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**DEPARTMENT OF PLANNING AND BUILDING SERVICES**  
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## **MEMORANDUM**

**DATE:** July 25, 2024  
**TO:** Planning Commission  
**FROM:** Julia Krog, Planning and Building Services Director  
**SUBJECT:** **OA\_2023-0001 – Amendments to the Mendocino County Zoning Code—Division I (Inland Zoning Code)**

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### **OVERVIEW:**

In 1987, the Mendocino County Board of Supervisors adopted Ordinance No. 3639, which established the Mendocino County Zoning Code—Division I (Division I). Division I of the Zoning Code regulates development within the Inland areas of the County (exclusive of the Coastal Zone). With the exception of minor updates made over time for specific topic areas and state law mandates, Division I is largely unchanged since its adoption.

In 2020, the County applied for a Local Early Action Planning (LEAP) Grant with the California Department of Housing and Community Development (HCD) for the purpose of updating Division I and to secondarily complete rezonings within the Ukiah Valley to establish consistent zoning with the Ukiah Valley Area Plan. On October 6, 2020, the County was awarded \$150,000 from HCD.

The County then issued a Request for Proposals and ultimately awarded a contract for the work. The project scope under the LEAP grant was revised in 2021 when it was determined that the update to Division I would need to utilize the entirety of the grant funds. The LEAP grant requires adoption by the County of the updated Division I by September 30, 2024.

### **CHAPTERS PROPOSED TO REMAIN UNCHANGED:**

The following list of Chapters are recommended to remain unchanged and therefore are not included as attachments to this Memorandum:

- 20.028 Industrial Use Types
- 20.032 Agricultural Use Types
- 20.118 “CA” Cannabis Accommodation Combining District
- 20.119 “CP” Commercial Cannabis Prohibition Combining District
- 20.132 “L” Special Minimum Lot Size Combining District
- 20.138 “P” Plan Combining District
- 20.144 “SS” Seismic Study Combining District
- 20.147 Community Character Combining District
- 20.156 Home Occupations
- 20.188 Development Review
- 20.232 Development Review Process for Brooktrails Township
- 20.239 Requests for Reasonable Accommodations under the Fair Housing Acts
- 20.240 Development Review within the Brush Street Triangle
- Appendix A Industrial Uses which Normally will not Require Development Review
- Appendix B Industrial Uses which Require Environmental Review
- Appendix C Exterior Noise Limit Standards

## **CHAPTERS PROPOSED TO BE REPEALED:**

The following list contains Chapters proposed to be repealed and the reasons for the proposed repeal. Copies of these Chapters are included as attachments to this Memorandum for ease of reference.

### **20.112 “A-H” Airport Height Combining Districts**

This combining district is intended to be applied on properties near airports where the height of structures may need to be limited for safety reasons. This combining district was applied to properties prior to the adoption of the Mendocino County Airport Comprehensive Land Use Plan (ACLUP) in 1993. Since the adoption of the ACLUP, all development in an airport influence area is regulated under the ACLUP regardless of a combining district being applied to the parcel. Development within the airport influence area of Ukiah Airport is subject to the Ukiah Municipal Airport Land Use Compatibility Plan (UKIALUCP) adopted in 2021 which replaced the Ukiah Airport provisions of the 1993 ACLUP. The A-H combining district is proposed to be repealed and instead the single “AZ” Airport Zone combining district would be applied over all properties within an airport influence area, which requires compliance with the applicable standards of either the ACLUP or the UKIALUCP including height restrictions. If this repeal is approved, the Department will rezone several properties to reflect the change from A-H to AZ.

### **20.128 “AV” Airport Districts**

This combining district is intended to be applied on properties used or planned to be used as airports. This combining district was applied to properties prior to the adoption of the Mendocino County Airport Comprehensive Land Use Plan (ACLUP) in 1993. Since the adoption of the ACLUP, all development in an airport influence area is regulated under the ACLUP regardless of a combining district being applied to the parcel. Development within the airport influence area of Ukiah Airport is subject to the Ukiah Municipal Airport Land Use Compatibility Plan (UKIALUCP) adopted in 2021 which replaced the Ukiah Airport provisions of the 1993 ACLUP. The A-H combining district is proposed to be repealed and instead the single “AZ” Airport Zone combining district would be applied over all properties within an airport influence area, which requires compliance with the applicable standards of either the ACLUP or the UKIALUCP including airport property use restrictions. There are no properties currently zoned “AV” within the County.

### **20.140 “SH” Special Hazards Combining District**

This combining district is intended to be applied to properties on which uses may need to be restricted because of the presence of potential hazards such as steep or unstable slopes, potential cliff erosion or other potential ground failure. Staff recommends repeal of this Chapter as no properties within the County are zoned with this combining district, areas with geologic risks as a result of known faults are zoned under the “SS” Seismic Study Combining District, and any other hazard concerns are addressed through the building permit process by the Building Division.

### **20.148 Supplemental Limitations on Uses**

The limitations listed in this Chapter were intended to be designated with a number on the applicable use types in the preceding sections; however, it does not appear that they were applied to those use types when Division I was adopted in 1987. All limitations included under this Chapter have been merged into either use type descriptions or deleted due to being either inconsistent with State Law or having never been applied previously. Limitations applicable to Farm Employee or Farm Labor Housing were determined to be inconsistent with state law which requires the treatment of these types of uses as the same as other residential or agricultural uses and therefore these were deleted. Limitations applicable to veterinary hospitals were moved into Chapter 20.152. Limitations on enclosed storage, enclosed building, enclosed building or walls, retail establishments, and gasoline sales were since these were never applied to use types in the original zoning code staff was unable to determine what use types these were originally intended to be applied to.

### **20.206 Extension of Time for Qualifying Clean Slate/BLUR II Applicants**

This Chapter is noted in section 20.206.015 as being repealed as of August 1, 1991. Repeal of the Chapter is consistent with Ordinance 3737 adopted in 1990 that established the repeal date of August 1, 1991. There is no need to keep this Chapter as part of County Code.

### **20.220 General Plan—Zoning Ordinance Compatibility**

The provisions of this Chapter are proposed to be merged into Chapter 20.040 - Establishment of Zoning Districts.

**20.224 Interim Urgency Ordinance Prohibiting New or Expanded Industrial Uses on Pinoleville Rancheria**

This interim urgency ordinance expired on May 23, 1990. As it is no longer effective, Staff recommends repeal.

**20.228 Interim Urgency Ordinance Prohibiting Subdivision of Land Within the North Fort Bragg/Pudding Creek Planned Development Area**

This interim urgency ordinance expired on February 12, 1991. As it is no longer effective, Staff recommends repeal.

**20.238 Inclusionary Housing**

The inclusionary housing ordinance is intended to increase the amount of affordable housing supply in the County. This ordinance applies to any residential development applied at subdivision or two or more units, with exceptions such as efficiency units of 650 square feet or less. Developers can comply with the ordinance by reserving a certain percentage of their housing units for affordable housing or by paying in-lieu fees. Chapter 20.238 describes the different percentages of affordable housing or fee amounts based on the amount of housing developed.

This Chapter in its current form is proposed to be repealed and a separate Chapter 20.234 is proposed for adoption. The proposed Chapter 20.234 will move the County to a voluntary program where the County will encourage developers to utilize State Density Bonus Law (Government Code Section 65915 *et seq.*) should they wish to receive concessions and/or incentives for a project. Replacement Chapter 20.234 retains a section regarding the Affordable Housing Trust Fund to ensure that monies received under that fund are utilized for their intended purpose and can also serve as a fund for any equity share funds received pursuant to the density bonus provisions.

Chapter 20.238 Inclusionary Housing was identified as an impediment to housing production in the County's most recent Housing Element. As noted in the Housing Element, local housing developers have expressed concern, including at Board of Supervisors meetings, that the Chapter makes new development unprofitable to complete and is one of the factors that deters developers from bringing any large-scale housing projects to the County. Housing Element Action Item 3.5a(7) states that the County will amend the Inclusionary Housing requirements to allow more flexibility, encouraging greater use of the program. In reviewing the effectiveness of the existing Chapter, staff believes it is harming overall housing production more than it is providing any assistance to affordable housing production, and recommends repeal instead of amendment.

The only major subdivisions processed in the last fifteen years were actually a subdivision and resubdivision of the same property, both of which utilized the exemption of Section 20.238.010 that provides that projects utilizing State Density Bonus Law (Government Code Section 65915 *et seq.*) are exempt from the Chapter.

As currently adopted, the inclusionary housing requirements of Section 20.238.015 are higher than most neighboring jurisdictions. Neighboring jurisdictions, such as the City of Fort Bragg, have inclusionary housing requirements at 15%. City of Ukiah does not have any locally adopted inclusionary housing ordinance but has other housing programs. The City of Ukiah noted in their 2019-2027 Housing Element as it related to review of their 2014-2019 Housing Element Programs that "studies have shown that when a lack of developer demand exists for housing development, adopting ordinances such as an inclusionary housing ordinance can have the unintended consequence of further restricting housing development." The City ultimately concluded that they had sufficient other incentive-based programs that it was not warranted to adopt an inclusionary housing ordinance.

Chapter 20.238 has an inclusionary requirement that increases as the size of the subdivision increases. For projects of 2-4 units, there is no inclusionary housing unit requirement, but an in-lieu fee is required to be paid. For projects of 5 to 25 units, the inclusionary unit requirement is that 10% of the units must be affordable. For projects of 26 to 50 units, 15% would need to be affordable. For projects of 51-75 units, 20% would have to be affordable. Lastly, any project of 76 or more units is required to make 25% of the units affordable. This is a 66% increase over neighboring jurisdictions. Note that a developer could simply comply with State Density Bonus Law to avoid these requirements, even if the developer elects to make only 10% of the units affordable.

Some of the benefits that one would expect to see from an Inclusionary Housing Ordinance have not been realized in the nearly 15 years since the ordinance was adopted. Most of our compliance with low- and very low-income housing numbers has been the result of specific targeted multi-family projects such as those built by Rural Communities Housing Development Corporation (RCHDC) in recent years in the Ukiah Valley. In addition, in-lieu fees for minor subdivisions collected over the last 15 years have resulted in approximately \$150,000 in the Affordable Housing Trust Fund. This amount would provide minimal assistance to any affordable housing project. Even if the funds were used for a first-time homebuyer program, this amount would fund no more than three secondary loans, assuming that \$50,000 would actually be sufficient to lower the price of a home on the open market to an affordable housing cost. As a result of these factors, the County has identified the Inclusionary Housing Ordinance as an impediment to development of housing within the County.

### **PROPOSED AMENDMENTS:**

The County began the update process planning to completely reorganize the entirety of Division I; however, staff has determined that the current format is more user-friendly than alternatives that had been reviewed with the consultant. Keeping existing chapter numbering and organization mean that only minor adjustments are necessary to ensure that staff and the public are easily able to find applicable regulations. Proposed amendments include clean ups to numerous Chapters within Division I to (1) implement the changes noted in this memorandum; (2) reorganize portions to make the code more user friendly; and (3) to remove unnecessary or redundant sections. Several new chapters and sections are proposed including two new zoning districts to implement the Ukiah Valley Area Plan (UVAP), a new affordable housing and density bonus chapter, regulations for moveable tiny homes, low-intensity camping, and an administration chapter. Each of the new chapters are discussed individually in this memorandum.

Proposed amendments include amendments to allowable uses in all zoning districts to (1) eliminate Minor Use Permits by moving all uses previously subject to a Minor Use Permit to subject to an Administrative Permit; and (2) achieve consistency with State Law surrounding Day Care Facilities, Assisted Living Residential Care Facilities, Employee Housing, Low Barrier Navigation Centers, Supportive Housing and Transitional Housing. In addition, a new Commercial Use Type is proposed which would allow Transient Habitation—Low Intensity Camping in certain zoning districts provided there is a primary residential or agricultural use of the property.

Minor amendments are made to Chapter 20.004 General Provisions for consistency purposes. Staff has also corrected what appears to be a minor oversight regarding Animal Raising-Personal in the Agricultural (AG), Rangeland (R-L), Forestland (F-L), and Timber Production Zone (TPZ) zoning districts where the higher intensity use of Animal Raising is permissible but not the lower intensity use of personal.

**NEW CHAPTERS:** Proposed amendments include the addition of several new Chapters, as follows: 20.086 “MUNS” Mixed Use North State District; 20.087 “MUBST” Mixed Use Brush Street Triangle District; 20.166 Accessory Dwelling Units and Junior Accessory Dwelling Units; 20.170 Moveable Tiny Homes; 20.190 Administration; and 20.234 Affordable Housing and Density Bonuses.

#### **CHAPTER 20.086 “MUNS” Mixed Use North State District and CHAPTER 20.087 “MUBST” Mixed Use Brush Street Triangle District**

These Chapters are proposed to be added to implement the UVAP. When the UVAP was adopted three new land use designations were created but implementing zoning districts were not established. Land use designations added as part of the UVAP were the Mixed Use General, Mixed Use North State and Mixed Use Brush Street Triangle. In 2014, the County adopted Ordinance No. 4329 adding the Mixed Use General “MU-2” zoning district, which implemented the Mixed Use General land use designation. The Department now proposes to add the two remaining zoning districts to implement the UVAP consisting of the MUNS and MUBST districts. The two new zoning districts are structured like all other zoning districts with permitted uses, density standards, and floor area ratio based upon the UVAP land use designation. Additionally, it should be noted that once the zoning districts are established, future development will be evaluated on a project basis for consistency with the zoning regulations and if necessary environmental review will be conducted at the time of project implementation.

#### **CHAPTER 20.166 Accessory Dwelling Units and Junior Accessory Dwelling Units**

This Chapter is added to move the standards for Accessory Dwelling Units and Junior Accessory Dwelling Units out of Chapter 20.164 Accessory Uses and into a separate Chapter. Accessory Dwelling Units and Junior Accessory Dwelling Units are still listed as allowable accessory uses in

Chapter 20.164, only the standards have been relocated to the new Chapter 20.166. Several updates were made to the standards that previously existed in Chapter 20.164 including the allowance for an increased square footage of up to 1,500 square feet for an Accessory Dwelling Unit and inclusion of several updates that have occurred to State Law.

#### **CHAPTER 20.170 Moveable Tiny Homes**

In recent years, the use of “Tiny Homes” has been an alternative to creating affordable housing in California, with many jurisdictions now utilizing this as one of the tools for affordable housing in their communities. Conventional construction tiny homes are already permissible within Mendocino County and the County adopted Appendix AQ to the 2022 California Building Code to provide for relaxed standards for tiny homes under 400 square feet in size. The proposed adoption of regulations for moveable tiny homes will further affordable housing within the County, consistent with goals in the County’s Housing Element regarding diversity in housing options for varying income levels. This Chapter is proposed to be added based upon Board of Supervisors direction and includes standards for Moveable Tiny Homes. Moveable Tiny Homes are structures that are regulated by the California Department of Motor Vehicles that have an appearance of a stick-built residential structure. A Moveable Tiny Home does not include recreational vehicles or travel trailers. The Board of Supervisors directed to allow Moveable Tiny Homes as either the primary residence on a property or as an Accessory Dwelling Unit subject to the standards recommended in proposed Chapter 20.170. This is not a new use type as a Moveable Tiny Home would be classified as either Family-Residential: Single-family or as an Accessory Dwelling Unit and be subject to the zoning district standards for the district it is located within.

#### **CHAPTER 20.190 Administration**

This proposed Chapter lays out the basic roles, responsibilities and functions of all planning authorities, including the Board of Supervisors, Planning Commission, Zoning Administrator and Planning and Building Services Director. The Chapter also provides a single location for public hearing procedures and noticing, procedures for modification or revocation of approved permits or approvals, administrative withdrawal of abandoned applications, application forms and fees, and the review of applications.

#### **CHAPTER 20.234 Affordable Housing and Density Bonuses**

The proposed Chapter includes a density bonus and incentive program consistent with Government Code sections 65915-65918 and procedures associated with such applications. The proposed Chapter also includes a bridge for the Affordable Housing Trust Fund such that the funds previously collected under Chapter 20.238 (Inclusionary Housing) can still be utilized for furthering affordable housing within the County, and also serve as the depository for any equity share funds realized from density bonus projects.

### **AMENDMENTS:**

#### **CHAPTER 20.008 Definitions**

This Chapter has been amended to reflect the changes made throughout the code and remove erroneous or duplicative definitions.

#### **CHAPTER 20.016 Residential Use Types**

##### Section 20.016.010 Assisted Living Residential Care Facility:

This proposed section appears like a new use type within Chapter 20.016; however, this use was previously listed as an allowable accessory use in Section 20.164.015(T) and was termed as “Family Care Home”. This shift from accessory use to a listed use type has no impact on the overall allowance for these types of facilities and clarifies that this use can be a standalone use on a property. As an accessory use this use was allowed as accessory to all residential and agricultural use types and could be developed prior to a primary use being established on the property and therefore the transition to a principally permitted use in all districts that allow residential and agricultural use types will have no change to potential impacts as accessory uses are principally permitted already in all zoning districts.

##### Section 20.016.020 Day Care Facility:

This proposed section appears like a new use type within Chapter 20.016; however, this use was previously listed as an allowable accessory use in Sections 20.164.015(V) and (W) were termed as “Day Care Home-Small Family” and “Day Care Home-Large Family”. Pursuant to California

Health and Safety Code section 1597.45 Day Care Facilities are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone. California Health and Safety Code section 1597.40 provides that the applicable state law provisions shall preempt local laws. As such, this use was relocated to the Residential Use Types and is subject to the same standards as only residential use types in all zoning districts. As an accessory use this use was allowed as accessory to all residential and agricultural use types and therefore it is considered principally permitted in all districts that allow residential and agricultural use types.

Section 20.016.025 Employee Housing:

This proposed use type replaces the previous use types of Farm Employee Housing, Farm Labor Housing, Industrial Caretaker Housing, and Industrial Employee Housing. The Employee Housing Act provides for housing for a variety of employee types including agricultural employees and non-agricultural employees. As proposed, this use type references directly to the Employee Housing Act as specified in California Health and Safety Code sections 17000 through 17062.5. Sections 17021.5 and 17021.6 of the Employee Housing Act require that qualifying employee housing be treated the same as residential and agricultural use types in the zoning district, as applicable. Nearly all zoning classifications within the County allow both residential and agricultural use types by right and therefore Employee Housing is principally permitted in all zoning districts.

Section 20.016.030 Low Barrier Navigation Center:

Low Barrier Navigation Center in Government Code sections 65660-65668 was added in 2019 by AB 101. Low Barrier Navigation Center means a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. Pursuant to Government Code section 65662 a Low Barrier Navigation Center development is a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses. Low Barrier Navigation Centers are listed as principally permitted in all zoning districts that allow multifamily uses or mixed use zones and listed as a use subject to an administrative permit in all other zoning districts. As currently written, the provisions of Government Code sections 65660-65668 are repealed as of January 1, 2027, unless extended.

Section 20.016.040 Supportive Housing and 20.016.045 Transitional Housing:

These use types were previously listed in Section 20.152.040. Pursuant to Government Code sections 65650-65656, supporting housing is a use by right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone. Supportive and Transitional housing units are listed as principally permitted in all zoning districts that allow multifamily uses and listed as uses subject to an administrative permit in all other zoning districts.

**CHAPTER 20.020 Civic Use Types**

Section 20.020.023 Child Day Care Facility.

This use type is proposed to be deleted as it does not appear as a permitted use type in any zoning district. The new residential use type of Day Care Facility addresses all necessary Child Day Care Facility uses.

Section 20.020.040 Day Care Facilities/Small Schools.

This use type is recommended to be amended to remove “Day Care Facilities” from the use type as the new residential use type of Day Care Facility addresses this. Section 20.020.040 will then solely be applicable to Small Schools and edits are recommended as shown in the redline changes to reflect this change.

**CHAPTER 20.024 Commercial Use Types**

Section 20.024.065 Eating and Drinking Establishments:

Language is proposed to be added at the end of the existing use type to reflect that tasting rooms are classified within this use type if they are not associated with a Packaging and Processing—winery use type.

#### Section 20.024.135(D) Transient Habitation—Low Intensity Camping:

Proposed section 20.024.135(D) is a new Commercial Use Type under Transient Habitation. The proposed new use type would be called Transient Habitation—Low Intensity Camping. This use type is proposed to be defined as “camping for transient guests involving recreational vehicles or tents which is incidental to the primary residential or agricultural use of the site. Low Intensity Camping is subject to the requirements of section 20.176.020.”

#### Section 20.024.140(C) Wholesaling, Storage and Distribution—Heavy:

This use type is amended to clarify that propane providers are included as part of this use type. Propane providers have been classified as being under this use type in the past by a Directors use classification pursuant to Chapter 20.012 of County Code, so there is no change, solely codifying the past determination. The existing use type covers open-air storage, distribution and handling of materials and equipment. Since the storage of propane and associated tanks as well as the distribution to customers fit closely with this existing use type it is now listed as a “typical use” in this section.

### **CHAPTER 20.036 Extractive Use Types**

The Extractive Use Type of Mining and Processing, found in Section 20.036.010, is proposed to be amended to remove reference to a major use permit and instead only reference a use permit and additionally to clarify that water extraction for bulk sale from either a well, spring, watercourse or any other source that is not a water district is included in this use. The Director of Planning and Building Services has previously classified water extraction within this use type, so this change is codifying that previous determination. The Director Planning and Building Services has the authority to classify common uses pursuant to Chapter 20.012 considering “common functional, product, or compatibility characteristics with other uses already classified within the use type”. Since as early as 1985, the Department has considered water extraction to be an extractive use type, “Mining and Processing”. This interpretation was affirmed by the Planning Commission and ultimately the Board of Supervisors in 2001 via Administrative Appeal #AA 1-2001, which related to the extraction of water from a private well for bulk sale. The extraction of water for bulk sale is most similar to extractive uses such as soil, rock, mineral or geothermal extraction and sale. This is due to the fact that it essentially involves the extraction of a natural resource from the property and selling it for off-site use, similar to mineral extraction and sale.

### **CHAPTER 20.152 General Provisions and Exceptions to Districts**

Amendments to this Chapter include the addition of guidance and graphics to ease the measurement of height, setbacks, etc. for both the public and staff. Yard and Setback Exceptions previously contained in separate chapters have been consolidated into the single Section 20.152.015. This includes the relocation of setback exceptions that were listed in Chapter 20.164 Accessory Use Regulations and Chapter 20.148 Supplemental Limitations on Uses. This Chapter also includes clearer guidance on Fences, Walls and Screening including tables and graphics.

The Corridor Preservation Setback is recommended to be removed and development would solely be subject to yard setbacks and outside of any road right-of-way. This change has been supported by the Board of Supervisors and is consistent with how both the California Department of Transportation and the County Department of Transportation protect the right-of-way. This issue comes up most commonly when it relates to fence construction. Often applicants will be upset as they have contacted the applicable transportation department and are told to stay only a few feet off of the right-of-way and when they contact Planning and Building Services are told a much more significant setback distance. These entities have purview over and processes regarding how any roadway expansion would be handled in the future, including acquisition and removal of any structures within expansion areas. Density Bonus provisions have been relocated to proposed Chapter 20.234. Density Transfer language is proposed for deletion as it has never been utilized and it is unclear as to its applicability. Supportive and Transitional Housing have become Residential Use Types and were discussed earlier in this memorandum, and are being deleted from this Chapter.

### **CHAPTER 20.164 Accessory Use Regulations**

Amendments to this Chapter include clean-ups for items previously discussed in this memorandum. The largest change to this Chapter is the addition of Second Residential Units. Prior to adoption of the current Accessory Dwelling Unit regulations, the County allowed Second Residential Units. When the Accessory Dwelling Unit regulations were adopted there were many complaints from the public about the square-footage limitation. As a result, Staff recommends creating allowance for a

Second Residential Unit in lieu of an Accessory Dwelling Unit. This would allow for individuals who desire to have the benefits of reduced setbacks or parking exceptions to be able to construct an Accessory Dwelling Unit while also allowing for individuals who desire a larger Second Residential Unit to be able to permit a Second Residential Unit in lieu of the Accessory Dwelling Unit. This will further the implementation of the County's Housing Element by providing more choices of affordable housing within the unincorporated area of the County. Such units are considered approved ministerially without discretionary review, but would be subject to the development standards contained within the Zoning Ordinance.

#### **CHAPTER 20.168 Temporary Use Regulations**

Amendments are proposed to the Temporary Use Regulations Chapter to include regulations for Food Trucks and clarify permitting requirements for temporary events and temporary camping. Food trucks have been operated in Mendocino County for decades informally, with previous interpretations made citing that food trucks were to be operated only in commercial zoning districts. The proposed regulations will now define food trucks as a temporary use subject to an Administrative Permit. Food Trucks will still require the appropriate permits through the Division of Environmental Health, with no changes to the required permitting.

#### **CHAPTER 20.172 Mobile Homes and Mobile Home Parks**

Amendments are proposed to this Chapter to remove what appears to be an erroneous reference to exceptions for mobile home parks who have spaces that exceed 6,000 square feet. In addition, the Development standards have been revised to reflect current Department practices as it relates to application filings. In addition, the Development Standards for individual mobile homes in Section 20.172.015(A)(5) regarding minimum square footage has been struck. This limitation is in conflict with state law provisions which provide that mobile homes can not be subjected to different standards than a conventional single-family residence.

#### **CHAPTER 20.176 Recreational Vehicle Parks and Campgrounds**

Proposed section 20.176.020 would be added to existing Chapter 20.176 Recreational Vehicle Parks and Campgrounds. This section provides regulations for Transient Habitation—Low intensity camping. The regulations contained within proposed section 20.176.020 are based upon direction from the Board of Supervisors. Low intensity camping is commercial camping that is incidental to agricultural or residential uses. These sites generally have fewer facilities and generate less traffic than traditional campgrounds. One camp site will be permitted on lots with a business license and additional campsites can be approved with an Administrative Permit or Use Permit. With an Administrative Permit or Use Permit an environmental review would be performed as part of the review process to determine the potential adverse environmental impacts under the California Environmental Quality Act (CEQA). The proposed regulations include site requirements and limitations on the number of campsites permitted with various permit types (business license, administrative permit or use permit). In addition, regulations are included to reduce potential nuisances such as required separation distances between a campsite and an off-site residence, sanitation requirements, duration limits, and requirement for a local contact person or host that is available to respond to complaints within one hour. Low intensity camping is permissible in all zoning districts except for MU-2, MUNS and MUBST. Amendments are made to the remainder of the Chapter to reflect the distinction between Recreational Vehicle Parks, Campgrounds, and Low Intensity Camping.

#### **CHAPTER 20.180 Off-street Parking**

Amendments are proposed to this Chapter to reorganize portions of the regulations to improve user-friendliness. In addition, staff has added provisions for shared parking facilities, which will reduce potential impacts from development where shared parking can be accommodated by reducing overall lot coverage. Additional standards have also been added for drive-through facilities to ensure pedestrian safety and adequate circulation. Graphics are included to provide guidance to both staff and the public on parking requirements. Additionally, the proposed standards will further aid in the implementation of the UVAP Policies, including:

UVAP Policy CD.1d: Parking Requirements, which states *"Include parking standards in the land development code to guide commercial and industrial parking quantity and design. Requirements shall focus on minimizing the number of stalls required and improving site aesthetics, providing shade, reducing solar heat gain, and clean drainage."*



Implementation of the parking standards will be consistent with the adopted General Plan and UVAP.

#### **CHAPTER 20.184 Sign Regulations**

Amendments are proposed to this Chapter to improve the user experience and provide graphics for additional guidance on calculating standards such as sign area and measuring sign height. There are no exemptions for signs that would result in unregulated signage that would conflict with the previously adopted EIR for the General Plan.

#### **CHAPTER 20.192 Administrative Permits**

Amendments have been made to this Chapter to align the application process to be consistent with other chapters in the code for processing of Use Permits and Variances. In addition, Findings are now included that are required to be made for Administrative Permits. The largest change is that all Administrative Permits will be subject to a public hearing with the Zoning Administrator. The proposed amendments will also allow the Zoning Administrator to elevate an Administrative Permit to the jurisdiction of the Planning Commission in the case where the public interest warrants.

#### **CHAPTER 20.196 Use Permits**

Amendments have been made to this Chapter to align the application process to be consistent with other chapters in the code for processing of Administrative Permits and Variances. Amendments also reflect the proposed addition of the Administration Chapter in proposed Chapter 20.190 where all public noticing requirements and modification procedures are now located.

#### **CHAPTER 20.200 Variances**

Amendments have been made to this Chapter to align the application process to be consistent with other chapters in the code for processing of Administrative Permits and Use Permits. Amendments also reflect the proposed addition of the Administration Chapter in proposed Chapter 20.190 where all public noticing requirements and modification procedures are now located. The most significant change in this Chapter is that Variances are proposed to be handled by the Planning Commission as opposed to the Zoning Administrator. Staff recommends that deviation from zone standards should be handled by a higher planning body than the Zoning Administrator. Given the limited number of variances received in any given year, staff does not anticipate that this will be a significant workload increase for the Planning Commission.

#### **CHAPTER 20.204 Nonconforming Uses and Structures**

Amendments are proposed to this Chapter to provide greater clarity in the regulations and also to align the Chapter with language contained in other Divisions of Title 20 and the language in Policy DE-32 of the General Plan. As an example, the Coastal Zoning Code allows for reconstruction of non-conforming structures provided reconstruction is started within 1 year and previously the Inland Zoning Code did not have such an allowance.

#### **CHAPTER 20.208 Appeals**

Minor amendments are proposed to this Chapter to provide clarity in the regulations and clarify that notice of certain appeals is to be provided.

#### **CHAPTER 20.212 Amendments, Alterations, and Changes in Districts**

Minor amendments are proposed to this Chapter to provide clarity in the regulations and procedures surrounding applications for general plan amendments and rezonings, specific plans, zoning code provisions, and zoning map. The Chapter is also proposed to be renamed to Amendments to General Plan, Specific Plan, Zoning Code, and Zoning Map.

#### **CHAPTER 20.216 Enforcement**

Minor amendments are proposed to this Chapter to align the Chapter with enforcement procedures contained in other titles of County Code.

#### **CHAPTER 20.236 Towers and Antennas**

Minor amendments to references to Federal regulations have been updated within this Chapter.

#### **CHAPTER 20.242 Cannabis Cultivation**

Proposed amendments include elimination of Minor Use Permits by moving all uses previously subject to a Minor Use Permit to subject to an Administrative Permit. With public hearings and individual environmental review being required for all Administrative Permits and the hearing body

remaining the Zoning Administrator with option to elevate permits to the Planning Commission there is no potential impact to the environment or the ability for the public to participate in decisions on such permits. No required findings for discretionary permits for cultivation are changed as a result of these amendments.

#### **CHAPTER 20.243 Cannabis Facilities**

Proposed amendments include elimination of Minor Use Permits by moving all uses previously subject to a Minor Use Permit to subject to an Administrative Permit. With public hearings and individual environmental review being required for all Administrative Permits and the hearing body remaining the Zoning Administrator with option to elevate permits to the Planning Commission there is no potential impact to the environment or the ability for the public to participate in decisions on such permits. No required findings for discretionary permits for cannabis facilities are changed as a result of these amendments.

#### **GENERAL PLAN CONSISTENCY:**

The proposed amendments to the zoning regulations are consistent with the General Plan and establish greater consistency between the zoning regulations and the General Plan than currently exists, as described further below.

Many of the proposed amendments are administrative in nature including reorganizations, clarifications, or graphics and do not change overall allowable uses and therefore can be seen to have no impact on consistency with the General Plan. Chapter 20.190 is added to Division I to provide for Administration guidance and is the addition of only administrative provisions. Other amendments that are administrative in nature include amendments to Chapter 20.004 General, Chapter 20.008 Definitions, Chapter 20.012 Use Classifications, Chapter 20.040 Establishment of Districts, Chapter 20.152 General Provisions and Exceptions Districts, Chapter 20.160 Cottage Industries, Chapters 20.180 Off Street Parking, Chapters 20.184 Sign Regulations, 20.192 Administrative Permits, 20.196 Use Permits, 20.200 Variances, 20.208 Appeals, 20.212 Amendments, Alterations, and Changes in Districts (to be renamed), 20.216 Enforcement, 20.236 Towers and Antennas, 20.242 Cannabis Cultivation and 20.243 Cannabis Facilities.

Proposed amendments include amendments to allowable uses in all zoning districts and Chapters 20.242 (Cannabis Cultivation) and 20.243 (Cannabis Facilities) to eliminate Minor Use Permits by moving all uses previously subject to a Minor Use Permit to subject to an Administrative Permit. As Administrative Permits are still discretionary permits, no change to General Plan policy consistency review standards for individual projects will occur. Other amendments made to all zoning districts are the alignment of the dwelling densities with limitations specified in the General Plan. The current zoning regulations for various districts do not accurately reflect the dwelling density allowed by the General Plan in that the zoning regulations did not differentiate density based upon availability of water and sewer facilities. The proposed amended regulations now are consistent with the density standards under the Land Use Classifications in General Plan (Policies DE-9 through DE-22).

Amendments are proposed to every zoning district (Chapters 20.044 through 20.108) to achieve consistency with State Law surrounding Day Care Facilities, Assisted Living Residential Care Facilities, Employee Housing, Low Barrier Navigation Centers, Supportive Housing and Transitional Housing. Corresponding use types were also added to Chapter 20.016 (Residential Use Types) for these uses. State law requires that these use types be treated the same as residential or agricultural uses in any zoning district or a use by right in certain districts. All zoning districts within the County allow either residential or agricultural uses by right and as a result the use types of Day Care Facilities, Assisted Living Residential Care Facilities, Employee Housing, Low Barrier Navigation Centers, Supportive and Transitional Housing contained in proposed Chapter 20.016 have the same level of intensity and potential impact as existing residential and agricultural uses in each zoning district that are allowed for by the General Plan. As described earlier in this memorandum, all of these use types with the exception of Low Barrier Navigation Centers were either existing accessory use types to residential and agricultural uses or civic use types. Housing Element Action Item 3.5a(8) requires the County review its zoning ordinance and make revisions to allow low barrier navigation centers consistent with Government Code. The proposed amendments will create this consistency. Further, Housing Element Action 3.5a(10) is requires the County amend the zoning regulations as needed to be compliant with AB 2162 as it relates to Transitional and Supportive Housing. The proposed ordinance amendments will create consistency with State Law and satisfy this action item.

Proposed amendments include the repeal of the following Chapters: 20.112 "A-H" Airport Height Combining Districts; 20.128 "AV" Airport Districts; 20.140 "SH" Special Hazards Combining District; 20.148 Supplemental Limitations on Uses; 20.206 Extension of Time for Qualifying Clean Slate/BLUR II Applicants;

20.220 General Plan—Zoning Compatibility; 20.224 Interim Urgency Ordinance Prohibiting New or Expanded Industrial Uses on Pinoleville Rancher; 20.228 Interim Urgency Ordinance Prohibiting Subdivision of Land Within the North Fort Bragg/Pudding Creek Planned Development Area; and 20.238 Inclusionary Housing. As discussed earlier in this memorandum the Chapters proposed for repeal are Chapters that are either outdated, no longer applicable or their standards have been merged with other Chapters. Repeal of these Chapters does not raise any concerns of consistency with the General Plan.

Chapter 20.238 Inclusionary Housing was identified as an impediment to housing production in the County's most recent Housing Element. As noted in the Housing Element, local housing developers have expressed concern, including at Board of Supervisors meetings, that the Chapter makes new development unprofitable to complete. Housing Element Action Item 3.5a(7) states that the County will amend the Inclusionary Housing requirements to allow more flexibility, encouraging greater use of the program. In reviewing the effectiveness of the existing Chapter, staff believes it is harming overall housing production more than it is providing any assistance to affordable housing production, and recommends repeal instead of amendment. Existing provisions have resulted in the payment of only approximately \$150,000 in in-lieu fees from minor subdivisions, in the fifteen (15) years since the chapter was adopted, and no inclusionary units have actually been created. This amount would provide minimal assistance to any affordable housing project. Even if the funds were used for a first-time homebuyer program, this amount would fund no more than three secondary loans, assuming that \$50,000 would actually be sufficient to lower the price of a home on the open market to an affordable housing cost. The only major subdivisions processed in the last fifteen years were actually a subdivision and resubdivision of the same property, both of which utilized the exemption of Section 20.238.010 that provides that projects utilizing State Density Bonus Law (Government Code Section 65915 *et seq.*) are exempt from the Chapter. While other development constraints and economic factors have played a role in the lack of major subdivisions within the County over the last 15 years, the provisions of Chapter 20.238 have not assisted in creating any meaningful affordable housing or funding resources. The County's Housing Element also did not rely on Chapter 20.238 to create affordable housing units to assist in meeting its share of the sixth cycle Regional Housing Needs Assessment.

Proposed Chapter 20.234 Affordable Housing and Density Bonuses would move the county to a voluntary program where a density bonus can be obtained by utilizing State Density Bonus Law and as a result of requesting a density bonus, affordable units would be established consistent with applicable provisions of State Density Bonus Law. Housing Element Action Item 3.1d commits the County to updating the Density Bonus Ordinance for consistency with current state law. The proposed Chapter 20.234 would result in consistency with current state law and satisfy Action Item 3.1d. Given the lack of any reasonable housing development over the last 15 years, the County believes that eliminating the current mandatory inclusionary housing program will result in additional overall housing production within the County for all income levels. With additional possible housing developments may come greater use of State Density Bonus Law. In removing an impediment to housing development, staff believes that the elimination of Chapter 20.238 and replacement with Chapter 20.234 is consistent with the General Plan and Housing Element.

Accessory Dwelling Unit and Junior Accessory Dwelling Unit regulations have been moved to a standalone Chapter but the use types are still listed within Chapter 20.164 Accessory Use Regulations. Several updates were made to the standards that previously existing in Chapter 20.164 including the allowance for an increased square footage of up to 1,500 square feet for an Accessory Dwelling Unit and inclusion of several updates that have occurred to State Law. Related to this, amendments to Chapter 20.164 Accessory Use Regulations include the addition of Second Residential Units. Prior to adoption of the current Accessory Dwelling Unit regulations in 2018, the County allowed Second Residential Units. When the Accessory Dwelling Unit regulations were adopted there were many complaints from the public about the square-footage limitation. As a result, Staff recommends creating allowance for a Second Residential Unit in lieu of an Accessory Dwelling Unit. This would allow for individuals who desire to have the benefits of reduced setbacks or parking exceptions to be able to construct an Accessory Dwelling Unit while also allowing for individuals who desire a larger Second Residential Unit to be able to permit a Second Residential Unit in lieu of the Accessory Dwelling Unit. Second Residential Units did not have any square footage limitation associated with them as written in the code prior to the 2018 amendments to replace them with Accessory Dwelling Units. In addition, there is no change in density as the regulations allow for either an Accessory Dwelling Unit or a Second Residential Unit, but not both. As a result, there is no change in the consistency of Accessory Dwelling Units or Second Residential Units with the General Plan as the regulations for Second Residential Units have existed since 1987.

New regulations are proposed for Moveable Tiny Homes, which are structures that are regulated by the California Department of Motor Vehicles that have an appearance of a stick-built residential structure. A Moveable Tiny Home does not include recreational vehicles or travel trailers. The Board of Supervisors

directed to allow Moveable Tiny Homes as either the primary residence on a property or as an Accessory Dwelling Unit subject to the standards recommended in proposed Chapter 20.170. This is not a new use type as a Moveable Tiny Home would be classified as either Family-Residential: Single-family or as an Accessory Dwelling Unit and be subject to the zoning district standards for the district it is located within. Given that these new regulations are tied to analogous existing uses of both single family homes and/or accessory dwelling units/second residential units these use types. As a result, Moveable Tiny Home regulations are consistent with the General Plan. Standards have been added to ensure that moveable tiny homes have the appearance of conventional construction residences, no impact will result.

Proposed section 20.024.135(D) is a new Commercial Use Type under Transient Habitation. The proposed new use type would be called Transient Habitation—Low Intensity Camping. This use type is proposed to be defined as “camping for transient guests involving recreational vehicles or tents which is incidental to the primary residential or agricultural use of the site. Low Intensity Camping is subject to the requirements of section 20.176.020. Low intensity camping is commercial camping that is incidental to agricultural or residential uses. The proposed regulations include site requirements and limitations on the number of campsites permitted with various permit types (business license, administrative permit or use permit). In addition, regulations are included to reduce potential nuisances such as required separation distances between a campsite and an off-site residence, sanitation requirements, duration limits, and requirement for a local contact person or host that is available to respond to complaints within one hour. One camp site will be permitted on lots with a business license and additional campsites can be approved with an Administrative Permit or Use Permit. With an Administrative Permit or Use Permit an environmental review would be performed as part of the review process to determine the potential adverse environmental impacts under the California Environmental Quality Act (CEQA). Presently, County Code allows for the temporary camping on a property without compensation or profit and up to 30 individuals or 10 tents/recreational vehicles without any permit. Division I already allows for camping regardless of profit at higher levels than is allowed under the proposed regulations for low intensity camping. The proposed new use implements General Plan policies supporting economic development contained in Policies DE-48 and DE-49. As a result, the proposed new use type is consistent with the General Plan.

Amendments are proposed to the Temporary Use Regulations in Chapter 20.168 to include regulations for Food Trucks and clarify permitting requirements for temporary events and temporary camping. Food trucks have been operated in Mendocino County for decades informally, with previous interpretations made citing that food trucks were to be operated only in commercial zoning districts. The proposed regulations will now define food trucks as a temporary use subject to an Administrative Permit. The requirement for an Administrative Permit will allow for site specific CEQA review for any new food truck operations. Food Trucks will still require the appropriate permits through the Division of Environmental Health. The addition of Food Trucks as a temporary use implements General Plan policies supporting economic development contained in Policies DE-48 and DE-49.

Amendments proposed to Chapter 20.204 Non-conforming Uses and Structures aligns the implementing regulations with the General Plan policies surrounding legal non-conforming lots, structures and uses, specifically Policies DE-32 and DE-33.

**UKIAH VALLEY AREA PLAN (UVAP) CONSISTENCY:**

Two new zoning districts are proposed to be adopted to implement the UVAP. Chapter 20.086 “MUNS” Mixed Use North State District and Chapter 20.087 “MUBST” Mixed Use Brush Street Triangle District implement two land use designations that were established under the UVAP in 2011, Mixed Use North State and Mixed Use Brush Street Triangle. The two new zoning districts are structured like all other zoning districts with permitted uses, density standards, and floor area ratio based upon the UVAP land use designation.

**ENVIRONMENTAL DETERMINATION:**

The Mendocino County Department of Planning and Building Services prepared an Addendum to the General Plan and Ukiah Valley Area Plan Environmental Impact Reports related to the proposed Project (“Addendum”). This addendum demonstrates that the analysis contained in each certified EIR adequately addresses the potential physical impacts associated with implementation of the proposed amendments to Division I of Title 20 of Mendocino County Code and that none of the conditions described in the California Environmental Quality Act (CEQA) Guidelines Section 15162 calling for the preparation of a subsequent EIR or Negative Declaration have occurred.

**RECOMMENDED MOTION FOR THE PLANNING COMMISSION:**

Adopt the resolution providing a report and recommendation to the Mendocino County Board of Supervisors regarding the proposed adoption of amendments to Division I of Title 20 of the Inland Zoning Code and the Addendum to the General Plan Final Environmental Impact Report and the Ukiah Valley Area Plan Final Environmental Impact Report related thereto.

**ATTACHMENTS:**

Resolution

Exhibit A – All Chapters with Proposed Amendments

Exhibit B – Addendum to General Plan and Ukiah Valley Area Plan EIRs