

ORDINANCE NO. _____

ORDINANCE OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS ADDING SECTION 6.35 TO CHAPTER 6 OF THE MENDOCINO COUNTY CODE TITLED BUSINESS LICENSES AND REGULATIONS

Sec. 6.35.010 Title

This Chapter shall be known as and may be referred to in all proceedings as the "Mendocino County Right to Industry Ordinance".

Sec. 6.35.020 Purpose

The purpose of this ordinance is to enhance the prospects of growth and stability for Mendocino County's businesses that are located within the County's established industrial zones: I-1 (Limited Industrial), I-2 (General Industrial), I (Coast Industrial), and P-1 (Pinoleville Industrial). The County recognizes that historically it has been the case that industrial interests are endangered by residents or other businesses located nearby and who seek to abate what they deem a "nuisance," arising from operations by said industrial interests. This ordinance clarifies the instances when industrial operations may be considered a legitimate nuisance by declaring any parcel laying within a 300-foot buffer around established industrial zones as affected by this ordinance, and preventing any future harm to Mendocino County's industries.

Sec. 6.35.030 Policy

Pursuant to the Planning Principles of the Mendocino County General Plan, it is the declared policy of this County to encourage sustainable economic growth. This objective directly correlates with the success of Mendocino County's industrial operations located within its industrially zoned districts. Where non-industrial land uses extend into industrial areas or exist side by side, industrial operations have often become the subject of nuisance complaints. As a result, industrial operations are sometimes forced to cease or curtail operation, and many others are discouraged from making investments and improvements.

It is the purpose and intent of this ordinance to reduce the loss to the County of its employment base by limiting the circumstances under which industrial operations may be considered a nuisance. This section is not to be construed as in any way modifying or abridging State law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, Division 7 of the Water Code, or Government Code, relative to nuisances, but rather is only to be utilized in the interpretation and enforcement of the provisions of this code and County regulations.

No existing or future industrial business or any of its appurtenances, consistent with the industrial operation provisions of the Mendocino County Zoning Code, conducted or maintained for commercial purposes, and in a manner consistent with applicable land use and environmental laws and regulations, shall become or be a nuisance, private or public, for adjacent land uses in or about the locality thereof after the same has been in operation for more than three (3) years, when such action was not a nuisance at the time it began; provided that the provisions of this subsection shall not apply whenever a nuisance results from a negligent or improper operation of any such industrial operation or its appurtenances, and said industrial business predates the complaining party's use or occupation of their land.

Sec. 6.35.040 Definitions

Unless the context otherwise requires, the following current definitions and provisions of the Title 20 Zoning Ordinance of the Mendocino County Code, or as amended in the future, shall govern the construction of this Ordinance for more effective interpretation and enforcement.

INDUSTRIAL LAND. Shall mean those land areas of the County specifically classified and zoned as Limited Industrial (I-1), Industrial and also known as “Coastal Industrial” (I), General Industrial (I-2), and Pinoleville Industrial (P-1), within which industrial and business activities are to be encouraged and protected.

INDUSTRIAL OPERATION. Shall mean and include those Industrial Use Types described within Division I of the Mendocino County Zoning Code, Chapter 20.028 “Industrial Use Types,” and shall also include those Coastal Industrial Use Types described within Division II of the Mendocino County Zoning Code, Chapter 20.328 “Coastal Industrial Use Types”, and which includes the following:

Mendocino County Zoning Code, Chapter 20.028 “Industrial Use Types”

A. Section 20.028.005 – General Description of Industrial Use Types

- a. Industrial use types include on-site production of goods by methods not agricultural or extractive in nature. They also include certain uses accessory to the above, as specified in Chapter 20.164, Accessory Use Regulations.

B. Section 20.028.010 – Custom Manufacturing

- a. “Custom manufacturing” means the on-site production of individually crafted goods using hand tools or mechanical equipment typical of the type or specifications found in a home shop or not creating noise, dust, fumes, visual impacts or electrical or water use in excess of home shop or hobby equipment and may include incidental on-site sales of those goods to retail consumers. Typical uses include ceramic studios, candle-making shops, custom jewelry manufacturing and wood working shops, or light assembly of components manufactured off-premises.

C. Section 20.028.015 – General Industrial

- a. "General industrial" means industrial plants primarily engaged in manufacturing, compounding, processing, assembling, packaging, treatment or fabrication of materials and products. Included are aggregate processing plants such as crushing, screening, washing and mixing plants.

D. Section 20.028.020 – Heavy Industrial

- a. "Heavy industrial" means all other industrial plants or other uses involving the compounding of radioactive materials, petroleum refining or manufacturing of explosives.

E. Section 20.028.025 – Explosive Storage

- a. "Explosives storage" means storage of any quantity of explosives as defined by Section 1200 of the California Health and Safety Code. Typical uses include storage in the course of manufacturing, selling or transporting explosives or in the course of blasting operations.

Mendocino County Zoning Code, Chapter 20.328 “Coastal Industrial Use Types”

A. Section 20.328.005 – General Description of Industrial Use Types.

- a. On-site production or processing of goods by methods not agricultural or extractive in nature. They also include certain uses accessory to the above, as specified in Chapter 20.456 (Accessory Use Regulations).

B. Section 20.328.010 – Coastal-Related Industrial.

- a. The coastal-related use type includes coastal-related industrial uses, including but not limited to fish waste processing and fish processing of products for other than human consumption.

C. Section 20.328.015 – Coastal-Dependent Industrial.

- a. Coastal-dependent industrial uses require a maintained navigable channel to function, including, for example: public or private docks, water-borne commercial carrier import and export operations, ship/boat building and repair, commercial fishing facilities, including berthing and fish receiving, off-boat sales and fish processing when product is for human consumption (fish waste processing and fish processing of products for other than human consumption are permitted under the coastal-related use type), and aquaculture support facilities. Offshore mining, dredging, mineral or petroleum extraction processes, or the stockpiling or transfer of relative material for, are not included.

D. Section 20.328.020 – Custom Manufacturing: Light Industrial.

- a. Establishments primarily engaged in the on-site production of individually crafted goods using hand tools or mechanical equipment typical of the types or specifications found in a home shop, or using equipment or processes which do not create noise, dust, fumes, visual impacts, or electrical or water use in excess of home shop or hobby equipment, and which may include incidental on-site sales of those goods to retail consumers. Typical uses include ceramic studios, candle-making shops, custom jewelry manufacturing, woodworking shops, printing shops, custom textile manufacturing or light assembly of components manufactured off-premises.

E. Section 20.328.025 – General Industrial.

- a. Industrial plants primarily engaged in manufacturing, compounding, processing, assembling, packaging, treatment, fabrication or recycling of materials and products. Included are white metal and appliance recycling and processing and aggregate processing plants such as crushing, screening, washing and mixing plants.

F. Section 20.328.030 – Heavy Industrial.

- a. All other industrial plants or other uses not included within the General Industrial Use Type involving the compounding of radioactive materials or manufacturing of explosives.

This section is not limited to the afore-mentioned use types, and shall additionally include the permitted uses, uses subject to a minor use permit, and uses subject to a major use permit as described in the I, I-1, I-2 and P-1 Zoning Ordinances within the Title 20 – Zoning Ordinance, Divisions I and II of the Mendocino County Zoning Code.

Sec. 6.35.050 Findings.

The Board of Supervisors of Mendocino County finds that it is in the public's interest to preserve and protect industrial land and operations within the County of Mendocino and to specifically protect these lands for exclusive industrial use. The Board of Supervisors of Mendocino County also finds that residential development adjacent to industrial land and operations often leads to restrictions on industrial operation to the detriment of the adjacent industrial uses and economic viability of the County's business and manufacturing industry as a whole. The purposes of this Chapter, therefore, are to promote the general health, safety and welfare of the County, to preserve and protect for exclusive commercial use those lands zoned for industrial use, to support and encourage continued industrial operation in the County, and to forewarn prospective purchasers and residents of property adjacent to or near to industrial operation of the inherent potential problems associated with such purchase of residence including, but not limited to, the sounds, odors, dust, and chemicals that may accompany industrial operations.

Sec. 6.35.060 Installation of Signs.

The County may install or permit the installation of signs at the entry or within established industrial areas zoned as "Industrial Land" to notify and explain to purchasers that some of the land in this area is being used for industrial purposes and the operator's interests are protected by law. The prospective purchaser of such land or a residence is advised to check with local County agencies as to any regulation or requirements which may affect industrial property and of inherent potential problems associated with a purchase of such property or a residence in areas zoned as an "Industrial Land" and of the likely effect of such industrial operations.

Sec. 6.35.070 Precedence Clause.

It is the finding of the Board of Supervisors that this Ordinance is to take precedence over all ordinances or parts of ordinance or resolutions or parts of resolutions in conflict herewith and same are hereby repealed to the extent of such conflict and no further.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2013, by the following roll call vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

DAN HAMBURG, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
THOMAS R. PARKER, County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy