

Attachment “1”

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT 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

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. Division 12 is hereby repealed from Title II of the Humboldt County Code as shown on the attached pages.

SECTION 2. Division 13 is hereby repealed from Title II of the Humboldt County Code as shown on the attached pages.

SECTION 3. Sections 351-1 through 351-44 are hereby repealed from Chapter 1 of Division 5 of Title III of the Humboldt County Code as shown on the attached pages.

SECTION 4. Sections 351-1 through 351-28 are hereby added to Chapter 1 of Division 5 of Title III of the Humboldt County Code as shown on the attached pages.

SECTION 5. Sections 352-1 through 352-28 are hereby added to Chapter 2 of Division 5 of Title III of the Humboldt County Code as shown on the attached pages.

SECTION 6. Sections 353-1 through 351-7 are hereby added to Chapter 3 of Division 5 of Title III of the Humboldt County Code as shown on the attached pages.

SECTION 7. Sections 354-1 through 354-26 are hereby added to Chapter 4 of Division 5 of Title III of the Humboldt County Code as shown on the attached pages.

SECTION 8. This ordinance shall take effect and be in force thirty (30) days from the date of its passage. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this

ordinance. It shall be published once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

PASSED, APPROVED AND ADOPTED this _____ day of _____,

2017.

AYES: Supervisors--
NOES: Supervisors--
ABSENT: Supervisors—

Chair of the Board of Supervisors of the
County of Humboldt, State of California

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
County of Humboldt

~~TITLE II - ADMINISTRATION~~

~~DIVISION 12~~

~~RECOVERY OF COSTS RELATED TO PROCESSING AND ENFORCEMENT
OF CODE VIOLATIONS~~

~~Chapter 1 - Recovery of Costs Related to Processing and Enforcement of Code
Violations~~

~~§ 2121-1. Purpose and Intent.~~

~~§ 2121-2. Definitions.~~

~~§ 2121-3. Records.~~

~~§ 2121-4. Procedures.~~

~~TITLE II - ADMINISTRATION~~

~~DIVISION 12~~

~~RECOVERY OF COSTS RELATED TO PROCESSING AND ENFORCEMENT
OF CODE VIOLATIONS~~

~~2121-1. PURPOSE AND INTENT.~~

~~This division establishes procedures for the recovery of administrative costs, including staff time, expended on the enforcement of violations of the provisions of the County Code. The intent of this division is to recoup costs reasonably related to enforcement, which is not otherwise recovered through other processes. (Ord. 2096, § 1, 11/14/1995)~~

~~2121-2. DEFINITIONS.~~

~~For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them herein. (Ord. 2096, § 1, 11/14/1995)~~

~~Affected Department. The Planning & Building Department, the Environmental Health Department, Public Works Department, or other County department or agency charged with the responsibility for enforcement pursuant to any provision of this Code. (Ord. 2096, § 1, 11/14/1995)~~

~~Code Enforcement Unit: The Deputy County Counsel and/or Deputy District Attorney assigned to directing that office designated by the Board of Supervisors as that agency of County government which has jurisdiction of enforcement pursuant to the provisions of this Code. (Ord. 2096, § 1, 11/14/1995; Ord. No. 2272, 04/23/2002)~~

~~Owner. The owner of record or any person having possession and control of the subject property. (Ord. 2096, § 1, 11/14/1995)~~

~~Costs. The administrative costs, including staff time expended and reasonably related to enforcement, for items including, but not limited to site inspections, summaries, reports, telephone contacts and correspondence. Costs will be calculated at the fully burdened rate. (Ord. 2096, § 1, 11/14/1995)~~

~~2121-3. RECORDS.~~

~~The affected department shall maintain records of all administrative costs incurred by such department, associated with processing violations and enforcement of this Title, and shall recover costs from the property owner as provided herein. Staff time shall be calculated at an hourly rate, as established and revised from time to time by the Board of Supervisors. (Ord. 2096, § 1, 11/14/1995)~~

~~2121-4. PROCEDURES.~~

~~(a) Upon investigation and determination that a violation of any provision of this title is found to exist, the Code Enforcement Unit shall notify the owner of record or any person having possession or control of the subject property by mail directed to the subject premises of the existence of the violation, the Department's intent to charge the property owner for all administrative costs associated with enforcement, and of the owner's right to a hearing on objections thereto. (Ord. 2096, § 1, 11/14/1995; Ord. No. 2271, 04/23/2002)~~

~~(b) The notice shall be in substantially the following form. (Ord. 2096, § 1, 11/14/1995)~~

~~NOTICE~~

~~The Code Enforcement Unit has determined that conditions exist at the property at _____ which violate section _____ of the Humboldt County Code, to wit:~~

~~Notice is hereby given that at the conclusion of this case you will receive a summary of administrative costs associated with the processing of this violation, at an hourly rate as established and adjusted from time to time by the Board of Supervisors. The hourly rate which is presently in effect is \$ _____ per hour of staff time. You will have the right to object to these charges by filing a written "Request For Hearing" with the Code Enforcement Unit within ten (10) days of service on you of the summary of charges, pursuant to section 2121-4(e) of the Humboldt County Code. (Ord. No. 2271, 04/23/2002)~~

~~(c) At the conclusion of the case, the Code Enforcement Unit shall send a summary of costs associated with enforcement to the owner and/or person having possession or control of the subject premises by certified mail, return receipt requested. Said summary shall include a notice in substantially the following form: (Ord. 2096, § 1, 11/14/1995; Ord. No. 2271, 04/23/2002)~~

~~NOTICE~~

~~If you object to these charges you must file a written "Request For Hearing" on the enclosed form within ten (10) days of the date of this notice. (Ord. 2096, § 1, 11/14/1995)~~

~~If you fail to timely request a hearing, your right to object will be waived and you will be liable to the County for these charges, to be recovered in a civil action in the name of the County, in any court of competent jurisdiction within the county. (Ord. 2096, § 1, 11/14/1995)~~

~~Dated: _____ Code Enforcement Unit~~

~~By: _____~~

~~(d) In the event that (1) no "Request For Hearing" is timely filed or, (2) after a hearing the Code Enforcement Unit affirms the validity of the costs, the property owner or person having possession or control shall be liable to the County in the amount stated in the summary or any lesser amount as determined by the Code Enforcement Unit. These costs shall be recovered in a civil action in the name of the County, in any court of competent jurisdiction within the County. (Ord. 2096, § 1, 11/14/1995; Ord. No. 2271, 04/23/2002)~~

~~(c) Any property owner, or other person having possession or control thereof, who receives a summary of costs under this section shall have a right to a hearing before the Code Enforcement Unit on the objections to the proposed costs in accordance with the procedures set forth herein. (Ord. 2096, § 1, 11/14/1995; Ord. No. 2271, 04/23/2002)~~

~~(i) A request for hearing shall be filed with the Code Enforcement Unit within ten (10) days of the service by mail of the Unit's summary of costs, on a form provided by the Unit. (Ord. 2096, § 1, 11/14/1995; Ord. No. 2271, 04/23/2002)~~

~~(ii) Within thirty (30) days of the filing of the Request, and on ten (10) days written notice to the owner, the Code Enforcement Unit shall hold a hearing on the owner's objections, and determine the validity thereof. (Ord. 2096, § 1, 11/14/1995; Ord. No. 2271, 04/23/2002)~~

~~(iii) In determining the validity of the costs, the Code Enforcement Unit shall consider whether total costs are reasonable under the circumstances of the case. Factors to be considered include, but are not limited to, the following: Whether the present owner created the violation; whether there is a present ability to correct the violation; whether the owner moved promptly to correct the violation; the degree of cooperation provided by the owner; whether reasonable minds can differ as to whether a violation exists. (Ord. 2096, § 1, 11/14/1995; Ord. No. 2271, 04/23/2002)~~

~~(f) The Code Enforcement Unit's decision shall be appealable to the Board of Supervisors pursuant to the provisions of sections 317-512 through 317-55 of this Code. (Ord. 2096, § 1, 11/14/1995; Ord. No. 2271, 04/23/2002)~~

~~TITLE II -- ADMINISTRATION~~

~~DIVISION 13~~

~~ADMINISTRATIVE PENALTIES~~

~~Chapter 1 -- Administrative Penalties~~

- ~~§ 2131-1. Purpose and Intent.~~
- ~~§ 2131-2. Imposition of Administrative Penalties.~~
- ~~§ 2131-3. Notice of Imposition of Administrative Penalties.~~
- ~~§ 2131-4. Amount of Administrative Penalties.~~
- ~~§ 2131-5. Administrative Hearing Appeal.~~
- ~~§ 2131-6. Administrative Penalty Appeal Hearing.~~
- ~~§ 2131-7. Form and Contents of Decision, Finality of Decision.~~
- ~~§ 2131-8. Payment and Collection of the Administrative Penalty.~~

TITLE II — ADMINISTRATION

DIVISION 13

ADMINISTRATIVE PENALTIES

~~2131-1. — PURPOSE AND INTENT.~~

~~(a) — The purpose of this chapter relating to administrative penalties is to provide alternative remedies to address acts or omissions set forth in section 2131-2 below. Violations may be corrected, abated, or addressed in a number of ways. It is the intent of this chapter to provide the County with additional remedies to correct violations and, where necessary, to penalize violators for failure to comply with County codes and ordinances. (Ord. 2138a, § 1, 12/03/1996)~~

~~(b) — The Humboldt County Board of Supervisors hereby finds and determines that enforcement of the County code, other ordinances adopted by the County, and conditions on entitlement in terms of County permits and agreements, are matters of local concern and serve important public purposes. Under the authority of and consistent with Government Code section 53069.4, the County of Humboldt adopts this administrative penalty provision in order to achieve the following goals: (Ord. 2138a, § 1, 12/03/1996)~~

~~(1) — To protect the public health, safety and welfare of the communities and citizens in the County of Humboldt; (Ord. 2138a, § 1, 12/03/1996)~~

~~(2) — To provide for an administrative process that has objective criteria for the imposition of penalties and provides for a process to appeal the imposition of administrative penalties; (Ord. 2138a, § 1, 12/03/1996)~~

~~(3) — To provide a method to penalize responsible parties who fail or refuse to comply with provision of County Code, ordinances, or conditions on entitlement in the County of Humboldt; and (Ord. 2138a, § 1, 12/03/1996)~~

~~(4) — To minimize the expense and delay where the alternative remedy is to pursue responsible parties in the civil or criminal justice system. (Ord. 2138a, § 1, 12/03/1996)~~

~~(c) — The County Board of Supervisors hereby establishes an administrative penalty procedure provided in this chapter. All final administrative orders made pursuant to the procedures set forth in this chapter shall be subject to review only as provided in Government Code section 53069.4. (Ord. 2138a, § 1, 12/03/1996)~~

~~2131-2. — IMPOSITION OF ADMINISTRATIVE PENALTIES.~~

~~(a) — In addition to criminal prosecutions, civil actions, abatement proceedings before the Board of Supervisors or any other remedy set forth in Humboldt County Code, the County may make any act or omission in violation of County Code subject to an administrative fine or penalty. Administrative penalties shall be imposed, enforced, collected and reviewed in compliance with the provisions of this chapter by the Code Enforcement Unit of the County of Humboldt. Administrative penalties may be imposed for any of the following acts or omissions: (Ord. 2138a, § 1, 12/03/1996; Ord. No. 2272, 04/23/2002)~~

~~(1) — All violations of Humboldt County Codes; (Ord. 2138a, § 1, 12/03/1996)~~

~~(2) All violations of other codes or ordinances adopted by the County of Humboldt, including but not limited to the building and zoning ordinances, (Ord. 2138a, § 1, 12/03/1996)~~

~~(3) All violations of any Uniform Code adopted by the County of Humboldt, (Ord. 2138a, § 1, 12/03/1996)~~

~~(4) Failing to comply with any order issued by the Board of Supervisors, a board, hearing officer, or examiner or other body appointed by the Board of Supervisors and authorized to issue orders, including but not limited to the Planning and Building Director, the Health Director, the Planning Commission, and the Code Enforcement Unit; and (Ord. 2138a, § 1, 12/03/1996; Ord. No. 2272, 04/23/2002)~~

~~(5) Failing to comply with any condition imposed by any entitlement, permit, contract or environmental document issued or approved by the County of Humboldt. (Ord. 2138a, § 1, 12/03/1996)~~

~~(b) Nothing in this chapter shall prevent the County from using one or more other remedies to address violations, either in lieu of or in addition to administrative penalties. (Ord. 2138a, § 1, 12/03/1996)~~

~~(c) When the violation upon which the administrative penalty is based pertains to building, plumbing, electrical, structural or zoning provisions, the responsible party shall be provided a reasonable period of time to correct the violation prior to imposition of the administrative penalty, except in those cases in which there is an immediate danger to health or safety. The reasonable period for purposes of this section shall be thirty (30) days from service of any notice issued regarding the violation(s). (Ord. 2138a, § 1, 12/03/1996)~~

~~(d) For the purposes of this chapter, the term responsible party shall refer to any person, business, company or entity, and the parent or legal guardian of any person under the age of 18 years, who has done any act or omission for which an administrative penalty may be imposed. (Ord. 2138a, § 1, 12/03/1996)~~

~~2131-3. NOTICE OF IMPOSITION OF ADMINISTRATIVE PENALTIES.~~

~~(a) Where the County has determined that a responsible party has violated this code or any provision set forth in section 2131-2(a) above, the County may commence an administrative proceeding to impose administrative penalties. To commence such proceedings, the Code Enforcement Unit shall issue an order imposing administrative penalties. The order shall contain: (Ord. 2138a, § 1, 12/03/1996; Ord. No. 2272, 04/23/2002)~~

~~(1) The name and address of the responsible party in violation. If the administrative penalty results from offense occurring on, or the status or condition of, property, the order shall also contain the address of the property; (Ord. 2138a, § 1, 12/03/1996)~~

~~(2) A statement of the acts or conditions which violate County Code and the specific code or provision which have been violated; (Ord. 2138a, § 1, 12/03/1996)~~

~~(3) The amount of the administrative penalty the County imposes for the violation; (Ord. 2138a, § 1, 12/03/1996)~~

~~(4) A statement that the responsible party in violation may appeal the imposition of the administrative penalty within thirty (30) days of the date the order is served; (Ord. 2138a, § 1, 12/03/1996)~~

~~(5) A statement that if the responsible party fails to request an appeal of the imposition of the administrative penalty, the order imposing the penalty shall be final, (Ord. 2138a, § 1, 12/03/1996)~~

~~(6) A statement that any responsible party upon who an administrative penalty has been imposed may seek judicial review of the order imposing the penalty pursuant to Government Code section 53069.4. (Ord. 2138a, § 1, 12/03/1996)~~

~~(b) The administrative penalty order shall be served upon the responsible party in violation. The failure of the Code Enforcement Unit to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person(s) duly served or relieve any such person(s) from any duty or obligation imposed on him/her. If the County proposes to impose a lien on the property, one copy thereof shall also be served on each of the following if known to the Code Enforcement Unit or disclosed from official public records: (Ord. 2138a, § 1, 12/03/1996, Ord. No. 2272, 04/23/2002)~~

~~(1) The holder of any mortgage or deed of trust of other lien or encumbrance of record, and (Ord. 2138a, § 1, 12/03/1996)~~

~~(2) The owner or holder of any lease of record. (Ord. 2138a, § 1, 12/03/1996)~~

~~(c) Service of an administrative penalty order may be made upon all persons entitled thereto either by personal delivery or by certified mail, return receipt requested. Certified mail will be addressed to the owner at the address shown on the last equalized assessment roll of Humboldt County or as otherwise known to the Code Enforcement Unit. Service by certified mail shall be effected on the date of mailing. (Ord. 2458, § 1, 08/23/2011)~~

~~(d) The failure of any such person to receive such administrative penalty order shall not effect the validity of any proceedings taken under this section against any other responsible party. (Ord. 2138a, § 1, 12/03/1996; Ord. 2458, § 1, 08/23/2011)~~

~~2131-4. AMOUNT OF ADMINISTRATIVE PENALTIES.~~

~~(a) The amount of the administrative penalty to be imposed shall be set by the Code Enforcement Unit which is responsible for issuing the administrative penalty order. Each day a violation continues or occurs constitute a separate violation. Administrative penalties may be imposed in any amount not less than two hundred fifty dollars (\$250.00) nor more than ten thousand dollars (\$10,000.00) per violation. (Ord. 2138a, § 1, 12/03/1996, Ord. No. 2272, 04/23/2002, Ord. 2333, § 1, 11/02/2004)~~

~~(b) In determining the amount of the administrative penalty to be imposed, the Code Enforcement Unit shall consider factors including but not limited to. (Ord. 2138a, § 1, 12/03/1996, Ord. No. 2272, 04/23/2002)~~

~~(1) the seriousness of the violation, (Ord. 2138a, § 1, 12/03/1996)~~

~~(2) the number of complaints received, (Ord. 2138a, § 1, 12/03/1996)~~

~~(3) the wilfulness of the responsible party and their efforts to correct the violation, (Ord. 2138a, § 1, 12/03/1996)~~

~~(4) the injury/damage, if any, suffered by any member of the public, (Ord. 2138a, § 1, 12/03/1996)~~

~~(5) any instances in which the responsible party has been in violation of the same or similar code provisions in the previous three years, (Ord. 2138a, § 1, 12/03/1996)~~

~~(6) the amount of administrative staff time which was expended in investigating or addressing the violation, and (Ord. 2138a, § 1, 12/03/1996)~~

~~(7) the amount of administrative penalties which have been imposed in similar situations. (Ord. 2138a, § 1, 12/03/1996)~~

~~(c) There are four violation categories reflecting penalty amounts corresponding to the seriousness of the violation. These are. (Ord. 2138a, § 1, 12/03/1996)~~

~~(1) Category 1. "Category 1 Violations" are those which are primarily procedural, have a negligible impact, and which are committed through neglect or oversight. (Ord. 2138a, § 1, 12/03/1996)~~

~~(2) Category 2. "Category 2 Violations" include those which are committed unintentionally through neglect or oversight, but which have significant and/or substantial impact. (Ord. 2138a, § 1, 12/03/1996)~~

~~(3) Category 3. "Category 3 Violations" include those having significant impact and which are committed intentionally or through inexcusable neglect, (Ord. 2138a, § 1, 12/03/1996)~~

~~(4) Category 4. "Category 4 Violations" are blatant violations involving intentional wrongdoing, with substantial impact. (Ord. 2138a, § 1, 12/03/1996)~~

~~(d) The amount of the administrative penalty shall be set according to the following schedule. (Ord. 2138a, § 1, 12/03/1996)~~

~~(1) Category 1 violations shall be subject to an administrative penalty of \$250.00 to \$2,500.00, (Ord. 2138a, § 1, 12/03/1996, Ord. No. 2272, 04/23/2002, Ord. 2333, § 1, 11/02/2004)~~

~~(2) Category 2 violations shall be subject to an administrative penalty of \$1,000.00 to \$5,000.00; (Ord. 2138a, § 1, 12/03/1996, Ord. No. 2272, 04/23/2002, Ord. 2333, § 1, 11/02/2004)~~

~~(3) Category 3 violations shall be subject to an administrative penalty of \$2,500.00 to \$7,500.00; (Ord. 2138a, § 1, 12/03/1996, Ord. No. 2272, 04/23/2002, Ord. 2333, § 1, 11/02/2004)~~

~~(4) Category 4 violations shall be subject to an administrative penalty of \$5,000.00 to \$10,000.00; (Ord. 2138a, § 1, 12/03/1996, Ord. No. 2272, 04/23/2002, Ord. 2333, § 1, 11/02/2004)~~

~~(e) The factors of willfulness and severity of impact are considered together in assigning a particular violation its violation category. A violation involving little impact, for example, could be assigned a category 2 or 3, depending on the degree of willful violation. Similarly, an unintentional violation could be assigned a category 1 or 2, depending on the degree of impact involved. (Ord. 2138a, § 1, 12/03/1996)~~

~~(f) In assessing the degree of willfulness and/or negligence, all of the following points should be considered in most cases: (Ord. 2138a, § 1, 12/03/1996)~~

~~(1) How much control the responsible party had over the events constituting the violation; (Ord. 2138a, § 1, 12/03/1996)~~

~~(2) Whether the responsible party took reasonable precautions against the events constituting the violation; (Ord. 2138a, § 1, 12/03/1996)~~

~~(3) Whether the responsible party knew, or should have known, the impacts associated with the conduct; (Ord. 2138a, § 1, 12/03/1996)~~

~~(4) The level of sophistication of the responsible party in dealing with compliance issues; (Ord. 2138a, § 1, 12/03/1996)~~

~~(5) Whether the responsible party in fact knew of the legal requirements which were violated. Lack of knowledge of the legal requirements should never be used as a basis to reduce a penalty. To do so would encourage ignorance of the law. Rather, knowledge of the law should serve only to enhance the penalty. (Ord. 2138a, § 1, 12/03/1996)~~

~~(g) Another factor in determining the amount of penalty is the number of prior violations of the same or related type as involved in the case in question, which have been committed by the responsible party within a prior thirty six (36) month period. Repeat or successive violations are defined as violations of the same or related ordinances or permit conditions regarding the subject premises. (Ord. 2138a, § 1, 12/03/1996)~~

~~(h) To ease the financial burden of administrative penalty payments and to provide an incentive for future compliance, a penalty payment suspension may be granted by the Code Enforcement Unit in lieu of full payment. Rather than requiring a person found in violation to pay the entire penalty at the time the violation is discovered, a suspension of a percentage of their payment may be offered. The payment suspension will be in effect for not more than one year from the penalty date. If additional violations occur within the payment suspension period or the responsible party does not comply with the terms and conditions of the payment suspension, the suspended portion of the penalty shall be immediately due and owing from the responsible party. In addition a penalty for the new violation may be assessed against the responsible party. However, if there are no further violations within the payment suspension period and the responsible party has complied with the terms and conditions of the payment suspension, the responsible party will no longer be liable for the suspended amount. Penalty payment suspensions can be offered when the responsible party has taken immediate steps to remedy the violation and to prevent future recurrences, and the impact did not result in a threat to public health. (Ord. 2138a, § 1, 12/03/1996; Ord. No. 2272, 04/23/2002, Ord. 2450, § 1, 08/23/2011)~~

~~2131-5. ADMINISTRATIVE HEARING APPEAL.~~

~~(a) Any responsible party against whom an administrative penalty has been imposed may appeal the imposition of the administrative penalty by filing with the Code Enforcement Unit a written notice of appeal within thirty (30) calendar days of service of the administrative penalty order. The written appeal request shall contain: (Ord. 2138a, § 1, 12/03/1996; Ord. No. 2272, 04/23/2002)~~

~~(1) a brief statement setting forth the interest the appealing party has in the matter relating to the imposition of the penalty; (Ord. 2138a, § 1, 12/03/1996)~~

~~(2) a brief statement, in ordinary and concise language, of the material facts which the appellant claims support his/her/it's contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted; and (Ord. 2138a, § 1, 12/03/1996)~~

~~(3) an address at which the appellant agrees notice of any additional proceedings or an order relating to imposition of the administrative penalty may be received by first class mail. (Ord. 2138a, § 1, 12/03/1996)~~

~~(b) The administrative penalty appeal shall be heard by a hearing examiner who has not otherwise been previously involved in the investigation or processing of the matter. (Ord. 2138a, § 1, 12/03/1996; Ord. No. 2272, 04/23/2002, Ord. 2450, § 1, 08/23/2011)~~

~~2131-6. ADMINISTRATIVE PENALTY APPEAL HEARING.~~

~~(a) The administrative penalty appeal hearing shall be set by the hearing examiner. The administrative penalty hearing shall be set for hearing no sooner than twenty (20) days and no later than forty-five (45) days following a request for an appeal hearing. The hearing examiner shall send notice of the appeal hearing by first class mail to the Code Enforcement Unit and to appellant at the address provided with the written appeal request. Notice of the appeal hearing shall be mailed at least fifteen (15) days before the day set for the hearing. (Ord. 2138a, § 1, 12/03/1996; Ord. 2450, § 1, 08/23/2011)~~

~~(b) At the time set for the administrative penalty appeal hearing, the hearing examiner shall proceed to hear testimony from County staff, the appellant, and any other competent persons with respect to imposition of an administrative penalty. (Ord. 2138a, § 1, 12/03/1996)~~

~~(c) The proceeding at the hearing shall be reported by a tape recording. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the requesting party's own expense. (Ord. 2138a, § 1, 12/03/1996)~~

~~(d) The hearing examiner may, upon request of the responsible party against whom a penalty is to be imposed, or upon request of County staff, grant continuances from time to time for good cause shown, or upon its own motion. (Ord. 2138a, § 1, 12/03/1996)~~

~~(e) The hearing examiner or certified shorthand reporter shall administer the oath or affirmation. (Ord. 2138a, § 1, 12/03/1996)~~

~~(f) Government Code section 11513, as it exists on the effective date of the ordinance adopting these provisions, or as hereafter amended, shall apply to all administrative penalty hearings. (Ord. 2138a, § 1, 12/03/1996, Ord. 2458, § 1, 08/23/2011)~~

~~(g) Parties may represent themselves or be represented by any person of their choice. If a party does not proficiently speak or understand the English language, he/she may provide an interpreter at that party's own cost, to translate for that party, but an interpreter shall not have had any personal involvement in the issues of the case prior to the hearing. (Ord. 2138a, § 1, 12/03/1996)~~

~~(h) In reaching a decision, official notice may be taken, either before or after submission of the case for decision of any fact which may be judicially noticed by the courts of this state or which may appear in any of the official records of the County, or any of their departments. (Ord. 2138a, § 1, 12/03/1996)~~

~~(i) In case of violation related to property, the hearing examiner may inspect the building and premises involved in the hearing prior to, during, or after the hearing, provided that: (Ord. 2138a, § 1, 12/03/1996)~~

~~(1) Notice of such inspection shall be given to the parties before the inspection being made; (Ord. 2138a, § 1, 12/03/1996)~~

~~(2) The parties consent and are given an opportunity to be present during the inspection; (Ord. 2138a, § 1, 12/03/1996)~~

~~(3) The hearing examiner shall state for the record during the hearing, or file a written statement after the hearing for inclusion in the hearing record, upon completion of the inspection, the material facts observed and the conclusion drawn therefrom. Each party then shall have the right to rebut or examine the matter so stated by the hearing examiner either for the record during the hearing or by filing a written statement after the hearing for inclusion in the hearing record. (Ord. 2138a, § 1, 12/03/1996)~~

~~(j) Notice to the parties, or the owner's consent to inspect the building and surrounding properties is not required if the property can be inspected from areas in which the general public has access to or with permission of other persons authorized to provide access to the property on which the building is located. (Ord. 2138a, § 1, 12/03/1996)~~

~~(k) The hearing examiner shall have the authority to issue subpoenas for orders to appear and produce testimony or subpoenas duce tecum for orders to produce documents. The hearing examiner shall only issue a subpoena upon the showing of reasonable necessity by the requesting party. Failure to comply with any subpoena may be considered by the hearing examiner in making its decision regarding the imposition of administrative penalties. (Ord. 2138a, § 1, 12/03/1996)~~

~~2131-7. FORM AND CONTENTS OF DECISION, FINALITY OF DECISION.~~

~~(a) The hearing examiner may affirm the administrative penalty order imposed, reduce the penalty, suspend a portion of the penalty as provided in section 2131-4(h) or find that imposition of the penalty is not warranted or is not in the interest of justice. In the event that the hearing examiner reduces the administrative penalty, it may not be reduced less than the minimum amount set forth in this ordinance for the category violation imposed. (Ord. 2138a, § 1, 12/03/1996, Ord. 2458, § 1, 08/23/2011)~~

~~(b) In making a decision regarding the administrative penalty, the hearing examiner shall consider evidence presented by all witnesses, the seriousness of the violation, the number of complaints, the wilfulness of the responsible party(s) and their efforts to correct the violation, the injury or damage, if any, suffered by any member of the public, any instances in which the responsible party has been in violation of the same or similar code provisions in the previous three (3) years, the amount of county staff time which was expended investigating and addressing the violation and the amount of administrative penalties which have been imposed in similar situations. (Ord. 2138a, § 1, 12/03/1996, Ord. 2458, § 1, 08/23/2011)~~

~~(c) The decision of the hearing examiner shall be issued within thirty (30) days of the hearing, shall be in writing, and shall contain findings of fact and a determination of the issues presented. The decision shall require any administrative penalty to be paid within twenty-five (25) calendar days of the date of service of the decision. The decision shall inform the responsible party that if the administrative penalty is not paid within the time specified it may be made a personal obligation of the responsible party, may also be made a lien against the property owned by the responsible person against whom the penalty was imposed, or may be collected by special assessment. The hearing examiner's decision shall also inform the responsible party against whom an administrative penalty has been imposed that any judicial review of the hearing examiner's decision must be filed with a court of competent jurisdiction within twenty (20) days. (Ord. 2138a, § 1, 12/03/1996)~~

~~(d) Upon issuance of the decision, the hearing examiner shall serve a copy of the decision on the Code Enforcement Unit and appellant. The decision shall be sent to appellant by first class mail to the address provided by appellant in the written notice of appeal. The decision shall be deemed served within two days after the date it was mailed to the address provided by the appellant. (Ord. 2138a, § 1, 12/03/1996, Ord. 2458, § 1, 08/23/2011)~~

~~2131-8. PAYMENT AND COLLECTION OF THE ADMINISTRATIVE PENALTY.~~

~~(a) Any responsible party against whom an administrative penalty has been imposed shall pay the administrative penalty within twenty-five (25) days of a final order or decision of the hearing examiner. The Code Enforcement Unit may take the actions set forth in this section to collect the unpaid penalty. (Ord. 2138a, § 1, 12/03/1996, Ord. No. 2272, 04/23/2002)~~

~~(b) In the event a civil action is commenced to collect the administrative penalty, the County shall be entitled to recover all costs associated with the collection of the penalty. Cost include, but are not limited to, staff time incurred in the collection of the penalty and those costs set forth Code of Civil Procedure section 1033.5. (Ord. 2138a, § 1, 12/03/1996)~~

~~(c) An administrative penalty shall accrue interest at the same annual rate as any civil judgement. Interest shall accrue commencing on the 26th day following service of a final order or the hearing examiner's decision. (Ord. 2138a, § 1, 12/03/1996, Ord. 2458, § 1, 08/23/2011)~~

~~(d) The amount of any unpaid administrative penalty, plus interest, plus any other costs as provided in this chapter, may be declared a lien on any real property owned by the responsible party within the County of Humboldt against whom an administrative penalty has been imposed, as follows: (Ord. 2138a, § 1, 12/03/1996)~~

~~(1) Notice shall be given to the responsible party prior to the recordation of the lien, and shall be served in the same manner as a summons in the civil action pursuant to the Article 3 (commencing with section 415.10) Chapter 4 of Title 5 of Part Two of the Code of Civil Procedure; (Ord. 2138a, § 1, 12/03/1996)~~

~~(2) The lien shall attached when the Code Enforcement Unit records a lien listing delinquent unpaid administrative penalties with the County Recorder's Office. The lien shall specify the amount of the lien, the date of the code violations, the date of the final administrative decision, the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed, and the name of address of the record owner of the parcel, and (Ord. 2138a, § 1, 12/03/1996, Ord. No. 2272, 04/23/2002)~~

~~(3) In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subparagraph (2) above shall be recorded by the Code Enforcement Unit. (Ord. 2138a, § 1, 12/03/1996, Ord. No. 2272, 04/23/2002, Ord. 2458, § 1, 08/23/2011)~~

~~(e) The amount of the unpaid administrative penalty, plus interest, plus any other costs as provided by this chapter, may be declared a special assessment against any real property owned by the responsible party within the County of Humboldt against whom an administrative penalty has been imposed. The Board of Supervisors may impose the special assessment on one or more parcel. However, the amount of the assessment shall not exceed the penalty imposed for the administrative violation. The Code Enforcement Unit or its designee may present a resolution to the Board of Supervisors to declare a special assessment, and upon passage and adoption thereof shall cause a certified copy thereof to be recorded with the Humboldt County Recorder's Office. The assessment may then be collected at the same time and in the same manner as ordinary taxes are collected, and shall be subjected to the same penalties and the same procedure and sale in the case of delinquency as are provided for ordinary property taxes. (Ord. 2138a, § 1, 12/03/1996, Ord. No. 2272, 04/23/2002, Ord. 2458, § 1, 08/23/2011)~~

~~(f) The county may withhold issuance of licenses, permits and other entitlements to a responsible party on any project, property, or application of any kind whenever an administrative penalty remains unpaid. (Ord. 2138a, § 1, 12/03/1996)~~

~~(g) The county may take such other actions as are allowed for enforcement of a civil judgement as provided for pursuant to the Enforcement of Judgement Law, California Code of Civil Procedure section 680.010 et. seq. (Ord. 2138a, § 1, 12/03/1996)~~

~~TITLE III -- LAND USE AND DEVELOPMENT~~

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~~TITLE III - LAND USE AND DEVELOPMENT~~

~~DIVISION 5~~

~~ABATEMENT OF PUBLIC NUISANCES~~

~~CHAPTER 1~~

~~PUBLIC NUISANCES~~

~~351-1. UNIFORM PROCEDURE.~~

~~This chapter shall be known as the "Uniform Public Nuisance Abatement Procedure." It is enacted pursuant to Government Code Section 25845 and is intended to be an alternative procedure for the abatement of any nuisance as defined herein. (Ord. 2457, § 2, 08/23/2011)~~

~~351-1.1. PURPOSE AND SCOPE.~~

~~Any nuisance, as defined herein, existing on any parcel of land in the County of Humboldt may be abated as provided herein. The procedure for said abatement provided herein shall not be exclusive but shall be cumulative to all other civil and criminal remedies provided by law. The seeking of other remedies shall not preclude the simultaneous commencement of proceedings pursuant to this chapter. (Ord. 601, § 1, 6/6/67; Ord. 2457, § 1, 08/23/2011)~~

~~351-1.2 SUMMARY ABATEMENT~~

~~Nothing in this chapter prohibits the summary abatement of a nuisance upon order of the Board of Supervisors, or upon order of any county officer authorized by law to summarily abate nuisances, if the Board or officer determines that the nuisance constitutes an immediate threat to public health or safety. (Ord. 2457, § 2, 08/23/2011)~~

~~If a public nuisance is summarily abated, the enforcement official shall keep an account of the costs of abatement, including all enforcement, investigative and administrative expenses. Upon the completion of the abatement, the enforcement official shall schedule a hearing on costs in accordance with Section 351-33. (Ord. 2457, § 2, 08/23/2011)~~

~~351-2. DEFINITION OF NUISANCE.~~

~~A "nuisance" is hereby defined to be:~~

~~(a) Any condition declared by any statute of the State of California or ordinance of the County of Humboldt to be a nuisance.~~

~~(b) Any condition, act or failure to act constituting a public nuisance known at common law or equity. (Ord. 2457, § 1, 08/23/2011)~~

~~(c) Any condition, act or failure to act which is dangerous to human life, or unsafe or detrimental to the public health or safety. (Ord. 2457, § 1, 08/23/2011)~~

~~(d) Any attractive nuisance which may prove dangerous or detrimental to the public health or safety. (Ord. 2457, § 1, 08/23/2011)~~

~~(e) Any unlawful obstruction of or encroachment upon any public property, including but not limited to any public street, highway or right-of-way, park or building. (Ord. 2457, § 1, 08/23/2011)~~

~~(f) Any establishment, use or operation of buildings, land or property contrary to the provisions of the ordinances of the county. (Ord. 2457, § 1, 08/23/2011)~~

~~351-3. OTHER DEFINITIONS.~~

~~(a) Enforcement Official. "Enforcement official" means any officer or department head of the County of Humboldt charged with the duty of enforcing ordinances of the County of Humboldt or laws of the State of California.~~

~~(b) Owner. "Owner" means the owner of record of the premises affected.~~

~~(c) Occupier. "Occupier" means the person occupying or otherwise in real or apparent charge and control of the premises affected.~~

~~(d) Beneficial Owner. "Beneficial owner" means any mortgagee of record, a beneficiary under a recorded deed of trust, or the owner or holder of any lease of record, provided, however, that the United States, the State of California, and the County of Humboldt shall not be deemed to be beneficial owners by virtue of any lien for unpaid taxes. (Ord. 601, § 3, 6/6/67)~~

~~(e) Costs. "Costs" means all abatement and administrative costs.~~

~~i. "Abatement costs" are all costs reasonably related to the abatement of the nuisance including but not limited to enforcement, investigation, allowable attorney fees, and any and all costs associated directly with the removal and/or correction of the violation. (Ord. 2457, § 1, 08/23/2011)~~

~~ii. "Administrative costs" are that segment of abatement costs that includes staff time expended reasonably related to enforcement activities under this ordinance. This shall include, but not necessarily be limited to, site inspections, investigations, the preparation of summaries, reports, notices, and time and expenses incidental to meetings, hearings, and related communications/correspondence/document preparation. The hourly rate established for staff time shall be set by the Board of Supervisors and revised from time to time. (Ord. 2457, § 1, 08/23/2011)~~

~~iii. "Attorney fees" in any administrative proceeding to abate a nuisance, attorneys' fees may be recovered by the prevailing party. Recovery of attorneys' fees by the prevailing party is limited to those administrative proceedings in which the county elects, at the initiation of that individual proceeding, to seek recovery of its own attorneys' fees. In no administrative proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the county in the administrative proceeding. (Ord. 2457, § 1, 08/23/2011)~~

~~351-12. NOTICE OF NUISANCE, FIRST NOTICE.~~

~~Upon the determination by the enforcement official that a nuisance exists, said enforcement official shall prepare a Notice of Nuisance and shall cause copies of said Notice of Nuisance to be served as follows. (Ord. 601, § 5, 6/6/67; Ord. 2457, § 1, 08/23/2011)~~

~~(a) A copy of said notice is either served personally or has been deposited in the mail, postage prepaid, certified, return receipt requested, to every owner, occupier and beneficial owner of the premises affected, addressed to such person at his last known place of address. Service by certified mail shall be deemed complete on the date of mailing and, (Ord. 2457, § 1, 08/23/2011)~~

~~(b) A copy of the notice is prominently and conspicuously affixed to the premises affected by the proceedings herein. (Ord. 2457, § 1, 08/23/2011)~~

~~The failure of the enforcement official to make or attempt to make such service on any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served. If no address can be found by or is known to the enforcement official, then any notice shall be so mailed to such person at the address of the premises affected by the proceedings. The failure of any person to receive such notice shall not affect the validity of any proceedings taken hereunder. (Ord. 2457, § 1, 08/23/2011)~~

~~351-13. CONTENTS OF NOTICE OF NUISANCE.~~

~~The Notice of Nuisance shall contain the following:~~

~~(a) A street address, legal description or other description sufficient to identify the premises affected.~~

~~(b) A description of the condition causing the nuisance. Where the enforcement official has determined that the condition causing the nuisance can be corrected or abated by repair thereof, the notice shall state the repairs which will be required.~~

~~(c) Where the enforcement official has determined that the condition causing the nuisance is imminently dangerous to human life or limb, or is unsafe, or is detrimental to the public health or safety, he may order that the building or structure affected be vacated pending the correction or abatement of the conditions causing the nuisance.~~

~~(d) An order to commence the abatement of said nuisance within thirty (30) days, and to thereafter diligently prosecute and complete said abatement.~~

~~(e) A statement that, if the required abatement is not commenced and diligently prosecuted within the time limit specified, the enforcement official will apply to the Board for an order to abate said nuisance, and that the costs of such abatement shall become a charge against the premises and shall be made a special assessment against the premises, and that said special assessment may be collected at the same time and in the same manner as is provided for the collection of ordinary County taxes and shall be subject to the same penalties, interest, and to the same procedures of foreclosure and sale in the case of delinquency as is provided for ordinary County taxes. (Ord. 601, § 6, 6/6/67)~~

~~351-14. LIS PENDENS.~~

~~At the time said Notice of Nuisance is served as provided herein, the enforcement official shall cause a copy of said Notice of Nuisance to be recorded in the office of the County Recorder of Humboldt County. (Ord. 601, § 7, 6/6/67)~~

~~351-15. NOTICE TO ABATE NUISANCE, SECOND NOTICE.~~

~~If upon the expiration of the period specified in the Notice of Nuisance, action to abate the nuisance has not been commenced, or if it has not been prosecuted with due diligence nor completed within a reasonable time the enforcement official shall cause a Notice to Abate Nuisance to be prepared and shall serve such notice as follows. (Ord. 601, § 8, 6/6/67; Ord. 2457, § 1, 08/23/2011)~~

~~(a) A copy of said notice is either served personally or has been deposited in the mail, postage prepaid, certified, return receipt requested, to every owner, occupier and beneficial owner of the premises affected, addressed to such person at his last known place of address. Service by certified mail shall be deemed complete on the date of mailing and; (Ord. 2457, § 1, 08/23/2011)~~

~~(b) A copy of the notice is prominently and conspicuously affixed to the premises affected by the proceedings herein. (Ord. 2457, § 1, 08/23/2011)~~

~~The failure of the enforcement official to make or attempt to make such service on any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served. If no address can be found by or is known to the enforcement official, then any notice shall be so mailed to such person at the address of the premises affected by the proceedings. The failure of any person to receive such notice shall not affect the validity of any proceedings taken hereunder. (Ord. 2457, § 1, 08/23/2011)~~

~~351-16. CONTENTS OF NOTICE TO ABATE NUISANCE.~~

~~The Notice to Abate Nuisance shall contain the following:~~

~~(a) A heading, "Notice to Abate Nuisance," in letters of not less than three-fourths of an inch (3/4") in height.~~

~~(b) A notice to appear before the Board at a stated time and place, which said time and place shall be not less than fifteen (15) days after service of said notice, to show cause, if any there be, why such condition should not be condemned as a nuisance and why such nuisance should not be abated by the enforcement official. (Ord. 601, § 9, 6/6/67)~~

~~(c) A notice that at the time and place specified the Board shall hear testimony and consider evidence concerning the conditions constituting the nuisance, the estimated cost of abatement and other matters the Board deems pertinent. (Ord. 2457, § 1, 08/23/2011)~~

~~(d) A notice that the person affected may be present at the hearing and may be represented by counsel, may present testimony and may cross-examine the enforcement official and other witnesses. (Ord. 2457, § 1, 08/23/2011)~~

~~(e) A notice that upon the conclusion of the hearing the Board may terminate the abatement proceedings, or it may order the nuisance to be abated by the owner or other affected person, prescribing the requirements of such abatement and prescribing a reasonable time, not less than thirty (30) days, for the completion of such abatement. (Ord. 2457, § 1, 08/23/2011)~~

~~(f) A notice that if the abatement is not commenced, prosecuted and completed within the terms set by the Board, the county enforcement official shall abate said nuisance. (Ord. 2457, § 1, 08/23/2011)~~

~~(g) A notice that the cost of such abatement shall become a charge against the premises and shall be made a special assessment against the premises, and that said special assessment may be collected at the same time and in the same manner as is provided for the collection of ordinary county taxes and shall be subject to the same penalties and interest and to the same procedures for foreclosure and sale in the case of delinquency as is provided for ordinary County taxes. (Ord. 2457, § 1, 08/23/2011)~~

~~(h) A notice that any materials collected by the county enforcement official during the abatement of the nuisance may be sold in the same manner as surplus County personal property and the proceeds from such sale shall be paid into the County revolving fund. (Ord. 2457, § 1, 08/23/2011)~~

~~351-21. HEARING.~~

~~At the time and place specified in the Notice to Abate Nuisance, the Board shall proceed to hear the testimony of the enforcement official, his assistants or deputies, the testimony of the owner or his representatives, and the testimony of other competent persons concerning the conditions constituting such nuisance, the estimated cost of abatement, and other matters which the Board may deem pertinent. Any person affected may be present at such hearing, may be represented by counsel, may present testimony, and may cross-examine the enforcement official and other witnesses. The hearing may be continued from time to time. (Ord. 601, § 10, 6/6/67)~~

~~351-22. ORDER OF THE BOARD.~~

~~Upon the conclusion of the hearing, the Board may terminate the abatement proceedings, or it may order the owner or other affected person to abate the nuisance, prescribing the requirements of such abatement and prescribing a reasonable time, not less than thirty (30) days, for the completion of such abatement. Such order may further provide that, in the event such abatement is not commenced, prosecuted or completed within the terms set by the Board, the enforcement official shall be empowered and authorized to abate said nuisance. The time limits set by the Board shall not commence until said order is served. The order of the Board shall be served as follows. (Ord. 601, § 11, 6/6/67; Ord. 2457, § 1, 08/23/2011)~~

~~(a) A copy of said order is either served personally or has been deposited in the mail, postage prepaid, certified, return receipt requested, to every owner, occupier and beneficial owner of the premises affected, addressed to such person at his last known place of address. Service by certified mail shall be deemed complete on the date of mailing and; (Ord. 2457, § 1, 08/23/2011)~~

~~(b) A copy of the order is prominently and conspicuously affixed to the premises affected by the proceedings herein. (Ord. 2457, § 1, 08/23/2011)~~

~~The failure of the enforcement official to make or attempt to make such service on any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served. If no address can be found by or is known to the enforcement official, then any notice shall be so mailed to such person at the address of the premises affected by the proceedings. The failure of any person to receive such notice shall not affect the validity of any proceedings taken hereunder. (Ord. 2457, § 1, 08/23/2011)~~

~~351-25. JURISDICTION TO ABATE.~~

~~Upon the expiration of the time limits set by the Board as set out in Section 351-22 hereof, the enforcement official shall acquire jurisdiction to abate said nuisance. (Ord. 601, § 12, 6/6/67)~~

~~351-31. REVOLVING FUNDS.~~

~~The Board may create a revolving fund or funds from which may be paid the costs of enforcing the provisions of this chapter and into which shall be paid the receipts from the collection of costs as hereinafter set forth. (Ord. 601, § 13, 6/6/67)~~

~~351-32. SALE OF MATERIALS.~~

~~The materials contained in any nuisance abated by the enforcement official may be sold in the same manner as surplus County personal property is sold, and the proceeds from such sale shall be paid into the revolving fund. (Ord. 601, § 14, 6/6/67)~~

~~351-33. ACCOUNT OF COSTS AND RECEIPTS, NOTICE OF ASSESSMENT.~~

~~The enforcement official shall keep an itemized account of the costs of enforcing the provisions of this chapter and of the proceeds of the sale of any materials connected therewith. Upon the completion of the abatement, the enforcement official shall cause a Notice of Assessment to be prepared specifying the work done, an itemized account of the costs and receipts of performing the work, an address, legal description or other description sufficient to identify the premises, the amount of the assessment proposed to be levied against the premises, and the time and place when and where the enforcement official will submit the account to the Board for confirmation. The time and place specified shall be not less than fifteen (15) days after the service of the Notice of Assessment. The Notice of Assessment shall contain a statement that the Board will hear and consider objections and protests to said account and proposed assessment. (Ord. 601, § 15, 6/6/67, Ord. 2457, § 1, 08/23/2011)~~

~~The Notice of Assessment shall be served personally or deposited in the mail, postage prepaid certified, return receipt requested to every owner, occupier and beneficial owner of the premises affected, addressed to such person at his/her last known place of address. If service is by certified mail it is deemed complete on the date of mailing. (Ord. 2457, § 1, 08/23/2011)~~

~~351-41. HEARING ON ACCOUNT AND PROPOSED ASSESSMENT.~~

~~At the time and place fixed in the Notice of Assessment, the Board shall hear and consider the account and proposed assessment together with objections and protests thereto. At the conclusion of the hearing the Board may make such modifications and revisions of the proposed account and assessment as it deems just, and may order the account and proposed assessment confirmed or denied, in whole or in part, as modified and revised. The determination of the Board as to all matters contained therein shall be final and conclusive. (Ord. 601, § 16, 6/6/67, Ord. 2457, § 1, 08/23/2011)~~

~~351-42. NOTICE OF LIEN.~~

~~Upon confirmation by the Board, the enforcement official shall cause to be prepared and recorded in the office of the County Recorder a Notice of Lien. Said notice shall contain the following:~~

~~(a) Name and last known address of the record owner or possessor of the property. (Ord. 2457, § 1, 08/23/2011)~~

~~(b) An address, legal description or other description sufficient to identify the premises subject to the lien. (Ord. 2457, § 1, 08/23/2011)~~

~~(c) A description of the proceedings under which the abatement of nuisance and special assessment were made, including the date the nuisance was ordered abated by the Board, the date the abatement was completed, the date the order of the Board confirming the assessment was made. (Ord. 2457, § 1, 08/23/2011)~~

~~(d) The amount of the assessment. (Ord. 2457, § 1, 08/23/2011)~~

~~(e) A claim of lien upon the described premises. (Ord. 601, § 17, 6/6/67; Ord. 2457, § 1, 08/23/2011)~~

~~351-43. LIEN.~~

~~Upon the recordation of such Notice of Lien, the amount claimed shall constitute a lien upon the described premises. Such lien shall be on a parity with the liens of State and County taxes. (Ord. 601, § 18, 6/6/67; Ord. 2457, § 1, 08/23/2011)~~

~~351-44. COLLECTION WITH ORDINARY TAXES.~~

~~The Notice of Lien, after recordation, shall be delivered to the County Auditor who shall enter the amount of the lien on the assessment roll as a special assessment. Thereafter the amount set forth shall be collected at the same time and in the same manner as ordinary County taxes are collected and shall be subject to the same penalties and interest, and to the same procedures for foreclosure and sale in case of delinquency, as is provided for ordinary County taxes, and all laws applicable to the levy, collection and enforcement of County taxes are hereby made applicable to such assessment. (Ord. 601, § 19, 6/6/67)~~

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DIVISION 5

PUBLIC NUISANCES, ABATEMENT AND PENALTIES

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TITLE III - LAND USE AND DEVELOPMENT

DIVISION 5

PUBLIC NUISANCES, ABATEMENT AND PENALTIES

CHAPTER 1

PUBLIC NUISANCES ABATEMENT PROCEDURE

351-1. - AUTHORITY.

This Chapter is enacted pursuant to California Government Code Section 25845 and is intended to be the primary procedure for the abatement of any Nuisance within the unincorporated area of Humboldt County. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___ / ___ /2017)

351-2. PURPOSE AND SCOPE.

Any Nuisance existing on any parcel of land within the unincorporated area of Humboldt County may be abated as provided herein. The procedures for Abatement of public Nuisances set forth in this Chapter shall not be exclusive, but shall be cumulative to all other civil and criminal remedies provided by law. Nothing in this Chapter shall prevent the County of Humboldt from seeking other remedies to correct or abate conditions that constitute public Nuisances, either in lieu of, or in addition to the Abatement procedures set forth herein. (Ord. 601, §1, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___ / ___ /2017)

351-3. DEFINITION OF NUISANCE.

A Nuisance is hereby defined to be:

(a) Any condition declared by any statute of the State of California or ordinance of the County of Humboldt to be a nuisance. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___ / ___ /2017)

(b) Any condition, act or failure to act constituting a public nuisance known at common law or equity. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___ / ___ /2017)

(c) Any condition, act or failure to act which is dangerous to human life or unsafe or detrimental to the public health or safety. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___ / ___ /2017)

(d) Any attractive condition which may prove dangerous or detrimental to the public health or safety. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___ / ___ /2017)

(e) Any unlawful obstruction of, or encroachment upon, any public Property, including, but not limited to, any public street, highway or right-of-way, park or building. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___ / ___ /2017)

(f) Any use of buildings or Property that is contrary to the provisions of the ordinances of the County of Humboldt. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___ / ___ /2017)

351-4. OTHER DEFINITIONS.

(a) Abatement. The removal of the condition or conditions, including the correction of any and all violations of local, state and federal law, identified in the Notice to Abate Nuisance to an extent that, at the sole discretion of the Code Enforcement Unit, a public Nuisance no longer exists on the affected Property. (Ord. _____, §, ___ / ___ /2017)

(b) Abatement Costs. Any and all costs reasonably related to the Abatement of the Nuisance, including, but not limited to, enforcement, investigation and any other costs directly associated with the removal and/or correction of the condition or conditions determined to constitute a Nuisance on the affected Property. (Ord. 2547, §1, 08/23/2011; Ord. _____, § , / /2017)

(c) Administrative Costs. Any and all costs related to staff time expended in the performance of enforcement activities authorized under this Chapter, including, but not necessarily limited to: conducting site inspections and investigations; preparing summaries, reports and notices; attending meetings and hearings; and any and all other communications, correspondence and document preparation related to enforcing the provisions of this Chapter. The hourly rate established for staff time shall be set by the Humboldt County Board of Supervisors and revised from time to time. (Ord. 2547, § 1, 08/23/2011; Ord. _____, § , / /2017)

(d) Appellant. Any Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected Property that files an appeal of the Code Enforcement Unit's determination that a continuing Nuisance exists on the Property subject to the Notice to Abate Nuisance. (Ord. _____, § , / /2017)

(e) Attorney's Fees. Any and all legal fees incurred by the prevailing party in any administrative proceeding to abate a Nuisance. Recovery of Attorneys' Fees by the prevailing party is limited to those administrative proceedings in which the County of Humboldt elects, at the initiation of that individual proceeding, to seek recovery of its own legal fees. In no administrative proceeding shall an award of Attorneys' Fees to a prevailing party exceed the amount of reasonable legal fees incurred by the County of Humboldt in the administrative proceeding. (Ord. 2547, §1, 08/23/2011; Ord. _____, § , / /2017)

(f) Beneficial Owner. Any mortgagee of record, beneficiary under a recorded deed of trust or the owner or holder of any lease of record; provided, however, that the United States, the State of California and the County of Humboldt shall not be deemed to be Beneficial Owners by virtue of any lien for unpaid taxes. (Ord. 601, §3, 06/06/1967; Ord. _____, § , / /2017)

(g) Code Enforcement Investigator. Any and all code enforcement officers assigned by the Humboldt County Code Enforcement Unit to investigate Nuisances within the unincorporated areas of Humboldt County. (Ord. _____, § , / /2017)

(h) Code Enforcement Unit. The Humboldt County Code Enforcement Unit, including any and all Code Enforcement Investigators employed thereby. (Ord. _____, § , / /2017)

(i) Costs. Any and all costs and/or Attorney's Fees incurred during the performance of the enforcement activities authorized under this Chapter. (Ord. _____, § , / /2017)

(j) Occupier. Any person occupying or otherwise in real or apparent charge and control of the affected Property. (Ord. _____, § , / /2017)

(k) Owner. The owner of record of the affected Property whose name and address appears on the last equalized secured property tax assessment roll, or in the case of any public entity, the representative thereof. (Ord. _____, § , / /)

(l) Premises. Any lot or parcel of land upon which a building is situated, including any improved or unimproved portion thereof, and adjacent streets, sidewalks, parkways and parking areas. (Ord. _____, § , / /)

(m) Personal Property. Articles of personal or household use or ornament, including, but not limited to, furniture, furnishings, automobiles and boats, as well as precious metals in any tangible form, such as bullion or coins. As used herein the term "Personal Property" does not include intangible property such as evidence of indebtedness, bank accounts and other monetary deposits, documents of title or securities. (Ord. _____, §, ___/___/___)

(n) Property. Any Premises and/or Real Property located within the unincorporated area of Humboldt County. (Ord. _____, §, ___/___/___)

(o) Real Property. Any lot or parcel of land, including any alley, sidewalk, parkway or unimproved public easement. (Ord. _____, §, ___/___/___)

351-5. SUMMARY ABATEMENT

The Code Enforcement Unit shall have the authority to immediately abate any public Nuisance, which presents an immediate threat to public health or safety, at the sole discretion of the Code Enforcement Unit. Any such Abatement activity may be conducted without observance of the notice requirements described in this Chapter. If a public Nuisance is summarily abated, the Code Enforcement Unit shall keep and account of the Costs incurred as a result thereof, including any and all applicable Abatement Costs, Administrative Costs and Attorney's Fees. Upon completion of the Summary Abatement process the Code Enforcement Unit shall schedule a hearing to recover such Costs as set forth in this Chapter. (Ord. 2547, §2, 08/23/2011; Ord. _____, §, ___/___/___)

351-6. METHOD OF GIVING NOTICE.

(a) Any and all notices, findings and orders required by this Chapter may be served by any of the following methods:

i. By personal service on each Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected Property. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

ii. By first class and certified mail, postage prepaid, return receipt requested, to each Owner, Beneficial Owner, Occupier or any other person in charge or control of the property, at the address shown on the last available equalized secured property tax assessment roll, or as otherwise known by the Code enforcement Unit, and by posting in a prominent and conspicuous place on the affected Property or abutting public right-of-way. Service by certified mail and posting shall be deemed complete on the date that a notice, finding or order has been both mailed and posted as set forth herein. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

iii. Publication of a legal advertisement, at least once a week for the period of two (2) weeks, in a newspaper of general circulation in the County of Humboldt. (Ord. _____, §, ___/___/___)

(b) The failure of the Code Enforcement Unit to serve, or attempt to serve, any notice, finding or order on any person required herein shall not invalidate any proceedings set forth in this Chapter as to any other person duly served. If no address is known, or can be identified, by the Code Enforcement Unit, any and all notices, findings and orders required by this Chapter shall be so mailed to such person at the address of the affected Property. The failure of the Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected Property to accept, or otherwise receive any notice, finding or order required by this Chapter, shall not affect the validity of any proceeding initiated hereunder. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

351-7. ISSUANCE OF NOTICE TO ABATE NUISANCE BY CODE ENFORCEMENT UNIT.

Whenever the Code Enforcement Unit determines that a public Nuisance exists on any Property within the unincorporated area of Humboldt County, the Code Enforcement Unit shall prepare, and serve upon each Owner, Beneficial Owner, Occupier and/or any other person in charge or control of the affected Property, a "Notice to Abate Nuisance" as set forth in this Chapter. The Notice to Abate Nuisance may be combined with a Notice of Violation and Proposed Administrative Civil Penalty issued pursuant to the provisions of this Division. (Ord. 601, §5, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

351-8. CONTENTS OF NOTICE TO ABATE NUISANCE.

The Notice to Abate Nuisance shall contain all of the following:

(a) The name and last known address of each Owner, Beneficial Owner, Occupier and any other person in charge or control of the affected Property. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(b) A street address, legal description or other description sufficient to identify the affected Property. (Ord. 601, §6, 06/06/1967; Ord. _____, §, ___/___/2017)

(c) A description of the condition or conditions causing the Nuisance on the affected Property and any and all corrective actions, as determined by the Code Enforcement Unit, that will be required to correct or abate such condition or conditions. (Ord. 601, §6, 06/06/1967; Ord. _____, §, ___/___/2017)

(d) An order to commence the correction or Abatement of the condition or conditions causing the Nuisance within ten (10) calendar days after service of the Notice to Abate Nuisance, and to thereafter diligently prosecute and complete said correction or Abatement. (Ord. 601, §6, 06/06/1967; Ord. _____, §, ___/___/2017)

(e) A statement that if the Code Enforcement Unit determines that the condition or conditions causing the Nuisance is imminently dangerous to human life or limb or is detrimental to the public health or safety, the Code Enforcement Unit may order that the affected building or structure be vacated pending the correction or Abatement of the condition or conditions causing the Nuisance. (Ord. 601, §6, 06/06/1967; Ord. _____, §, ___/___/2017)

(f) A statement that the Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected Property may not retaliate against a lessee of the affected Property pursuant to Section 1942.5 of the California Civil Code. (Ord. _____, §, ___/___/2017)

(g) A statement that the Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected Property may file with the Code Enforcement Unit an appeal of the determination that a Nuisance exists on the affected Property within ten (10) calendar days after service of the Notice to Abate Nuisance. (Ord. _____, §, ___/___/2017)

(h) A statement that an appeal of the Code Enforcement Unit's determination that a Nuisance exists on the affected Property must be in writing and shall clearly identify the Property subject to the Notice to Abate Nuisance. (Ord. _____, §, ___/___/2017)

(i) A statement that, upon receipt of an appeal of the determination that a Nuisance exists on the affected Property, the Code Enforcement Unit shall set the matter for hearing before a Hearing Officer appointed by the Humboldt County Board of Supervisors pursuant to California Government Code Section 27720 and issue a Notice of Code Enforcement Appeal Hearing as set forth in this Chapter. (Ord. _____, §, ___/___/2017)

(j) A statement that the date of the Code Enforcement Appeal Hearing shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Code Enforcement Appeal Hearing is served on the Appellant. (Ord. 601, §9, 06/06/1967; Ord. _____, §, ____/____/2017)

(k) A statement that, if the required Abatement is not commenced, prosecuted and completed within ten (10) calendar days after service of the Notice to Abate Nuisance, or in case of an appeal, the time limits set forth in the Finding of Nuisance and Order of Abatement, the Code Enforcement Unit may correct or abate the condition or conditions causing the Nuisance on the affected Property. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____/____/2017)

(l) A statement that the Costs of the required Abatement may become a charge against the affected Property and made a special assessment against the Property, and that said special assessment may be collected at the same time and in the same manner, and shall be subject to the same penalties, interest and procedures of foreclosure and sale in the case of delinquency, as is provided for ordinary property taxes. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____/____/2017)

(m) A statement that the Costs of the required Abatement may also become a charge against the affected Property which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. (Ord. _____, §, ____/____/2017)

(n) A statement that any Personal Property collected by the Code Enforcement Unit during the correction or Abatement of the condition or conditions causing the Nuisance on the affected Property may be sold in the same manner as surplus Personal Property of the County of Humboldt, and the proceeds from such sale shall be paid into the revolving fund created pursuant to the provisions of this Chapter. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____/____/2017)

351-9. ISSUANCE OF NOTICE OF CODE ENFORCEMENT APPEAL HEARING BY CODE ENFORCEMENT UNIT.

Upon receipt of an appeal of the determination that a Nuisance exists on the affected Property, filed by any Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected Property upon whom a Notice to Abate Nuisance was served, the Code Enforcement Unit shall set the matter for hearing before the Hearing Officer, and serve a "Notice of Code Enforcement Appeal Hearing" upon each Appellant as set forth in this Chapter. The Notice of Code Enforcement Appeal Hearing may be combined with a Notice of Administrative Civil Penalty Appeal Hearing issued pursuant to the provisions of this Division. (Ord. _____, §, ____/____/2017)

351-10. CONTENTS OF NOTICE OF CODE ENFORCEMENT APPEAL HEARING.

The Notice of Code Enforcement Appeal Hearing shall contain all of the following:

(a) The name and last known address of each Owner, Beneficial Owner, Occupier and any other person in charge or control of the affected Property. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____/____/2017)

(b) A street address, legal description or other description sufficient to identify the affected Property. (Ord. 601, §6, 06/06/1967; Ord. _____, §, ____/____/2017)

(c) A statement that at the time and place specified therein, which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Code Enforcement Appeal Hearing is served on the Appellant, the Hearing Officer shall hear testimony and consider evidence concerning the condition or conditions causing the Nuisance on the affected Property, the estimated cost of Abatement and any other matters the Hearing Officer deems pertinent. (Ord. 601, §§9-10, 06/06/1967; Ord. _____, §, ___/___/2017)

(d) A statement that the Appellant may be represented by legal counsel and present testimony and cross-examine the Code Enforcement Investigator and other witnesses at the Code Enforcement Appeal Hearing. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(e) A statement that the Hearing Officer may take official notice of any fact which may be judicially noticed by the courts of the State of California, either before or after the conclusion of the Code Enforcement Appeal Hearing. (Ord. _____, §, ___/___/2017)

(f) A statement that the Hearing Officer shall have the authority to issue subpoenas for orders to appear and produce documents at the Code Enforcement Appeal Hearing upon the showing of reasonable necessity by the requesting party. (Ord. _____, §, ___/___/2017)

(g) A statement that the Code Enforcement Appeal Hearing shall be subject to the requirements set forth in California Government Code Section 11513, as may be amended from time to time. (Ord. _____, §, ___/___/2017)

(h) A statement that the Code Enforcement Appeal Hearing shall be recorded (i.e. audio, video and/or stenographic) in order to maintain a record of the proceedings. (Ord. _____, §, ___/___/2017)

(i) A statement that the costs associated with transcribing a recording of the Code Enforcement Appeal Hearing shall be borne by the party or parties requesting such transcription. (Ord. _____, §, ___/___/2017)

(j) A statement that the Hearing Officer may, upon the request of the Appellant or the Code Enforcement Unit, or upon the Hearing Officer's own motion, continue the Code Enforcement Appeal Hearing for good cause shown. (Ord. _____, §, ___/___/2017)

(k) A statement that, upon the conclusion of the Code Enforcement Appeal Hearing, the Hearing Officer may terminate the Abatement proceedings, or order the Appellant to correct or abate the conditions or conditions causing the Nuisance on the affected Property in accordance with the requirements and time limits set forth in the Finding of Nuisance and Order of Abatement. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(l) A statement that, if the required Abatement is not commenced, prosecuted and completed within the time limits set by the Hearing Officer, the Code Enforcement Unit may correct or abate the condition or conditions causing the Nuisance on the affected Property. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(m) A statement that the Costs of the required Abatement shall become a charge against the affected Property and made a special assessment against the Property, and that said special assessment may be collected at the same time and in the same manner, and shall be subject to the same penalties, interest and procedures of foreclosure and sale in the case of delinquency, as is provided for ordinary property taxes. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(n) A statement that the Costs of the required Abatement may also become a charge against the affected Property which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. (Ord. _____, §, ____/____/2017)

(o) A statement that any Personal Property collected by the Code Enforcement Unit during the correction or Abatement of the condition or conditions causing the Nuisance on the affected Property may be sold in the same manner as surplus Personal Property of the County of Humboldt is sold, and the proceeds from such sale shall be paid into the revolving fund created pursuant to the provisions of this Chapter. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____/____/2017)

351-11. CODE ENFORCEMENT APPEAL HEARINGS.

At the time and place specified in the Notice of Code Enforcement Appeal Hearing, which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Code Enforcement Appeal Hearing is served on the Appellant, the Hearing Officer shall hear the sworn testimony of the Code Enforcement Investigator, the Appellant and/or his or her representatives and all other competent persons desiring to give testimony concerning the condition or conditions causing the Nuisance on the affected Property, the estimated cost of Abatement and any other matters the Hearing Officer deems pertinent. The Code Enforcement Appeal Hearing shall be recorded (i.e. audio, video and/or stenographic) in order to maintain a record of the proceedings. The costs associated with transcribing a recording of the Code Enforcement Appeal Hearing shall be borne by the party or parties requesting such transcription. The Code Enforcement Appeal Hearing may be combined with an Administrative Civil Penalty Appeal Hearing held pursuant to the provisions of this Division. (Ord. 601, §10, 06/06/1967; Ord. _____, §, ____/____/2017)

351-12. ISSUANCE OF FINDING OF NUISANCE AND ORDER OF ABATEMENT BY THE HEARING OFFICER.

(a) Upon the conclusion of the Code Enforcement Appeal Hearing, the Hearing Officer shall determine whether or not a Nuisance exists on the affected Property. If a Nuisance is found not to exist on the affected Property, the Hearing Officer shall terminate the Abatement proceedings. If a Nuisance is found to exist on the affected Property, the Hearing Officer shall order each Owner, Beneficial Owner, Occupier and/or any other person in charge or control of the affected Property to abate such Nuisance within ten (10) calendar days after service of a "Finding of Nuisance and Order of Abatement," or such longer period which the Hearing Officer finds reasonable. The time limits set by the Hearing Officer shall not commence until the Finding of Nuisance and Order of Abatement is served upon each Owner, Beneficial Owner, Occupier and/or any other person in charge or control of the affected Property as set forth in this Chapter. The Finding of Nuisance and Order of Abatement may be combined with a Finding of Violation and Order Imposing Administrative Civil Penalty issued pursuant to the provisions of this Division. (Ord. 601, §11, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____/____/2017)

(b) A Finding of Nuisance and Order of Abatement issued by the Hearing Officer shall be final in all respects. Any appeal of the Hearing Officer's Finding of Nuisance and Order of Abatement shall be governed by California Code of Civil Procedure Section 1094.6, as such section may be amended from time to time. (Ord. _____, §, ____/____/2017)

351-13. JURISDICTION TO ABATE NUISANCE.

Upon expiration of the time limits set forth in the Notice to Abate Nuisance, or in case of an appeal, within ten (10) calendar days after service of the Finding of Nuisance and Order of Abatement or such longer period as may be determined by the Hearing Officer, the Code Enforcement Unit shall acquire jurisdiction to correct or abate the condition or conditions causing the Nuisance on the affected Property. Unless an emergency situation exists, the Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected Property shall be given at least ten (10) calendar days to correct or abate the condition or conditions causing the Nuisance. (Ord. 601, §12, 06/06/1967; Ord. _____, § _____ /2017)

351-14. REVOLVING FUNDS.

The Humboldt County Board of Supervisors may create a revolving fund or funds from which the Abatement Costs, Administrative Costs and Attorney's Fees resulting from the enforcement of this Chapter may be paid, and into which the receipts from the collection of such Costs shall be paid. (Ord. 601, §13, 06/06/1967; Ord. _____, § _____ /2017)

351-15. SALE OF MATERIALS.

Any Personal Property collected by the Code Enforcement Unit during the correction or Abatement of the condition or conditions causing the Nuisance on the affected Property may be sold in the same manner as surplus Personal Property of the County of Humboldt is sold, and the proceeds from such sale shall be paid into the revolving fund created pursuant to the provisions of this Chapter. (Ord. 601, §15, 06/06/1967; Ord. _____, § _____ /2017)

351-16. ISSUANCE OF NOTICE OF NUISANCE ABATEMENT ASSESSMENT BY CODE ENFORCEMENT UNIT.

Upon completion of the correction or Abatement of a condition or conditions found to constitute a Nuisance, the Code Enforcement Unit may prepare, and serve upon each Owner, Beneficial Owner, Occupier and any other person in charge or control of the affected Property and the Clerk of the Humboldt County Board of Supervisors, a "Notice of Nuisance Abatement Assessment" as set forth in this Chapter. The Notice of Nuisance Abatement Assessment may be combined with a Notice of Administrative Civil Penalty Assessment issued pursuant to the provisions of this Division. (Ord. 601, §15, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, § _____ /2017)

351-17. CONTENTS OF NOTICE OF ASSESSMENT.

The Notice of Nuisance Abatement Assessment shall contain all of the following:

(a) The name and last known address of each Owner, Beneficial Owner, Occupier and any other person in charge or control of the affected Property. (Ord. 2547, §1, 08/23/2011; Ord. _____, § _____ /2017)

(b) A street address, legal description or other description sufficient to identify the affected Property. (Ord. 601, §15, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, § _____ /2017)

(c) A description of the actions taken by the Code Enforcement Unit to correct or abate the condition or conditions found to constitute a Nuisance. (Ord. 601, §15, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, § _____ /2017)

(d) An itemized account of the Abatement Costs, Administrative Costs and/or Attorney's Fees associated with the performance of the actions required to correct the condition or conditions found to constitute a Nuisance, as well as, any and all proceeds received from the sale of Personal Property collected by the Code Enforcement Unit during the correction or Abatement of the condition or conditions causing the Nuisance on the affected Property. (Ord. 601, §15, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(e) The amount of the assessment proposed to be levied against the affected Property in order to recover the Abatement Costs, Administrative Costs and Attorney's Fees incurred during the performance of the actions required to correct the condition or conditions found to constitute a Nuisance. (Ord. 601, §15, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(f) A statement that the Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected Property may file with the Code Enforcement Unit an objection to the proposed assessment within ten (10) calendar days after service of the Notice of Nuisance Abatement Assessment. (Ord. 601, §15, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(g) A statement that an objection to the proposed assessment must be in writing and shall clearly identify the Property subject to the Notice of Nuisance Abatement Assessment. (Ord. _____, §, ___/___/2017)

(h) A statement that, upon receipt of an objection to the proposed assessment, the Code Enforcement Unit shall set the matter for hearing before the Humboldt County Board of Supervisors, and issue a Notice of Cost Recovery Hearing as set forth in this Chapter. (Ord. _____, §, ___/___/2017)

(i) A statement that the date of the Cost Recovery Hearing shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Cost Recovery Hearing is served on the Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected Property. (Ord. 601, §15, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(j) A statement that the proposed assessment shall be deemed final and summarily approved by the Humboldt County Board of Supervisors without holding a Cost Recovery Hearing as set forth in this Chapter, if an objection to the proposed assessment is not filed within ten (10) calendar days after service of the Notice of Nuisance Abatement Assessment. (Ord. _____, §, ___/___/2017)

(k) A statement that the final assessment, as approved by the Humboldt County Board of Supervisors, may become a charge against the affected Property and may be collected at the same time and in the same manner, and shall be subject to the same penalties, interest and procedures of foreclosure and sale in the case of delinquency, as is provided for ordinary property taxes. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(l) A statement that the final assessment, as approved by the Humboldt County Board of Supervisors, may also become a charge against the affected Property which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. (Ord. _____, §, ___/___/2017)

351-18. **ISSUANCE OF NOTICE OF COST RECOVERY HEARING BY CODE ENFORCEMENT UNIT.**

Upon receipt of an objection to a proposed assessment, filed by any Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected Property upon whom a Notice of Nuisance Abatement Assessment was served, the Code Enforcement Unit shall set the matter for hearing before the Humboldt County Board of Supervisors, and serve a "Notice of Cost Recovery Hearing" upon the objecting party or parties as set forth in this Chapter. The Notice of Cost Recovery Hearing may be combined with a Notice of Administrative Civil Penalty Assessment Appeal Hearing issued pursuant to the provisions of this Division. (Ord. _____, §, ____ / ____ /2017)

351-19. **CONTENTS OF NOTICE OF COST RECOVERY HEARING.**

The Notice of Cost Recovery Hearing shall contain all of the following:

(a) The name and last known address of each Owner, Beneficial Owner, Occupier and any other person in charge or control of the affected Property. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____ / ____ /2017)

(b) A street address, legal description or other description sufficient to identify the affected Property. (Ord. 601, §15, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____ / ____ /2017)

(c) A statement that at the time and place specified therein, which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Cost Recovery Hearing is served on the objecting party, the Humboldt County Board of Supervisors shall hear testimony and consider evidence concerning the validity of the proposed assessment and any other matters deemed pertinent. (Ord. 601, §16, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____ / ____ /2017)

(d) A statement that the Appellant may be represented by legal counsel and present testimony and cross-examine the Code Enforcement Investigator and other witnesses at the Cost Recovery Hearing. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____ / ____ /2017)

(e) A statement that, upon conclusion of the Cost Recovery Hearing, the Humboldt County Board of Supervisors may confirm, deny or modify and revise the proposed assessment either in whole or in part, and that such action shall be final and conclusive as to all matters pertaining to the proposed assessment. (Ord. 601, §16, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____ / ____ /2017)

(f) A statement that the final assessment, as approved by the Humboldt County Board of Supervisors, may become a charge against the affected Property and may be collected at the same time and in the same manner, and shall be subject to the same penalties, interest and procedures of foreclosure and sale in the case of delinquency, as is provided for ordinary property taxes. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ____ / ____ /2017)

(g) A statement that the final assessment, as approved by the Humboldt County Board of Supervisors, may also become a charge against the affected Property which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. (Ord. _____, §, ____ / ____ /2017)

351-20. COST RECOVERY HEARING.

(a) At the time and place specified in the Notice of Cost Recovery Hearing, which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Cost Recovery Hearing is served on the objecting party, the Humboldt Board of Supervisors shall hear testimony and consider evidence concerning the validity of the proposed assessment and any other matters deemed pertinent. The Cost Recovery Hearing may be combined with an Administrative Civil Penalty Assessment Appeal Hearing held pursuant to the provisions of this Division. (Ord. 601, §16, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(b) Upon conclusion of the Cost Recovery Hearing, the Humboldt County Board of Supervisors will adopt a resolution confirming, discharging, or modifying the proposed assessment either in whole or in part. (Ord. 601, §16, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(c) A resolution of the Humboldt County Board of Supervisors confirming, discharging or modifying a proposed assessment shall be final and conclusive as to all matters pertaining to the proposed assessment. Any appeal of the resolution confirming, discharging or modifying a proposed assessment shall be governed by California Code of Civil Procedure Section 1094.6, as such section may be amended from time to time. (Ord. 601, §16, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

351-21. SUMMARY APPROVAL OF PROPOSED ASSESSMENTS.

If an objection to the proposed assessment is not filed by any Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected Property within ten (10) calendar days after service of the Notice of Nuisance Abatement Assessment, the Humboldt County Board of Supervisors shall summarily approve the proposed assessment without holding a Cost Recovery Hearing. (Ord. _____, §, ___/___/2017)

351-22. ISSUANCE OF NOTICE OF NUISANCE ABATEMENT ASSESSMENT LIEN BY CODE ENFORCEMENT UNIT.

Upon confirmation of the proposed assessment by the Humboldt County of Board of Supervisors, the Code Enforcement Unit shall prepare, and serve upon each Owner, Beneficial Owner, Occupier and any other person in charge or control of the affected Property, a "Notice of Nuisance Abatement Assessment Lien," as set forth in this Chapter. (Ord. _____, §, ___/___/2017)

351-23. CONTENTS OF NOTICE OF NUISANCE ABATEMENT ASSESSMENT LIEN.

The Notice of Nuisance Abatement Assessment Lien shall contain all of the following:

(a) The name and last known address of each Owner, Beneficial Owner, Occupier and any other person in charge or control of the affected Property. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(b) A street address, legal description or other description sufficient to identify the affected Property. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(c) A description of the proceedings to correct or abate the condition or conditions found to constitute a Nuisance, including, without limitation, the date on which the Abatement was ordered, the date on which the Abatement was completed and the date on which the Nuisance Abatement Assessment was approved by the Humboldt County Board of Supervisors. (Ord. 2547, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(d) A description of the actions taken by the Code Enforcement Unit to correct or abate the condition or conditions found to constitute a Nuisance. (Ord. _____, § _____ / _____ /2017)

(e) The amount of the Nuisance Abatement Assessment levied against the affected Property in order to recover the Abatement Costs, Administrative Costs and Attorney's Fees incurred during the performance of the actions required to correct the condition or conditions found to constitute a Nuisance. (Ord. 601, §15, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, § _____ / _____ /2017)

(f) A claim of lien in the amount of the Nuisance Abatement Assessment levied against the affected Property in order to recover the Abatement Costs, Administrative Costs and Attorney's Fees incurred during the performance of the actions required to correct the condition or conditions found to constitute a Nuisance. (Ord. 601, §17, 06/06/1967; Ord. 2547, §1, 08/23/2011; Ord. _____, § _____ / _____ /2017)

(g) A statement that upon the recordation of the Notice of Nuisance Abatement Assessment Lien, which shall be no sooner than forty-five (45) calendar days after service of such notice, the Nuisance Abatement Assessment Lien shall become a charge against the affected Property and may be collected at the same time and in the same manner, and shall be subject to the same penalties, interest and procedures of foreclosure and sale in the case of delinquency, as is provided for ordinary property taxes. (Ord. 2547, §1, 08/23/2011; Ord. _____, § _____ / _____ /2017)

(h) A statement that the affected Property may be sold by the Humboldt County Treasurer-Tax Collector after three (3) years for unpaid delinquent Nuisance Abatement Assessments. (Ord. _____, § _____ / _____ /2017)

(i) A statement that the Nuisance Abatement Assessment Lien shall also have the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. (Ord. _____, § _____ / _____ /2017)

(j) A statement that the Nuisance Abatement Assessment Lien may be foreclosed, and the Real Property subject to such lien sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction and the issuance of a judgment to foreclose. (Ord. _____, § _____ / _____ /2017)

351-24. IMPOSITION OF NUISANCE ABATEMENT ASSESSMENT LIEN.

(a) Upon the passage of forty-five (45) calendar days after service of the Notice of Nuisance Abatement Assessment Lien, the Code Enforcement Unit shall cause said Notice of Nuisance Abatement Assessment Lien to be recorded in the Humboldt County Clerk-Recorder's Office. (Ord. 2547, §1, 08/23/2011; Ord. _____, § _____ / _____ /2017)

(b) Upon recordation of the Notice of Nuisance Abatement Assessment Lien, which shall be no sooner than forty-five (45) calendar days after the service of such notice, the Humboldt County Auditor-Controller shall enter each Nuisance Abatement Assessment upon the affected Property on the Humboldt County Secured Tax Roll. The Nuisance Abatement Assessment shall continue until it is paid, together with interest at the legal maximum rate computed from the Imposition date until payment is received. The Nuisance Abatement Assessment may be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of Humboldt County property taxes shall be applicable to the Nuisance Abatement Assessment. (Ord. 601, §19, 06/06/1967; Ord. _____, § _____ / _____ /2017)

(c) Once recorded, the Nuisance Abatement Assessment Lien shall also have the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. The Nuisance Abatement Assessment Lien shall have no force or effect until recorded by the Humboldt County Clerk-Recorder's Office. (Ord. _____, § _____/2017)

(d) Interest shall accrue on the principal amount of the Nuisance Abatement Assessment Lien remaining unsatisfied pursuant to the law applicable to civil money judgments. Ord. _____, § _____/2017)

(e) The Nuisance Abatement Assessment Lien may be foreclosed, and the Real Property subject to such lien sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction and the issuance of a judgment to foreclose. (Ord. _____, § _____/2017)

351-25. COLLECTION OF COSTS AND ATTORNEY'S FEES PRIOR TO RECORDATION OF NOTICE OF NUISANCE ABATEMENT ASSESSMENT LIEN.

The Humboldt County Revenue Recovery Office may accept payment of any amount due at any time prior to the recordation of a Notice of Nuisance Abatement Assessment Lien with the Humboldt County Clerk-Recorder's Office pursuant to the provisions of this Chapter. (Ord. _____, § _____/2017)

351-26. SATISFACTION OF NUISANCE ABATEMENT ASSESSMENT LIEN.

Once the County receives full payment of the Abatement Costs, Administrative Costs and/or Attorney's Fees incurred during the performance of the actions required to correct the condition or conditions found to constitute a Nuisance, the code Enforcement Unit will either record a Notice of Satisfaction or provide each Owner, Beneficial Owner, Occupier and any other person in charge or control of the affected Property with a Notice of Satisfaction for recordation at the Humboldt County Clerk-Recorder's Office. Such notice shall cancel the Nuisance Abatement Assessment Lien. (Ord. _____, § _____/2017)

351-27. ENFORCEMENT BY CIVIL ACTION.

As an alternative to the procedures set forth in this Chapter, the County of Humboldt may abate a public Nuisance herein through the prosecution of a civil action by the Humboldt County Counsel's Office, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings or receivership, prohibiting the maintenance of the Violation of this ordinance or requiring compliance with other terms. (Ord. _____, § _____/2017)

351-28. TREBLE DAMAGES.

Upon entry of a second or subsequent civil or criminal judgment finding that an Owner, Beneficial Owner, Occupier and any other person in charge or control of the affected Property is responsible for a condition that may be abated in accordance with this Chapter, within a two (2) year period, except for conditions abated pursuant to Section 17980 of the California Health and Safety Code, the court may order the Owner, Beneficial Owner, Occupier and any other person in charge or control of the affected Property to pay treble damages. (Ord. _____, § _____/2017)

TITLE III - LAND USE AND DEVELOPMENT

DIVISION 5

PUBLIC NUISANCES, ABATEMENT AND PENALTIES

CHAPTER 2

ADMINISTRATIVE CIVIL PENALTIES

352-1. AUTHORITY.

This Chapter is enacted pursuant to California Government Code Section 53069.4 and is intended to be the primary procedure for the imposition of administrative civil penalties within the unincorporated area of Humboldt County. (Ord. _____, § _____ / ____/2017)

352-2. PURPOSE, INTENT AND SCOPE.

(a) The purpose of this Chapter is to provide alternative remedies to correct Violations of the Humboldt County Code and other ordinances adopted by the County of Humboldt, and where necessary, penalize Responsible Parties for such Violations. The procedure for the imposition of administrative civil penalties set forth herein shall not be exclusive, but shall be cumulative and in addition to all other civil and criminal remedies provided by law. Nothing in this Chapter shall prevent the County of Humboldt from using any other available remedies to address and correct Violations, either in lieu of, or in addition to, the imposition of administrative civil penalties pursuant to this Chapter. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / ____/2017)

(b) The Humboldt County Board of Supervisors hereby finds and determines that enforcement of the Humboldt County Code, other ordinances adopted by the County of Humboldt and conditions on entitlement set forth in permits and/or agreements that have been issued or approved by the County of Humboldt are matters of local concern and serve important public purposes. Under the authority of, and consistent with, California Government Code Section 53069.4, the County of Humboldt adopts this administrative civil penalty procedure in order to achieve the following goals:

i. To protect the public health, safety and welfare of the communities and citizens in the County of Humboldt. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / ____/2017)

ii. To provide for an administrative process that has objective criteria for the imposition of penalties and provides for a process to appeal the imposition of such administrative civil penalties. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / ____/2017)

iii. To provide a method to penalize Responsible Parties who fail or refuse to comply with the provisions of the Humboldt County Code and other ordinances adopted by the County of Humboldt, or conditions on entitlement set forth in permits and/or agreements issued or approved by the County of Humboldt. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / ____/2017)

iv. To minimize the expense and delay associated with pursuing alternative remedies through the civil and/or criminal justice system. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / ____/2017)

(c) All final administrative orders made pursuant to the administrative civil penalty procedures set forth in this Chapter shall be subject to review only as provided in California Government Code Section 53069.4 and California Code of Civil Procedure Section 1094.6. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / ____/2017)

352-3. DEFINITIONS.

(a) Administrative Costs. Any and all costs relating to staff time expended in the performance of enforcement activities authorized under this Chapter, including, without limitation, obtaining title reports, recording documents, noticing Responsible Parties, scheduling and participating in further hearings, collection activities and other such costs. (Ord. _____, §, _____ / /2017)

(b) Appellant. Any Responsible Party that files an appeal of the Code Enforcement Unit's determination that a Violation has occurred or exists. (Ord. _____, §, _____ / /2017)

(c) Attorney's Fees. Any and all legal fees incurred by the prevailing party in any administrative proceeding to impose and/or recover administrative civil penalties pursuant to the provisions of this Chapter. Recovery of Attorney's Fees by the prevailing party is limited to those administrative proceedings in which the County of Humboldt elects, at the initiation of that individual proceeding, to seek recovery of its own legal fees. In no administrative proceeding shall an award of Attorney's Fees to a prevailing party exceed the amount of reasonable legal fees incurred by the County of Humboldt in the administrative proceeding. (Ord. _____, §, _____ / /2017)

(d) Beneficial Owner. Any mortgagee of record, beneficiary under a recorded deed of trust or the owner or holder of any lease of record; provided, however, that the United States, the State of California and the County of Humboldt shall not be deemed to be Beneficial Owners by virtue of any lien for unpaid taxes. Ord. 2138a, §1, 12/03/1996; Ord. _____, §, _____ / /2017)

(e) Category 1 Violations. Primarily procedural Violations that are committed through neglect or oversight and have a negligible impact on the health, safety, comfort and/or general welfare of the public. Ord. 2138a, §1, 12/03/1996; Ord. _____, §, _____ / /2017)

(f) Category 2 Violations. Violations that are committed unintentionally through neglect or oversight and have a significant and/or substantial impact on the health, safety, comfort and/or general welfare of the public. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, _____ / /2017)

(g) Category 3 Violations. Violations that are committed intentionally or through inexcusable neglect and have a minimal impact on the health, safety, comfort and/or general welfare of the public. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, _____ / /2017)

(h) Category 4 Violations. Violations that are committed intentionally or through inexcusable neglect and have a significant and/or substantial impact on the health, safety, comfort and/or general welfare of the public. Category 4 Violations shall include, but not be limited to, the commercial cultivation of marijuana in violation of any applicable local or state laws, regulations, policies, procedures, permits and agreements. (Ord. 2138a, §1, 12/03/1996 Ord. _____, §, _____ / /2017)

(i) Code Enforcement Investigator. Any and all code enforcement officers assigned by the Humboldt County Code Enforcement Unit to correct Violations through the imposition of administrative civil penalties as set forth in this Chapter. (Ord. _____, §, _____ / /2017)

(j) Code Enforcement Unit. The Humboldt County Code Enforcement Unit, including any and all Code Enforcement Investigators employed thereby. (Ord. _____, §, _____ / /2017)

(k) Completion Date. The date on which a continuing Violation is corrected or otherwise remedied by the Responsible Party as set forth in this Chapter. (Ord. _____, §, _____ / /2017)

(l) Costs. Any and all costs and/or Attorney's Fees incurred during the performance of the enforcement activities authorized under this Chapter. (Ord. _____, §, ____/____/2017)

(m) Imposition Date. The date on which administrative civil penalties start to accrue, which shall not be more than ten (10) calendar days after service of a Notice of Violation and Proposed Administrative Civil Penalty. (Ord. _____, §, ____/____/2017)

(n) Owner. The owner of record of the Property on which a Violation has occurred or exists whose name and address appears on the last equalized secured property tax assessment roll, or in the case of any public entity, the representative thereof. (Ord. _____, §, ____/____/____)

(o) Premises. Any lot or parcel of land upon which a building is situated, including any improved or unimproved portion thereof, and adjacent streets, sidewalks, parkways and parking areas. (Ord. _____, §, ____/____/____)

(p) Personal Property. Articles of personal or household use or ornament, including, but not limited to, furniture, furnishings, automobiles and boats. As used herein the term "Personal Property" does not include intangible property such as evidence of indebtedness, bank accounts and other monetary deposits, documents of title or securities. (Ord. _____, §, ____/____/____)

(q) Property. Any Premises, Personal Property and/or Real Property located within the unincorporated area of Humboldt County. (Ord. _____, §, ____/____/____)

(r) Real Property. Any lot or parcel of land, including any alley, sidewalk, parkway or unimproved public easement. (Ord. _____, §, ____/____/____)

(s) Responsible Party. Any Owner, Beneficial Owner, person, business, company or other entity, and the parent or legal guardian of any person under eighteen (18) years of age, who has caused, permitted, maintained, conducted or otherwise allowed a Violation to occur. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ____/____/2017)

(t) Violation. Any act or omission for which an administrative civil penalty may be imposed pursuant to this Chapter, including:

i. Any failure to comply with the provisions of the Humboldt County Code. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ____/____/2017)

ii. Any failure to comply with the provisions of any other uniform codes and/or ordinances adopted by the Humboldt County Board of Supervisors, including, but not limited to, building and zoning ordinances. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ____/____/2017)

iii. Any failure to comply with any order issued by the Humboldt County Board of Supervisors or any other board, commission, department, hearing officer, examiner or official authorized to issue orders by the Humboldt County Board of Supervisors, including, but not limited to, the Humboldt County Planning Commission, the Humboldt County Code Enforcement Unit, the Humboldt County Planning and Building Director, the Humboldt County Health and Human Services Director and the Humboldt County Health Officer. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ____/____/2017)

iv. Any failure to comply with any condition imposed by any entitlement, permit, contract or environmental document issued or approved by the County of Humboldt. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ____/____/2017)

352-4. METHOD OF GIVING NOTICE.

(a) Any and all notices, findings and orders required by this Chapter may be served by any of the following methods:

i. By personal service on each Responsible Party. (Ord. _____, §, ___ / ___ /2017)

ii. By first class and certified mail, postage prepaid, return receipt requested, to each Responsible Party at the address of shown on the last available equalized secured property tax assessment roll for the Property on which the Violation occurred or exists, or any other address of each Responsible Party otherwise known by the Code Enforcement Unit, and by posting in a prominent and conspicuous place on the Property at which the Violation occurred or exists or abutting public right-of-way. Service by certified mail and posting shall be deemed complete on the date a notice, finding or order has been both mailed and posted as set forth herein. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___ / ___ /2017)

(b) The failure of the Code Enforcement Unit to serve, or attempt to serve, any notice, finding or order on any person required herein shall not invalidate any proceedings set forth in this Chapter as to any other person duly served. If no address is known, or can be identified, by the Code Enforcement Unit, any and all notices, findings and orders required by this Chapter shall be so mailed to such person at the address of the Property on which the Violation occurred or exists. The failure of any Responsible Party to accept, or otherwise receive any notice, finding or order required by this Chapter, shall not affect the validity of any proceeding initiated hereunder. (Ord. 2138a, §1, 12/03/1996; Ord. No: 2272, 04/23/2002; Ord. _____, §, ___ / ___ /2017)

352-5. IMPOSITION OF ADMINISTRATIVE CIVIL PENALTY.

(a) Any and all Violations may be subject to an administrative civil penalty of up to ten thousand dollars (\$10,000.00), or as allowed by applicable state law, whichever is higher, per calendar day up to and including the ninetieth (90th) calendar day. Administrative civil penalties may be imposed by the Code Enforcement Unit as set forth in this Chapter or the court if the Violation requires court enforcement without an administrative process. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___ / ___ /2017)

(b) In the case of a continuing Violation, the Code Enforcement Unit or the court shall provide the Responsible Party with a reasonable period of time, not to exceed ten (10) calendar days, to correct or otherwise remedy the Violation prior to the imposition of the administrative civil penalty, except in situations in which the Violation creates an immediate danger to the health, safety and/or general welfare of the public. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___ / ___ /2017)

(c) Each calendar day that a Violation occurs, continues or exists between the Imposition Date and the Completion Date shall constitute a separate Violation up to the ninetieth (90th) calendar day. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___ / ___ /2017)

(d) If a Violation occurs, continues or exists after ninety (90) days from the Imposition Date of the initial administrative civil penalty, an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___ / ___ /2017)

(e) The imposition of administrative civil penalties pursuant to the provisions of this Chapter shall be in addition to any and all available criminal, civil, or other legal and/or equitable remedies established by local or state law. In addition, the County of Humboldt may withhold issuance of any licenses, permits and other entitlements to a Responsible Party on any project that is subject to unpaid administrative civil penalties. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___ / ___ /2017)

352-6. AMOUNT OF ADMINISTRATIVE CIVIL PENALTY.

(a) The amount of the administrative civil penalty to be imposed shall be set by the Code Enforcement Unit or the court according to the following schedule:

i. Category 1 Violations shall be subject to an administrative civil penalty of one dollar (\$1.00) to one thousand dollars (\$1,000.00) per calendar day. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2333, §1, 11/02/2004; Ord. _____, §, ___/___/2017)

ii. Category 2 Violations shall be subject to an administrative civil penalty of one thousand dollars (\$1,000.00) to three thousand dollars (\$3,000.00) per calendar day. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2333, §1, 11/02/2004; Ord. _____, §, ___/___/2017)

iii. Category 3 Violations shall be subject to an administrative civil penalty of three thousand dollars (\$3,000.00) to six thousand dollars (\$6,000.00) per calendar day. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2333, §1, 11/02/2004; Ord. _____, §, ___/___/2017)

iv. Category 4 Violations shall be subject to an administrative civil penalty of six thousand dollars (\$6,000.00) to ten thousand dollars (\$10,000.00), or as allowed by applicable state law, whichever is higher, per calendar day. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2333, §1, 11/02/2004; Ord. _____, §, ___/___/2017)

(b) In determining which Violation category a Violation should be placed, and the amount of the administrative civil penalty to be imposed, the Code Enforcement Unit or the court shall consider, without limitation, all of the following factors: (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

i. The severity of the Violation's impact on the health, safety and/or general welfare of the public, including, without limitation, the type and seriousness of the injuries or damages, if any, suffered by any member of the public. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

ii. The number of complaints received regarding the Violation at issue. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

iii. The willfulness and/or negligence of the Responsible Party. In assessing the degree of willfulness and/or negligence, all of the following factors shall be considered:

1. How much control the Responsible Party had over the events which caused the Violation to occur. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

2. Whether the Responsible Party took reasonable precautions against the events which caused the Violation to occur. (Ord. 2138a, § 1, 12/03/1996; Ord. _____, §, ___/___/2017)

3. Whether the Responsible Party knew, or should have known, the impacts associated with the conduct which caused the Violation to occur. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

4. The level of sophistication of the Responsible Party in dealing with compliance issues. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

iv. The number of times in which the Responsible Party has committed the same or similar Violations in the previous three (3) years. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

v. The amount of administrative staff time which was expended in investigating or addressing the Violation at issue. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

vi. The amount of administrative civil penalties which have been imposed in similar situations. (Ord. 2138a, § 1, 12/03/1996; Ord. _____, §, ___/___/2017)

vii. The efforts made by the Responsible Party to correct the Violation and remediate the impacts thereof.

(c) The factors of willfulness and severity of impact are considered together in determining which category a particular Violation should be placed. For example, a Violation involving little impact could be determined to be a Category 2 Violation or a Category 3 Violation, depending on the degree of willfulness associated therewith. Similarly, an unintentional Violation could be determined to be a Category 1 Violation or a Category 2 Violation, depending on the severity of the impact arising therefrom. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

352-7. ISSUANCE OF NOTICE OF VIOLATION AND PROPOSED ADMINISTRATIVE CIVIL PENALTY BY CODE ENFORCEMENT UNIT.

Whenever the Code Enforcement Unit determines that a Violation has occurred, the Code Enforcement Unit shall prepare, and serve upon each Responsible Party, a "Notice of Violation and Proposed Administrative Civil Penalty," as set forth in this Chapter. The Notice of Violation and Proposed Administrative Civil Penalty may be combined with a Notice to Abate Nuisance issued pursuant to the provisions of this Division. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

352-8. CONTENTS OF NOTICE OF VIOLATION AND PROPOSED ADMINISTRATIVE CIVIL PENALTY.

The Notice of Violation and Proposed Administrative Civil Penalty shall contain all of the following:

(a) The name and last known address of each Responsible Party. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

(b) A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists. (Ord. _____, §, ___/___/2017)

(c) A description of the specific acts or omissions that gave rise to the Violation and the specific provision of each code, ordinance, regulation, condition or other legal requirement that has been violated and identification of the Violation category that the Violation falls within. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

(d) An order to correct or otherwise remedy any continuing Violation within ten (10) calendar days after service of the Notice of Violation and Proposed Administrative Civil Penalty, except in situations in which the Violation creates an immediate danger the health, safety and/or general welfare of the public. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

(e) A statement that each calendar day the Violation occurs, continues or exists between the Imposition Date and the Completion Date shall constitute a separate Violation up to the ninetieth (90th) calendar day. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

(f) The amount of the proposed administrative civil penalty that will be incurred each calendar day the Violation occurs, continues or exists between the Imposition Date and the Completion Date up to the ninetieth (90th) calendar day. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

(g) A Statement that the Responsible Party may file with the Code Enforcement Unit a written appeal of the determination that a Violation has occurred or exists and/or the amount of the proposed administrative civil penalty within ten (10) calendar days after service of the Notice of Violation and Proposed Administrative Civil Penalty. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____ / ____/2017)

(h) A statement that an appeal of the Code Enforcement Unit's determination that a Violation has occurred and/or the amount of the proposed administrative civil penalty must be prepared using the form provided with the Notice of Violation and Proposed Administrative Civil Penalty, and shall contain all of the following information:

i. The name and current address of each Responsible Party. (Ord. _____, § _____ / ____/2017)

ii. A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists. (Ord. _____, § _____ / ____/2017)

iii. A brief statement setting forth the Appellant's interest in the proceedings. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / ____/2017)

iv. A brief statement of the material facts which support the Appellant's contention that no Violation occurred or exists and that an administrative civil penalty should not be imposed as a result thereof, if applicable. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____ / ____/2017)

v. A brief statement of the material facts which support the Appellant's contention that the amount of the proposed administrative civil penalty is inappropriate under the circumstances, if applicable. (Ord. 2138a, Ord. _____, § _____ / ____/2017)

vi. An address at which the Appellant agrees that any additional notices relating to the imposition of the proposed administrative civil penalty may be served by the Code Enforcement Unit. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____ / ____/2017)

(i) A statement that an appeal of the Code Enforcement Unit's determination that a Violation has occurred and/or the amount of the proposed administrative civil penalty must be signed by the Appellant under penalty of perjury. (Ord. _____, § _____ / ____/2017)

(j) A statement that, upon receipt of an appeal of the determination that a Violation has occurred and/or the amount of the proposed administrative civil penalty, the Code Enforcement Unit shall set the matter for hearing before a Hearing Officer appointed by the Humboldt County Board of Supervisors pursuant to California Government Code Section 27720 and issue a Notice of Administrative Civil Penalty Appeal Hearing as set forth in this Chapter. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2458, §1, 08/23/2011; Ord. _____, § _____ / ____/2017)

(k) A statement that the date of the Administrative Civil Penalty Appeal Hearing shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Administrative Civil Penalty Appeal Hearing is served on the Appellant. (Ord. 2138a, §1, 12/03/1996; Ord. 2458, §1, 08/23/2011; Ord. _____, § _____ / ____/2017)

(l) A statement that the imposition of the administrative civil penalty shall become final and the Code Enforcement Unit shall acquire jurisdiction to collect full amount thereof and any and all Administrative Costs and/or Attorney's Fees, as follows:

i. Within ten (10) calendar days after service of the Notice of Violation and Proposed Administrative Civil Penalty, if an appeal of the Code Enforcement Unit's determination that a Violation has occurred, and/or an appeal of the amount of the administrative civil penalty, is not filed as set forth in this Chapter; or (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

ii. Within twenty (20) calendar days after service of the Finding of Violation and Order Imposing Administrative Civil Penalty, if a request for judicial review of the Hearing Officer's imposition of the final administrative civil penalty is not filed with the Humboldt County Superior Court as set forth in this Chapter and California Government Code Section 53069.4(b)(1)-(2); or (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

iii. Within ten (10) calendar days after service of the Humboldt County Superior Court's decision regarding the Hearing Officer's imposition of the final administrative civil penalty, if the Court finds against the Appellant. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

(m) A statement that the final administrative civil penalty, along with any and all Administrative Costs and/or Attorney's fees associated therewith, may become a lien against the Property on which the Violation occurred or exists which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. (Ord. _____, §, ___/___/2017)

(n) A statement that an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter, if a Violation occurs, continues or exists after ninety (90) days from the Imposition Date of the initial administrative civil penalty. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

352-9. ISSUANCE OF NOTICE OF ADMINISTRATIVE CIVIL PENALTY APPEAL HEARING BY CODE ENFORCEMENT UNIT.

Upon receipt of a timely appeal of the determination that has a Violation has occurred and/or the amount of the administrative civil penalty by any Responsible Party upon whom a Notice of Violation and Proposed Administrative Civil Penalty was served, the Code Enforcement Unit shall set the matter for hearing before the Hearing Officer and serve a "Notice of Administrative Civil Penalty Appeal Hearing" upon each Appellant as set forth in this Chapter. The Notice of Administrative Civil Penalty Appeal Hearing may be combined with a Notice of Code Enforcement Appeal Hearing issued pursuant to the provisions of this Division. (Ord. 2138a, §1, 12/03/1996; Ord. 2458, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

352-10. CONTENTS OF NOTICE OF ADMINISTRATIVE CIVIL PENALTY APPEAL HEARING.

The Notice of Administrative Civil Penalty Appeal Hearing shall contain all of the following:

(a) The name and last known address of each Responsible Party. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

(b) A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists. (Ord. _____, §, ___/___/2017)

(c) A statement that at the time and place specified therein, which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Administrative Civil Penalty Appeal Hearing is served on the Appellant, the Hearing Officer shall hear testimony and consider evidence concerning the alleged Violation and/or the amount of the proposed administrative civil penalty and any other matters the Hearing Officer deems pertinent. (Ord. 2138a, §1, 12/03/1996; Ord. 2458, §1, 08/23/2011; Ord. _____, § _____ / /2017)

(d) A statement that the Appellant may be represented by legal counsel and present testimony and cross-examine the Code Enforcement Investigator and other witnesses at the Administrative Civil Penalty Appeal Hearing. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / /2017)

(e) A statement that the Hearing Officer may take official notice of any fact which may be judicially noticed by the courts of the State of California, either before or after the conclusion of the Administrative Civil Appeal Hearing. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / /2017)

(f) A statement that the Hearing Officer shall have the authority to issue subpoenas for orders to appear and produce documents at the Administrative Civil Penalty Appeal Hearing upon the showing of reasonable necessity by the requesting party. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / /2017)

(g) A statement that the Administrative Civil Penalty Appeal Hearing shall be subject to the requirements set forth in California Government Code Section 11513, as may be amended from time to time. (Ord. 2138a, §1, 12/03/1996; Ord. 2458, §1, 08/23/2011; Ord. _____, § _____ / /2017)

(h) A statement that the Administrative Civil Penalty Appeal Hearing shall be recorded (i.e. audio, video and/or stenographic) in order to maintain a record of the proceedings. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / /2017)

(i) A statement that the costs associated with transcribing a recording of the Administrative Civil Penalty Hearing shall be borne by the party or parties requesting such transcription. (Ord. _____, § _____ / /2017)

(j) A statement that the Hearing Officer may, upon the request of the Appellant or the Code Enforcement Unit, or upon the Hearing Officer's own motion, continue the Administrative Civil Penalty Appeal Hearing for good cause shown. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / /2017)

(k) A statement that, upon the conclusion of the Code Enforcement Appeal Hearing, the Hearing Officer may terminate the administrative civil penalty proceedings, or impose an administrative civil penalty and order payment thereof in accordance with the requirements and time limits set forth in the Finding of Violation and Order Imposing Administrative Civil Penalty. (Ord. 2138a, §1, 12/03/1996; Ord. 2458, §1, 08/23/2011; Ord. _____, § _____ / /2017)

(l) A statement that the Appellant may contest the Hearing Officer's imposition of a final administrative civil penalty by filing a request for judicial review in the Humboldt County Superior Court within twenty (20) calendar days after service of the Finding of Violation and Order Imposing Administrative Civil Penalties. (Ord. 2138a, §1, 12/03/1996; Ord. 2458, §1, 08/23/2011; Ord. _____, § _____ / /2017)

(m) A statement that, if a request for judicial review of the Hearing Officer's decision is not filed with the Humboldt County Superior Court within twenty (20) calendar days after service of the Finding of Violation and Order Imposing Administrative Civil Penalty, the final administrative civil penalty, along with any and all Administrative Costs and/or Attorney's fees associated therewith, may become a lien against the Property on which the Violation occurred or exists which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. (Ord. _____, § _____ / /2017)

(n) A statement that an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter, if a Violation occurs, continues or exists after ninety (90) days from the Imposition Date of the initial administrative civil penalty. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____ / _____ /2017)

352-11. ADMINISTRATIVE CIVIL PENALTY APPEAL HEARING.

At the time and place specified in the Notice of Administrative Civil Penalty Appeal Hearing, which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Administrative Civil Penalty Appeal Hearing is served on the Appellant, the Hearing Officer shall hear the sworn testimony of the Code Enforcement Investigator, the Appellant and/or his or her representatives and all other competent persons desiring to give testimony concerning the alleged Violation and/or the amount of the proposed administrative civil penalty and any other matters the Hearing Officer deems pertinent. The Administrative Civil Penalty Appeal Hearing shall be recorded (i.e. audio, video and/or stenographic) in order to maintain a record of the proceedings. The costs associated with transcribing a recording of the Administrative Civil Penalty Hearing shall be borne by the party or parties requesting such transcription. The Administrative Civil Penalty Appeal Hearing may be combined with a Code Enforcement Appeal Hearing held pursuant to the provisions of this Division. (Ord. 2138a, §1, 12/03/1996; Ord. 2458, §1, 08/23/2011; Ord. _____, § _____ / _____ /2017)

352-12. ISSUANCE OF FINDING OF VIOLATION AND ORDER IMPOSING ADMINISTRATIVE CIVIL PENALTY BY THE HEARING OFFICER.

(a) Upon conclusion of the Administrative Civil Penalty Appeal Hearing, the Hearing Officer shall determine whether or not a Violation has occurred or exists as set forth in the Notice of Violation and Proposed Administrative Civil Penalty. If it is found that a Violation has not occurred, the Hearing Officer shall terminate the administrative civil penalty proceedings. If it is found that a Violation has occurred or exists, the Hearing Officer shall affirm, reduce or suspend the proposed administrative civil penalty in accordance with the criteria set forth in this Chapter. The Hearing Officer shall prepare, and serve upon each Responsible Party, a "Finding of Violation and Order Imposing Administrative Civil Penalty." The Finding of Violation and Order Imposing Administrative Civil Penalty may be combined with a Finding of Nuisance and Order of Abatement issued pursuant to the provisions of this Division. (Ord. 2138a, §1, 12/03/1996; Ord. 2458, §1, 08/23/2011; Ord. _____, § _____ / _____ /2017)

(b) In situations where the Responsible Party has taken immediate steps to remedy a Violation that did not impact the health, safety or general welfare of the public, the Hearing Officer may reduce the administrative proposed administrative civil penalty or suspend a percentage of the Responsible Party's payment. If the Responsible Party complies with the terms and conditions of the payment suspension for a period of one (1) year after the date on which the Finding of Violation and Order Imposing Administrative Penalty is served thereon, the Responsible Party will no longer be liable for the suspended amount. However, if the Responsible Party does not comply with the terms and conditions of the payment suspension set forth in the Finding of Violation and Order Imposing Administrative Civil Penalty, the suspended portion of the penalty shall become immediately due and payable. In no event shall an administrative civil penalty be reduced to an amount that is less than the minimum amount set forth in this Chapter for the Violation category imposed. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2458, §1, 08/23/2011; Ord. _____, § _____ / _____ /2017)

(c) A Finding of Violation and Order Imposing Administrative Civil Penalty issued by the Hearing Officer shall be final in all respects unless overturned or modified on appeal by the Humboldt County Superior Court. A Finding of Violation and Order Imposing Administrative Civil Penalty shall be accompanied by instructions for obtaining judicial review of the Hearing Officer's decision as set forth in California Government Code Section 53069.4(b)(1)-(2). (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / _____ /2017)

352-13. JUDICIAL REVIEW OF FINDING OF VIOLATION AND ORDER IMPOSING ADMINISTRATIVE CIVIL PENALTY.

(a) Pursuant to California Government Code Section 53069.4(b)(1)-(2), an Appellant may contest the Hearing Officer's imposition of a final administrative civil penalty by filing a request for judicial review in the Humboldt County Superior Court within twenty (20) calendar days after service of the Finding of Violation and Order Imposing Administrative Civil Penalty. The Appellant shall serve a copy of the request for judicial review of the Finding of Violation and Order Imposing Administrative Civil Penalty upon the Code Enforcement Unit either in person or by first class mail. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ____/____/2017)

(b) If the Humboldt County Superior Court finds against the Appellant, the Code Enforcement Unit may proceed to collect the administrative civil penalty as set forth in this Chapter. (Ord. _____, §, ____/____/2017)

(c) The failure to file a request for judicial review of a Finding of Violation and Order Imposing Administrative Civil Penalty in accordance with the requirements set forth in California Government Code Section 53069.4(b)(1)-(2) shall constitute a waiver of the right to contest the Hearing Officer's decision. (Ord. _____, §, ____/____/2017)

352-14. JURISDICTION TO COLLECT ADMINISTRATIVE CIVIL PENALTIES.

(a) The Code Enforcement Unit shall acquire jurisdiction to collect the final administrative civil penalty along with any and all Administrative Costs and/or Attorney's fees associated therewith as follows:

i. Within ten (10) calendar days after service of the Notice of Violation and Proposed Administrative Civil Penalty, if an appeal of the Code Enforcement Unit's determination that a Violation has occurred, and/or an appeal of the amount of the administrative civil penalty, is not filed as set forth in this Chapter; or (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ____/____/2017)

ii. Within twenty (20) calendar days after service of the Finding of Violation and Order Imposing Administrative Civil Penalty, if a request for judicial review of the Hearing Officer's imposition of the final administrative civil penalty is not filed with the Humboldt County Superior Court as set forth in this Chapter and California Government Code Section 53069.4(b)(1)-(2); or (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ____/____/2017)

iii. Within ten (10) calendar days after service of the Humboldt County Superior Court's decision regarding the Hearing Officer's imposition of the final administrative civil penalty, if the Court finds against the Appellant. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ____/____/2017)

(b) The Humboldt County Board of Supervisors may create a revolving fund or funds from which the Administrative Costs and Attorney's Fees resulting from the enforcement of this Chapter may be paid, and into which the receipts from the collection of administrative civil penalties and the Costs associated therewith shall be paid. (Ord. _____, §, ____/____/2017)

352-15. ISSUANCE OF NOTICE OF ADMINISTRATIVE CIVIL PENALTY ASSESSMENT BY CODE ENFORCEMENT UNIT.

Once jurisdiction to collect the final administrative civil penalty and any and all Administrative Costs and/or Attorney's fees associated therewith has been acquired as set forth in this Chapter, the Code Enforcement Unit may prepare, and serve upon each Responsible Party and the Clerk of the Humboldt County Board of Supervisors, a "Notice of Administrative Civil Penalty Assessment" as set forth herein. The Notice of Administrative Civil Penalty Assessment may be combined with a Notice of Nuisance Abatement Assessment issued pursuant to the provisions of this Division. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

352-16. CONTENTS OF NOTICE OF ADMINISTRATIVE CIVIL PENALTY ASSESSMENT.

The Notice of Administrative Civil Penalty Assessment shall contain all of the following:

(a) The name and last known address of each Responsible Party. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

(b) A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

(c) The total amount of the final administrative civil penalty that was imposed pursuant to the Finding of Violation and Order Imposing Administrative Civil Penalty. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

(d) A description of the actions taken by the Code Enforcement Unit to impose the administrative civil penalty. (Ord. _____, §, ___/___/2017)

(e) An itemized account of the Administrative Costs and/or Attorney's Fees associated with the imposition of the administrative civil penalty, as well as any and all payments previously received from each Responsible Party. (Ord. _____, §, ___/___/2017)

(f) The total amount of the assessment proposed to be levied against the Property on which the Violation occurred or exists in order to recover the administrative civil penalty and/or the Administrative Costs and/or Attorney's Fees associated therewith. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

(g) A statement that the Responsible Party may file with the Code Enforcement Unit a written objection to the proposed assessment within ten (10) calendar days after service of the Notice of Administrative Civil Penalty Assessment. (Ord. _____, §, ___/___/2017)

(h) A statement that an objection to the proposed assessment shall be limited to the amount of the administrative civil penalty and/or the Administrative Costs and/or Attorney's Fees associated therewith, and must be prepared using the form provided with the Notice of Administrative Civil Penalty Assessment. (Ord. _____, §, ___/___/2017)

(i) A statement that, upon receipt of an objection to the proposed assessment, the Code Enforcement Unit shall set the matter for hearing before the Humboldt County Board of Supervisors, and issue a Notice of Administrative Civil Penalty Assessment Appeal Hearing. (Ord. _____, §, ___/___/2017)

(j) A statement that the date of the Administrative Civil Penalty Assessment Appeal Hearing shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Administrative Civil Penalty Assessment is served on the Responsible Party. (Ord. _____, §, ___/___/2017)

(k) A statement that the proposed assessment shall be deemed final and summarily approved by the Humboldt County Board of Supervisors without holding an Administrative Civil Penalty Assessment Appeal Hearing as set forth in this Chapter, if an objection to the proposed assessment is not filed within ten (10) calendar days after service of the Notice of Administrative Civil Penalty Assessment. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2458, §1, 08/23/2011; Ord. _____, § _____/_____/2017)

(l) A statement that the final assessment, as approved by the Humboldt County Board of Supervisors, may become a lien against the Property on which the Violation occurred or exists which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. (Ord. _____, § _____/_____/2017)

(m) A statement that an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter, if a Violation occurs, continues or exists after ninety (90) days from the Imposition Date of the initial administrative civil penalty. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____/_____/2017)

352-17. ISSUANCE OF NOTICE OF ADMINISTRATIVE CIVIL PENALTY ASSESSMENT APPEAL HEARING BY CODE ENFORCEMENT UNIT.

Upon receipt of an objection to a proposed assessment filed by any Responsible Party upon whom a Notice of Administrative Civil Penalty Assessment was served, the Code Enforcement Unit shall set the matter for hearing before the Humboldt County Board of Supervisors, and serve a "Notice of Administrative Civil Penalty Assessment Appeal Hearing" upon the objecting party or parties as set forth in this Chapter. The Notice of Administrative Civil Penalty Assessment Appeal Hearing may be combined with a Notice of Cost Recovery Hearing issued pursuant to the provisions of this Division. (Ord. _____, § _____/_____/2017)

352-18. CONTENTS OF NOTICE OF ADMINISTRATIVE CIVIL PENALTY ASSESSMENT APPEAL HEARING.

The Notice of Administrative Civil Penalty Assessment Appeal Hearing shall contain all of the following:

(a) The name and last known address of each Responsible Party. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____/_____/2017)

(b) A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____/_____/2017)

(c) A statement that at the time and place specified therein, which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Administrative Civil Penalty Assessment Appeal Hearing is served on the objecting party, the Humboldt County Board of Supervisors shall hear testimony and consider evidence concerning the validity of the proposed assessment and any other matters deemed pertinent. (Ord. _____, § _____/_____/2017)

(d) A statement that the Appellant may be represented by legal counsel and present testimony and cross-examine the Code Enforcement Investigator and other witnesses at the Administrative Civil Penalty Assessment Appeal Hearing. (Ord. _____, § _____/_____/2017)

(e) A statement that, upon conclusion of the Administrative Civil Penalty Assessment Appeal Hearing, the Humboldt County Board of Supervisors may confirm, deny or modify and revise the proposed assessment either in whole or in part, and that such action shall be final and conclusive as to all matters pertaining to the proposed assessment. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____/_____/2017)

(f) A statement that the final assessment, as approved by the Humboldt County Board of Supervisors, may become a lien against the Property on which the Violation occurred or exists which has the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. (Ord. _____, §, ___/___/2017)

(g) A statement that an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter, if a Violation occurs, continues or exists after ninety (90) days from the Imposition Date of the initial administrative civil penalty. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, §, ___/___/2017)

352-19. ADMINISTRATIVE CIVIL PENALTY ASSESSMENT APPEAL HEARING.

(a) At the time and place specified in the Notice of Administrative Civil Penalty Assessment Appeal Hearing, which shall be no sooner than fifteen (15) calendar days after the date on which the Notice of Administrative Civil Penalty Assessment Appeal Hearing is served on the objecting party, the Humboldt Board of Supervisors shall hear testimony and consider evidence concerning the validity of the proposed assessment and any other matters deemed pertinent. The Administrative Civil Penalty Assessment Appeal Hearing may be combined with a Cost Recovery Hearing held pursuant to the provisions of this Division. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2458, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(b) Upon conclusion of the Administrative Civil Penalty Assessment Appeal Hearing, the Humboldt County Board of Supervisors will adopt a resolution confirming, discharging, or modifying the proposed assessment either in whole or in part. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2458, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

(c) A resolution of the Humboldt County Board of Supervisors confirming, discharging or modifying a proposed assessment shall be final and conclusive as to all matters pertaining to the proposed assessment. Any appeal of the resolution confirming, discharging or modifying a proposed assessment shall be governed by California Code of Civil Procedure Section 1094.6, as such section may be amended from time to time. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2458, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

352-20. SUMMARY APPROVAL OF PROPOSED ADMINISTRATIVE CIVIL PENALTY ASSESSMENTS.

If an objection to the proposed assessment is not filed by a Responsible Party within ten (10) calendar days after service of the Notice of Administrative Civil Penalty Assessment, the Humboldt County Board of Supervisors shall summarily approve the proposed assessment without holding an Administrative Civil Penalty Assessment Appeal Hearing. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2458, §1, 08/23/2011; Ord. _____, §, ___/___/2017)

352-21. ISSUANCE OF NOTICE OF ADMINISTRATIVE CIVIL PENALTY LIEN BY CODE ENFORCEMENT UNIT.

Upon confirmation of the proposed assessment by the Humboldt County of Board of Supervisors, the Code Enforcement Unit shall prepare, and serve upon each Responsible Party a "Notice of Administrative Civil Penalty Lien," as set forth in this Chapter. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

352-22. CONTENTS OF NOTICE OF ADMINISTRATIVE CIVIL PENALTY LIEN.

The Notice of Administrative Civil Penalty Lien shall contain all of the following:

(a) The name and last known address of each Responsible Party. (Ord. 2138a, §1, 12/03/1996; Ord. _____, §, ___/___/2017)

(b) A street address, legal description or other description sufficient to identify the Property on which the Violation occurred or exists. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____ / /2017)

(c) A description of the proceedings to impose and collect the administrative civil penalty, including, without limitation, the Imposition Date, the Completion Date and the date on which the Administrative Civil Penalty Assessment was approved by the Humboldt County Board of Supervisors. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____ / /2017)

(d) A description of the actions taken by the Code Enforcement Unit to impose and collect the administrative civil penalty and/or the Administrative Costs and/or Attorney's Fees associated therewith. (Ord. _____, § _____ / /2017)

(e) The amount of the Administrative Civil Penalty Assessment to be charged against the Property on which the Violation occurred or exists in order to recover the administrative civil penalty and/or the Administrative Costs and/or Attorney's Fees associated therewith. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____ / /2017)

(f) A claim of lien in the amount of the Administrative Civil Penalty Assessment to be charged against the Property on which the Violation occurred or exists in order to recover the administrative civil penalty and/or the Administrative Costs and/or Attorney's Fees associated therewith. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____ / /2017)

(g) A statement that upon the recordation of the Notice of Administrative Civil Penalty Lien, which shall be no sooner than forty-five (45) calendar days after service of such notice, the Administrative Civil Penalty Lien shall have the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. (Ord. _____, § _____ / /2017)

(h) A statement that the Administrative Civil Penalty Lien may be foreclosed, and the real property subject to such lien sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. (Ord. _____, § _____ / /2017)

(i) A statement that an additional Notice of Violation can be served upon the Responsible Party as set forth in this Chapter, if a Violation occurs, continues or exists after ninety (90) days from the Imposition Date of the initial administrative civil penalty. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. _____, § _____ / /2017)

352-23. IMPOSITION OF ADMINISTRATIVE CIVIL PENALTY LIEN.

(a) Upon the passage of forty-five calendar days after service of the Notice of Administrative Civil Penalty Lien, the Code Enforcement Unit shall cause said Notice of Administrative Civil Penalty Lien to be recorded in the Humboldt County Clerk-Recorder's Office. (Ord. 2138a, §1, 12/03/1996; Ord. No. 2272, 04/23/2002; Ord. 2458, §1, 08/23/2011; Ord. _____, § _____ / /2017)

(b) Upon recordation of the Notice of Administrative Civil Penalty Lien, which shall be no sooner than forty-five (45) calendar days after service of such notice, the Administrative Civil Penalty Lien shall have the same force, effect and priority of a judgment lien governed by the provisions of California Code of Civil Procedure Sections 697.310, et seq., and may be extended as provided in California Code of Civil Procedure Sections 683.110, et seq. The Administrative Civil Penalty Lien shall have no force or effect until recorded by the Humboldt County Clerk-Recorder's Office. (Ord. _____, § _____ / /2017)

(c) Interest shall accrue on the principal amount of the Administrative Civil Penalty Lien remaining unsatisfied pursuant to the law applicable to civil money judgments. (Ord. _____, § _____ / /2017)

352-25. SATISFACTION OF ADMINISTRATIVE CIVIL PENALTY LIEN.

Once the County receives full payment of the administrative civil penalty and/or the Administrative Costs and/or Attorney's Fees associated therewith, the Code Enforcement Unit will either record a Notice of Satisfaction or provide each Responsible Party with a Notice of Satisfaction for recordation at the Humboldt County Clerk-Recorder's Office. Such notice shall cancel the Administrative Civil Penalty Lien.

352-26. ENFORCEMENT BY CIVIL ACTION.

As an alternative to the procedures set forth in this Chapter, the Code Enforcement Unit may correct or otherwise remedy a Violation through the prosecution of a civil action brought by the Humboldt County Counsel's Office, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings or receivership, prohibiting the maintenance of the Violation. (Ord. 2138a, §1, 12/03/1996; Ord. _____, § _____ / _____ /2017)

352-27. TREBLE DAMAGES.

Upon entry of a second or subsequent civil or criminal judgment for a Violation that may be abated in accordance with the Nuisance Abatement procedures set forth in this Division within a two-year period, the court may order the Responsible Party to pay treble damages. (Ord. _____, § _____ / _____ /2017)

352-28. MISDEMEANOR PENALTY.

Any person found to be in violation of any provision of this Chapter shall be guilty of a misdemeanor. (Ord. _____, § _____ / _____ /2017)

TITLE III - LAND USE AND DEVELOPMENTDIVISION 5PUBLIC NUISANCES, ABATEMENT AND PENALTIESCHAPTER 3USE OF BUILDINGS FOR SALE OF CONTROLLED SUBSTANCES PROHIBITED~~351-45. USE OF BUILDINGS FOR SALE OF CONTROLLED SUBSTANCES PROHIBITED.~~~~(a) Purpose and Intent~~353-1. PURPOSE AND INTENT.

It is the desire and intent of the Board of Supervisors of the County of Humboldt to eliminate, within any and every building or place in the unincorporated areas of Humboldt County, the unlawful selling, serving, storing, keeping, manufacturing or giving away of any controlled substance, precursor or analog, as defined under Health and Safety Code sections 11000 and 11400 et sequitur.

(1a) The Board of Supervisors finds that the unlawful selling, serving, storing, keeping, manufacturing, or giving away of any controlled substance, precursor, or analog, in any building or place in the County of Humboldt is injurious to the health, safety, and general welfare of the County, interferes with the comfortable enjoyment of life and property, and is a condition that is dangerous to human life, and is unsafe and detrimental to the public health and safety.

(2b) Section 11570 of the Health and Safety Code of California states that every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away controlled substances, precursor, or analog, as defined in Health and Safety Code sections 11000 and 11400 et sequitur, is a nuisance which shall be enjoined, abated and prevented and for which damages may be recovered.

(3c) The laws of the State of California define nuisance and the abatement thereof and provide for the enjoining of such acts. The Board of Supervisors intend hereby to declare those activities hereinafter set forth as a nuisance, and provide a procedure for determining that a nuisance exists.

~~(b) Public Nuisance Declared~~353-2. PUBLIC NUISANCE DECLARED.

The Board of Supervisors finds and declares that every and any building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog, as defined under the California Uniform Controlled Substance Act, Section 11000 and 11400 et sequitur of the Health and Safety Code is a nuisance, whether public or private.

~~(c) Persons Authorized to Commence Nuisance Proceedings~~353-3. PERSONS AUTHORIZED TO COMMENCE NUISANCE PROCEEDINGS.

(1a) In the name of the people, the Code Enforcement Unit and/or District Attorney of the County of Humboldt is authorized to abate, prevent, perpetually enjoin and seek damages against the person conducting or maintaining the nuisance of unlawful selling, serving, storing, keeping manufacturing or giving away of any controlled substance, precursor, or analog, and the owner, tenant, their agent, or anyone else associated with the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining or permitting the nuisance, when such nuisance occurs within any building or place in the unincorporated areas of the County of Humboldt as hereinafter provided, and there is reason to believe that a nuisance exists under Health and Safety Code section 11570. (Ord. No. 2269, 04/23/2002)

(2b) Any citizen of the State of California, residing in the County of Humboldt, in his or her own name is authorized to abate, prevent, perpetually enjoin and seek damages against the person conducting or maintaining the nuisance of unlawful selling, serving, storing, keeping manufacturing or giving away of any controlled substance, precursor, or analog, and the owner, tenant, their agent, or anyone else associated with the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining or permitting the nuisance, when such nuisance occurs within any building or place in the unincorporated areas of the County of Humboldt as hereinafter provided, and there is reason to believe that a nuisance exists under Health and Safety Code section 11570. Any complaint filed by such a citizen, pursuant to these provisions, must be verified. (Ord. 2049, § 1, 08/16/1994)

~~(d)~~ Notice
353-4. NOTICE.

(1a) Prior to bringing or maintaining an action to abate or prevent, perpetually enjoin a nuisance or seek damages therefrom, as described in subsection (b) of 351-45 of the Humboldt County Code, the person(s) authorized to commence nuisance proceedings shall give notice to the owner, tenant, their agent and anyone else associated with the nuisance of the building or place including but not limited to owners as shown by the records of the County Recorder or Assessor, business tax records, records of the Secretary of State in the case of corporate ownership or interest and any other evidence showing occupancy or presence associated with the nuisance where the nuisance is alleged to exist and shall request that the nuisance be abated within a reasonable time of the receipt of the notice. (Ord. 2049, § 1, 08/16/1994)

(2b) The notice shall contain as enclosures documentation to establish that a nuisance exists in or upon the building or place.

(3c) The notice shall be served on the owner, tenant, their agent, or anyone else associated with the nuisance by personal service or by certified mail.

(4d) "Reasonable time" shall mean at least 30 days, unless a shorter time period is agreed to by the parties herein.

(5e) The subdivision shall apply only to an action brought or maintained by the Code Enforcement Unit and/or District Attorney:

(f) This notice shall not be required prior to bringing or maintaining an action to enjoin, abate, prevent a nuisance and seek damages if any one of the following exist:

(A1) There is a danger to the public;

(B2) The notice would impede an investigation;

(E3) The Code Enforcement Unit and/or District Attorney determines there is good cause to forego the notice;

(D4) For the purposes of this paragraph, "good cause" includes, but is not limited to, when an owner, tenant, their agent, or anyone else associated with the nuisance is unavailable or is evading service of process;

(E5) The issuing agency shall provide the identified owner, tenant, their agency, or other person associated with the nuisance with the opportunity to demonstrate to that agency that the notice was issued on insufficient grounds or the owner, tenant, their agency or other person associated with nuisance was mistakenly identified. This agency shall present the Code Enforcement Unit and/or District Attorney with all information received in any request for action under this section. (Ord No. 2269, 04/23/2002)

~~(e) Types of Actions that May be Maintained.~~
353-5. TYPES OF ACTIONS THAT MAY BE MAINTAINED.

~~(1a)~~ (A) Temporary Restraining Order.

(A1) A temporary restraining order may be sought to maintain the status quo and to encourage expeditious abatement. Although ex parte in nature, reasonable notice to the opposing party is required unless the applicant shows good cause why notice should be excused. (Code of Civil Procedure section 527(a)).

(B2) The temporary restraining order is limited in duration to up to fifteen (15) days, or twenty (20) if good cause can be shown. The temporary restraining order can order that no further illegal drug activity take place, it can allow the County to post a sign stating the same and it can freeze all movable property. The County can also obtain an order allowing entry onto the premises to take an inventory of personal property to ensure that anything of value remains on the premises until the time of the final hearing on the matter.

~~(2b)~~ (B) Preliminary Injunction.

(B1) At the expiration of the temporary restraining order, the order to show cause hearing on the preliminary injunction, is held. Closure will only be ordered during the preliminary injunction stage if a prior order has been violated. Thus, if the temporary restraining order was violated, closure can be sought at the preliminary injunction hearing. Also closure can be sought at any time while the preliminary injunction is in effect, as its violation is violation of the court's prior order. (Health and Safety Code section 11573.5(b)).

~~(3c)~~ (C) Closure of the Premises.

(C1) At the preliminary injunction phase, the court can order that rent be placed in escrow for up to ninety (90) days or until the nuisance is abated. When closure is sought prior to final judgment, all tenants who may be affected by the closure must be provided with reasonable notice and an opportunity to be heard at all closure request hearing before a closure order can be issued. (Health and Safety Code section 11573.5(c)). In determining whether to close a premises prior to judgment, Health and Safety Code section 11573.5 requires the judge to consider:

~~(iA)~~ (iA) The extent and duration of the nuisance.

(iiB) Prior efforts by the defendant to comply with previous court orders regarding the nuisance.

(iiiC) The effect of the nuisance on other persons, including residents or businesses.

(ivD) The effect of placing rental payments into an escrow account on abatement efforts.

(vE) The effect of closure on unnamed residents or occupants of the premises.

(4d) Relocation Payments.

(A1) A defendant shall provide relocation assistance to innocent tenants if a building or place is ordered closed, including moving costs, security deposits for utilities and comparable housing, adjustments for lost rent and any other costs the court deems reasonable and fair. The judge may also order the enforcing governmental agency seeking closure to make reasonable attempts to seek additional sources of funds for relocation assistance to displaced tenants. A receiver can be appointed to distribute relocation funds from the escrow account. (Health and Safety Code Section 11573.5(d) and (e)).

(5e) Stipulated Judgment.

(A1) Once a temporary restraining order issues or a preliminary injunction is granted, negotiation for a stipulated judgment requiring either the sale of the property, eviction of the nuisance causing tenant(s), or closure of the premises may be commenced.

(5e) Permanent Injunction.

(A1) If a stipulated judgment cannot be reached, a trial on the permanent injunction is held.

~~(f) Authorized Remedies~~
353-6. AUTHORIZED REMEDIES.

(1a) Closure as a first Priority.

(A1) Under the abatement law, the judgment requires the removal from the premises and the sale of all fixtures, musical instruments and other movable property used in conducting, maintaining, aiding or abetting the nuisance. The premises must be closed for one year unless the court finds that a vacant building would be more harmful to the community than an occupied one. The legislative intent in the closure provision indicated that closure is the first priority. If the building is not ordered vacated, the defendant can be required to pay damages equivalent to one year's fair market rental value of the building. (Health and Safety code section 11581).

(2b) Damages.

(A1) In addition to actual damages, damages of up to twenty-five thousand dollars (\$25,000) may be assessed against any or all of the defendant as a civil penalty. (Health and Safety Code section 11581). Civil penalties shall be apportioned pursuant to Health and Safety Code section 11489.

(3c) Lien.

(A1) Once the existence of a nuisance is established, an order of abatement is entered as part of the judgment and the plaintiff's costs are a lien upon the building or place. The lien is enforceable and collectible by execution issued by order of the court. (Health and Safety Code sections 11579, 11582). The court retains custody of the building or place for the duration of the abatement order.

(4d) Contempt.

(A1) A violation of any of the abatement orders, from the temporary restraining order through the final judgment, is punishable as contempt of court with attendant fines from five hundred dollars (\$500) through ten thousand dollars (\$10,000) or a county jail sentence of not less than one nor more than six months or both. Fines collected for contempt must be used as a first priority for relocation payments to innocent tenants. (Health and Safety Code section 11580.)

(5e) Sale of Assets.

(A1) The County's costs may be recouped from the sale of the movable property. In addition if the movable property proceeds do not satisfy the plaintiff's costs, the building or place can be sold. (Health and Safety Code section 11585).

(6f) Release of Building to Owner.

(A1) The building or place may be released to the owner, if the owner has not been guilty of any contempt during the court proceedings, pays all costs and fees that are a lien on the building or places and files a bond in the full value of the property conditioned that the owner will immediately abate any nuisance that may exist at the building and will do this for a period of one year. (Health and Safety Code section 11586).

~~(g) Bond Requirement.~~353-7. BOND REQUIREMENT.

The court may require that a private citizen maintaining an action under these provisions post a bond. In setting the amount of the bond, the court shall consider the relative hardship on the parties and the goal of encouraging citizen use of these provisions. The amount of the bond shall not exceed the potential financial injury to the defendant(s), and may be waived in the court's discretion. (Ord. 2049, § 1, 08/16/1994)

TITLE III - LAND USE AND DEVELOPMENTDIVISION 5PUBLIC NUISANCES, ABATEMENT AND PENALTIESCHAPTER 2 4REGULATION AND REMOVAL OF JUNK VEHICLES3524-1. DECLARATION OF POLICY.

In addition to and in accordance with the determination made and the authority granted by the State of California under Section 22660 of the Vehicle Code to remove junk vehicles as public nuisances, the Board of Supervisors of the County of Humboldt hereby makes the following findings and declarations:

The accumulation and storage of junk vehicles on private or public property not including highways is hereby found to create a condition tending to reduce the value of property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the public health, safety and general welfare. Therefore the presence of a junk vehicle on private or public property not including highways, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter. (Ord. 746 § 1, 1/12/71)

3524-2. DEFINITIONS.

(a) Vehicle. "Vehicle" means a device, whether or not operable, designed for the purpose of propelling, moving or drawing upon a highway any person or property, except a device designed to be moved by human power or used exclusively upon stationary rails or tracks.

(b) Highway. "Highway" means a way or place of whatever nature publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

(c) Landowner. "Landowner" means the owner of the land shown by the last equalized assessment roll upon which a junk vehicle is located.

(d) Vehicle Owner. "Vehicle owner" means the last registered and legal owner of record of a junk vehicle.

(e) Junk Vehicle. "Junk vehicle" means any vehicle or part thereof which is either:

(1) Substantially wrecked, dismantled, or inoperative and its salvage value and cost of repair together exceed its market value if repaired; or

(2) Inoperative for a period of thirty (30) consecutive days or more. (Ord. 746, § 2, 11/12/71)

(f) Enforcement Official. "Enforcement Official" means the Sheriff or his/her designee who shall be a regularly salaried, full-time County employee, and/or the Code Enforcement Unit. (Ord. 2093, § 1, 10/17/95; Ord. No. 2270, 04/23/2002)

3524-3. EXCLUSIONS.

(a) This chapter shall not apply to:

(1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

(2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, or junk yard, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise. (Ord. 2332, § 1, 11/02/2004)

(b) Nothing in this section shall authorize the maintenance of a public or private nuisance.

(c) This chapter is not the exclusive regulation of junk vehicles within the unincorporated area of the County. It shall supplement and be in addition to the other regulatory codes, statutes and Code sections heretofore or hereafter enacted by the County, the State or any other legal entity or agency having jurisdiction (Ord. 746, § 3, 1/12/71)

3524-11. ENFORCEMENT.

The provisions of this chapter shall be administered and enforced by the Enforcement Official. (Ord. 746, § 4, 1/12/71; Ord. 2093, § 1, 10/17/95)

3524-12. ENTRY UPON PRIVATE OR PUBLIC PROPERTY.

(a) In the enforcement of this chapter the Enforcement Official may enter upon private or public property to the extent permissible by law to examine a vehicle or part thereof, or obtain information as to the identity of a vehicle and to remove or cause the removal of a junk vehicle pursuant to this chapter.

(b) When the Board of Supervisors has contracted with or granted a franchise to any person or persons for the removal of a junk vehicle, such person or persons shall be authorized to the extent permissible by law to enter upon private property or public property to remove or cause the removal of a junk vehicle designated for removal by the Enforcement Official. (Ord. 746, § 5, 1/12/71; Ord. 2093, § 1, 10/17/95)

3524-13. BOARD TO FIX ADMINISTRATIVE COSTS.

(a) The Board of Supervisors shall from time to time determine and fix and amount to be assessed as administrative costs (excluding the actual cost of removal of any vehicle or part thereof) under this chapter.

(b) It is hereby determined that the administrative cost of vesting title to any vehicle in a licensed dismantler (other than a dismantler acting under a franchise with the County for the removal of abandoned vehicles) is Two Dollars (\$2.00) for each and every vehicle in which title is vested as hereinabove. Said Two Dollars (\$2.00) administrative cost shall be paid by the dismantler to the Enforcement Official on the demand of the Enforcement Official. Revenues collected pursuant to this subsection shall be deposited by the Enforcement Official in the general fund of the County of Humboldt. (Ord. 746, § 6, 1/12/71; Ord. 1212, § 1, 3/28/78; Ord. 2093, § 1, 10/17/95)

3524-14. NOTICE OF INTENT TO ABATE AND REMOVE.

Notice of intention to abate and remove a junk vehicle or part thereof as a public nuisance and to assess the costs of removal shall be delivered by registered or certified mail to the landowner and to the vehicle owner if the owner is in such condition that identification numbers are available to determine ownership. Such notice shall contain a statement that the vehicle owner and the landowner may request a public hearing; that the landowner and the vehicle owner may appear in person at the hearing; that the landowner may present a sworn statement denying responsibility for the presence of the vehicle on the land with his reasons for denial in lieu of personally appearing; and that, if a request for a hearing is not delivered to the Enforcement Official within ten (10) days after the mailing of the notice, the Enforcement Official shall have authority to remove the junk vehicle and to assess the costs of removal, including administrative costs, against the land upon which the junk vehicle was located and against the vehicle owner. Such notice shall also contain a statement of the amount proposed to be assessed against the land and/or the vehicle owner for removal of the junk vehicle. (Ord. 746, § 7, 1/12/71; Ord. 2093, § 1, 10/17/95)

3524-15. REQUEST FOR PUBLIC HEARING.

A public hearing shall be held upon request for such hearing by the vehicle owner or landowner. This request must be delivered to the Enforcement Official within ten (10) days after the mailing of notice of intention to abate and remove the vehicle. If the landowner submits a sworn statement denying responsibility for the presence of the vehicle on his land within such time period, such statement shall be construed as a request for hearing which does not require the presence of the landowner. (Ord. 746, § 8, 1/12/71; Ord. 2093, § 1, 10/17/95)

3524-16. CONDUCT OF HEARING.

All hearing under this chapter shall be held before a hearing officer is appointed by the Enforcement Official who shall hear all relevant facts and testimony. Said facts and testimony may include testimony on the condition and value of the vehicle or part thereof and the circumstances concerning its presence on the land. The hearing officer shall not be limited by the technical rules of evidence. If an interested party makes a written presentation to the hearing officer but does not appear, he shall be notified in writing of the decision. (Ord. 746, § 9, 1/12/71; Ord. 2093, § 1, 10/17/95)

3524-17. POWERS OF HEARING OFFICER.

(a) If at the conclusion of the public hearing the hearing officer finds that a vehicle or part thereof is a junk vehicle, he shall order the same removed from the property as a public nuisance and disposed of as hereinafter provided. The hearing officer may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purpose of this chapter. The hearing officer may delay the time for removal of the vehicle or part thereof if, in his opinion, the circumstances justify it. The order requiring removal shall include a description of the junk vehicle and the identification number and license number of the junk vehicle if available.

(b) The hearing officer may assess the costs of administration and of removal of the junk vehicle against the parcel of land on which the junk vehicle is located; provided, however, that if the hearing officer finds that the junk vehicle was placed on the land without the consent of the landowner and the landowner has not subsequently acquiesced in the presence of the vehicle upon his land, no assessment of costs shall be made against the land upon which the junk vehicle was located or against the landowner.

(c) If the hearing officer finds that the junk vehicle was abandoned upon public or private property without the express or implied consent of the owner or person in lawful possession or control of the property, the hearing officer may assess the cost of administration and removal of the vehicle against the vehicle owner. (Ord. 746, § 10, 1/12/71)

3524-21. REMOVAL OF VEHICLES.

(a) The Enforcement Official may remove a junk vehicle in accordance herewith if no request for hearing is received within the period prescribed by Section 352-15.

(b) The Enforcement Official shall have authority to remove a junk vehicle upon the order of the hearing officer five (5) days after the mailing of a copy of the decision and order of the hearing officer to the landowner and to the vehicle owner.

(c) The Enforcement Official shall remove junk vehicles in accordance with the terms of any applicable franchise agreement entered into by the County. In the absence of such a franchise agreement the Sheriff may execute a contract for the removal of the vehicle in accordance with such terms and conditions as the Board of Supervisors may from time to time establish.

(d) Junk vehicles may be disposed of by removal to a scrap yard, automobile dismantler's yard, and other site designated by the Enforcement Official.

(e) After a junk vehicle has been removed, it shall not be reconstructed or made operable. (Ord. 746, § 11, 1/12/71; Ord. 2093, § 1, 10/17/95)

3524-22. NOTICE OF REMOVAL.

Within five (5) days after the date of removal of the junk vehicle, the Enforcement Official shall notify the Department of Motor Vehicles of such removal. Said notice shall identify the junk vehicle and describe any evidence or registration available, including but not limited to registration certificates of title or license plates. (Ord. 746, § 12, 1/12/71; Ord. 2093, § 1, 10/17/95)

3524-23. NOTICE OF LIEN.

If assessment is ordered against the land on which the vehicle is located, the Enforcement Official shall cause a Notice of Lien to be prepared and recorded in the office of the County Recorder of the County of Humboldt. Said notice shall contain the following:

(a) An address, legal description or other description sufficient to identify the premises.

(b) A description of the proceedings under which the special assessment was made.

(c) The claim of lien upon the described premises. (Ord. 746, § 13, 1/12/71)

3524-24. PRIORITY OF LIEN.

Upon the recordation of such Notice of Lien, the amount claimed shall constitute a lien upon the described premises. Such lien shall be on a parity with the liens of State and County taxes. (Ord. 746, § 13, 1/12/71)

3524-25. COLLECTION BY AUDITOR.

The Notice of Lien, after recordation, shall be delivered to the County Auditor who shall enter the amount of lien on the assessment roll as a special assessment. Thereafter, the amount set forth shall be collected at the same time and in the same manner as ordinary County taxes are collected and shall be subject to the same penalties and interest, and to the same procedure for foreclosure and sale in case of delinquency as is provided for ordinary County taxes, and all laws applicable to the levy, collection and enforcement of County taxes are hereby made applicable to such assessment. (Ord. 746, § 15, 1/12/71)

3524-26. PENAL PROVISIONS.

(a) It shall be unlawful and a misdemeanor for any person to abandon, park, store or leave, or permit the abandonment, parking, storing or leaving of any licensed or unlicensed junk vehicle upon any private property or public property not including highways for a period in excess of five (5) days unless such junk vehicle is completely enclosed within a building in a lawful manner where it is not plainly visible from the street or other public or private property, or unless such vehicle is parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junk yard. (Ord 746, § 16, 1/12/71; Ord. 2332, § 1, 11/02/2004)

(b) Any person violating any provision of this chapter shall be punished by a mandatory fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the County jail for a period not to exceed six months, or by both such fine and imprisonment, and shall provide proof that the costs of removal and lawful disposition of the vehicle have been paid. Proof that the costs of removal and disposition of the vehicle have been paid shall not be required if proof is provided to the court that the vehicle was stolen prior to abandonment. That proof may consist of a police report or other evidence acceptable to the court. No part of any fine imposed shall be suspended. The fine may be paid in installments if the court determines that the defendant is unable to pay the entire amount in one payment. (Ord. 2332, § 1, 11/02/2004)

(c) The abandonment of any motor vehicle in any manner that violates this section shall constitute a rebuttable presumption affecting the burden of producing evidence that the last registered owner of record, not having complied with Section 5900 of the Vehicle Code, is responsible for such abandonment and is thereby liable for the cost of removal and disposition of the vehicle. The filing of a report of sale or transfer of the vehicle by a transferee pursuant to Section 5602, the filing of a vehicle theft report with a law enforcement agency, or the filing of a form or notice with the department pursuant to subdivision (b) of Section 4456 or Section 5900 or 5901 relieves the registered owner of liability under this subdivision. (Ord. 2332, § 1, 11/02/2004)

(d) An owner who has made a bona fide sale or transfer of a vehicle and has delivered possession of the vehicle to a purchaser may overcome the presumption appearing in subdivision (c) by demonstrating that he or she has complied with vehicle Code sections 5900 or 5602 or providing other proof satisfactory to the court. (Ord. 2332, § 1, 11/02/2004)