

ORDINANCE NO. 4530

AN URGENCY ORDINANCE OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS EXEMPTING REPLACEMENT ROOFS AND/OR ROOFMOUNT SOLAR ENERGY SYSTEMS FROM DISCRETIONARY REVIEW IN THE COASTAL ZONE DURING THE LOCAL EMERGENCY RELATED TO CLIMATE CHANGE

WHEREAS, on September 10, 2018, the State of California's Governor Brown issued an executive order establishing a 2045 statewide target to achieve carbon neutrality, and on the same day, Senate Bill 100 was passed, which sets a 100% clean electricity goal for the State by 2045; and

WHEREAS, on September 3, 2021, the State of California Energy Commission, Public Utilities Commission and Air Resources Board issued a Joint Agency Report Summary regarding implementation of SB 100 which found, in part, that solar and wind power construction rates need to nearly triple in order to meet the 2045 statewide target; and

WHEREAS, renewable energy, such as solar energy systems, assists in achieving carbon neutrality and provides a clean source of energy for development; and

WHEREAS, solar energy systems reduce greenhouse gas emissions, which contribute to rising sea levels and adverse impacts to the coastal environment including rising sea levels, ocean acidification, changing precipitation and temperature patterns, increased wildfire risks, extended periods of drought and limited water supplies and loss of or changes in species diversity and distribution; and

WHEREAS, replacement of an existing roof can also assist with the reduction of greenhouse gas emissions, as a new roof generally results in a better protected and insulated building, resulting in using less energy to heat or cool the building, and also better protect the building from disasters caused by climate change, including better protection from wildfires and extreme weather events; and

WHEREAS, on December 19, 2023, the Board of Supervisors of the County of Mendocino adopted Resolution No. 23-206 declaring a local emergency related to climate change and declared that urgency actions to ease regulatory and public policy constraints may be necessary to facilitate effective and expedited implementation of climate change mitigation efforts; and

WHEREAS, the Board of Supervisors desires to encourage the development of renewable energy sources and the replacement of roofs throughout the County in an effort to increase the County's resilience to the effects of climate change and to assist with the reduction of greenhouse gas emissions by increasing solar power production and decreasing reliance on fossil fuels; and

WHEREAS, current permitting requirements within the Coastal Zone of Mendocino County are preventing residents from being able to swiftly install new roofs and/or roof mounted solar energy systems that would reduce greenhouse gas emissions and increase self-sufficiency and resiliency to climate change and disasters caused by climate change, including power outages caused by disasters; and

WHEREAS, the immediate implementation of this ordinance is necessary to increase renewable energy sources and improve resilience related to climate crisis; and

WHEREAS, the County of Mendocino desires to adopt these 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 immediately 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 by this reference. In addition, the recitals of Resolution No. 23-206, which declared a local emergency related to climate change, are incorporated herein by this reference.
- B. This ordinance is adopted in order to alleviate the effects of climate change as identified in Resolution No. 23-206. As provided for in that resolution, climate change presents a serious threat to the public health and safety of the residents of Mendocino County and adoption of this ordinance as an urgency measure is needed to preserve the health and safety of the County.
- C. As provided by Government Code section 8634, the Board of Supervisors may promulgate orders and regulations necessary to provide for the protection of life and property during a local emergency, and this ordinance is intended to better allow County residents to take measures to make themselves more resilient in the face of climate change and the disasters that are caused by climate change.
- D. The purpose of this ordinance is to facilitate the development of renewable energy sources for existing buildings within the Coastal Zone of Mendocino County to assist in combating climate change.

SECTION 2. Definitions.

- A. "Coastal Zone" refers to all lands within the unincorporated areas of Mendocino County subject to Division II and Division III of Title 20 of Mendocino County Code.
- B. "Department" means the County of Mendocino Planning and Building Services Department.
- C. "Eligible Solar Energy System" means a roof-mounted Solar Energy System on an existing, legally constructed, building that does not require any of the following permits:
 - 1. An individual federal permit pursuant to Section 401 or 404 of the federal Clean Water Act (33 U.S.C. Sec. 1341 or 1344) or waste discharge requirements pursuant to the Porter-Cologne Water Quality Control Act

(Division 7 (commencing with Section 13000) of the Water Code).

2. An individual take permit for species protected under the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).
 3. A streambed alteration permit pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code.
- D. "MCC" means the Mendocino County Code.
- E. "Replacement Roof" means complete or partial removal of the existing roof covering, repairing or replacing any damaged sheeting, and installing a new roof covering of the same material and color as the existing roof covering.
- F. "Solar Energy System" means all equipment, parts and materials that enable the generation and use of solar electricity or solar-heated water, including any monitoring and control, safety, conversion, and emergency responder equipment necessary to connect to electrical service or plumbing and any equipment, as well as any equipment necessary to connect the energy generated to the electrical grid, whether that connection is onsite or on an adjacent parcel of the building and separated only by an improved right-of-way. A Solar Energy System does not include a substation.

SECTION 3. Applicability of Ordinance.

The Ordinance only applies to the unincorporated areas of the Coastal Zone of Mendocino County, excluding areas of deferred certification (pygmy forest) or properties upon which the California Coastal Commission retains permit jurisdiction, including but not limited to tidelands, submerged lands or public trust lands, whether filled or unfilled.

SECTION 4. Administration and Administrative Policies.

- A. This Ordinance will be administered by the Department under the direction of the Board of Supervisors.
- B. The Department may establish administrative policies for the implementation of this Ordinance. The administrative policies must be consistent with this Ordinance and made available to the public on the Department's website and upon request at the Department.
- C. Where this Ordinance directly conflicts with the MCC, conditions of a discretionary permit issued by the County for a particular property, or a property's legal non-conforming use allowance, the provisions of this Ordinance shall prevail.

SECTION 5. Installation of Eligible Solar Energy Systems and Replacement Roofs.

- A. Eligible Solar Energy Systems and Replacement Roofs are hereby exempted from the permit requirements of Divisions II or III of the Mendocino County Zoning Code but shall be subject to the maximum height limitations for the zoning district of the

property at which an Eligible Solar Energy System or Replacement Roof is being installed.

- B. Installation of Eligible Solar Energy Systems or Replacement Roofs shall require a building permit issued pursuant to Title 18 of the MCC but shall not require any review by the Planning Division of the Department as part of the issuance of a building permit.
- C. Other than the permit requirements exempted from by this Ordinance, Eligible Solar Energy Systems and Replacement Roofs shall comply with all applicable federal, state and local laws and regulations.
- D. All construction materials associated with an Eligible Solar Energy System or Replacement Roof shall be stored in already disturbed areas of a property including parking areas or decks. Ground disturbance for an Eligible Solar Energy System shall be limited to the minimum necessary to trench to any electrical meter or panel. No new ground disturbance is permissible for a Replacement Roof.

SECTION 6. 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 Chapters 20.552 and 20.736 as applied to the zoning district where the violation occurs.

SECTION 7. Environmental Determination.

Adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*; "CEQA") pursuant to the following: Public Resources Code Section 21080.35 exempts solar energy systems that are located on the roof of an existing building and this Ordinance is only applicable to solar energy systems that are roof-mounted on an existing building; CEQA Guidelines Section 15301 as minor alteration to an existing facility that involves negligible or no expansion of existing use, including exterior alterations such as Replacement Roofs and/or roof-mounted solar energy systems. Adoption of this urgency ordinance will only have the impact of more swiftly allowing for installation of improvements already determined to be statutorily and categorically exempt from CEQA review, and the swift installation of Replacement Roofs, as defined by this ordinance, could not have a cumulatively significant impact because the Replacement Roof will be of the same colors and materials as the existing roof.

SECTION 8. 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 9. Effective Date.

This Ordinance shall take effect immediately as an urgency ordinance and will remain in effect until the termination of the climate change local emergency declared by Resolution No. 23-206,

certification of the Mendocino County Local Coastal Program Update, 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 19th day of December, 2023, by the following vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde and Williams
NOES: None
ABSENT: None

WHEREUPON, the Chairperson declared said Ordinance passed and adopted and SO ORDERED.

ATTEST: DARCIE ANTLE
Clerk of the Board

GLENN MCGOURTY, 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: DARCIE ANTLE
Clerk of the Board

Deputy