



COUNTY OF HUMBOLDT

AGENDA ITEM NO.
I - 1

For the meeting of: **June 20, 2017**

Date: **June 13, 2017**

To: **Board of Supervisors**

From: **County Counsel's Office, Code Enforcement Unit**
Jeffrey S. Blanck, County Counsel

Subject: **Introduction of Ordinance Repealing Divisions 12 and 13 of Title II of the Humboldt County Code and Repealing Sections 351-1 through 351-44, Amending Chapters 1 and 2 and Adding Chapters 3 and 4 to Division 5 of Title III of the Humboldt County Code Relating to Public Nuisances, Abatement and Penalties**

RECOMMENDATION(S):

That the Board of Supervisors:

1. Introduce the attached ordinance by title and waive the first reading;
2. Set the ordinance for adoption on July 11, 2017, or at least one (1) week away;
3. Direct the Clerk of the Board of Supervisors to publish the pre-adoption summary of the ordinance and to post a certified copy of the full text of the ordinance in the office of the Clerk of the Board of Supervisors at least five (5) days prior to the Board of Supervisors meeting at which the ordinance will be adopted [Government Code Section 25124(b)(1)]; and
4. Direct the Clerk of the Board, within fifteen (15) days after adoption of the ordinance, to publish a post-adoption summary of the ordinance with the names of the Supervisors voting for and against the ordinance and to post in the office of the Clerk of the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those Supervisors voting for and against the Ordinance [Government Code Section 25124(b)(1)].
5. Direct staff to file the attached Notice of Exemption with the Humboldt County Clerk in accordance with the requirements of the California Environmental Quality Act.

Prepared by: Scott Miles

CAO Approval

REVIEW:	Auditor _____	County Counsel <u>JSB</u>	Human Resources _____	Other _____
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TYPE OF ITEM:

Consent

Departmental

Public Hearing

Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Sundberg Seconded by Supervisor Fennell

Ayes Sundberg, Fennell, Bass, Bohn, Wilson

Nays _____

Abstain _____

Absent _____

PREVIOUS ACTION/REFERRAL:

Board Order No. I-1

Meeting of: May 16, 2017

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: June 20, 2017

By: [Signature]

SOURCE OF FUNDING:

Costs to prepare this agenda item have been borne by the General Fund.

DISCUSSION:

On May 16, 2017 (Item I-1), the Humboldt County Board of Supervisors ("Board") directed staff to prepare, and return to the Board with, an ordinance which amends the County of Humboldt's ("County") current code enforcement process. In response to such direction, staff from the Division of Environmental Health, the Planning and Building Department, the County Administrative Office, the Sheriff's Office, the Agricultural Commissioner's Office, the Treasurer-Tax Collector's Office, the District Attorney's Office and the County Counsel's Office met to discuss specific improvements to the code enforcement process. Based on these discussions, staff developed the proposed ordinance which simplifies, expedites and combines the County's nuisance abatement and administrative civil penalty processes.

Nuisance Abatement Procedures:

The current nuisance abatement process entails the service of two (2) notices on the property owner. The first is a Notice of Nuisance that lists the violations observed by staff from the Code Enforcement Unit ("CEU"), and provides the property owner with the necessary steps to cure those violations. If the property owner fails to correct the violations, he or she is served with a Notice to Abate Nuisance. The Notice to Abate Nuisance advises the property owner that there will be a hearing before your Board to address the violations. The Humboldt County Code requires that the CEU wait a minimum of thirty (30) days after a Notice of Nuisance has been served before serving a Notice to Abate Nuisance. The Humboldt County Code also requires that the CEU wait a minimum of thirty (30) days after your Board issues a Findings of Nuisance and Order of Abatement before commencing the abatement process. Accordingly, this process requires a minimum of seventy-five (75) days between service of the initial Notice of Nuisance and receipt of jurisdiction to abate the nuisance.

The new nuisance abatement process, as set forth in the proposed ordinance currently before your Board, will begin with the service of a Notice to Abate Nuisance. The property owner will have ten (10) days to voluntarily abate the nuisance or request an appeal hearing before a County appointed hearing officer. Failure to do either within the ten (10) day period will give the CEU jurisdiction to conduct an abatement of the nuisance after requesting a transfer of funds from your Board. The cost recovery hearing procedures are also simplified, and would only require a hearing before the Board of Supervisors, if the property owner requests one. This process will reduce the amount of time between confirmation of the nuisance and the commencement of enforcement action to a minimum of ten (10) to thirty-five (35) days, depending on whether or not an appeal hearing is requested. However, it should be noted that the limitations of human and financial resources will still limit the number of complex investigations, including abatements, that can be conducted.

Administrative Civil Penalty Procedures:

The current administrative civil penalty process also requires service of a Notice of Nuisance upon the responsible party which lists the violations observed by CEU staff and the necessary steps to cure those violations. If the responsible party fails to correct the violations within thirty (30) days after service of the Notice of Nuisance, he or she is served with a Notice of Imposition of Administrative Penalties which imposes a fixed administrative civil penalty of two hundred fifty dollars (\$250.00) to ten thousand dollars (\$10,000.00). Once a responsible party is served with a Notice of Imposition of Administrative Penalty, he or she is given an additional thirty (30) days to request an appeal hearing before a County appointed hearing officer. If the responsible party fails to request an appeal of the imposition of the administrative civil penalty within the thirty (30) day period, the order imposing the penalty becomes final unless the

responsible party seeks judicial review of such order pursuant to California Government Code Section 53069.4.

The new administrative civil penalty process, as set forth in the proposed ordinance, would begin with the service of a Notice of Violation. The responsible party will have ten (10) days to voluntarily correct the violation or request an appeal hearing before a County appointed hearing officer. If the violation is not corrected or otherwise remedied within the ten (10) day period, a daily penalty of one dollar (\$1.00) to ten thousand dollars (\$10,000.00), as determined by the CEU in accordance with the rate schedule set forth in the proposed ordinance, will commence. The daily penalty will continue for a period of ninety (90) days, unless the violation is corrected by the violator or dismissed or suspended by the hearing officer. If a violation continues after the expiration of the ninety (90) day period, an additional Notice of Violation can be served on the violator at that time.

This process also simplifies the appeal and cost recovery hearing procedures by allowing administrative civil penalty hearings to be combined with, and heard at the same time as, nuisance abatement hearings in situations in which both a Notice to Abate Nuisance and a Notice of Violation have been served.

It should be noted that the administrative civil penalty rate schedule was originally set at one dollar (\$1.00) to one thousand dollars (\$1,000.00) per day. However, after meeting with the above-referenced departments, it was decided that such rates would not be a sufficient deterrent for certain violations.

Additional Considerations:

The proposed ordinance currently before your Board is considered a project under the California Environmental Quality Act ("CEQA"). This project is categorically exempt from environmental review pursuant to Section 15308 – "Actions by Regulatory Agencies for Protection of the Environment" and Section 15321 – "Enforcement Actions by Regulatory Agencies" of the CEQA Guidelines. In addition, the application of this categorical exemption is not barred by any of the exceptions set forth in Section 15300.2 of the CEQA Guidelines. A Notice of Exemption is attached hereto as Attachment 5.

FINANCIAL IMPACT:

Adoption of the expedited code enforcement process set forth in the proposed amendment will require the hiring of additional field personnel. This increase in CEU staff has been included in the County Counsel's fiscal year 2017/2018 Supplemental Budget Request in account 1100-121. The proposed cost of these three employees is \$385,131, including vehicles and ancillary equipment. There will also be costs associated with appointing a County Hearing Officer to hear nuisance abatement and administrative civil penalty appeal hearings. However, these costs are dependent on the number of such hearings conducted per year and cannot be determined at this time.

Today's recommended actions support the Board's Strategic Framework by seeking to more efficiently enforce the Humboldt County Code and other local and state laws and regulations.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Your Board may choose not to revise the County's current nuisance abatement and administrative civil penalty processes. This alternative is not recommended since doing so will not expedite enforcement of local or state laws and regulations.

ATTACHMENTS:

1. Proposed Ordinance Repealing Divisions 12 and 13 of Title II of the Humboldt County Code and Repealing Sections 351-1 through 351-44, Amending Chapters 1 and 2 and Adding Chapters 3 and 4 to Division 5 of Title III of the Humboldt County Code Relating to Public Nuisances, Abatement and Penalties
2. Pre-Adoption Summary of the Proposed Ordinance
3. Post-Adoption Summary of the Proposed Ordinance
4. Notice of Exemption under California Environmental Quality Act