

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

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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. 4230, passed November 10, 2009.

Municipal Code Corporation
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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 March 24, 2009, 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 the State Water Resources Control Board's 50% water conservation goal 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)

Sec. 7.10.020 Findings.

1. Mendocino County is now in its third consecutive year of drought.

2. Lake Mendocino storage remains at unprecedentedly low levels and water delivery limitations have become worse in this third year of drought, creating emergency conditions in Mendocino County.

3. On March 24, 2009, the Mendocino County Board of Supervisors adopted Resolution Number 09-069 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.

4. 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.

5. On April 6, 2009, the State Water Resources Control Board issued Order WR 2009-0027-DWR reducing minimum instream flow requirements downstream of Lake Mendocino and implementing twenty-five percent (25%) and fifty percent (50%) Russian River water conservation goals in Sonoma and Mendocino Counties, respectively. The Order was effective as of April 1, 2009.

6. In response to State Water Resources Control Board Order WR 2009-0027-DWR, the Mendocino County Russian River Flood Control and Water Conservation Improvement District (District) notified its customers in a letter dated April 15, 2009, that their 2009 water allocations from the District would be reduced by fifty percent (50%).

7. On May 28, 2009, the State Water Resources Control Board issued Order WR 2009-0034-EXEC reaffirming the water conservation objectives set forth in State Water Resources Control Board Order WR 2009-0027-DWR.

8. Despite the enactment of State Water Resources Control Board Order WR 2009-0034-EXEC, Lake Mendocino is projected to reach perilously low storage levels by the fall of 2009.

9. On December 11, 2007, the Redwood Valley County Water District Board of Directors declared a Water Shortage Emergency due to lack of adequate rainfall, and that lack of adequate rainfall has continued through the winter of 2008-2009.

10. On April 15, 2009, the City of Ukiah City Council declared a Local Emergency under the State Emergency Services Act and a Stage One Water Shortage Emergency under Section 3602 of the Ukiah City Code.

11. On April 16, 2009, the Redwood Valley County Water District Board of Directors declared that the December 11, 2007, emergency was still in effect, and that it would be necessary to increase the level of conservation to Tier 4 of Redwood Valley County Water District's Ordinance Number 1, with fifty percent (50%) mandatory conservation effective May 15, 2009.

12. On May 26, 2009, the Millview County Water District Board of Directors adopted Resolution Number 09-03 declaring a Water Supply Emergency within the boundaries of the Millview County Water District and advanced the water conservation level to Stage Two, limiting consumption to residential customers to 5,250 gallons per month and requiring a twenty-five percent (25%) reduction to all commercial/ industrial users.

13. The drought conditions impacting Lake Mendocino water storage are exacerbated by the 2004 Potter Valley Federal Energy Regulatory Commission Decision restricting water diversions from the Eel River to the Russian River by an average of thirty-five percent (35%), as well as Water Right Decision 1610, which governs stream flow releases from Lake Mendocino and mandates unnecessarily high stream flow releases that the National Marine Fisheries Service has concluded greatly limit the quantity and quality of juvenile salmon and steelhead habitat in the Russian River.

14. Mendocino County recently endured one of its worst fire seasons in history and the continuing drought conditions increase the risk of devastating fires and reduced water supplies for fire suppression.

15. 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.

16. 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.

17. The Mendocino County Board of Supervisors also requested that a Federal Declaration of Emergency be declared for Mendocino County and further requests that Federal assistance be made available from all relevant Federal agencies, including, but not limited to, the Department of Agriculture, the Department of the Interior and the Federal Drought Action Team.
(Ord. No. 4224, 7-14-2009)

Sec. 7.10.030 Conservation Requirement.

(a) The fifty percent (50%) mandatory rationing and reporting previously required by this urgency ordinance is hereby suspended. In the event the storage in the Lake Mendocino Reservoir drops to 30,000 acre feet on or before January 31, 2010, then the fifty percent (50%) water conservation mandate will be reinstated through a further amendment to this ordinance. During this time period, all Mendocino County users of the Lake Mendocino water supply, which is defined as "water held in storage for eventual release or directly diverted from Lake Mendocino," are requested to voluntarily reduce their water usage by twenty percent (20%) as compared to at least one of the following:

(b) The maximum allowable annual diversion amount set forth in a valid Appropriative water right permit or license held by the water user and issued by the State Water Resources Control Board.

(c) The maximum annual water allocation set forth in a valid water supply contract between the water user and the Mendocino County Russian River Flood Control and Water Conservation Improvement District.

(d) The corresponding average water usage for the time period beginning on July 15, 2004, and extending through October 2, 2004, or in instances

where no applicable water usage data are available for 2004, the corresponding five-year average water usage for the 80-day time period beginning on July 15 and extending through October 2.

(e) Any alternative measure approved by the Mendocino County Water Agency.

All users shall also be required to comply with all rules and regulations regarding water usage that have been adopted by each agency, city, or district.

(Ord. No. 4224, 7-14-2009; Ord. No. 4230, 11-10-2009)

validity 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. 4224, 7-14-2009)

Sec. 7.10.040 Reporting Requirements.

All water agencies, cities, districts, and other persons or entities who are not serviced by an agency, city, or district 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. This does not apply to those individual water customers who are serviced by an agency, city, or district.

(Ord. No. 4224, 7-14-2009)

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)

Sec. 7.10.060 Review.

This Ordinance shall be reviewed for modification or repealed at the time the Declaration of Emergency has been discontinued by the Board of Supervisors.

(Ord. No. 4224, 7-14-2009)

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 in-

CHAPTER 8.75
UNIFORM NUISANCE ABATEMENT
PROCEDURE*

Sec. 8.75.010 Title.

This Chapter shall be known and cited as the "Uniform Nuisance Abatement Procedure." (Ord. No. 4227, 9-1-2009)

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. 4227, 9-1-2009)

Sec. 8.75.030 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 of Supervisors, 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 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;

***Editor's note**—Ord. No. 4227, adopted Sept. 1, 9-1-2009, amended former Ch. 8.75 in its entirety to read as herein set out. Former Ch. 8.75 pertained to the similar subject matter and derived from Ord. No. 4177, 2009; Ord. No. 4183, 2007.

(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. 4227, 9-1-2009)

Sec. 8.75.040 Summary Abatement Power.

(A) 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. 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 of Supervisors, may use summary abatement to remove solid waste, which has been illegally deposited in violation of Sections 8.75.030(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 Enforcement Officer who had declared the public nuisance shall keep an account of the cost of abatement and bill the property owner accordingly. If the bill is not paid within fifteen (15) days from the date of mailing, the Enforcement Officer may proceed to obtain a lien against the owners of the property in accordance with the procedures set forth in Sections 8.75.130 through 8.75.170 of this Chapter. In cases of en-

croachments 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 an administrative penalty, and costs of abatement, on the responsible party using the procedure set forth to Section 8.75.075. A Notice of Assessment of Administrative Penalty and Costs of Summary Abatement shall be mailed or otherwise delivered in each such case.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.050 Scope of Chapter.

Whenever a public nuisance is declared, it may be abated in accordance with the procedures provided in this Chapter. Nothing in this Chapter shall be construed to limit the right and duty of any Enforcement Officer to take immediate action to preserve or protect public health or safety. 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.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.060 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. Upon a public nuisance being declared, the Enforcement Officer given the authority to enforce the Ordinance shall issue a Notice and Order to Abate.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.070 Service of Notice and Order to Abate.

The Notice and Order to Abate shall be served in the following manner:

(A) By certified mail, addressed to the owner, his or her agent, at the address shown on the last equalized assessment roll or as otherwise known. Service shall be deemed to have been completed upon the deposit of said Notice and Order, postage prepaid, in the United States mail; and

(B) By certified mail addressed to anyone known to the Enforcement Officer to be in possession of the property at the street address of the property being possessed. Service shall be deemed to have been completed upon the deposit of said Notice and Order, postage prepaid, in the United States mail; and

(C) By posting such Notice and Order to Abate conspicuously in front of the 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.
(Ord. No. 4227, 9-1-2009)

Sec. 8.75.075 Administrative Civil Penalties.

In addition to any other remedies provided by County Code or State Law, there is hereby imposed the following civil penalty for each violation of this Chapter, as imposed by the Enforcement Officer:

(1) No less than twenty-five dollars (\$25.00) per day and no more than one hundred dollars (\$100.00) per day for the first violation; no less than one hundred dollars (\$100.00) per day and no more than two hundred dollars (\$200.00) per day for a second violation of the same Ordinance within one (1) year; and no less than two hundred dollars (\$200.00) and no more than five hundred dollars (\$500.00) per day for each additional violation of the same Ordinance within one (1) year

for each day that the violation exists after the date of mailing of the notice of violation through to its abatement by whatever means.

(2) The Enforcement Officer shall have the sole and exclusive discretion to set the amount of civil penalties within the ranges set forth in this Section. The Enforcement Officer shall not impose a penalty greater than the minimum amount in range of civil penalties set forth in this section, unless the Enforcement Officer's department has established a written policy setting forth how civil penalties within the ranges are determined. Such policy shall take into account the facts and circumstances of the violation including, but not limited to, whether or not the violation poses a threat to human health, safety or to the environment; the seriousness or gravity of the violation; the length of time the violation has existed; the culpability of the person in violation or the willfulness of the violation; the sophistication of the persons creating or causing the violation; the extent of the violation and its effect on adjoining properties; attempts, if any, to comply with the applicable Ordinances; and any other information which might be relevant to the determination of penalty to be imposed by this Section.

(3) If the penalty is imposed for violation of Section 8.75.030(D) and (E), there shall be imposed a fine of two hundred fifty dollars (\$250.00), plus the actual costs of abatement.

(4) At the discretion of the Enforcement Officer, or his or her designee, or upon the appeal of the property owner, the determination may be referred to a Hearing Officer of the County, duly appointed to hear such matters as described in Sections 8.75.080, 8.75.090, 8.75.100, and 8.75.110. The determination of the Hearing Officer as to the amount of charges properly imposed under this Section shall be final, subject only to judicial review.

(5) The charges imposed by this Section shall not apply if the property owner establishes all of the following: (i) that, at the time he or she acquired the property, a violation of this Code already existed on the property; (ii) the property

owner did not have actual or constructive notice of the existence of that violation; and (iii) within thirty (30) days after the mailing of notice of the existence of that violation, the property owner initiates and pursues, with due diligence, good faith efforts, as determined solely by the Enforcement Officer, to meet the requirements of this Code.

(6) In the event a property owner, in the opinion of the relevant Department Head(s), abates the nuisance in a timely manner after the Notice and Order to Abate has been issued, the relevant Department Head(s) has (have) the authority to waive or reduce the amount of penalties owed, if in his or her opinion such a reduction is warranted.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.080 Hearing Officer.

Pursuant to Government Code Section 25845(i), the Chief Executive Officer shall contract with at least three (3) individuals as defined in Government Code Section 27720 et seq. to act as Hearing Officers on a rotating basis for the appeals described in this Chapter. The Hearing Officer shall have all powers and authorities described in Government Code Section 25845. In lieu of a Hearing Officer, the Board of Supervisors at any time may exercise the option to appoint a Hearing Board which shall consist of three (3) persons, appointed by the Board of Supervisors, who shall receive compensation for attendance at hearings at a rate fixed by the Board of Supervisors. A quorum for the Hearing Board to meet shall be two (2) members. Concurrence of two (2) members shall be required for decisions of the Hearing Board.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.090 Appeal Procedure.

Any owner or other person in possession of the property may appeal a Notice and Order to Abate to a person designated as a Hearing Officer or Hearing Board except in cases regarding Animal Control issues which shall be appealed to the

Animal Care and Control Advisory Board. The appeal shall be submitted in writing, specify the grounds upon which the appeal is taken, contain the name, address and telephone number of the appellant, be accompanied by the payment of an appeal fee in an amount established by Resolution by the Board of Supervisors and be filed with the Department specified on the Notice and Order to Abate within ten (10) calendar days of the issuance of the Notice and Order to Abate. Timely appeal shall stay any further abatement action until the hearing is conducted. In accordance with the noticing provisions set forth in Section 8.75.070, the Hearing Officer shall notify the parties in writing of the date and location of the hearing, at least ten (10) days prior to said date.

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 Administrative Penalty and Costs of Summary Abatement may appeal said Notice in the manner set forth above.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.100 Hearing Procedures.

(A) Pursuant to Government Code Section 25170, the Hearing Officer or Hearing Board 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 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) 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. 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 8.75.030(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 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 Chapter. 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 continuance allowed.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.110 Determination.

(A) At the conclusion of the hearing, the Hearing Officer or Hearing Board shall determine, based on the evidence before it:

- (1) Whether the acts or conditions specified in the Notice of Abatement exist;
- (2) Whether those acts or conditions constitute a nuisance;
- (3) If a nuisance is determined to exist, whether it should be abated by the County; and
- (4) The appropriateness of the penalty imposed.

(B) If the Hearing Officer or Hearing Board 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.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.120 Abatement by Owner or County.

(A) 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. The order 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 or Hearing Board within the prescribed time period, the enforcement Officer authorized to enforce the Ordinance or other designated County employee may cause to be done whatever work is necessary to abate the public nuisance. An account of the cost of abatement shall be kept for each separate assessor's parcel involved in the abatement.

(C) When the County has completed the work of abatement, or has paid for such work, the actual cost thereof, together with an administrative cost, including reasonable attorneys' fees as set forth in Section 8.75.175 and all fines shall be charged to the owner of the property. The combined amounts shall be included in a bill and sent by mail to the owner, or his or her agent for payment, if not paid prior thereto. The bill shall apprise the owner that failure to pay the bill within fifteen (15) days from the date of mailing, may result in a lien upon the property.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.125. Failure of Owner to Abate or Appeal.

If, within ninety (90) days from the issuance of the Notice and Order to Abate, the property owner

has not filed a timely appeal in accordance with Section 8.75.090, or has failed to pay any outstanding fines or penalties, the amount of the penalties as established pursuant to Section 8.75.075 for the 90-day period shall be totaled and the same shall be considered due and owing. Notice of the amount of penalties shall be mailed to the property owner by certified mail, addressed to the owner, his or her agent, at the address shown on the last equalized assessment roll or as otherwise known. Any continuing violation after the aforesaid 90-day period shall be considered a subsequent offense and the penalty for such new violation shall be the basis for a second or third violation and the procedures set forth in this Chapter shall be followed as if the violation was a new violation. Nothing in this Section shall be interpreted to extend the time given to the property owner to abate the nuisance as set forth in the Notice and Order to Abate. Nothing in this Section shall be interpreted as limiting the Enforcement Officer's discretion to abate the nuisance at the County's expense and to seek reimbursement from the property owner or responsible party for all costs associated with the abatement.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.130 Report and Notice of Lien Hearing.

The Board of Supervisors delegates the responsibility to conduct a lien hearing in conformance with this Chapter to a Hearing Officer.

If the bill for the cost of the abatement, administrative costs, attorneys' fees, and all fines imposed pursuant to Section 8.75.075 or Section 8.75.125 are not paid within thirty (30) days of issuance of an Order pursuant to Section 8.75.110 or the date of mailing of the notice described in Section 8.75.125, the Enforcement Officer authorized to enforce the Ordinance shall render an itemized report in writing to the Clerk of the Board for submittal to the Hearing Officer listing the costs of abatement, administrative fee, attorney fees and all fines and/or fees. The Hearing Officer may then order for a lien hearing and

confirmation. Names and addresses of persons having any record interest in the property shall be attached to the report. At least ten (10) days prior to said hearing, the Hearing Officer through the Clerk of the Board shall give notice, by certified mail, of said hearing to the record owner of each assessor's parcel involved in the abatement, the holder of any mortgage or deed or trust of record, if known, and any other person known to have a legal interest in the property. Said notice shall describe the property by street number or some other description sufficient to enable identification of the property and contain a statement of the amount of the proposed lien.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.140 Hearing on Account and Proposed Lien.

At the time and place fixed in the notice, the Hearing Officer will hear and consider the account and proposed lien amount, together with objections and protests thereto. At the conclusion of the hearing, the Hearing Officer may make such modifications and revisions of the proposed account and lien amount as it deems just, and may order the account and proposed lien amount confirmed or denied, in whole or in part, or as modified and revised. The determination of the Hearing Officer as to all matters contained therein is final and conclusive.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.150 Notice of lien.

Upon confirmation of a lien by the Hearing Officer, the Enforcement Officer shall notify the owners by certified mail, return receipt requested, of the amount of the pending lien confirmed by the Hearing Officer and advise them that they may pay the account in full within thirty (30) days to the Enforcement Officer in order to avoid the lien being recorded against the property. If the lien amount is not paid by the date stated in the letter, the Enforcement Officer 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 legal description, address and/or other description sufficient to identify the premises;

(B) A description of the proceeding under which the lien was made, including the order of the Hearing Officer confirming the lien;

(C) The amount of the lien;

(D) A claim of lien upon the described premises.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.160 Lien.

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. 4227, 9-1-2009)

Sec. 8.75.170 Collection with Ordinary Taxes.

After recordation, the Notice of Lien shall be delivered to the County Auditor, who will enter the amount of the lien on the assessment roll as a lien. Thereafter, the amount set forth shall be collected at the same time and in the same manner as ordinary County taxes, and is subject to the same penalties and interest, and to the same procedures for foreclosure and sale in case of delinquency, as are provided for ordinary County taxes; all laws applicable to the levy, collection and enforcement of County taxes are hereby made applicable to such lien.

(Ord. No. 4227, 9-1-2009)

Sec. 8.75.175 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. 4227, 9-1-2009)

Sec. 8.75.180 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. 4227, 9-1-2009)

Sec. 8.75.185. 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. 4227, 9-1-2009)

Sec. 8.75.190. Severability Clause.

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 unconstitutional 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

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shall therefore not affect the remaining provisions of this Ordinance, or the validity of its application to other persons or circumstances.

(Ord. No. 4227, 9-1-2009)

Title 10A

AGRICULTURE

- Chapter 10A.04** **Aerial Application of Phenoxy
Herbicides Prohibited**
- Chapter 10A.08** **Protection Against Plant Pests**
- Chapter 10A.12** **Agricultural Pest Control Advisors**
- Chapter 10A.13** **Agricultural Nuisances and
Consumer Disclosures**
- Chapter 10A.14** **Prevention of Grapeleaf Infestation**
- Chapter 10A.15** **Prohibition on the Propagation,
Cultivation, Raising and Growing of
Genetically Modified Organisms in
Mendocino County**
- Chapter 10A.16** **Device Registration and Inspection
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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.

DEVICE REGISTRATION FEES	
Business Location Fee	\$90.00
Device Fee	
METERS	
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
SCALES	
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

DEVICE REGISTRATION FEES	
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 21.04

**DEVELOPMENT AGREEMENT WITH
VICHY SPRINGS INVESTORS GROUP**

**Sec. 21.04.010 Development Agreement with
Vichy Springs Investors Group.**

(A) The County of Mendocino and Vichy Springs Investors Group desire to take advantage of the procedures provided by the State Legislature in Government Code Sections 65864 through 65869.5 authorizing adoption of development agreements.

(B) The subject development agreement was originally approved by the Board of Supervisors on January 13, 1986, at the request of the Vichy Springs Investors Group. Vichy Springs Investors Group subsequently requested that the agreement be modified. Proper notices, hearings and other proceedings required by the Government Code for its approval of the modified development agreement have been duly completed.

(C) The Board has determined that the procedures completed in connection with the approval of this modified agreement meet the requirement provided in the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) appropriate to this agreement.

(D) The Board has determined this agreement as modified is consistent with the General Plan for the County of Mendocino.

(E) The development agreement as modified is approved.

(F) The development agreement as modified on August 4, 1987, has been properly executed and acknowledged. It is ordered recorded by the Mendocino County Recorder within ten (10) days following the adoption of the Ordinance codified in this Chapter.

(G) This Section shall take effect thirty (30) days after its passage.

(H) This Section shall be published before the expiration of fifteen (15) days after the passage of the ordinance codified in this Chapter at least once in the Ukiah Daily Journal, a newspaper of

general circulation printed and published in the County of Mendocino, together with the names of the members voting for and against the same. (Ord. No. 3603, adopted 1986; Ord. No. 3659, adopted 1987.)

(Ord. No. 4229, 10-20-09)

**Sec. 21.04.020 Garden's Gate Development
Agreement by and between the
County of Mendocino and Ukiah
Land, LLC.**

(A) The County of Mendocino and (Garden's Gate) Ukiah Land, LLC desire to take advantage of the procedures provided by the State Legislature in Government Code Sections 65864 through 65869.5 authorizing adoption of development agreements.

(B) The subject development agreement was approved by the Board of Supervisors on October 6, 2009, at the request of (Garden's Gate) Ukiah Land, LLC. Proper notices, hearings and other proceedings required by the Government Code for its approval of the development agreement have been duly completed.

(C) The Board has determined that the procedures completed in connection with the approval of this agreement meet the requirement provided in the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) appropriate to this agreement.

(D) The Board has determined this agreement is consistent with the General Plan for the County of Mendocino.

(E) The development agreement is approved.

(F) The development agreement as approved on October 6, 2009, has been properly executed and acknowledged. It is ordered recorded by the Mendocino County Recorder within ten (10) days following the adoption of the ordinance codified in this Chapter.

(G) This Section shall take effect thirty (30) days after its passage.

(H) This Section shall be published before the expiration of fifteen (15) days after the passage of the Ordinance codified in this Chapter at least

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once in the Ukiah Daily Journal, a newspaper of general circulation printed and published in the County of Mendocino, together with the names of the members voting for and against the same.

(Ord. No. 4229, 10-20-09)

CODE COMPARATIVE TABLE

This is a chronological listing of the ordinances of Mendocino County, California beginning with Supplement No. 22, included in this Code.

Ordinance Number	Date	Description	Section	Section this Code
4211	11-18-08	Dog regulations		10.08.010
4213	12- 9-08	Zoning regulations		20.008.040, 20.088.005 20.088.015, 20.092.005 20.092.015, 20.180.005 20.180.020
4216	1-27-09	Authority to invest		5.130.010
4202	5-20-08	Animals prohibited from county buildings		14.20.010
Measure B-2008	6- 3-08	Medical marijuana		Rpld 9.36.010—9.36.090 Added 9.37.010 9.37.050
4217	2-24-09	Juror compensation		2.14.010
4218	3-23-09	Housing definitions	1 2 3 4 5 6 7	20.008.020 20.008.027 20.008.032 20.008.034 20.008.042 20.008.046 20.008.050
4219	3-23-09	Inclusionary housing		20.238.005 23.238.090
4221	5- 5-09	Response alarms systems		8.60.010, 8.60.020, 8.60.040
4222	6- 2-09	Reimbursement for supervisors		3.04.075
4224	7-14-09	Emergency water conserv.		7.10.010 --7.10.070
4225	7-20-09	Zoning amendments		20.008.027 20.008.054 20.016.045 20.016.015 20.016.020

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				20.152.030
				20.168.040
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				20.239.010
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4227	9- 1-09	Nuisance abatement	Rpld	8.75.010 ----- 8.87.185
			Added	8.75.010-- .. 8.75.190
4228	9- 1-09	Registering commercial scales and meters		10A.16.010 10A.16.060
4229	10-20-09	Development agreements		21.04.010, 21.04.020
4230	11-10-09	Emergency water conservation		7.10.030

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