

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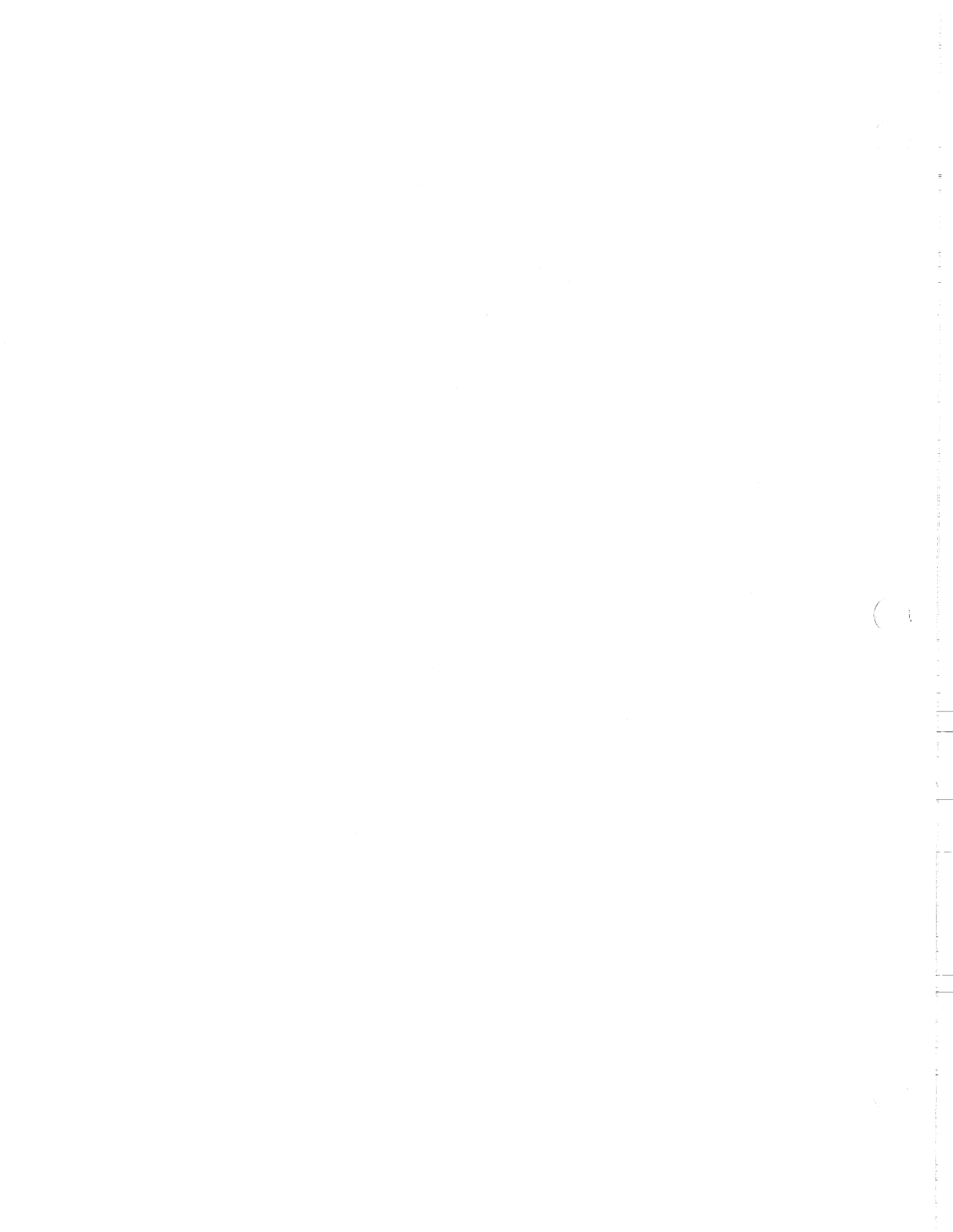
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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

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PREFACE

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

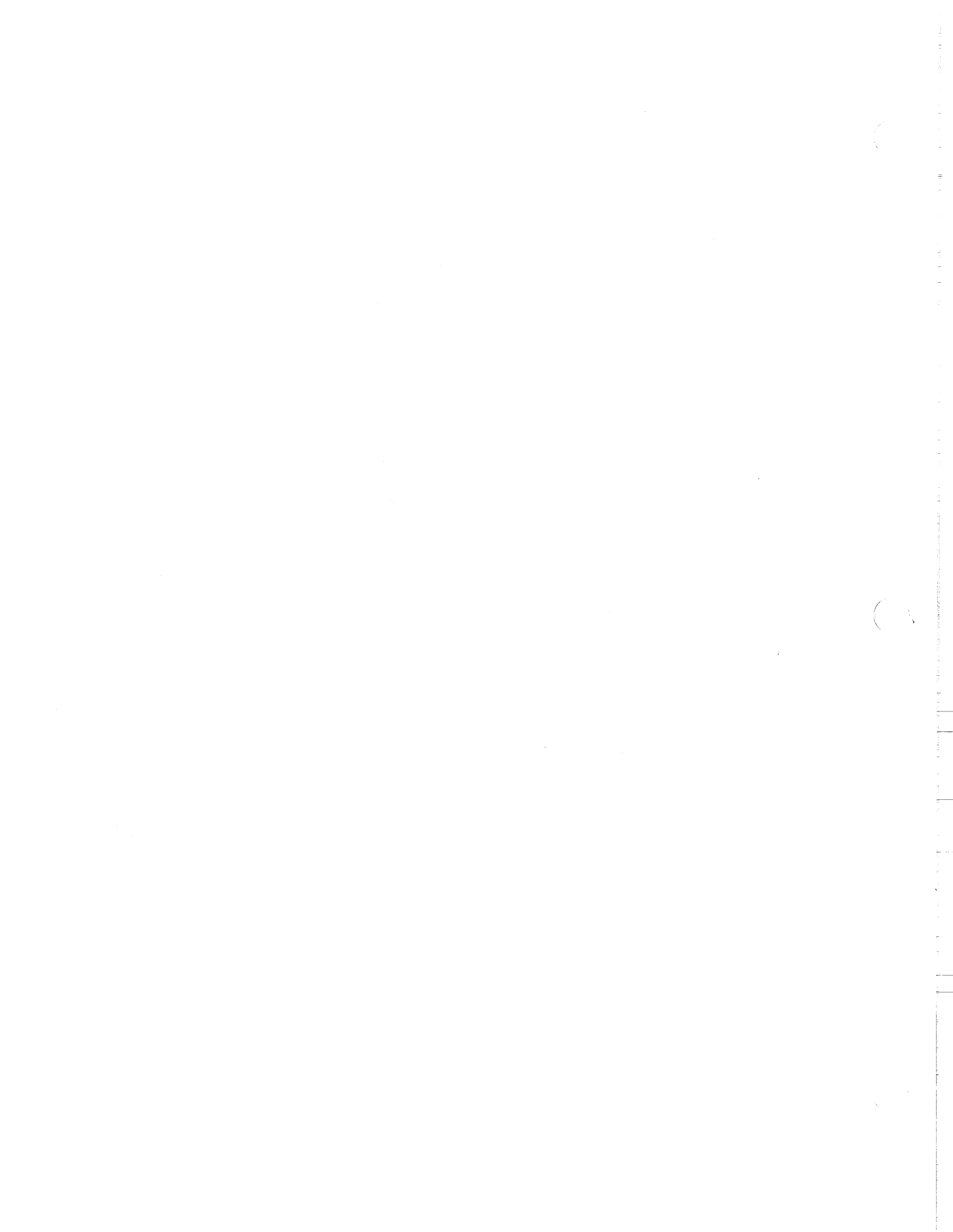
The code is organized by subject matter under an expandable three-factor decimal numbering system which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the Title, chapter, and section. Thus, 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. 4276, passed May 17, 2011.

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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- 4-11	Included	Supp. No. 29
4272	1-25-11	Included	Supp. No. 29
4274	5- 3-11	Included	Supp. No. 29
4275	5-17-11	Included	Supp. No. 29
4276	5-17-11	Included	Supp. No. 29
4277	6- 7-11	Omitted	Supp. No. 29



or community college district. (Ord. No. 3794 (part), adopted 1991; Ord. No. 3849 (part), adopted 1993.)

Sec. 5.120.080 Superseding Agreement.

As an exception to the maximum fee set by resolution, the Board of Supervisors may also impose a lesser amount by resolution. This Section also serves as ratification of any agreement regarding said fee between the County of Mendocino and any city, special district or community college district adopted after passage of Ordinance No. 3765 and prior to the date the ordinance (3849) codified in this Chapter was adopted. (Ord. No. 3794 (part), adopted 1991; Ord. No. 3849 (part), adopted 1993.)

Sec. 5.120.090 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. 3794 (part), adopted 1991; Ord. No. 3849 (part), adopted 1993.)

CHAPTER 5.130

DELEGATING AUTHORITY TO INVEST TO TREASURER-TAX COLLECTOR

Sec. 5.130.010 Delegation of Authority to Invest for Calendar Year 2011.

Pursuant to authority contained in Government Code Section 27000.1 and 53607 the Board of Supervisors hereby delegates to the Treasurer - Tax Collector 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 2011 calendar year. Nothing in this section shall limit the Treasurer - Tax Collector's authority pursuant to Government Code Sections 53635 or 53684. (Ord. No. 3924, adopted 1996; Ord. No. 4009, adopted 1998; Ord. No. 4034, adopted 1999; Ord. No. 4055, adopted 2000; Ord. No. 4069, adopted 2001; Ord. No. 4085, adopted 2002; Ord. No. 4107, adopted 2003; Ord. No. 4122, adopted 2004; Ord. No. 4142, adopted 2005; Ord. No. 4167, adopted 2006; Ord. No. 4180, adopted 2007; Ord. No. 4198, adopted 2008.) (Ord. No. 4216, 1-27-2009; Ord. No. 4232, 1-26-2010; Ord. No. 4271, 1-25-2011)

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 8.08 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**
- Chapter 8.44 Trespass**
- 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**
- Chapter 8.69 County Commission on Medical Care**
- Chapter 8.70 Hazardous Materials Releases**
- Chapter 8.72 Unlawful Panhandling**
- Chapter 8.75 Uniform Nuisance Abatement Procedure**
- Chapter 8.80 Emergency Response Services**
- Chapter 8.85 Service of Alcohol to Minors at Events on
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**
- Chapter 8.300 Smartmeter Moratorium**

(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 bylaws 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 also currently intends to have Marin County join, and may expand to other counties in the future.

(Ord. No. 4274, 5-3-2011)

Sec. 8.69.010 Title.

This Ordinance shall be known as the County Commission On Medical Care.

(Ord. No. 4274, 5-3-2011)

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)

Sec. 8.69.030 Designation and Duration of Commission.

Pursuant to Welfare and Institutions Code Section 14087.54, the Mendocino County Board of Supervisors hereby authorizes Mendocino County to join the Commission in conjunction with Napa County, Solano County, Yolo County, and Sonoma County. Other counties also are considering joining 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 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)

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 shall have two Commissioners plus one additional Commissioner for every 15,000 PHC Medi-Cal members in the County. Additional members shall be from the public sector, recommended by the Mendocino County Health and Human Services Agency using the criteria in Section 8.69.040(c)(1—5).

(b) The number of Medi-Cal members for each county shall be determined by PHC as of

July 1st of each year beginning in the year 2009. The determination by PHC shall be announced to each county by August 1st of each year. Any additions or deletions of Commissioners shall be implemented effective September 1st of each year.

(c) The members appointed by Mendocino County Board of Supervisors shall be selected as follows:

1. One member shall be the director of the Mendocino County Health and Human Services Agency or his or her designee.

2. Two (2) members 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)

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 years. Nothing herein shall prohibit a person from serving more than one 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 discontinues to function in the area from which appointed, or fails to attend three meetings in a row of the Commission.

(Ord. No. 4274, 5-3-2011)

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)

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)

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)



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)



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 9.31

MEDICAL MARIJUANA CULTIVATION REGULATION*

Sec. 9.31.010 Purpose and Intent.

It is the purpose and intent of this Chapter to regulate medical marijuana in a manner that is consistent with State law and which promotes 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. (Ord. No. 4275, 5-17-2011)

Sec. 9.31.020 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

***Editor's note**—Ord. No. 4275, adopted May 17, 2011, amended former Ch. 9.31, §§ 9.31.010—9.31.340, in its entirety to read as herein set out. Former Ch. 9.31 pertained to similar subject matter and derived from Ord. No. 4235, adopted April 6, 2010.

Cross reference—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, Ch. 9.37.

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 (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) 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.

(E) Each year since 2004, the Mendocino County Air Quality Management District has received a significant number of formal complaints of odor related to the cultivation of marijuana in residential neighborhoods.

(F) Marijuana, whether grown for medicinal purposes, or diverted to the black market, may be sold for thousands of dollars per pound.

(G) 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.

(H) There have been several marijuana related incidents of burglary, robbery and armed robbery, some including acts of violence resulting in injury or death.

(I) 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.

(J) 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. By permitting no more than twenty-five (25) marijuana plants on any one (1) legal parcel, the County anticipates a significant reduction in the complaints of odor and the risks of fire, crime and pollution described herein.

(K) The County finds that the indoor or outdoor cultivation of more than twenty-five (25) marijuana plants on any one (1) legal parcel within the unincorporated area of the County for medicinal purposes will likely result in an unreasonable risk of crime and will likely create odors offensive to persons living nearby notwithstanding the limitations on cultivation that are imposed within this Chapter. The County further finds that the indoor cultivation of more than twenty-five (25) marijuana plants on any one (1) legal parcel may create an unreasonable risk of fire and/or pollution.

(L) The County further finds that qualified patients and primary caregivers, either as individuals or who operate or are members of collectives and cooperatives as defined herein may be granted an exemption to cultivate medical marijuana in excess of twenty-five (25) plants per parcel, provided they apply for, obtain, and operate in compliance with a permit, as provided for herein, that is conditioned to limit environmental, neighborhood, and community impacts.
(Ord. No. 4275, 5-17-2011)

Sec. 9.31.030 Definitions.

As used herein the following definitions shall apply:

"Applicant" means a person(s) who applies for an exemption to the twenty-five (25) plant per parcel limitation as specified under 9.31.110.

"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.

"Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

"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 (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 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" means a parcel of land for which one (1) legal title exists. 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 except as specified in Section 9.31.110(B).

"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.

"Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

"Parcel" means a "legal parcel" as defined herein.

"Permittee" means an individual or collective to whom an exemption permit is issued as set forth in Section 9.31.110.

"Primary caregiver" means a "primary caregiver" as defined in Health and Safety Code Section 11362.7(d).

"Qualified patient" means a "qualified patient" as defined in Health and Safety Code Section 11362.7(f).

"Residential treatment facility" means a facility providing for treatment of drug and alcohol dependency.

"Sheriff" or "Sheriff's Office" means the Sheriff's Office of the County of Mendocino or the authorized representatives thereof.

"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 child or 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.

"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, congre-

gate or assemble at the establishment are predominantly minors. This shall not include a day care or preschool facility.

"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. 4275, 5-17-2011)

Sec. 9.31.040 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 9.31.050.

(B) The indoor cultivation of marijuana plants shall be limited to no more than one hundred (100) contiguous square feet per legal parcel.

(C) The indoor or outdoor cultivation of marijuana shall not subject residents of neighboring parcels who are of normal sensitivity to objectionable odors.

(D) The use of light assistance for the outdoor cultivation of marijuana shall not exceed a maximum of six hundred (600) watts of lighting capacity per one hundred (100) square feet of growing area.

(E) All lights used for the cultivation of marijuana 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 parcel upon which they are placed.

(F) The indoor or outdoor cultivation of marijuana shall not exceed the noise level standards as set forth in the County General Plan Policies DE100, 101 and 103.

(G) 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. 4275, 5-17-2011)

Sec. 9.31.050 Cultivation of More Than Twenty-Five (25) Marijuana Plants, Indoors or Outdoors, on One (1) Legal Parcel is Prohibited.

The cultivation of more than twenty-five (25) marijuana plants on one (1) 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 except as set forth in Section 9.31.110.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.060 "Zip-Tie" Provision.

(A) For the convenience of the property owner and 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 unincorporated Mendocino County may have "zip-ties" issued by the Mendocino County Sheriff's Department. 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 Department. 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. 4275, 5-17-2011)

Sec. 9.31.070 Limitation on Number of Plants.

(A) The cultivation of more than twenty-five (25) marijuana plants on any legal parcel, whether grown collectively or individually, either indoors or outdoors, within the unincorporated area of the County is prohibited unless cultivated by individuals, collectives or members thereof who apply

for, obtain, and are in compliance with a permit for an exemption as set forth in Section 9.31.110. This limitation shall be imposed regardless of the number of qualified patients residing at such location. Further, this limitation shall be imposed notwithstanding any assertion that the person(s) cultivating marijuana is/are the caregiver(s) for qualified patients, or that they are members of a medical marijuana collective except as set forth in Section 9.31.110.

(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 except as set forth in Section 9.31.110.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.080 Notice to Legal Owner of Legal Parcel Where Marijuana is Grown.

Any person who is not the legal owner of a parcel and who is cultivating marijuana on such parcel shall give written notice to the legal owner of the parcel prior to commencing cultivation of marijuana on such parcel and shall provide proof that the landowner has been informed.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.090 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 within one hundred (100) feet of any occupied legal residential structure located on a separate legal parcel.

(3) Outdoors 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 within fifty (50) feet of a legal parcel under separate ownership.

(B) The distance between the above-listed uses in Subsection (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 9.31.100, 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 Subsections (A)(2) and (A)(3) to any residential structure shall be measured from the fence required in Section 9.31.100 to the nearest exterior wall of the residential structure.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.100 Fencing Requirement for All Outdoor Cultivation.

All marijuana grown outdoors must be within a secure fence 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 or caregiver 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.

Section 9.31.110 Requirements for Exemption from the Twenty-five (25) Plants Per Parcel Limitation.

(A) Medical marijuana growing collectives, individual members thereof, or individual patients who possess a valid doctor's recommendation stating that more than twenty-five (25) plants is necessary to meet the medical needs of the patient may be granted an exemption from the limitations

set forth in Section 9.31.070 provided they apply for and obtain a permit from the Mendocino County Sheriff's Office. Any legal parcel for which an exemption is sought shall be a minimum of ten (10) acres in size, except that parcels less than ten (10) acres in size may be considered for an exemption provided all adjoining parcels are no less than five (5) acres in size. Under no circumstances shall the permitted amount exceed ninety-nine (99) plants per permit. A separate permit application shall be required for each parcel for which permission to exceed the twenty-five (25) plants per parcel limitation is sought. All permits shall be site specific and once issued shall not be transferred or sold. All permits that have been issued are subject to annual renewal.

(B) Notwithstanding the definition of legal parcel contained herein, additional exemptions may be granted for contiguous parcels under common ownership or control provided such parcels are no less than twenty (20) acres each in size and a separate permit is obtained for each parcel.

(C) The permit procedure shall include an application, which shall set forth, under penalty of perjury, all of the following:

(1) The name and address of each person applying for the permit and any other person who will be engaged in the management of the collective;

(2) 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 the management of the collective;

(3) Written evidence that each person applying for the permit and any other person who will be engaged in the management of the collective is at least eighteen (18) years of age;

(4) That the applicant or any individual engaged in the management of, or employed by, the collective 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;

(5) A statement acknowledging that the permit applied for will be issued in conformance with the laws of the State of California and that such issuance does not confer upon the applicant, managers, employees and members of the collective immunity from prosecution under federal law;

(6) The applicant's waiver and release of the County from any and all legal liability related to or arising from the application for a permit or the enforcement of the conditions of the permit;

(7) The location of the parcel where the cultivation of medical marijuana will occur;

(8) The number of plants for which an exemption is sought and the measures that will be taken to minimize odor-related complaints, or a statement explaining why such measures are not necessary;

(9) Proof that the owner of the property, if other than the applicant, has been notified as set forth in Section 9.31.080;

(10) A statement that the requested use will not violate the limitation locations set forth in Section 9.31.090;

(11) A statement that the requested use will not violate the fencing requirements set forth in Section 9.31.100;

(12) 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;

(13) A statement describing the proposed source of power for indoor and/or outdoor cultivation (electric utility company, solar, diesel generators), the size of the electrical service or system, and the total demand to be placed on the system by all proposed uses on site. This statement shall be referred to the Department of Building and Planning and may be referred to the appropriate Fire District for a determination if additional conditions, permits or inspections shall be required;

(14) If diesel generators are proposed to be used on site, a detailed description of the proposed methods of storage, delivery and containment of the diesel fuel must be included. This statement shall be referred to the Department of Environmental Health and the Air Quality Management District for a determination if additional conditions, permits or inspections shall be required;

(15) 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 Partnership Agreement shall be attached to the application;

(16) The applicant shall provide proof of either, a physician recommendation that the amount to be cultivated is consistent with the applicant's medical needs, the needs of the patients for whom the applicant is a caregiver, or a written agreement or agreements, that the applicant is authorized by one or more medical marijuana dispensing collectives to produce medical marijuana for the use of the members of said collective or collectives;

(17) A statement that the requested use will not utilize water that has been or is illegally diverted from any stream, creek, or river;

(18) A statement describing the measures that will be taken to prevent erosion or contaminated runoff into any stream, creek or river, or an explanation of why such measures are not necessary;

(19) A statement that the applicant, if approved, within a transition period of not more than one (1) year, shall comply with sustainability standards as approved of by the County that promote natural growing practices that are protective of patient health and the environment.

(20) Submission of payment of a permit fee sufficient to cover the cost to all County depart-

ments of investigating and processing the application in an amount that shall be set by the Board of Supervisors in accordance with all applicable laws and regulations;

(21) That upon receiving a completed permit application for an exemption from the twenty-five (25) plants per legal parcel limitation, the Sheriff shall refer the application to the Department of Planning and Building for a determination of the zoning, parcel size, surrounding uses and other relevant information;

(22) That the Sheriff is hereby 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;

(23) Authorization for the Sheriff, Fire District, and/or other appropriate County employees or agents or their designees, including building and fire inspectors, to enter the property only during normal business hours for the purpose of examining the location to confirm compliance with this Section.

(D) No permit shall be issued if the Sheriff finds:

(1) That the applicant has provided materially false documents or testimony; or

(2) That the applicant has not complied fully with the provisions of this Chapter; or

(3) That the operation as proposed by the applicant, if permitted, would not have complied with all applicable laws, including, but not limited to, the Building, Planning, Housing, Fire, and Health Codes of the County, including the provisions of this Chapter and regulations issued by the Sheriff pursuant to this Chapter.

(E) All permits shall be issued within ten (10) business days from completion of inspection by the Sheriff as set forth herein, or from receipt of report if inspected by a third party inspector as defined herein.

(F) Medical marijuana collectives and individual permittees shall comply with all of the following:

(1) Operate on a non-profit basis as set forth in Section B.1. of the Attorney General's Guidelines;

(2) Apply for and obtain a County business license from the office of the Treasurer-Tax Collector and apply for and obtain a Board of Equalization Seller's Permit and collect and remit sales tax to the Board of Equalization if they intend to sell directly to qualified patients or primary caregivers;

(3) Employ only persons who are at least eighteen (18) 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;

(4) Follow the membership and verification guidelines as set forth in Section B.3. of the Attorney General's Guidelines, except that wherever "should" appears it shall be replaced with "shall";

(5) 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;

(6) Prohibit sales to non-members as set forth in Section B.5. of the Attorney General's Guidelines;

(7) Allow reimbursements and allocations of medical marijuana as set forth in Section B.6. of the Attorney General's Guidelines;

(8) Possess marijuana only in amounts consistent with the medical needs of the members of the collective; and only cultivate marijuana consistent with the limits of the exemption granted pursuant to a permit issued in conformance with this Section, but in no case more than ninety-nine (99) plants per parcel;

(9) Indoor marijuana cultivation shall be limited to a single indoor growing area that shall not exceed one hundred (100) contiguous square feet per legal parcel;

(10) Secure all buildings where marijuana is cultivated or stored, sufficient to prevent unauthorized entry;

(11) Purchase and attach a zip-tie to any flowering female marijuana plant that is grown in compliance with a permit that has been issued pursuant to a request for exemption.

(12) In lieu of the requirements of Section 9.31.070 (B), display copies of the permit issued pursuant to this Section, in a conspicuous place at the entrance to each garden area and immediately inside the entrance to any building where medical marijuana is cultivated, processed, or stored;

(13) Cultivated marijuana plants shall not be visible from the public right-of-way, or from publicly traveled private roads;

(14) Exterior signage shall consist only of the site address;

(15) Traffic to the site shall be limited to employees and/or members who are essential to the cultivation of medical marijuana;

(16) Designate the premises where cultivation occurs as the point of sale for all transactions subject to the state sales tax;

(17) All weighing and measuring devices shall be inspected by the Agricultural Commissioner in accordance with Mendocino County Code Chapter 10A.16.

(G) As an alternative to the on site inspection by the Sheriff authorized in Section 9.31.110 (C)(23) of this Ordinance, the Permittee may, at their expense, select a qualified third party inspector from a list that shall be established and maintained by the Sheriff and who shall be authorized to conduct said inspection. Nothing herein shall limit the ability of Fire District or other appropriate County employees or agents from entering the property to conduct the inspections authorized by this Ordinance or the ability of the Sheriff to make initial inspections or independent compliance checks. The Sheriff is authorized to determine the number and timing of inspections that may be required. The Sheriff shall determine the criteria for establishing the list of third party inspectors and may request any information specified in Sec-

tion 9.31.110(C) of this Ordinance or any other information the Sheriff deems reasonably related to verification of the qualifications of the third party inspector. The third party inspector shall submit a detailed written report to the Sheriff regarding each of the items inspected/verified, including recommendations for improvements to the operation.

(H) The third party inspector, as authorized by the Sheriff, shall inspect and verify all of the following:

1. The identity of the person(s) assisting in the inspection and their relationship to the applicant/collective.

2. That the address and/or location of the parcel conforms to that specified in the application.

3. That exterior signage is limited to the address of the location.

4. The precise location(s) where the marijuana is to be cultivated, processed and/or stored.

5. The location, if any, where marijuana is to be grown indoors, that it not exceed a single space of not more than one hundred (100) contiguous square feet, the source of power, the number and wattage of lights, and any indicia of substandard electrical conditions.

6. That marijuana cultivated on the site will not violate the limitation locations set forth in Section 9.31.090.

7. That marijuana cultivated on the site will not violate the fencing requirements set forth in Section 9.31.100.

8. That marijuana cultivated on site will not violate the prohibition on objectionable odors set forth in Section 9.31.040 (C).

9. That marijuana cultivated on site will not violate the lighting requirements and limitations set forth in Sections 9.31.040 (D) and (E).

10. That the security measures for the site are sufficient to ensure the safety of members and employees and protect the premises from theft.

11. That all buildings where marijuana is cultivated or stored are secured sufficiently to prevent unauthorized entry.

12. The source of power for indoor and/or outdoor cultivation (electric utility company, solar, diesel generators), the size of the electrical service or system, and the total demand to be placed on the system by all proposed uses on site;

13. That the diesel generators, fuel and waste oil, if any, to be used on site are stored, delivered and contained as specified in the application.

14. That the site does not utilize water that has been or is illegally diverted from any stream, creek or river.

15. That appropriate measures have been taken to prevent erosion or contaminated runoff into any stream, creek or river.

16. That upon any subsequent inspection copies of the permit are displayed in conformance with Section 9.31.110 (E)(16).

17. That zip-ties are properly attached to any flowering marijuana plant grown in compliance with the permit specified in this Section.

18. That a valid County business license has been obtained from the office of the Treasurer-Tax Collector and a Board of Equalization Seller's Permit has been obtained if the permittee intends to sell directly to qualified patients or primary caregivers.

19. That the applicant has sufficient collective membership, or is a member of and has an agreement with one or more dispensing collectives sufficient to account for the total amount of marijuana produced or estimated to be produced pursuant to a permit issued in conformance with this Section.

20. That the applicant has established procedures and systems sufficient to do all of the following:

(a) Comply with all applicable state and federal requirements relating to the payment of payroll taxes including federal and state income taxes and/or deductions for unemployment insurance, state workers' compensation and liability laws;

(b) Comply with the membership and verification guidelines as set forth in Section B.3. of the Attorney General's Guidelines;

(c) Maintain records of the signed membership applications of all members;

(d) Maintain records of the total amount of marijuana produced;

(e) Track and report all sales subject to sales tax;

(f) Prevent sales or diversion to non-members as set forth in Section B.5. of the Attorney General's Guidelines;

(g) Allow reimbursements and allocations of medical marijuana as set forth in Section B.6. of the Attorney General's Guidelines.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.120 Permit Eligibility of Twenty-five (25) Plant Gardens.

(A) Medical marijuana growing collectives, individual members thereof, or individual patients who grow twenty-five (25) or fewer medical marijuana plants per legal parcel may voluntarily apply for and be issued a twenty-five (25) plant permit from the Sheriff provided they are approved by the Sheriff and are in compliance with all applicable provisions of Section 9.31.110.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.130 Appeal from Denial of Permit or Renewal.

The Sheriff's Office shall review all permit and renewal applications, and all other relevant information, and determine, based on current information, if the permit should be granted or renewed. If the Sheriff's Office determines that the permit should not be granted or renewed, the reasons for such denial shall be in writing. The applicant shall then have fourteen (14) business days to correct the reasons for denial and request a re-inspection of the property. The cost of any re-inspection shall be borne by the applicant. The applicant may appeal such decision by filing a written notice with the Clerk of the Board of Supervisors within ten (10) days stating the grounds for the appeal. Such notice of appeal shall be accompanied by the payment of an appeal fee which shall be set by resolution of the Board of Supervisors in accordance

with all applicable laws, regulations and the Master Fee Policy. If a notice of appeal is not filed and the required fee paid within the ten (10) day appeal period, the decision of the Sheriff's Office shall be final.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.140 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 Sections 9.31.150 through 9.31.310 of this Chapter.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.150 Enforcement.

(A) The County may abate the violation of this Chapter 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 as set forth in Sections 9.31.160 through 9.31.310 beginning with the service of a Notice and Order to Abate.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.160 Service of Notice and Order to Abate.

The Notice and Order to Abate shall be served by the Enforcement Officer 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. 4275, 5-17-2011)

Sec. 9.31.170 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 this Chapter within one (1) year; and no less than two hundred dollars (\$200.00) per day and no more than five hundred dollars (\$500.00) per day for each additional violation of this Chapter 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 circum-

stances 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 this Ordinance there shall be imposed a fine of \$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 9.31.180, 9.31.190 and 9.31.200. 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. 4275, 5-17-2011)

Sec. 9.31.180 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 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 members. Concurrence of two members shall be required for decisions of the Hearing Board.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.190 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. 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 9.31.160, 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.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.200 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) 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.

(E) 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. 4275, 5-17-2011)

Sec. 9.31.210 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. 4275, 5-17-2011)

Sec. 9.31.220 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 9.31.300 and all fines shall be charged to the owner of the property. The com-

bined 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. 4275, 5-17-2011)

Sec. 9.31.230 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 9.31.150, or has failed to pay any outstanding fines or penalties, the amount of the penalties as established pursuant to Section 9.31.160 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. 4275, 5-17-2011)

Sec. 9.31.240 Summary Abatement.

Notwithstanding any other provision of this Chapter, when any unlawful marijuana cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in Sections 9.31.160 would not result in abatement of

that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the County to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the persons identified in Section 9.31.150 but the formal notice and hearing procedures set forth in this Chapter shall not apply. No summary abatement shall occur prior to consultation with the Office of County Counsel. The County may nevertheless recover its costs for abating that nuisance in the manner set forth in Sections 9.31.220 and 9.31.300.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.250 No Duty to Enforce.

Nothing in this Chapter shall be construed as imposing on the enforcing officer or the County of Mendocino any duty to issue a Notice to Abate Unlawful Marijuana Cultivation, nor to abate any unlawful marijuana cultivation, nor to take any other action with regard to any unlawful marijuana cultivation, and neither the enforcing officer nor the County shall be held liable for failure to issue an order to abate any unlawful marijuana cultivation, nor for failure to abate any unlawful marijuana cultivation, nor for failure to take any other action with regard to any unlawful marijuana cultivation.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.260 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, attorney fees, and all fines imposed pursuant to Section 9.31.170 or Section 9.31.230 and Section 9.31.310 are not paid within thirty (30) days of issuance of an order pursuant to Section 9.31.210 or the date of mailing of the notice described in Section 9.31.160, 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. 4275, 5-17-2011)

Sec. 9.31.270 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 the Hearing Officer 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. 4275, 5-17-2011)

Sec. 9.31.280 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. 4275, 5-17-2011)

Sec. 9.31.290 Lien.

Upon the recordation of a Notice of Lien, the amount claimed shall constitute 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. 4275, 5-17-2011)

Sec. 9.31.300 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.

Section 9.31.310 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. 4275, 5-17-2011)

Sec. 9.31.320 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. 4275, 5-17-2011)

Sec. 9.31.330 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. 4275, 5-17-2011)

Sec. 9.31.340 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 sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

(Ord. No. 4275, 5-17-2011)

Sec. 9.31.350 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. Any permit application or renewal submitted prior to the effective date shall be exempt from the modified provisions set forth in 9.31.090 and 9.31.110(A).

(Ord. No. 4275, 5-17-2011)

(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.

(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.

(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

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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)

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.)

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 16.16

**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" (hereinafter SRPPP).

Sec. 16.30.010 Findings and Purpose.

Recognizing the health and safety benefits of clean water, the purpose of this chapter is to ensure that activities within Mendocino County minimize the addition of new pollutants to waterways, and reduce present pollutant levels and sediments carried to the area and regional waterways through stormwater runoff, to the maximum extent feasible. Achieving these goals can entail the following:

(a) Reducing non-stormwater discharge into the stormwater system and area creeks by slowing runoff and maximizing infiltration.

(b) Eliminating the spillage, dumping, and disposal of materials and pollutants into the storm drainage system and watercourses.

(c) Reducing pollutant loads in stormwater and runoff through the use of appropriate Best Management Practices.

(d) Reducing the runoff of oil and gas pollutants into area stormwater systems and creeks by filtration and/or bio-remediation of commercial/retail/industrial parking lots.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.020 Acronyms, Abbreviations And Definitions.

(a) **AUTHORIZED NON-STORMWATER DISCHARGES:** Categories of discharges that are not composed entirely of stormwater but are not found to pose a threat to water quality as defined in the Stormwater Management Plan.

(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 natural surface waters. 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) **BIOREMEDIATION:** The treatment of pollutants or waste by the use of microorganisms (such as bacteria) that break down undesirable substances.

(e) **CLEAN WATER ACT (CWA):** The Federal Water Pollution Control Act (33 U.S.C. 125 et seq.) and any subsequent amendments thereto.

(f) **CODE ENFORCEMENT OFFICER:** The Water Agency employee processing the stormwater complaint or the Planning and Building Services Code Enforcement Officer.

(g) **COUNTY:** The County of Mendocino.

(h) **COUNTY WATER AGENCY:** The Mendocino County Water Agency.

(i) **COUNTY STORM DRAINAGE SYSTEM:** Those public facilities which are owned, operated, maintained or controlled by the County by which stormwater may be collected and/or conveyed to natural surface waters, 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.

(j) **CONSTRUCTION ACTIVITY:** Activities subject to the NPDES Construction General Permits or successor permit issued by the State of California or any instrument of the County that established pollutant control provisions for construction activities. These include construction proj-

ects typically resulting in land disturbance of one (1) acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

(k) **DISCHARGE:** Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the County stormwater drainage system or natural surface waters.

(l) **DISCHARGER:** Any person who discharges or causes to discharge, either directly or indirectly, stormwater or any other material into the County storm drainage system or natural surface waters.

(m) **ILLEGAL DISCHARGE:** Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 16.30.040 of this Ordinance.

(n) **ILLICIT CONNECTION** means one of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drainage system, including but not limited to, any conveyances which allow any non-stormwater 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.

(o) **INFILTRATION:** The process of water entry into a soil from rainfall, snowmelt, or irrigation.

(p) **INDUSTRIAL ACTIVITY:** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

(q) **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES):** A permit issued by either the Regional Water Qual-

ity Control Board or the State Water Quality Control Board pursuant to Chapter 5.5 (commencing with Section 13370) of Division 7 of the California Water Code to control discharges from point sources to natural surface waters.

(r) **NON-STORMWATER DISCHARGE:** Any discharge to the County storm drainage system or to natural surface waters that is not composed entirely of stormwater.

(s) **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.

(t) **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 the beneficial uses of waters or the facilities which serve these beneficial uses.

(u) **PORTER-COLOGNE ACT:** A California state law that establishes enforceable water quality standards.

(v) **RWQCB:** The California Regional Water Quality Control Board, North Coast Region.

(w) **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 stormwater, 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.

(x) **STATE CONSTRUCTION GENERAL PERMIT:** The State Water Resources Control Board's Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 Waste Discharge Requirements (WDRS) for Discharges of Stormwater Runoff Associated with Construction Activity, and any successor documents.

(y) **STORMWATER:** Surface runoff and drainage resulting from storm events and snowmelt.

(z) **STORMWATER MANAGEMENT PLAN:** The County's documented strategy for reducing stormwater pollution to the maximum extent practicable through the implementation of Best Management Practices (BMP's).

(aa) **SUSMP:** Standard Urban Stormwater Mitigation Plan. A set of guidelines intended to assist the engineer, architect, or builder with detailed stormwater management practices or standards for designing new development and re-development.

(bb) **SWPPP:** Stormwater Pollution Prevention Plan. A plan that identifies specific Best Management Practices (BMP's) and describes the manner in which specific BMP's are to be implemented in order to protect stormwater runoff from contamination from construction or on-going industrial activities. The required elements of a SWPPP are detailed in Section A of the Construction General Permit as administered by the RWQCB.

(cc) **WATERCOURSE:** a natural or artificial channel through which water flows.

(dd) **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.

(ee) **WATERS OF THE UNITED STATES:** Surface watercourses and water bodies as defined

at Code of Federal Regulations, Title 40, Chapter Parts 122 and 123, 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 stormwater at and during all times and seasons.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.030 Runoff Water Quality and Discharge Management.

(a) **PURPOSE.** The provisions of this Section are intended to ensure the health, safety, and general welfare of citizens, and to protect and enhance the water quality of watercourses and water bodies in compliance with the Clean Water Act (Chapter 26, Subchapter I, Section 1251, and Code of Federal Regulations, Title 40, Chapter Parts 122 and 123), by reducing pollutants in stormwater discharges to the maximum extent practicable.

(b) **APPLICABILITY.** This Section shall apply to all water entering watercourses or County storm drainage systems within the unincorporated area of Mendocino County.

1. **RESPONSIBILITY FOR ADMINISTRATION.** The County Water Agency shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the County Water Agency may be delegated to persons or entities acting in the beneficial interest of or in the employ of the County.

2. **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.

3. **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 Section or any administrative decision in compliance with this Section.

(Ord. No. 4270, 1-4-2011)

**Sec. 16.30.040 Discharge Prohibitions—
General.**

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 stormwater, 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.

(a) The following types of discharges will be considered authorized non-stormwater 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: potable water line flushing; uncontaminated pumped groundwater and other discharges from potable water sources; diverted stream flows; rising groundwater; uncontaminated groundwater infiltration to the storm drain system as defined at Code of Federal Regulations, Title 40, Chapter Parts 122 and 123; uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps; air conditioning condensation; uncontaminated non-industrial roof drains; springs; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; irrigation water; and flows from fire fighting.

(b) This prohibition shall not apply to any non-stormwater 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, and provided that written approval has been granted by the County for any discharge to the storm drainage system and watercourses.

(c) Notwithstanding the requirements of Section 16.30.130 (Authority to Inspect), the County Water Agency 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. 4270, 1-4-2011)

**Sec. 16.30.050 Discharge Prohibition—Illicit
Connections.**

The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(a) The County or County Water Agency may require by written notice that a person responsible for an illicit connection to the storm drainage system or watercourses comply with the requirements of this Section to eliminate or secure approval for the connection by a specified date.

(b) If, subsequent to eliminating a connection found to be in violation of this Section, the responsible person can demonstrate that an illegal discharge will no longer occur, the person may request County approval to reconnect. The reconnection or reinstallation of the connection shall be at the expense of the responsible person.

(Ord. No. 4270, 1-4-2011)

**Sec. 16.30.060 Discharge Prohibition—Waste
Disposal.**

No person 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 watercourses, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that they may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

(Ord. No. 4270, 1-4-2011)

**Sec. 16.30.070 Discharge Prohibition—
Discharges in Violation of
Industrial or Construction Activity
NPDES Stormwater Discharge
Permit.**

Any person subject to an industrial or construction activity NPDES stormwater 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. 4270, 1-4-2011)

**Sec. 16.30.080 Regulations and Requirements—
Prevention, Control, and Reduction
of Stormwater Pollutants.**

(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 watercourses. 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 may adopt requirements identifying appropriate BMPs to control the volume, rate, and potential pollutant load of stormwater runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants. 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.

(c) **RESPONSIBILITY TO IMPLEMENT BEST MANAGEMENT PRACTICES.** Notwithstanding the presence or absence of requirements promulgated in compliance with Section 16.30.080(a) and Section 16.30.080(b), any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm drainage systems, or watercourses 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 watercourses.

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 reviewed at the Planning and Building Services Department, Department of Transportation, or the County Water Agency.

(Ord. No. 4270, 1-4-2011)

**Sec. 16.30.090 Regulations and Requirements—
Watercourse Protection.**

Every person owning property through which a watercourse passes, or the person's lessee, 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 the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance nor remove said 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.

(Ord. No. 4270, 1-4-2011)

**Sec. 16.30.100 Regulations and Requirements—
Remediation.**

Whenever the County or County Water Agency 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 watercourses, the County or County Water Agency 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 in compliance with the Enforcement Section of this Ordinance.

(Ord. No. 4270, 1-4-2011)

**Sec. 16.30.110 Regulations and Requirements—
Monitoring and Analysis.**

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. 4270, 1-4-2011)

**Sec. 16.30.120 Regulations and Requirements—
Notification of Spills.**

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 Water Agency within three 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 years.

(a) 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).

(b) In the event of a release of non-hazardous materials, the person shall notify the County Water Agency in person or by phone or facsimile no later than 5:00 p.m. of the next business day.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.130 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.** Dur-

ing 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. 4270, 1-4-2011)

Sec. 16.30.140 Site Development and Maintenance Standards— Applicability of Provisions.

The following provisions apply as determined by this Section, to any proposed land use or development involving grading activities, or the construction of a new structure that requires a County Building Permit. Compliance with the provisions of this Section shall be required through planning permit or subdivision conditions of approval. Any necessary pollution control measures shall be installed prior to construction, or the occupancy of a structure or site, as deemed appropriate by the County or County Water Agency. In all cases, the applicant/permittee is responsible for ensuring compliance with the following provisions.

(a) An applicant proposing a project with land disturbance of one acre or more, or any industrial facility shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) in compliance with the requirements of the Clean Water Act, U.S. Environmental Protection Agency (EPA), the (California) State Water Resources Board, and shall comply with the County Standard Urban Stormwater Mitigation Plan (SUSMP). The applicant shall submit to the County Planning Department proof of an application for a NPDES permit and their Waste Discharge Identification Number issued by the State. The applicant shall submit a copy of the SWPPP to the County prior to the processing of any planning permit or subdivision application, or the granting of any construction permits.

(b) Projects disturbing less than an acre but create 5,000 square feet or more of new impervious surfaces shall meet the requirements of the Standard Urban Stormwater Mitigation Plan (SUSMP), by implementing appropriate source controls. (Ord. No. 4270, 1-4-2011)

Sec. 16.30.150 Site Development and Maintenance Standards— Responsibility for Administration.

This Section shall be administered by the County Water Agency in coordination with the Mendocino County Planning and Building Department. (Ord. No. 4270, 1-4-2011)

Sec. 16.30.160 Site Development And Maintenance Standards— Regulatory Consistency.

This Ordinance shall be construed to assure consistency with the requirements of:

(a) The Federal Water Pollution Control Act, 33 USCS § 1251 et seq., and the applicable implementing regulations;

1. The mandates and rulings of the US Environmental Protection Agency (EPA);
2. The NPDES permit of Mendocino County;
3. The Mendocino County General Plan; and
4. Other existing or future NPDES Permits and any amendments, revisions or reissuance thereof by either Federal, State, County, or City regulatory agencies.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.170 Site Development and Maintenance Standards— Conditions, Covenants, and Restrictions.

This Ordinance requires that any applicable conditions, covenants, and restrictions (CC&Rs) include statements encouraging homeowners, and persons in control of homes and businesses to:

(a) Prevent the improper disposal of litter, lawn/garden clippings and pet feces into streets or other areas where runoff may carry pollutants into the storm drainage system;

(b) Remove dirt, trash and debris from sidewalks and alleys that may contribute pollutants to urban runoff;

(c) Recycle oil, glass, plastic, and other materials to prevent improper disposal into the storm drainage system;

(d) Properly dispose of household hazardous waste to prevent improper disposal into storm drainage system; and

(e) Properly use and conserve water.
(Ord. No. 4270, 1-4-2011)

Sec. 16.30.180 Site Development And Maintenance Standards—Long-Term Maintenance.

Provisions for the long-term maintenance or repair of post-construction BMPs, including structural BMPs, must be made according to the SUSMP Guidelines.
(Ord. No. 4270, 1-4-2011)

Sec. 16.30.190 Site Development and Maintenance Standards—Erosion Control.

Erosion shall be controlled in compliance with the latest edition of the "California Storm Water BMP Handbooks."
(Ord. No. 4270, 1-4-2011)

Sec. 16.30.200. Site Development And Maintenance Standards -Hazardous And Toxic Materials Control.

The use of toxic and hazardous materials shall be controlled, with the project applicant contacting the Mendocino County Environmental Health Division for the following plans for control, if required:

(a) A Hazardous Materials Handling and Spill Response Plan, for industrial facilities;

(b) A plan for handling grease, (Fats, Oils, and Grease Control), for restaurants. If on sewer, contact your local Sewer District.
(Ord. No. 4270, 1-4-2011)

Sec. 16.30.210 Drainage Structure Stenciling.

Where a catch basin or other drainage structure is required for a proposed project, written and/or graphic information discouraging the dumping, discarding, and/or discharge of pollutants into the storm drainage system shall be permanently affixed to the structure in a location

approved by the County Water Agency. The information shall be provided on a metal or plastic plaque and permanently affixed to the structure, stamped into the concrete, or as approved by the County Water Agency.
(Ord. No. 4270, 1-4-2011)

Sec. 16.30.220 Project Site Best Management Practices.

The owner, occupant or other person in charge of day-to-day operation of each premise within the County NPDES Phase II boundary shall implement the applicable Best Management Practices as follows:

(a) For premises with parking lots with more than twenty-five (25) parking spaces exposed to stormwater, the owner, occupant or other person in charge of day-to-day operation shall use BMPs to reduce the discharge of pollutants to the maximum extent practicable. Such measures may include rear sweeping or other measures, if effective.

(b) For premises which fall under the requirements of the SWPPP, copies of the site SWPPP and all annual monitoring reports shall be provided to the County Water Agency upon request.
(Ord. No. 4270, 1-4-2011)

Sec. 16.30.230 Enforcement—Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. A violation of, or failure to comply with, any of the requirements of this Ordinance shall constitute a public nuisance and a misdemeanor and shall be subject to enforcement.
(Ord. No. 4270, 1-4-2011)

Sec. 16.30.240 Enforcement—Acts Potentially Resulting in a Violation of The Federal Clean Water Act and/or California Porter-Cologne Act.

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. 4270, 1-4-2011)

Sec. 16.30.250 Enforcement—Notice of Violation.

Whenever the County or County Water Agency finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the County Agency may order compliance by written notice of violation to the responsible person. The notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation or maintenance of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which remediation or restoration must be completed. The notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the County or a contractor designated by the County, with the cost of the work charged to the violator in compliance with Section 6.30.320 (Abatement by County). (Ord. No. 4270, 1-4-2011)

Sec. 16.30.260 Enforcement—Urgency Abatement.

The County or County Water Agency is authorized to require immediate abatement of any violation of this Ordinance that constitutes an

immediate threat to the health, safety or well-being of the public. If the violation is not abated immediately, the County Agency is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to the remediation undertaken by the County Agency shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this Section shall not prevent County from seeking other and further relief authorized under this Section.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.270 Enforcement—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 Ordinance, as imposed by the Enforcement Officer:

(a) 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.

(b) 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.

(c) If the penalty is imposed for violation of Sections 8.75.030(D) and (E), in Chapter 8.75 in the Uniform Nuisance Abatement Procedure, hereafter referred to as "Nuisance Ordinance," there shall be imposed a fine of two hundred fifty dollars (\$250.00), plus the actual costs of abatement.

(d) 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 through 8.75.110 in the Nuisance Ordinance. 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.

(e) The charges imposed by this Section shall not apply if the property owner establishes all of the following:

1. That, at the time he or she acquired the property, a violation of this Ordinance already existed on the property;

2. The property owner did not have actual or constructive notice of the existence of that violation; and

3. 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 Ordinance.

(f) In the event a property owner, in the opinion of the County Water Agency, abates the stormwater discharge in a timely manner after the

Notice and Order to Abate has been issued, the County Water Agency has the authority to waive or reduce the amount of penalties owed, if in his or her opinion such a reduction is warranted.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.280 Enforcement—Hearing Officer.

Pursuant to Government Code Section 25845(i), the County's 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 Section. The Hearing Officer shall have all powers and authorities described in Government Code Section 25845.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.290 Enforcement—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 described in this Section. 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. 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.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.300 Enforcement—Hearing Procedures.

(a) Pursuant to Government Code Section 25170, the Hearing Officer may issue subpoenas as necessary to require the attendance at the hearing of persons or the production of books, papers, computer files photographs, or other documents related to the subject matter of the hearing.

(b) The Enforcement Officer with jurisdiction to cause the abatement of the alleged stormwater discharge shall first describe the acts or conditions constituting a stormwater discharge 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 (D) or (E) in Section 8.75.030 of the Uniform Nuisance Abatement Procedure, 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 the Nuisance Ordinance.

(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.

(f) The hearing may be continued from time to time upon request of a party to the hearing and upon a showing of good cause therefore.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.310 Enforcement—Determination.

(a) At the conclusion of the hearing, the Hearing Officer shall determine, in writing, 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 stormwater discharge;

3. If a stormwater discharge is determined to exist, whether it should be abated by the County; and

(b) The appropriateness of the penalty imposed.

1. If the Hearing Officer finds that the alleged stormwater discharge does exist and should be abated, abatement of the stormwater discharge shall be ordered. An Order of Abatement is final immediately, unless the order or a provision of this code expressly provides otherwise.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.320. Enforcement—Abatement by Owner or County.

A copy of the written Findings of Fact 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 Findings of Fact 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.

(a) 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, authorized to enforce this Ordinance or other designated County employee, may cause to be done whatever work is necessary to abate the public stormwater discharge. An account of the cost of abatement shall be kept 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 actual cost thereof, together with an administrative cost, including reasonable attorney's fees, and all fines shall be charged to the owner of the property. The combined amounts shall be in-

cluded 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. 4270, 1-4-2011)

Sec. 16.30.340 Enforcement—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 16.30.290 of this Chapter, or has failed to pay any outstanding fines or penalties, the amount of the penalties as established pursuant to Section 16.30.270 of this Chapter for the ninety (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 ninety (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 Ordinance 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 stormwater discharge as set forth in the Notice and Order to Abate.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.350 Enforcement—Report and Notice of Lien Hearing.

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

If the bill for the cost of the abatement, administrative costs, attorney 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. 4270, 1-4-2011)

Sec. 16.30.360 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. 4270, 1-4-2011)

Sec. 16.30.370 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. 4270, 1-4-2011)

Sec. 16.30.380 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. 4270, 1-4-2011)

Sec. 16.30.390 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. 4270, 1-4-2011)

Sec. 16.30.400 Attorneys' Fees.

Pursuant to Government Code section 25845(c), in any action, administrative proceed-

ing, 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. 4270, 1-4-2011)

Sec. 16.30.410 Enforcement—Use of Money Collected Under This Chapter.

All money collected for penalties for violations of this Ordinance 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. 4270, 1-4-2011)

Sec. 16.30.420 Enforcement—Violations.

It shall be unlawful for any person to refuse to allow any officer, employee, agent, or contractor of the County to enter upon any premises for the purpose of abating the public stormwater discharge or to interfere in any manner whatever with such officer, employee, agent, or contractor.

(Ord. No. 4270, 1-4-2011)

Sec. 16.30.430 Enforcement—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. 4270, 1-4-2011)



Ordinance Number	Date	Description	Section	Section this Code
4263	7-13-10	Disease prevention project		9.04.010—9.04.070
4264	7-13-10	Garden's Gate Dev. Agreement		21.04.020
4265	7-13-10	Speed limits		15.04.030
4270	1- 4-11	Stormwater runoff		16.30.010—16.30.430
4271	1-25-11	2011 investment authority		5.130.010
4272	1-25-11	SmartMeter moratorium		8.300.010—8.30.080
4274	5- 3-11	Commission on medical care		8.69.000—8.69.080
4275	5-17-11	Medical marijuana	Rpld	9.31.010—9.31.340
			Added	9.31.010—9.31.350
4276	5-17-11	Speed limit		15.40.030



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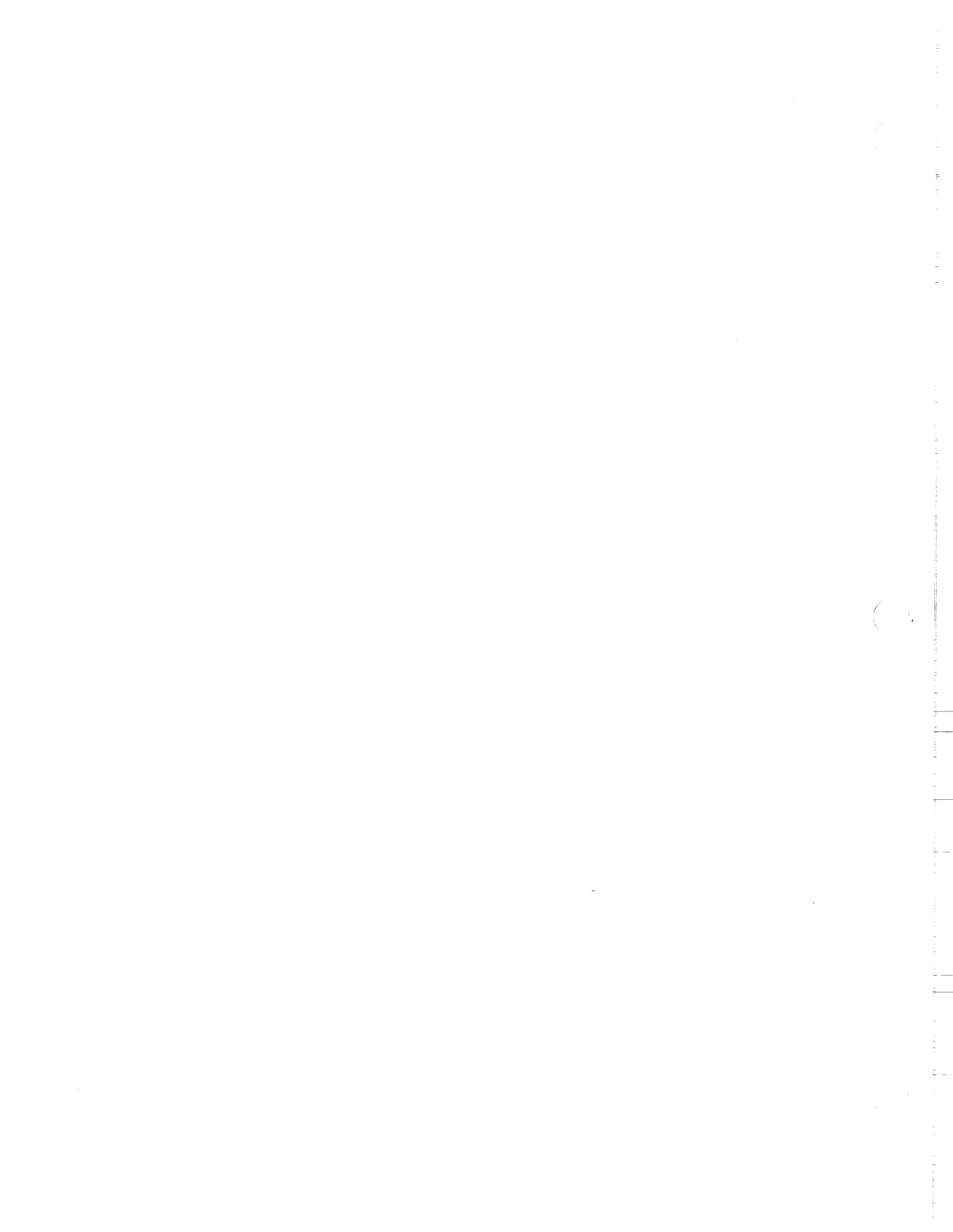
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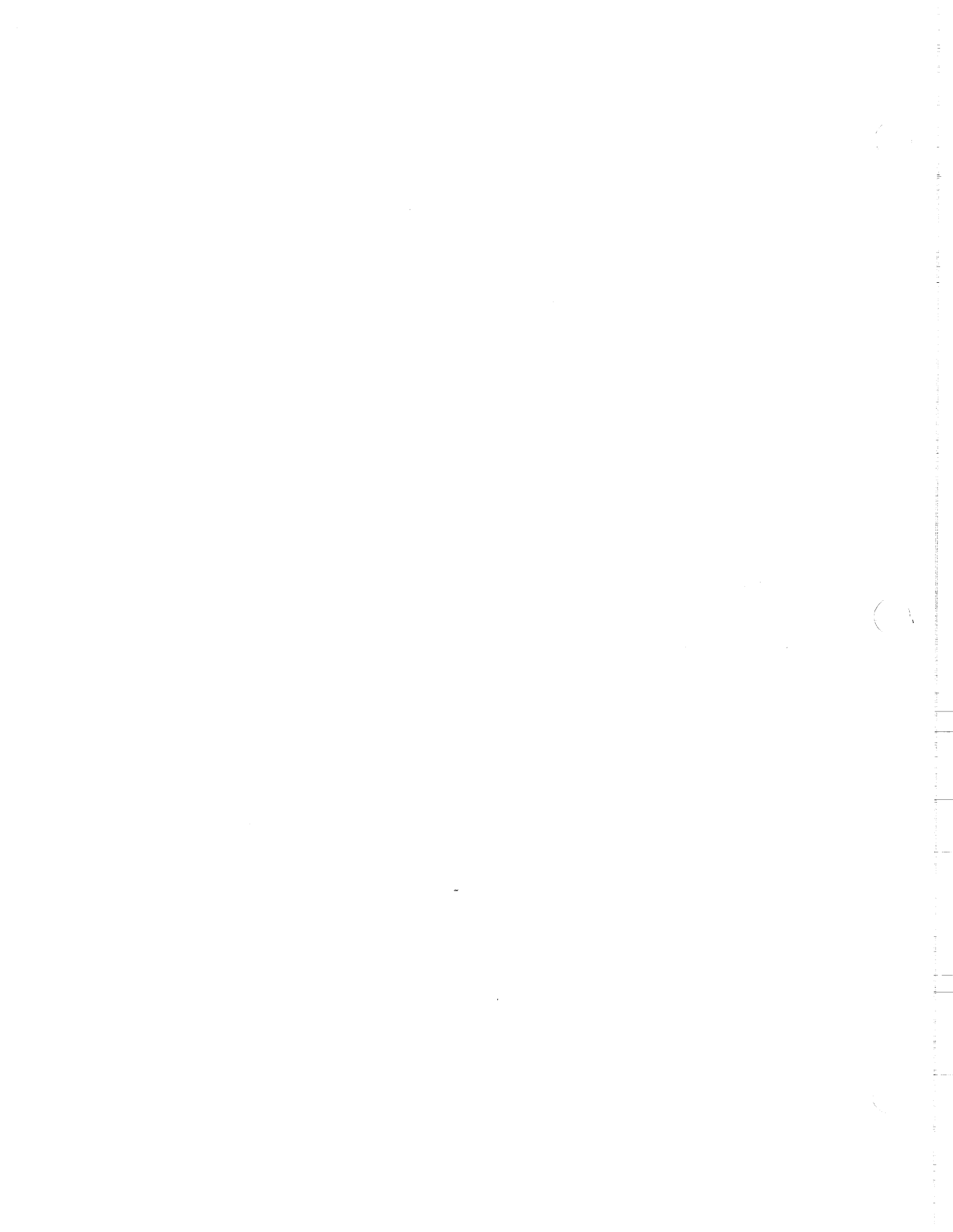
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