. 3685 Sec. 1, adopted 1988; Ord. No. 4018, Sec. 2, adopted 1998.)

#### Sec. 16.08.015 General Prohibitions.

It is unlawful and prohibited and a public offense for any person, firm, corporation, partnership, or co-partnership to construct or maintain any sewage system in a manner where inadequately treated effluent is likely to discharge upon the surface of the ground, become injurious or dangerous to health, violates any requirement of the North Coast Regional Water Quality Control Board's Basin plan, or will empty, flow, seep, or drain into or affect any spring, stream, river, lake, groundwater or other waters within the County of Mendocino.

(A) All structures from which or in which domestic waste may be generated shall be connected to an approved sewage system approved by the County of Mendocino. No person or other entity shall reside in or otherwise use a structure generating domestic waste unless it is so connected to a sewage system so approved by the County. "Structure" shall not include a portable chemical toilet or variant thereof used only for a temporary period of time in any one place.

(B) Any onsite sewage system constructed or maintained in violation of this chapter is hereby declared to be a public nuisance per se, and may be summarily abated according to provisions of law.

(C) It is the intent of this ordinance not to limit a State agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer; nor is it the intent of this ordinance to limit the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in the Civil Code or for relief against any contamination or pollution. (Ord. No. 3685 Sec. 2, adopted 1988; Ord. 4018, Sec. 3, adopted 1998; Ord. 4143 Sec. 1, adopted 2005.)

**Sec. 16.08.020 Regulation of Installation or Alteration of Sewage Systems.**

The following provisions shall apply to all installations and alterations of sewage systems:

(A) Any person, firm, corporation, partnership, or co-partnership, all of the foregoing being hereinafter referred to by the term "installer," construction, digging, installing, or altering any on-site sewage disposal system shall first comply with the following requirements:

(1) Apply to the Mendocino County Department of Public Health for a permit therefore and be issued such a permit.

(2) Pay the appropriated application fee as determined by resolution of the Board of Supervisors, said fee not to be refundable; and pay the appropriate penalties as established herein.

(3) Submit with the application a drawing or map sufficient to show the plot plan of the property and the relative location of the proposed installations.

(4) Other information deemed necessary by the Health Officer.

(B) If the on-site sewage system for which a permit has been issued has not been installed within two (2) years of date of issuance of permit, the permit becomes void, unless renewed by payment of a renewal fee as established by the Mendocino County Board of Supervisors.

(C) Whenever any work for which a permit is required by this Title has commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. The investigation fee, in addition to the permit fees, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Title.

(D) The terms "install" and "installation" herein refer to each of the following: construction, digging, installation, and alteration. (Ord. No. 1107 (part), adopted 1973; Ord. No. 3339, adopted 1981; Ord. No. 3685 Sec. 3, adopted 1988; Ord. No. 4018, Sec. 4, adopted 1998.)

**Sec. 16.08.030 Inspection and Issuance.**

The Health Department may inspect, prior to or subsequent to the issuance of a permit, the premises and property where proposed installation is to be placed. If the Health Department determines the proposed installation meets the minimum requirements set forth in state and local statutes, regulations, and ordinances, the Health Department shall thereupon issue a permit for said installation and shall maintain records thereof. The Health Department may, however, set forth as conditions of approval for said permit whatever items and specifications it deems reasonably required to protect the public health and safety. Such minimum standards shall be published, from time to time, in the Division of Environmental Health's "Land Development Requirements FORM 42.04" and the "Non-Standard On-site Sewage Systems Program. (Ord. No. 1107 (part), adopted 1973; Ord. No. 3685 Sec. 4, adopted 1988; Ord. No. 4018, Sec. 5, adopted 1998.)

**Sec. 16.08.040 Duty of Installer.**

Upon the completion of an on-site sewage system and before the same is covered or put into use, the installer shall notify the Health Department of such fact by transmitting to it a notice of completion in writing. The on-site sewage system shall neither be covered nor put into use until such time as inspected by the Health Department and approved by it in the form of a certificate of completion. (Ord. No. 1107 (part), adopted 1973; Ord. No. 3685 Sec. 5, adopted 1988; Ord. No. 4018, Sec. 6, adopted 1998.)

**Sec. 16.08.050 Inspection After Installation.**

The Health Department may make such investigations and inspections after completion as may be necessary to determine that the plans and specifications approved in the permit have been complied with; and, if it finds that said plans and specifications have not been complied with, it shall be the duty of the installer to make the corrections. (Ord. No. 1107 (part), adopted 1973; Ord. No. 3685 Sec. 6, adopted 1988.)

**Sec. 16.08.060 Minimum Lot Area.**

No on-site sewage system shall be installed or approved unless it complies with the following minimum lot size requirements:

(A) Where a water supply and distribution system and sanitary sewer system are provided, the lot area shall be not less than six thousand (6,000) square feet, and the lot width shall be not less than sixty (60) feet in width on the building line or less than eighty (80) feet in depth.

(B) Where a water supply and distribution system is provided, the lot area shall not be less than twelve thousand (12,000) square feet, and the lot width shall be not less than eighty (80) feet.

(C) Where neither a water supply and distribution system nor a sanitary sewer system is provided, the lot area shall be not less than forty thousand (40,000) square feet, and the lot width shall be not less than one hundred (100) feet.

(D) For lots which are to be used for commercial or industrial purposes or where there are unusual topographical or other special conditions, the Health Department may grant exceptions to this provision.

(E) Each and every lot or parcel of a subdivision approved based upon the use of an alternative sewage system shall be a minimum of forty thousand



(40,000) square feet net. Systems proposed for lots less than eighty thousand (80,000) square feet net may be required to complete a cumulative impact survey prior to approval of the subdivision. (Ord. No. 1107 (part), adopted 1973; Ord. No. 3685, Sec. 7, adopted 1988; Ord. No. 4018, Sec. 7, adopted 1998.)

**Sec. 16.08.070 Subdivision Not Allowed Based Upon Innovative Sewage Systems; Exceptions.**

(A) Subdivisions of land which are based upon the use of an innovative on-site sewage systems on each lot or parcel shall not be allowed in Mendocino County. This prohibition shall not apply to a community sewage disposal system which serves all lots in a subdivision.

(B) Notwithstanding the foregoing, a subdivision of land may be approved, based upon the use of an alternative on-site sewage system, upon compliance with requirements found herein. (Ord. No. 1107 (part), adopted 1973; Ord. No. 3421, adopted 1983; Ord. No. 3685, Sec. 8, adopted 1988; Ord. No. 4018, Sec. 8, adopted 1998.)

**Sec. 16.08.080 Requirements for Approval of Subdivision Based Upon Alternative Sewage Systems.**

A subdivision may be approved based upon the use of alternative sewage systems on any individual lot or parcel, only if all of the following requirements are met:

(A) Any individual lot or parcel of the subdivision must meet all of the criteria for the proposed alternative sewage system established by both the North Coast Regional Water Quality Control Board, and the Health Officer as described in "The Non-Standard On-Site Sewage Systems Program." A written report of site evaluation, prepared by a qualified person, shall accompany each request for approval. All lots or parcels must be investigated for compliance with standard system criteria before alternative sewage systems are considered.

(B) The applicant shall submit a site development plan, prepared by a qualified person, to the Division

of Environmental Health. The plan shall clearly show the dimensions, orientation, and location of the proposed alternative sewage system and a future replacement sewage system on the parcel.

(C) The applicant shall prepare appropriate deed statements on forms provided by the Health Officer. Such statements shall advise prospective purchasers of a lot or parcel that an alternative sewage system will be required for development of this lot, and that such systems are more expensive than standard systems.

(D) For subdivision developments in which waste discharge requirements are prescribed by the Regional Board, the existence or formation of a legally responsible entity of dischargers shall be required. (Ord. No. 3685, Sec. 9, adopted 1988; Ord. 3904, passed 1995; Ord. No. 4018, Sec. 9, adopted 1998.)

**Sec. 16.08.090 Monitoring Inspections, Operational Permits.**

The Monitoring Inspection Program and the issuance of Operational Permits shall be according to the published standards in the Division of Environmental Health's "Non-Standard Sewage Systems Program."

(A) Each and every nonstandard sewage system shall be inspected periodically at a frequency depending on its complexity and potential public health impact. A report of conditions shall be completed on forms provided by the Health Officer. A Monitoring Inspection may be performed by the Health Officer. Fees for such Monitoring Inspections, as conducted by the Health Officer, shall be established by resolution of the Board of Supervisors, to be collected by the Health Officer; or, at the discretion of the Health Officer, a qualified person, as defined by the North Coast Regional Water Quality Control Board "Policy on the Control of Water Quality with Respect to On-Site Waste Treatment and Disposal Practices," may perform the Monitoring Inspection under contract with the property owner.

(B) No person, firm, corporation or other entity shall use, cause or allow the use of any nonstandard sewage system within the County of Mendocino

unless a valid Operational Permit is in effect for such use. The Health Officer may set forth as conditions of approval for the Operational Permit whatever items and specifications he or she deems reasonably necessary to assure the continued satisfactory operation of any nonstandard system or to protect the public health and safety. Fees for such Operational Permits shall be established by the Board of Supervisors, to be collected by the Health Officer. Use of a nonstandard sewage system without an Operational Permit shall constitute a public nuisance.

(C) Standard sewage systems with flows greater than one thousand five hundred (1500) gallons per day and/or wastes with higher strength than domestic sewage may be deemed a nonstandard sewage system and require an Operating Permit and be subject to Monitoring Inspections according to this Chapter. (Ord. No. 3685, Sec. 10, adopted 1988; Ord. No. 4018, Sec. 10, adopted 1998.)

**Sec. 16.08.100 Provisions Cumulative.**

The provisions of this Chapter are in addition to any other requirement for a permit for construction, alteration or repair of a sewage system. (Ord. No. 3685, Sec. 11, adopted 1988; Ord. No. 4018, Sec. 11, adopted 1998.)

**Sec. 16.08.110 Penalties.**

(A) A violation of any provision of this Chapter shall be an infraction punishable by (1) a fine not exceeding One Hundred Dollars (\$100) for a first violation; (2) a fine not exceeding Two Hundred Dollars (\$200) for a second violation of the same ordinance within one (1) year, (3) a fine not exceeding Five Hundred Dollars (\$500) for each additional violation of this Ordinance within one (1) year. Every day during any portion of which such violation occurs constitutes a separate offense.

(B) In addition to any other relief, the County shall recover the costs of enforcing the provisions of Title 16 of the Mendocino County Code and any and all ordinances, rules, regulations and orders of its Health Department for the preservation and protection of public health pursuant to Health and Safety Code Section 450 et seq. The hourly fees to be

imposed and recovered pursuant to this Section shall be set forth by resolution of the Board of Supervisors.

(C) The County may refund or waive any or all costs imposed or collected pursuant to this Section as directed by the Board of Supervisors and upon such terms and conditions as it directs. (Ord. No. 3685, Sec. 13, adopted 1988.)

**Sec. 16.08.120 Recording of Notice.**

The Mendocino County Department of Public Health may record with the County Recorder a notice, including a copy of the Operational Permit, stating that a nonstandard sewage system has been installed on the property or a permit for such installation has been issued; and any expanded usage of the system is prohibited unless a new permit therefor is issued. (Ord. No. 3409, adopted 1982, amended by Ord. No. 3591, adopted 1985; Ord. No. 4018, Sec. 12 (part), adopted 1998.)

**Sec. 16.08.125 Notice of Revocation.**

The Mendocino County Department of Public Health may record with the County Recorder a Notice of Revocation stating that the conditions of the Operating Permit have been violated and the Operating Permit is hereby revoked. (Ord. No. 4018, Sec. 12 (part), 1998.)

**Sec. 16.08.130 Appendix I, 1991 Uniform Plumbing Code.**

Appendix I as amended of the 1991 Uniform Plumbing code is hereby adopted and is applicable within the County of Mendocino and supplements Section 18.04.040(I) of the Mendocino County Code. Health and Safety Code Sections 17958, 17958.5 and 17958.7 authorize modifications of Appendix I upon express findings that such modifications are reasonably necessary because of local geological, topographical, or climatic conditions. (Ord. No. 3833 § 1, adopted 1992.)

**Sec. 16.08.135 Findings.**

The following findings are adopted in support of Appendix I as amended. These findings are consis-

tent with the North Coast Regional Water Quality Control Board's Basin Plan.

(A) **Geological Finding.** Mendocino County lies within the northern coastal ranges and valley of California, and its unique geological characteristics have a direct impact on the construction of on-site sewage systems. The unique geology has resulted in limited areas which are suitable for installation of on-site sewage systems using the criteria delineated in the 1991 Uniform Plumbing Code, Appendix I. The above referenced Basin Plan is designed to protect the quality of ground and surface waters. The Basin Plan contains differing criteria than Appendix I for testing and installation of on-site sewage systems. Such unique geological characteristics and the requirements of the Basin Plan necessitate the amendments to Appendix I.

(B) **Topographical Finding.** Mendocino County is rugged, mountainous, and sparsely populated. The area is divided into inland and coastal valleys, separated by coastal ranges. The topography, with tree-covered slopes and intermountain valleys, is not easily served by conventional on-site sewage technology. The lowest point in the basin, three hundred fifty (350) feet, is at the exit of the Russian and Eel Rivers. The highest point in the basin is Black Butte, located in Trinity County, which has an elevation of five thousand nine hundred twenty-two (5,922) feet. The isolation and limited density of development in many of Mendocino County's rural area makes sizing and installation of on-site sewage systems difficult.

(C) **Climatic Finding.** The climate of Mendocino County varies from the coast to the interior. The inland area has warm, dry summers and cool wet winter. The Pacific Ocean moderates the temperatures on the coast. From October through April, ninety (90%) to ninety-five percent (95%) of the total annual precipitation in the area falls. Mean totals are as much as sixty (60) inches at the Russian River drainage, with forty-five (45) to seventy (70) inches at the Eel River drainage. Total are lowest in the southern valleys and highest in the northern mountains. Climate thus limits the time of year in which on-site sewage systems can be in-

stalled. It also necessitates percolation testing of expansive clay soils during the wet weather season to ascertain performance of proposed on-site sewage systems. (Ord. No. 3833 § 2, adopted 1992; Ord. No. 4018, Sec. 13, adopted 1998.)

**Sec. 16.08.140 Appendix I.**

Appendix I as amended and approved by the Board of Supervisors on September 8, 1992, shall be lodged in the files of the County's Division of Environmental Health. (Ord. No. 3833 §3, adopted 1992.)

**CHAPTER 16.12**

**UKIAH SANITATION DISTRICT**

**Sec. 16.12.010 Declaration.**

All connections required hereby shall be made in accordance with the rules and regulations of the district. (Ord. No. 395, Sec. 3, adopted 1958.)

**Sec. 16.12.020 Buildings — Proper Sewage Connection.**

Commencing with the effective date of this Chapter (December, 1958), all buildings situated within the Ukiah Valley Sanitation District, requiring sewage disposal and abutting on any public highway, road, street, avenue, alley, way, public place, public easement or right of way in which there is or shall then have been located a public sewer of said district shall be connected to the proper public sewer within ninety (90) days from the date when such connection can be made, provided that said public sewer is within two hundred (200) feet of the building. (Ord. No. 395, Sec. 1, adopted 1958.)

**Sec. 16.12.030 Public Nuisance.**

The use of cesspools, septic tanks or any other local means of sewage disposal or the continued habitation or use of any building in violation of the provisions of this Chapter are hereby declared to be a public nuisance and such uses are hereby prohibited. (Ord. No. 395, Sec. 2, adopted 1958.)

**Sec. 16.12.040 Penalties.**

Any person violating this Chapter shall be guilty of a misdemeanor, punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) or by imprisonment in the County jail for a term not to exceed six (6) months, or by both such fine and imprisonment. (Ord. No. 395, Sec. 4, adopted 1958.)



**CHAPTER 16.16**

**MEADOWBROOK MANOR SANITATION  
DISTRICT**

See minute book of Meadowbrook Manor Sanitation District for text. (Ord. No. 392, adopted 1958.)

## CHAPTER 16.20

### COUNTY WATER WORKS DISTRICT NO. 2

#### **Sec. 16.20.010 Declaration.**

All connections required hereby shall be made in accordance with the rules and regulations of the District. (Ord. No. 3349, adopted 1981, readopted by Ord. No. 3356, 1981.)

#### **Sec. 16.20.020 Buildings—Proper Sewage Connections.**

Commencing with the effective date of this Chapter (June 25, 1981), all buildings situated within County Water Works District No. 2, requiring sewage disposal shall be connected to the proper public sewer within six months from the date when such connection can be made, provided that said public sewer is within 200 feet of the lot line. (Ord. No. 3349, adopted 1981, readopted by Ord. No. 3356, 1981.)

#### **Sec. 16.20.028 Bonding Requirement.**

Should any building situated within the County Water Works District No. 2 which is required to be connected to the public sewer pursuant to Section 16.20.020 above not be connected to a public sewer within the time period specified in Section 16.20.020, the owner of said property shall post a bond satisfactory to the Mendocino County Public Health Department in the sum of at least fifteen hundred dollars (\$1,500). (Ord. No. 3349, adopted 1981, readopted by Ord. No. 3356, 1981.)

#### **Sec. 16.20.030 Public Nuisance.**

The following are hereby declared to be a public nuisance and such uses are hereby prohibited:

(a) The use of cesspools, septic tanks or any other local means of sewage disposal within County Water Works District No. 2 commencing six months from the date when connection to the proper public sewer can be made. (Ord. No. 3349, adopted 1981, readopted by Ord. No. 3356, 1981.)

(b) The continued habitation or use of any building which is not connected in compliance with this chapter, or which is exempted from connections under the provisions of this chapter. (Ord. No. 3349, adopted 1981, readopted by Ord. No. 3356, 1981.)

(c) The violation of any of the provisions of this chapter. (Ord. No. 3349, adopted 1981, readopted by Ord. No. 3356, 1981.)

#### **Sec. 16.20.040 Penalties.**

Any person violating this chapter shall be guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the County Jail for a term not to exceed six months, or by both such fine and imprisonment. A separate offense shall be deemed to have been committed for each and every week during any portion of which any violation is continued and shall be punishable as provided herein. (Ord. No. 3349, adopted 1981, readopted by Ord. No. 3356, 1981.)

#### **Sec. 16.20.060 Bonding Requirements for Issuance of Septic System Permits.**

Commencing the effective date of this chapter (June 25, 1981), no septic tank permits shall be issued in the County Water Works District No. 2 for any building which will be required to connect to the approved public sewer system pursuant to Section 16.20.020 unless the owner of said property posts a cash bond in the amount of fifteen hundred dollars (\$1,500) with the County of Mendocino. (Ord. No. 3349, adopted 1981, readopted by Ord. No. 3356, 1981.)

#### **Sec. 16.20.070 Repealed by Ord. No. 89-01, adopted 1989.**

#### **Sec. 16.20.080 Repealed by Ord. No. 89-01, adopted 1989.**

**CHAPTER 16.24**  
**WATER CONSERVATION**

**Sec. 16.24.010 Purpose and Findings.**

(A) The County of Mendocino is located in a part of California which receives an average of thirty (30) inches of rainfall per year. Nevertheless, there are fluctuations in the amount of rainfall in any given year, the storage capacity of lakes and reservoirs in the area is relatively limited, and the County is obligated to share part of the water stored in Mendocino County with surrounding political entities.

(B) Water is a finite resource, incapable of sustaining an infinite increase in demand. If the water resources of the County are to support increased population and economic growth, then demand must be managed and water conserved. The development and delivery of potable water supplies require capital investment. Eliminating excessive or unnecessary use extends the life of existing systems. The same is also true of sewage treatment and disposal.

(C) The Board of Supervisors finds that there are certain water-saving devices which can be incorporated into all new construction, and in remodeling existing bathrooms. The Board further finds that the use of such devices will help to conserve water and to preserve the capacity of sewage treatment systems in the County.  
(Ord. No. 3721, adopted 1989.)

**Sec. 16.24.020 Scope/Effective Date.**

The provisions of this chapter shall apply to all new construction, and to the remodeling of bathrooms, for which any building, plumbing, or mechanical permit is applied for after March 1, 1990, the effective date of the ordinance codified in this chapter.  
(Ord. No. 3721, adopted 1989.)

**Sec. 16.24.030 Conservation Devices.**

No building permit within the scope of Section 16.24.020 shall be issued where the plumbing fixtures to be installed do not meet the following standards:

(A) All tank-type water closets shall use not in excess of one and six-tenths (1.6) gallons per flush and shall be of an "ultra low flush" type.

(B) Potable hot water piping in accessible unconditioned areas leading from water heaters shall be insulated for the first five (5) feet from water heater to provide an installed conductance of 0.33 or less.

(Ord. No. 3721, adopted 1989.)

**Sec. 16.24.040 Government Buildings.**

The provisions of Section 16.24.030 shall also apply to all new construction of buildings owned or leased by a public agency which is otherwise subject to the Uniform Codes pursuant to Government Code Section 53091. In addition, lavatories in such buildings shall be equipped with self-closing faucets.

(Ord. No. 3721, adopted 1989.)

**Sec. 16.24.050 Exemptions.**

In order to prevent or lessen unnecessary hardship or practical difficulties in exceptional cases, aggrieved persons or agencies may file a written application for exemption with the Building Department. If the Director of Planning and Building or the Chief Building Inspector denies the application, the aggrieved person or agency may seek review by the Board of Building and Housing Appeals pursuant to Section 2.24.030, subdivision (G)(2), of this code.

(Ord. No. 3721, adopted 1989.)

## CHAPTER 16.30

### STORMWATER RUNOFF POLLUTION PREVENTION PROCEDURE\*

This Chapter shall be known and cited as the "STORMWATER RUNOFF POLLUTION PREVENTION PROCEDURE" (herein after SRPPP).

#### Sec. 16.30.010 Purpose.

The purpose and intent of this Chapter is to protect and promote the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. § 1251 et seq.), and the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges to the storm drainage system.

(Ord. No. 4313, 8-27-2013)

#### Sec. 16.30.015 Regulatory consistency.

This Ordinance shall be construed to ensure consistency with the requirements of the Clean Water Act, State Porter-Cologne Act, State NPDES permits, and statutes and regulations that amend or supplement those Acts or permits.

A. Watercourse Protection. Every person owning property, through which a watercourse passes, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of

\*Editor's note—Ord. No. 4313, adopted August 27, 2013, amended former ch. 16.30, §§ 16.30.010—16.30.170, in its entirety. Former ch. 16.30 pertained to similar subject matter and derived from Ord. No. 4285, adopted October 4, 2011.

the watercourse. The owner or lessee shall not remove healthy bank vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The owner or lessee shall obtain all necessary permits from outside agencies for any work done within the watercourse.

B. Waste Disposal Prohibitions. No person, anywhere in the County, shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drainage system, or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, so that the same may cause or contribute to water pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

(Ord. No. 4313, 8-27-2013)

#### Sec. 16.30.020 Acronyms, abbreviations and definitions.

(a) AUTHORIZED NON-STORM WATER DISCHARGES: Categories of discharges that are not composed entirely of storm water but are not found to pose a threat to water quality as defined in the Storm Water Management Program.

(b) BEST MANAGEMENT PRACTICES (BMPs): Schedules of activities, prohibition of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable the direct and indirect discharge of pollutant to the County storm drainage system and to waters of the U.S. BMPS shall also be defined to include, but not limited to, structural controls, source controls, treatment controls, training requirements, operating and maintenance procedures, practices to control plant site runoff, erosion and sediment control reduction practices, spillage or leaks, sludge or waste disposal or drainage from raw materials storage.

(c) BENEFICIAL USES: Existing or potential uses of receiving waters as defined in a State of California Water Quality Control Plan.

(d) **CLEAN WATER ACT (CWA):** The Federal Water Pollution Control Act (33 U.S.C. 125 et seq.) and any subsequent amendments thereto.

(e) **CORRECTIVE ACTION PLAN:** A required plan of action, which may include BMPs, to address non-storm water discharges and pollutants of concern to the maximum extent practicable (MEP).

(f) **COUNTY:** The County of Mendocino, unincorporated areas .

(g) **COUNTY WATER AGENCY:** The Mendocino County Water Agency.

(h) **COUNTY STORM DRAINAGE SYSTEM:** Those public facilities which are owned, operated, maintained or controlled by the County by which storm water may be collected and/or conveyed to waters of the U.S., including, but not limited to, any County roads, catch basins, water quality basins, detention basins, constructed wetlands, drainage channels, curbs, gutters, ditches, sumps, pumping stations, storm drain inlets, storm drains and other drainage structures which are not part of a publicly owned treatment works.

(i) **CONSTRUCTION ACTIVITY:** Any project that involves soil disturbing activities with the potential to discharge pollutants to the County storm drainage system, including but not limited to, clearing, grading, paving, disturbances to ground such as stockpiling, and excavation.

(j) **DISCHARGE:** Any addition or introduction of any pollutant, storm water, or any other substance whatsoever into the County storm water drainage system or waters of the U.S.

(k) **DISCHARGER:** Any person who discharges or causes to discharge, either directly or indirectly, storm water or any other material into the County storm drainage system or waters of the U.S.

(l) **ILLEGAL DISCHARGE:** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 16.30.040 of this Ordinance.

(m) **ILLICIT CONNECTION** means one (1) of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal dis-

charge to enter the storm drainage system, including but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater, backwash water, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drainage system which has not been documented in plans, maps, or equivalent records and approved by County.

(n) **INFILTRATION:** The process of water entry into a soil from rainfall, snowmelt, or irrigation.

(o) **MAXIMUM EXTENT PRACTICABLE (MEP):** Refers to the technology based standard established by Congress in the Clean Water Act U.S.C. § 1342(p)(3)(B)(iii) that municipal dischargers of storm water must meet. To achieve the maximum extent practicable standard, jurisdictions must employ whatever Best Management Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. MEP emphasizes pollutant reduction and source control BMPs to prevent pollutants from entering storm water runoff. MEP may require treatment of the storm water runoff if it contains pollutants. The MEP standard is an ever-evolving, flexible, and advancing concept, which considers technical and economic feasibility.

(p) **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES):** A national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the CWA.

(q) **NON-STORM WATER DISCHARGE:** Any discharge to the County storm drainage system or to waters of the U.S. that is not composed entirely of storm water.

(r) **POLLUTANT:** Anything that causes or contributes to pollution. Pollutants may include but are not limited to, solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive material, dredged soil, rock and sand, industrial waste, feces, volatile organic carbon, surfactants, oil and grease, petroleum, hydrocarbon, organic solvents, metals, phenols, pesticides, nutrients, suspended or settleable solids, materials causing an increase in biochemical or chemical oxygen or total organic carbon, substances which alter pH, and those pollutants defined in Section 501(6) of the Federal Clean Water Act.

(s) **POLLUTION:** Human made or human induced alteration of the quality of waters by waste or pollutants to a degree which unreasonably affects, or has potential to unreasonably affect, either waters for beneficial uses or the facilities which serve these beneficial uses.

(t) **PORTER-COLOGNE ACT:** The Porter-Cologne Water Quality Control Act and as amended (California Water Code Sec. 13000 et seq.) A California state law that establishes enforceable water quality standards.

(u) **RWQCB:** The California Regional Water Quality Control Board, North Coast Region.

(v) **SOURCE CONTROL:** Means a site planning approach, a constructed component of a development project, or an operational activity that is included as part of a development project for the purpose of either 1) preventing pollutants from contacting storm water, or 2) reducing the quantity of runoff that drains from a developed site to the storm drainage system. Examples of source controls include site designs that promote infiltration by reducing impervious surfaces, trash storage enclosures, disconnecting roofs from the storm drainage system, street sweeping, and the regular inspection and cleaning of storm drain inlets.

(w) **STATE CONSTRUCTION GENERAL PERMIT:** The State Water Resources Control Board's Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) Gen-

eral Permit No. CAS000002 Waste Discharge Requirements (WDRS) for Discharges of Storm Water Runoff Associated with Construction Activity, and any successor documents.

(x) **STORM WATER:** Surface runoff and drainage resulting from storm events and snowmelt.

(y) **STORM WATER MANAGEMENT PROGRAM:** The County's documented strategy for reducing storm water pollution to the maximum extent practicable through the implementation of Best Management Practices (BMP's).

(z) **WATERCOURSE:** a natural or artificial channel through which water flows.

(aa) **WATER QUALITY CONTROL PLAN:** A basin plan required by the California Water Code (Section 13240) that consists of a designation or establishment of beneficial uses to be protected in waters within a specific area (i.e., basin), water quality objectives to protect those uses, and a program of implementation needed for achieving the objectives.

(bb) **WATERS OF THE UNITED STATES:** Surface watercourses and water bodies as defined at Code of Federal Regulations, Title 40, Section 122, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

(Ord. No. 4313, 8-27-2013)

### **Sec. 16.30.030 Applicability.**

A. This chapter shall apply to all water entering the County storm drainage system or waters of the U.S., generated on any developed and undeveloped lands lying within the unincorporated urban boundary areas of Mendocino County as identified in the Storm Water Management Program (SWMP). The maps of the unincorporated urban boundary areas of Mendocino County are available and on file in the Department of Planning and Building Services.

B. Notwithstanding the provisions of this ordinance, any person subject to an Industrial or

Construction activity NPDES storm water discharge permit, anywhere in the County, shall comply with all provisions of that permit. Proof of compliance with the permit shall be required in a form acceptable to the County as a condition of a subdivision map, site plan, building permit, encroachment permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

C. Any property owner anywhere in the County proposing a project with soil disturbance of less than one acre, must demonstrate compliance with the California Green Building Standards Code ("Green Code" and/or its successor documents) pertaining to site development stormwater runoff control, and Best Management Practices as listed in 16.30.070 B. Projects not subject to permits, with the potential to discharge to the County storm drainage system shall demonstrate compliance through implementation of BMPs listed in 16.30.070 B.

D. This Ordinance shall not apply to non-urban Timber or Agricultural operations. Excepting therefrom illicit discharges from a timber or agricultural operation that enters the County's storm drainage system or watercourse shall be subject to this Chapter.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.031. Responsibility for administration.**

The Director of Planning and Building Services of the County or his/her designee shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the County may be delegated to persons or entities acting in the beneficial interest of or in the employ of the County.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.033. Ultimate responsibility of discharger.**

The requirements of this Section are minimum standards; therefore this Section does not

intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the United States caused by that person. This Section shall not create liability on the part of Mendocino County, or any agent or employee of the County, for any damages that result from any discharger's reliance on this Chapter or any administrative decision in compliance with this Chapter.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.040 Prohibition of illicit discharges.**

A. No person shall discharge or cause to be discharged into the County storm drainage system or watercourses any materials, including pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water, to the maximum extent practicable. The commencement, conduct or continuance of any other discharge to the storm drainage system and watercourses is prohibited, except for the following.

B. The following types of discharges will be considered authorized non-storm water discharges to the storm drainage system and watercourses when properly managed to ensure, to the maximum extent practicable, that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act, or this Ordinance:

1. potable water line flushing;
2. uncontaminated pumped groundwater and other discharges from potable water sources;
3. diverted stream flows;
4. rising groundwater;
5. uncontaminated groundwater infiltration to the storm drain system as defined at Code of Federal Regulations, Title 40, Chapter Parts 122 and 123;
6. uncontaminated foundation and footing drains;
7. uncontaminated water from crawl space pumps;

8. air conditioning condensation;
9. uncontaminated non-industrial roof drains;
10. springs;
11. flows from riparian habitats and wetlands;
12. dechlorinated swimming pool discharges;
13. irrigation water;
14. incidental runoff from landscape irrigation and lawn watering;
15. individual residential car washing and
16. flows from fire fighting.

D. This prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations.

E. With written concurrence of the Regional Water Quality Control Board, the County of Mendocino may exempt in writing other non-storm water discharges which are not a source of pollutants to the storm drainage system or waters of the U.S.

F. Notwithstanding the requirements of Section 16.30.140 (Authority to Inspect), the County may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.050 Prohibition of illicit connections.**

A. No person shall install, use or maintain a drain, conveyance, pipe, channel or other connection to the storm water drainage facilities, whether on the surface or subsurface, that may result in the discharge of a pollutant or pollutants into the County's storm drain system. For example, such illicit connections include but are not limited to those that could allow sewage, wastewater, and

wash water to enter the storm water drainage system and connections from indoor drains and sinks, regardless of whether the connection had been previously allowed, permitted, or approved by the County.

B. No person shall install, use or maintain a drain or conveyance connected from a commercial or industrial premise to the County storm drainage systems where such connection or drain is not approved by the County and documented in County records.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.070 Requirements for reducing pollutants in storm water.**

A. **RESPONSIBILITY TO IMPLEMENT BEST MANAGEMENT PRACTICES.** Notwithstanding the presence or absence of requirements promulgated in compliance with Section 16.30.090 (A) and Section 16.30.090 (B), any person engaged in activities or operations, or owning facilities or property anywhere in the County which will or may result in pollutants entering storm drainage systems, or waters of the U.S. shall implement BMPs to the *maximum extent practicable to prevent and reduce the pollutants*.

1. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drainage system or waters of the U.S.

2. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

3. Best Management Practices required by the County can be obtained at the Planning and Building Services Department, Department of Transportation, or the County Water Agency.

B. Any person performing construction and grading work anywhere in the County shall implement appropriate Best Management Practices to prevent the discharge of construction waste, debris or contaminants from construction materials, tools and equipment from entering the storm drain-



age system. Best Management Practices as appropriate for each project, shall include but not be limited to the use of the following:

1. Scheduling construction activity
2. Preservation of natural features, vegetation and soil
3. Drainage swales or lined ditches to control stormwater flow
4. Mulching or hydroseeding to stabilize disturbed soils
5. Erosion control to protect slopes
6. Protection of storm drain inlets (gravel bags or catch basin inserts)
7. Perimeter sediment control (perimeter silt fence, fiber rolls)
8. Sediment trap or sediment basin to retain sediment on site
9. Stabilized construction exits
10. Wind erosion control
11. Other soil loss BMP acceptable to the enforcing agency
12. Material handling and waste management
13. Building materials stockpile management
14. Management of washout areas (concrete, paints, stucco, etc.)
15. Control of vehicle/equipment fueling to contractor's staging area
16. Vehicle and equipment cleaning performed off site
17. Spill prevention and control
18. Other housekeeping BMP acceptable to the enforcing agency

C. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of the permit. Proof of compliance with the permit may be required in a form acceptable to the County as a condition of a subdivision map, site plan, building permit, encroachment permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.  
(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.090 Adoption of best management practices.**

A. AUTHORIZATION TO ADOPT AND IMPOSE BEST MANAGEMENT PRACTICES. The County may adopt requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the storm drainage system or waters of the U.S. Where BMP requirements are promulgated by the County, any Federal, State, or regional agency for any activity, operation, or facility that would otherwise cause the discharge of pollutants to the storm drain system or water of the United States every person undertaking the activity or operation, or owning or operating the facility shall comply with these requirements.

B. NEW DEVELOPMENT AND REDEVELOPMENT. The County shall adopt requirements identifying appropriate BMPs to control the volume, rate, and potential pollutant load of storm water runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants and as required by the County's NPDES MS4 General Permit. The County may incorporate these requirements into land use entitlements and construction or building-related permits to be issued for the new development or redevelopment.  
(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.100 Requirement to eliminate or secure approval for illicit connections.**

A. The County may require by written notice that a person responsible for an illicit connection to the storm drain system comply with the requirements of this Chapter to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of this Chapter.

B. If, subsequent to eliminating a connection found to be in violation of this Chapter, the re-

sponsible person can demonstrate that an illegal discharge will no longer occur, said person may request County approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.110 Requirement to remediate.**

Whenever the County finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of stormwater, the storm drainage system, or waters of the U.S., the County may require by written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a specified time as determined by a corrective action plan or in compliance with the Enforcement Section of this Ordinance.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.120 Requirement to monitor and analyze.**

The County may require by written notice that any person engaged in any activity and/or owning or operating any facility that may cause or contribute to stormwater pollution, illegal discharges, and/or non-stormwater discharges to the storm drainage system or watercourses, to undertake at that person's expense any monitoring and analyses and furnish reports to the County as deemed necessary to determine compliance with this Section.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.130 Notification of spills.**

A. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials that are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or watercourses from said facility, the person shall take all necessary steps to

ensure the discovery, containment, and cleanup of the release. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the County Planning and Building Services within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of the establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. These records shall be retained for at least three (3) years.

(1) In the event of a release of a hazardous material the person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911).

(2) In the event of a release of non-hazardous materials, the person shall notify the County Planning and Building Services in person or by phone or facsimile no later than 5:00 p.m. of the next business day.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.140 Inspection and monitoring.**

A. **AUTHORITY TO INSPECT.** Whenever necessary to make an inspection to enforce any provision of this Section, or whenever the County has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Section, the County may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the County is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

B. **AUTHORITY TO SAMPLE, ESTABLISH SAMPLING DEVICES, AND TEST.** During any inspection in compliance with this Section, the County may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.150 Implementation.**

The intent of this Ordinance is not to punish and fine citizens of Mendocino County, but to educate them of ways to prevent and reduce pollution from entering the County storm drainage system and waters of the U.S. As such, education shall be the primary means to implement the provisions of this Ordinance. Where violations are discovered, initial contact with property owners and/or business operator shall be to gain compliance through education and a corrective action plan. If compliance is not gained through initial education and a corrective action plan, if necessary, further enforcement actions shall be pursued in accordance with Chapter 8.75 "Uniform Nuisance and Abatement Procedure" of the Mendocino County Code.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.160 Enforcement—Violations.**

A. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Failure to comply with this Ordinance, including the failure to implement a corrective action plan shall be an infraction and shall be punishable by fines as specified in Government Code Section 25132 or any successor statute.

B. Any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety, and welfare and shall constitute a public nuisance and a misdemeanor and shall be subject to enforcement in accordance with Chapter 8.75 "Uniform Nuisance and Abatement Procedure" of the Mendocino County Code.

C. Any person who violates any provision of this Ordinance or any provision of any requirement issued in compliance with this Ordinance may also be in violation of the Clean Water Act and/or the Porter-Cologne Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under this Section shall also include written notice to the violator of this potential liability.

(Ord. No. 4313, 8-27-2013)

**Sec. 16.30.170 Severability clause.**

The provisions of this Ordinance are separate and severable. If any provision of the ordinance codified in this Chapter is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed the ordinance codified in this Chapter irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Chapter, or the validity of its application to other persons or circumstances.

(Ord. No. 4313, 8-27-2013)

