

ORDINANCE NO. 4476

AN URGENCY ORDINANCE OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS PERMITTING TEMPORARY GROUP CARE FACILITIES IN THE COASTAL ZONE FOR THE PURPOSE OF ALLOWING FOR WINTER HOMELESS SHELTERS DURING THE COVID-19 PANDEMIC

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency in the State of California related to the COVID-19 pandemic; and

WHEREAS, the County of Mendocino Health Officer (Health Officer) declared a local health emergency related to the COVID-19 on March 4, 2020; and

WHEREAS, the County of Mendocino Director of Emergency Services proclaimed the existence of a local emergency related to COVID-19 on March 4, 2020; and

WHEREAS, on March 10, 2020, the Board of Supervisors of the County of Mendocino adopted Resolution No. 20-0024 ratified the local emergency related to COVID-19 as proclaimed by the Chief Executive Officer/Director of Emergency Services and ratified the existence of a local emergency as proclaimed by the Health Officer; and

WHEREAS, in light of the COVID-19 pandemic and Governor Newsom's state of emergency proclamation, on March 12, 2020, the Governor issued Executive Order N-25-20, ordering residents to heed any order by local public health officials, "including but not limited to the imposition of social distancing measures, to control the spread of COVID-19"; and

WHEREAS, on March 18, 2020, the Health Officer ordered all individuals living in the County to shelter in their place of residence, except to provide or receive certain essential services, engage in certain essential activities, and work for essential businesses and governmental services. This Order was issued on evidence of increasing occurrence of COVID-19 throughout the Bay Area, and the need to slow the rate of transmission to protect the most vulnerable and prevent the health care system from being overwhelmed; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20 imposing a statewide shelter-in-place order requiring individuals to remain in their places of residence except as needed to maintain continuity of operations of critical infrastructure, access necessities such as food, prescriptions and healthcare, or engage in other authorized activities, and which remains in place with certain modifications to authorized activities and business operations; and

WHEREAS, homeless individuals in Mendocino County are not able to assure their ability to shelter in place, which places this population at a high risk of contracting COVID-19 and suffering from impacts that would require hospitalization; and

WHEREAS, in order to provide as many options for homeless individuals for shelter during the COVID-19 pandemic and the upcoming winter months, the County of Mendocino desires to permit group care facilities in the Coastal Zone pursuant to the provisions of this ordinance, which shall supersede the requirements of the Title II of the Mendocino County Zoning Code for the duration of this ordinance; and

WHEREAS, there is an urgent need to provide housing options for homeless individuals

during the COVID-19 pandemic in order to lessen risk of transmission of COVID-19 among this high risk population; and

WHEREAS, the immediate implementation of this ordinance is necessary because the existing provisions of Title II of the Mendocino County Zoning Code, in particular, requiring a use permit, would mean that there would not be a winter homeless shelter on the Mendocino Coast for the duration of winter 2020-2021; and

WHEREAS, the County of Mendocino desires to adopt these temporary regulations on an urgency basis pursuant to Government Code section 25123, which allows ordinances to become effective immediately if the ordinance is for the immediate preservation of the public peace, health or safety, which shall contain a declaration of the facts constituting the urgency, and be passed by a four-fifths vote of the Board of Supervisors; and

WHEREAS, Government Code section 25131 expressly authorizes the Board of Supervisors to adopt an urgency ordinance immediate upon its introduction.

NOW, THEREFORE, The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

SECTION 1. Findings and Purpose.

The Board of Supervisors of the County of Mendocino finds and declares all of the following:

- A. The above recitals are true and correct, and are incorporated herein.
- B. The purpose of this ordinance is to support the temporary operation of winter homeless shelters for “Group Care” during the COVID-19 pandemic and winter 2020-2021.

SECTION 2. Urgency Findings.

- A. The Board of Supervisors hereby finds that the adoption of this ordinance is for the immediate preservation of the public peace, health and safety. Providing shelter options for homeless individuals during the winter months of the COVID-19 pandemic will protect the health and safety of these individuals and lessen the risk of COVID-19 transmission and other medical issues that would require hospitalization during the pandemic.

SECTION 3. Definitions.

- A. “Group Care” means as defined in section 20.320.060 of Mendocino County Code.
- B. “Temporary Group Care Facility” means a property or structure proposed to be used for Group Care as defined in section 20.320.060 that operates until April 1, 2021.

SECTION 4. Applicability of Ordinance.

- A. The Ordinance applies to areas subject to Division II of Title 20 of Mendocino County Code (Coastal Zoning Code).

SECTION 5. Administration.

- A. This Ordinance will be administered under the direction of the Board of Supervisors, by the Planning and Building Services Department (the “Department”).

SECTION 6. Temporary Group Care Facilities.

- A. A Temporary Group Care Facility shall be located in a zoning district in which the Group Care use type is either a principally or conditionally permitted use within the district.
- B. No discretionary permits shall be required for a Temporary Group Care Facility.
- C. A Temporary Group Care Facility may only be located within existing structures that do not require structural additions or modifications to accommodate the use.
- D. No residence, accessory structure to a residence, or portion thereof may be converted to a Temporary Group Care Facility.
- E. A Temporary Group Care Facility shall be located on a publicly maintained road.
- F. A Temporary Group Care Facility shall have adequate sanitation facilities, including access to potable water and restroom facilities, to support such use.
- G. No additional signage is authorized for a Temporary Group Care Facility without complying with standard sign regulations of Mendocino County Code.
- H. A Temporary Group Care Facility is exempt from Parking Regulations contained in Chapter 20.472 of Mendocino County Code.
- I. Compliance with Other Laws. All Temporary Group Care Facilities must comply with other state and local laws, including encroachment, building, fire, and health code requirements, the California Disabled Persons Act, the State Shelter Order and the County Health Order.
- J. No Property Rights Conferred. Use of a Temporary Group Care Facility must immediately cease at the end of the effective period of this Ordinance.

SECTION 7. Enforcement.

- A. Enforcement. A violation of this Ordinance is subject to enforcement by any legal means available, including but not limited to the enforcement provisions in MCC Chapter 1.08, and Chapter 20.552 as applied to the zoning district where the violations occurs.
- B. Suspension, termination and modification. If the Department determines that a Temporary Group Care Facility is operating in a manner inconsistent with this Ordinance, the Department may require changes to the Temporary Group Care Facility, suspend use of the Temporary Group Care Facility, or require that the Temporary Group Care Facility cease. A decision by the Director of the Department under this section is final, subject only to judicial review.

SECTION 8. Environmental Determination.

Adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to the following: Public Resources Code Section 21080(b)(4) and CEQA

Guidelines Section 15269(c) as an action immediately necessary to mitigate or prevent an emergency because the Ordinance establishes temporary authorization to operate Group Care Facilities to enable shelter during inclement weather, in order to provide as many options for homeless individuals for shelter during the COVID-19 pandemic and the upcoming winter months, and to reduce the risk of transmission of COVID-19 and because the anticipated time to conduct environmental review would pose a grave risk to public health, safety, and welfare; and CEQA Guidelines Section 15061(b)(3) (Common Sense) because it can be seen with certainty that there is no possibility that the action will have a significant effect because uses are temporary and minor in scale.

SECTION 9. Severability.

The provisions of this ordinance are separate and severable. If any provision of this ordinance is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed this ordinance irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Ordinance, or the validity of its application to other persons or circumstances.

SECTION 10. Effective Date.

This Ordinance shall take effect immediately as an urgency ordinance, and will remain in effect until April 1, 2021, or until this Ordinance is modified or revoked by the Board of Supervisors, whichever is sooner.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this 17th day of November, 2020 by the following roll call vote:

AYES:	Supervisors Brown, McCowen, Haschak, Gjerde and Williams
NOES:	None
ABSENT:	None

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

JOHN HASCHAK, 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:
CHRISTIAN M. CURTIS
County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy