

**CHAPTER 7.5**

**MERGER OF PARCELS**

**ARTICLE I**

**GENERAL**

**327.5-1. PURPOSE.**

The County of Humboldt had a merger ordinance in existence prior to January 1, 1984. This chapter is enacted for the purpose of amending the existing merger ordinance of the County of Humboldt (previously Humboldt County Code § 317-64) to bring it into compliance with Article 1.5 of Chapter 3 of Division 2 of Title 7 of the California Government Code (§§ 66451.10 et seq.); to provide for the continued merger of certain resource lands merged by operation of law prior to January 1, 1984; and to provide for voluntary merger of parcels of land. Article II of this Chapter shall only be implemented on parcels within the County which are zoned Timberland Production Zone and parcels which are enforceably restricted by a Williamson Act Contract. Article III of this chapter shall only be implemented on parcels within the County which are enforceably restricted by a Williamson Act Contract. In restricting the application of Article III of this chapter to parcels which are enforceably restricted by a Williamson Act Contract, the Board of Supervisors finds that the preservation of mergers of these resource lands which merged by operation of law prior to January 1, 1984, as provided for in Article III, is necessary to aid in preserving the integrity of the Williamson Act program in Humboldt County, to aid in the enforcement and prevention of violations of the Williamson Act (Government Code §§ 51200 et seq.) and local regulations adopted pursuant thereto. (Ord. 1762, 12/09/86)

**327.5-2. DEFINITIONS.**

Except as otherwise provided, when used in this chapter, the following terms shall have the following meanings: (Ord. 1762, 12/09/86)

(a) "Advisory Agency" means the Planning Commission; provided, that the Planning Commission may designate the Planning Director to act as the Advisory Agency. (Ord. 1762, 12/09/86)

(b) "Contiguous" means touching or adjoining at more than one point. Property shall be considered contiguous even if it is separated by roads, streets, utility easements or railroad rights-of-way; (Ord. 1762, 12/09/86)

(c) "Merged by operation of law" means the merger of parcels by or through the law without any direct action by the County (other than adoption of applicable ordinances) or by the property owner. As used in this section, "merged by operation of law" refers to the merger of parcels pursuant to the provisions of the Humboldt County Code and/or the State Subdivision Map Act in effect prior to January 1, 1984. The term "merged by operation of law" does not include voluntary mergers by action of the owner, or merger pursuant to the provisions of Article II of this chapter. (Ord. 1762, 12/09/86)

(d) "Merger" means the joining of two or more contiguous parcels or units of improved or unimproved land, which are held by the same owner or owners, into one parcel or unit of land pursuant to this chapter. Parcels or units include, but are not limited to, lots created by the division or subdivision of land, lots created by deed or record of survey, and U.S. patent parcels. (Ord. 1762, 12/09/86)

(e) "Planning Director" means the Planning Director of the Planning Department of the County of Humboldt and his duly authorized deputies. (Ord. 1762, 12/09/86)

(f) "Same Owner or Owners": For the purpose of Article II of this chapter, contiguous parcels or units are considered to be held by the same owner or owners if the same owner or owners own the same property interest in each of the parcels subject to merger on the date when the Notice of Intent to Determine Status is recorded pursuant to § 327.5-5. For the purpose of Article III of this chapter, contiguous parcels or units of land are considered to be held by the same owner or owners if the same owner or owner, or their predecessors in interest, owned the same property interest in each of the parcels subject to merger on the date when such parcels were merged by operation of law. (Ord. 1762, 12/09/86)

(g) "Resource Land" or "Resource Parcel" means a parcel or unit of land that meets the conditions described in subparagraphs (1), (2), (3), (4) or (5) of subsection (B) of § 327.5-3 of the County Code. (Ord. 1762, 12/09/86)

(h) "This Chapter" means Chapter 7.5 of Division 2 of Title III of the Humboldt County Code. (Ord. 1762, 12/09/86)

## ARTICLE II NEW MERGERS

### 327.5-3. REQUIREMENTS FOR MERGER UNDER THIS ARTICLE.

(a) Except as provided in § 327.5-9 when any one of two or more contiguous parcels or units of land, which are held by the same size under the applicable zoning designation, the contiguous parcels shall merge if all the following requirements are satisfied: (Ord. 1762, 12/09/86)

(1) At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit of land. (Ord. 1762, 12/09/86)

(2) With respect to any affected parcel, one or more of the following conditions exists: (Ord. 1762, 12/09/86)

(a) Comprises less than 5,000 square feet in area at the time of the determination of merger; (Ord. 1762, 12/09/86)

- (b) Was not created in compliance with applicable laws and ordinances in effect at the time of its creation; (Ord. 1762, 12/09/86)
  - (c) Does not meet current standards for sewage disposal and domestic water supply under applicable County regulations; (Ord. 1762, 12/09/86)
  - (d) Does not meet slope stability standards established by or pursuant to the Humboldt County General Plan. (Ord. 1762, 12/09/86)
  - (e) Has no legal access which is adequate for vehicular and safety equipment access and maneuverability. The standards of access shall be those contained in the Appendix to Title III, Division 2 of the Humboldt County Code; (Ord. 1762, 12/09/86)
  - (f) Its development would create health and safety hazards;
  - (g) Is inconsistent with the Humboldt County General Plan, the Local Coastal Plan or any applicable Community Plan, other than minimum lot size or density standards. (Ord. 1762, 12/09/86)
- (b) The provisions of subdivision (2) of subsection A of § 327.5-3 shall not apply if one or more of the following conditions exists: (Ord. 1762, 12/09/86)
- (1) On or before July 1, 1981, one or more of the contiguous parcels or units of land was enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in § 421 of the Revenue and Taxation Code. (Ord. 1762, 12/09/86)
  - (2) On July 1, 1981, one or more of the contiguous parcels or units of land was timberland as defined in subdivision (f) of § 51104 of the Government Code, or was land devoted to an agricultural use as defined in subdivision (b) of § 51201 of the Government Code. (Ord. 1762, 12/09/86)
  - (3) On July 1, 1981, one or more of the contiguous parcels or units of land was located within 2,000 feet of the site on which an existing commercial mineral resource extraction use was being made, whether or not the extraction was being made pursuant to a use permit issued by the County. (Ord. 1762, 12/09/86)
  - (4) On July 1, 1981, one or more of the contiguous parcels or units of land was located within 2,000 feet of a future or existing commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the County. (Ord. 1762, 12/09/86)
  - (5) Within the coastal zone, as defined in § 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and

where the identification or designation has either (1) been included in the land use plan portion of a local coastal plan program prepared and adopted pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (2) prior to the adoption of a land use plan, has been made by formal action of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based. (Ord. 1762, 12/09/86)

For the purposes of paragraphs (3) and (4) of subsection (b) of § 327.5-3, "mineral resource extraction" means gas, oil hydrocarbon, gravel, or sand extraction, geothermal wells, or other similar commercial mining activity. (Ord. 1762, 12/09/86)

**327.5-4. EFFECTIVE DATE OF MERGER.**

A merger of parcels or units of land pursuant to the provisions of Article II of this Chapter becomes effective on the date that a Notice of Merger is filed for record with the recorder of the County of Humboldt. A Notice of Merger shall specify the names of the record owner or owners and shall particularly describe the real property that is the subject to the merger. (Ord. 1762, 12/09/86)

**327.5-5. NOTICE OF INTENT TO DETERMINE STATUS.**

Prior to recording a Notice of merger, the Planning Director shall cause to be mailed by certified mail to the then current record owner or owners of the property a Notice of Intention to Determine Status, notifying the owner or owners that the affected parcels may be merged pursuant to standards specified in Article II of this Chapter, and advising the owner or owners of the opportunity to request a hearing on determination of status and to present evidence at the hearing that the property does not meet the criteria for merger. The notice shall inform the owner or owners that the Advisory Agency is authorized to make a determination of merger or non-merger in accordance with Humboldt County Code § 327.5-8 based on the information available from county records in the event that a request for hearing is not filed within 30 days pursuant to the provisions of § 327.5-6 of the County Code. The Notice of Intention to Determine Status shall be filed for record with the recorder of the County of Humboldt on the date that notice is mailed to the property owner or owners. (Ord. 1762, 12/09/86)

**327.5-6. REQUEST FOR HEARING.**

At any time within 30 days after recording of the Notice of Intention to Determine Status, the owner of the affected property may file with the Planning Director a request for a hearing on determination of status. (Ord. 1762, 12/09/86)

**327.5-7. PROCEDURE FOR HEARING.**

Upon receiving a request for a hearing on determination of status, the Planning Director shall fix a time, date, and place for a hearing before the Advisory Agency and shall so notify the property owner by certified mail. The hearing shall be conducted not more than sixty (60) days following the Planning Director's receipt of the property owner's request for hearing, but may be postponed or continued with the mutual written consent of the Advisory Agency and the property owner. (Ord. 1762, 12/09/86)

At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the standards for merger specified in this Chapter. At the conclusion of the hearing, the Advisory Agency shall make a determination that the affected parcels are to be merged or are not to be merged and shall so notify the owner of its determination in writing. Unless an appeal is filed pursuant to § 327.5-11, a determination of merger made following the owner's timely request for a hearing shall be recorded as provided for in § 327.5-7 not later than 90 days following the mailing of the notice required by § 327.5-7 except where the hearing has been continued beyond the 90 day period by mutual consent of the Advisory Agency and the property owner pursuant to § 327.5-7. In such a case the determination shall be recorded not later than 30 days following the hearing. (Ord. 1762, 12/09/86)

**327.5-8. DETERMINATION WHEN NO HEARING IS REQUESTED.**

If within the 30-day period specified in § 327.5-6, the owner does not file a request for hearing in accordance with § 327.5-6, the Advisory Agency may at any time thereafter, make a determination that the affected parcels are to be merged or are not to be merged. Unless an appeal is filed pursuant to § 327.5-11, a determination of merger made following the owner's failure to file a timely request for a hearing shall be recorded as provided in § 327.5-4 within 30 days after such determination is made. (Ord. 1762, 12/09/86)

**327.5-9. NON-MERGER.**

The Advisory Agency may make a determination that contiguous parcels shall not be merged whether or not the affected property meets the standards of §§ 327.5-3 provided the following findings are affirmatively made: (Ord. 1762, 12/09/86)

(a) The parcels were created by a parcel map or final map in accordance with the provisions of the Humboldt County Code in effect at the time of their creation; and (Ord. 1762, 12/09/86)

(b) The subsequent development of the individual parcels would not be contrary to the public health, safety or welfare. (Ord. 1762, 12/09/86)

**327.5-10. NOTICE OF NON-MERGER.**

If, in accordance with §§ 327.5-7, 327.5-8 or 327.5-9, the Advisory Agency determines that the subject property shall not be merged, it shall cause to be recorded in the manner specified in § 327.5-4 a Release of the Notice of Intention to Determine Status which was recorded pursuant to § 327.5-5, and shall mail a clearance letter to the then current owner of record. (Ord. 1762, 12/09/86)

**327.5-11. APPEALS FROM DECISION OF ADVISORY AGENCY.**

At any time within 30 days after the Advisory Agency makes a determination of merger or non merger pursuant to §§ 327.5-7, 327.5-8 or 327.5-9, either the property owner or the Planning Director may appeal the Advisory Agency's decision to the Board of Supervisors. The request for appeal shall be in writing, filed with the Planning Director and shall specify the factual and legal grounds upon which the appeal is based. (Ord. 1762, 12/09/86)

The Planning Director shall forward the request for appeal to the Clerk of the Board of Supervisors who shall fix a time, date and place for a hearing before the Board of Supervisors and shall notify the property owner by certified mail. The hearing shall be held not more than 30 days following the date that the appeal was filed with the Planning Director, but may be postponed or continued with the mutual written consent of the Advisory Agency and the property owner. (Ord. 1762, 12/09/86)

The evidence presented at the hearing shall be limited to the issues raised and presented at the hearing held by the Advisory Agency. If no hearing was held before the Advisory Agency, the hearing before the Board of Supervisors shall be treated as a hearing de novo and either party shall be permitted to present any evidence that the affected property does or does not meet the standards for merger specified in this chapter. At the conclusion of the hearing the Board of Supervisors shall make a determination as to whether the decision of the Advisory Agency shall be upheld, modified or reversed. (Ord. 1762, 12/09/86)

A determination of merger shall be recorded within 30 days after conclusion of the hearing as provided for in § 327.5-4. If the Board of Supervisors' decision results in a determination of non merger pursuant to § 327.5-9, a notice of merger shall be filed pursuant to § 327.5-10. A determination by the Board of Supervisors under this section is final. (Ord. 1762, 12/09/86)

**ARTICLE III - CONTINUED MERGER OR RESOURCE LANDS MERGED BY  
OPERATION OF LAW PRIOR TO JANUARY 1, 1984**

**327.5-12. PURPOSE.**

This article is enacted for the purpose of implementing the provisions of Government Code §§ 66451.301-302 which pertain to the conditions of continued merger of resource lands. (Ord. 1762, 12/09/86)

**327.5-13. PARCELS MERGED BY OPERATION OF LAW PRIOR TO JANUARY 1, 1984.**

Contiguous parcels or units of resource land, which were held by the same owner or owners prior to January 1, 1984, merged by operation of law if the applicable requirements of § 317-64 and §§ 312-43 and 312-44 of Division 1 of Title III of the Humboldt County Code and/or the Subdivision Map Act in effect prior to January 1, 1984, were satisfied. (Ord. 1762, 12/09/86)

**327.5-14. CONDITIONS FOR CONTINUED MERGER.**

If any parcel of land which merged by operation of law as provided and described in § 327.5-13, but for which a notice of merger is not recorded before January 1, 1988, and one or more of the merged parcels or units of land is within one of the categories specified in subdivisions 1 through 5 of subsection (B) of § 327.5-3 of this Chapter, the parcels of land shall be deemed not to have merged unless all of the following conditions exist: (Ord. 1762, 12/09/86)

(a) The parcels or units are contiguous and held by the same owner. (Ord. 1762, 12/09/86)

(b) One or more of the contiguous parcels or units do not conform to minimum parcel size under the applicable County General Plan, specific plan, or zoning ordinances. (Ord. 1762, 12/09/86)

(c) At least one of the affected parcels is underdeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit. (Ord. 1762, 12/09/86)

(d) The parcels or units which do not conform to minimum parcel size were not created by a recorded parcel or final map. (Ord. 1762, 12/09/86)

If all conditions described in subdivision (a), (b), (c), and (d) above exist, only a parcel or unit of land which does not conform to minimum parcel size shall remain merged with a contiguous parcel. (Ord. 1762, 12/09/86)

**327.5-15. NOTICE REQUIRED FOR CONTINUED MERGER.**

(a) By January 1, 1987, the Planning Director, for all parcels or units of land which are or may be subject to the provisions of § 327.5-14 in substantially for following form: (Ord. 1762, 12/09/86)

The County of Humboldt has identified one or more parcels of land which you own as potentially subject to a new state law regarding the merger of substandard parcels which are located in one or more of the following categories: (Ord. 1762, 12/09/86)

- (1) On or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in § 421 of the Revenue and Taxation Code. (Ord. 1762, 12/09/86)
- (2) On July 1, 1981, one or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of § 51104, is in a timberland production zone as defined in subdivision (g) of § 51104, or is land devoted to an agricultural use as defined in subdivision (b) of § 51201. (Ord. 1762, 12/09/86)
- (3) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency. (Ord. 1762, 12/09/86)
- (4) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency. (Ord. 1762, 12/09/86)
- (5) Within the coastal zone, as defined in § 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either (i) been included in the land use plan portion of a local Coastal Act of 1976 (Division 20 of the Public Resources Code), or (ii) prior to the adoption of a land use plan, been made by formal action of the California Coastal Commission pursuant to the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issued identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based. (Ord. 1762, 12/09/86)

The new state law contained in § 66451.301 of the Government Code, generally provides for parcels or units of land located in one or more of the above-described areas which were merged prior to January 1, 1984, and for which the local agency did not record a notice of merger by January 1, 1988, the parcels are deemed unmerged on January 1, 1988, unless all of the following conditions exist: (Ord. 1762, 12/09/86)

- a. The parcels or units are contiguous and held by the same owner. (Ord. 1762, 12/09/86)
- b. One or more of the contiguous parcels or units do not conform to minimum parcel size under the applicable general plan, specified plan, or zoning ordinance. (Ord. 1762, 12/09/86)

c. At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or necessary structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit. (Ord. 1762, 12/09/86)

d. The parcels or units which do not conform to minimum parcel size were not created by a recorded parcel for final map. (Ord. 1762, 12/09/86)

In order to determine whether this new law applies to your property, you should immediately contact the Humboldt County Planning Department within 45 days to assist you in determining the application of the new law. (Ord. 1762, 12/09/86)

You may request a hearing to determine the status of your property. If you wish to request a hearing, you must do so within 60 days from the date of this notice. (Ord. 1762, 12/09/86)

For additional information regarding the County's ordinance relating to mergers and the procedures for requiring a hearing, please refer to Chapter 7.5 of Division 2 of Title II of the Humboldt County Code. (Ord. 1762, 12/09/86)

**WARNING. Your failure to act may result in the loss of valuable legal rights regarding the property.**

**327.5-16. PROCEDURES FOR HEARINGS UNDER ARTICLE III.**

The following procedures shall apply to parcels which meet the conditions described in § 327.5-14 and for which the notice required by § 327.5-15 is sent. (Ord. 1762, 12/09/86)

(a) If an owner of one or more parcels covered by this section contacts the Planning Department and requests assistance in determining the status of such parcels, the Planning Director shall advise the owner that he or she has a right to a hearing before the Advisory Agency to determine the status of parcels covered by this section.

(b) If the owner requests a hearing, the Planning Director shall either personally deliver or mail to the owner a request of hearing form which must be completed and signed by the owner prior to a hearing being scheduled. The completed and signed hearing request form must be filed with the Planning Director within 60 days after the date on which the notice provided for in § 327.5-15 has been mailed or personally delivered to the property owner. Failure to file the hearing request form within the time specified in this subsection will result in waiver of the owner's right to a hearing. (Ord. 1762, 12/09/86)

(c) Once the Planning Director receives a signed and completed request for hearing form he shall set a hearing before the Advisory Agency and shall notify the property owner of the time, date and place of the hearing by certified mail. (Ord. 1762, 12/09/86)

(d) At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property is not or should not remain merged. (Ord. 1762, 12/09/86)

(e) At the close of the hearing, the Advisory Agency shall make a determination that the affected properties continue to be merged, or are not merged and shall so notify the owner in writing of its decision. (Ord. 1762, 12/09/86)

(f) Within 30 days after a determination of continued merger is made, the Planning Director shall record a notice of merger unless an appeal is filed pursuant to § 327.5-16.5. (Ord. 1762, 12/09/86)

#### **327.5-16.5. APPEALS.**

At any time within ten (10) days after the Advisory Agency makes a determination that the affected properties continue to be merged or are not merged pursuant to § 327.5-16, either the property owner or the Planning Director may appeal the Advisory Agency's decision to the Board of Supervisors. The request for appeal shall be in writing, filed with the Planning Director and shall specify the factual and legal grounds upon which the appeal is based. (Ord. 1762, 12/09/86)

The Planning Director shall forward the request for appeal to the Clerk of the Board of Supervisors who shall fix a time, date and place for a hearing before the Board of Supervisors and shall notify the property owner by certified mail. (Ord. 1762, 12/09/86)

The evidence presented at the hearing shall be limited to the issues raised and presented at the hearing held by the Advisory Agency. (Ord. 1762, 12/09/86)

At the close of the hearing, the Board of Supervisors shall make a determination that the affected properties continue to be merged, or are not merged and shall so notify the property owner in writing of its decision. A determination under this section is final and not subject to appeal. (Ord. 1762, 12/09/86)

Within 30 days after a determination of continued merger is made, the Planning Director shall record a notice of merger. (Ord. 1762, 12/09/86)

#### **327.5-17. EFFECT OF FAILURE TO REQUEST HEARING UNDER ARTICLE III.**

If an owner of one or more parcels covered by Article III of this chapter fails to contact the Planning Department within 60 days of the date of the notice described in § 327.5-15, and fails to request a hearing as provided for in § 327.5-16, all parcels owned by such owner which meet the conditions described in § 327.5-14 and for which the notice required by § 327.5-15 was sent shall remain merged. Failure to request a hearing within the time and in the manner specified in this section shall result in a waiver of the right to a hearing. (Ord. 1762, 12/09/86)

**ARTICLE IV - VOLUNTARY MERGERS**

**327.5-18. APPLICATION FOR MERGER OF PARCELS; PROCEDURE.**

Upon request of the legal owner(s) of contiguous parcels, the Advisory Agency may approve the merger of such contiguous parcels. Such request shall be in writing and shall be accompanied by such data, documents and fees as required by the County. A merger pursuant to the provisions of this section shall not be approved unless the Advisory Agency determines that the parcel resulting from the merger meets applicable health, building, and zoning requirements and that approving the merger would create health and safety problems. If merger is approved, a notice of merger shall be filed with the County Recorder. The form and content of the notice shall be as required by the County. (Ord. 1762, 12/09/86)