

ORDINANCE NO.

ORDINANCE AMENDING CHAPTER 5.140 – MENDOCINO COUNTY LODGING BUSINESS IMPROVEMENT DISTRICT TO MODIFY THE BOUNDARIES OF THE DISTRICT TO INCLUDE THE INCORPORATED AREA OF THE CITY OF POINT ARENA TO PROVIDE FOR THE LEVYING OF ASSESSMENTS ON SPECIFIED HOTEL BUSINESSES WITHIN THE CITY OF POINT ARENA

WHEREAS, on May 16, 2006, the Mendocino County Board of Supervisors adopted Ordinance No. 4170, adding Chapter 5.140 – Mendocino County Lodging Business Improvement District to the Mendocino County Code, which established the Mendocino County Lodging Business Improvement District (the “District”) and provided for the levying of assessments on specified hotel businesses within the unincorporated portion of the County of Mendocino, and the incorporated areas of the City of Fort Bragg, the City of Point Arena, the City of Ukiah and the City of Willits; and

WHEREAS, on June 6, 2017, the Mendocino County Board of Supervisors adopted Ordinance No. 4384, which, among other things, removed the incorporated area of the City of Point Arena from the District; and

WHEREAS, on March 26, 2019, the City Council of the City of Point Arena adopted Resolution No. 2019-09, providing its conditional consent to the inclusion of the incorporated area of the City of Point Arena in the District; and

WHEREAS, on September 22, 2020, the Mendocino County Board of Supervisors adopted Resolution 20-125, entitled “A Resolution of the County of Mendocino Declaring Its Intention to Modify the Boundaries of the Mendocino County Lodging Business Improvement District to Include the Incorporated Area of the City of Point Arena to Provide for the Levying of Assessments on Specified Hotel Businesses Conducted Within the City of Point Arena, Classifying Hotel for Such Purposes, Describing the Boundaries of the Proposed Area to be Included, the Authorized Uses to Which the Proposed Revenues Shall Be Put, the Rate of Such Assessments, Fixing the Date, Time and Place of a hearing to be Held by the County Board of Supervisors to Consider the Modification of the Boundaries of Such District, and Directing the Giving of Notice of Such Hearing”; and

WHEREAS, on October 20, 2020, at its regularly scheduled meeting which took place virtually due to the COVID-19 pandemic, the Mendocino County Board of Supervisors held a duly noticed public meeting regarding the proposed modification of the boundaries of the District to include the incorporated area of the City of Point Arena; and

WHEREAS, on November 17, 2020, at its regularly scheduled meeting which took place virtually due to the COVID-19 pandemic, the Mendocino County Board of Supervisors held a duly noticed public hearing regarding the proposed modification of the boundaries of the District to include the incorporated area of the City of Point Arena.

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

Section 1. Lack of Majority Protest. A written protest was received by the operator of one hotel, which hotel represents approximately forty-four percent (44%) of the total amount paid by all hotels to the City of Point Arena under its transient occupancy tax during the July to

September 2020 financial quarter. The assessment imposed by the BID is a percentage of the rent charged by the hotel, similar to the transient occupancy tax imposed by the City of Point Arena. The Board of Supervisors finds and determines that protests objecting to the modification of the boundaries of the District to include the incorporated area of the City of Point Arena have not been made by a majority of the operators of Hotels or Lodging Businesses (as those terms are defined in Chapter 5.140) within the incorporated area of the City of Point Arena. The Board of Supervisors finds that the operators of Hotels and Lodging Businesses within the incorporated area of the City of Point Arena, in the opinion of the Board, will be benefited by the expenditure of funds raised by the assessments proposed to be levied.

Section 2. The boundaries of the Mendocino County Lodging Business Improvement District are hereby modified to include the incorporated area of the City of Point Arena. Hotel and Lodging Business, as defined in Chapter 5.140, shall be subject to the assessments provided for in said Chapter, and the revenues from said assessments shall fund the improvements and activities provided for in said Chapter.

Section 3. Mendocino County Code section 5.140.030 is amended to read as follows:

Sec. 5.140.030 - Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this Chapter:

- (a) ADMINISTRATIVE FEE. "Administrative fee" means a fee not to exceed three (3) percent, which the County of Mendocino is entitled to retain from the assessments they collect within their respective boundaries to pay for the County's everyday administrative costs of the District.
- (b) ADVISORY BOARD. "Advisory board" means the advisory board appointed by the Board of Supervisors of the County of Mendocino.
- (c) ANNUAL REPORT. "Annual report" means the annual report as approved by the Board of Supervisors pursuant to the Business and Improvement Area Law of 1989.
- (d) ANNUAL MARKETING PLAN. "Annual Marketing Plan" means the BID Advisory Board annual report as approved by the Board of Supervisors as it pertains to the improvements and activities to be provided, the estimate revenue, and the estimated costs of the improvements and activities to be provided.
- (e) ASSESSMENT. "Assessment" means the levy imposed by this Chapter for the purpose of providing services, activities and programs promoting hotel tourism in the District and marketing the District.
- (f) BID. "BID" means the Mendocino County Lodging Business Improvement District.
- (g) BOARD. "Board" means the Board of Supervisors of the County of Mendocino.

- (h) BOARD OF SUPERVISORS. "Board of Supervisors" means the Board of Supervisors of the County of Mendocino.
- (i) BUSINESS AND IMPROVEMENT AREA LAW OF 1989. "Business and Improvement Area Law of 1989" means the provisions of California Streets and Highways Code sections 36500 to 36551, as amended.
- (j) CITY or CITIES. "City" or "cities" shall mean, individually or collectively, the City of Fort Bragg, the City of Point Arena, the City of Ukiah, and the City of Willits.
- (k) CONTRACTOR. "Contractor means the individual or entity designated by the Board of Supervisors to administer the Business Improvement District (BID) including hiring and oversight of the individual or entity charged with implementation of the Annual Marketing Plan that is annually approved by the Board of Supervisors.
- (l) CORE BUSINESS OR ORGANIZATIONAL INTEREST. "Core Business or Organizational Interest" means a governing board applicant's primary source of business or employment income or organizational representation.
- (m) COUNTY. "County" means the County of Mendocino.
- (n) COUNTY CLERK. "County Clerk" means the Clerk of the Board of Supervisors.
- (o) DISTRICT. "District" means the Mendocino County Lodging Business Improvement District created by this Chapter and as delineated in Section 5.140.040.
- (p) ENFORCEMENT FEE. "Enforcement fee" means the reimbursable fee, in addition to the administrative fee and any other penalties or fines, which the County is entitled to retain from the assessments they collect, equal to its actual costs of audits and actions to collect, minus any costs of audits and enforcement actions collected from operators in default of this Chapter.
- (q) HOTEL or LODGING BUSINESS. "Hotel" or "lodging business" means any structure or any portion of any structure which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes and includes any hotel, inn, tourist home or house, private residence, detached bedroom, motel, studio hotel, bachelor hotel, lodging houses, rooming houses, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.
- (r) HOTEL REVENUES. "Hotel revenues" means the gross revenues or gross rent collected from the occupancy of space prior to the levy of any tax or other charges.
- (s) LARGE LODGING OPERATORS. "Large Lodging Operators" are those

lodging operators who, in the aggregate, most nearly generate the top sixty percent (60%) of the assessment revenue on a fiscal year basis.

- (t) MCLA. "MCLA" means the Mendocino County Lodging Association.
- (u) MEDIUM LODGING OPERATORS. "Medium Lodging Operators" are those lodging operators ranked immediately below the Large Lodging Operators who, in the aggregate, most nearly generate the next twenty percent (20%) of the assessment revenue on a fiscal year basis.
- (v) MENDOCINO COUNTY LODGING ASSOCIATION. "Mendocino County Lodging Association" means the Mendocino County Lodging Association, Inc., an Internal Revenue Code 501(c)(6) organization.
- (w) MENDOCINO COUNTY LODGING BUSINESS IMPROVEMENT DISTRICT. "Mendocino County Lodging Business Improvement District" means the Lodging Business Improvement District of the County of Mendocino created by this Chapter and as delineated in Section 5.140.040.
- (x) OPERATOR. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sub lessee, mortgagee in possession, licenses, or any other capacity, including but not limited to use of a managing agent. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
- (y) PENALTY ASSESSMENT. "Penalty Assessment" means the Penalties provided for in Section 5.140.130 which are imposed in addition to the Assessment and any other penalties or costs of audits and enforcement actions.
- (z) REGIONAL PROMOTIONAL ORGANIZATION. "Regional Promotional Organization" means an organization in Mendocino County with regular meetings and an ongoing promotional mission focused on a particular region."
- (aa) RENT. "Rent" means the consideration charged, whether or not received, for the occupancy of space for a period of thirty (30) days or less, counting portions of calendar days as full days, in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, and property and services of any kind or nature, without any deduction there from whatsoever.
- (ab) SMALL LODGING OPERATORS. "Small Lodging Operators" are those lodging operators ranked below the Medium Lodging Operators who, in the aggregate, most nearly generate the bottom twenty percent (20%) of the assessment revenue on a fiscal year basis.

(ac) TAX ADMINISTRATOR. "Tax Administrator" means the Treasurer-Tax Collector of the County of Mendocino.

Section 4. Mendocino County Code section 5.140.040 is amended to read as follows:

Sec. 5.140.040 - Area Established—Description.

The Board of Supervisors finds and determines that the public convenience and necessity require the establishment of the District herein described. It further finds that the operators of hotels within the District will benefit from the activities undertaken to generate hotel tourism and marketing of the District. Pursuant to the Parking and Business Improvement Area Law of 1989, a parking and business improvement area is established, to be known as the "Mendocino County Lodging Business Improvement District," herein called "District." The District encompasses all that area within the unincorporated area of the County of Mendocino and the incorporated areas within the City of Fort Bragg, the City of Point Arena, the City of Ukiah, and the City of Willits.

Section 5. Effective Date; Commencement of Assessments. This ordinance shall take effect thirty (30) days after final passage. Notwithstanding anything in Resolution No. 20-125 to the contrary, the date for commencement of the assessment imposed on the operators of businesses in the incorporated area of the City of Point Arena resulting from the adoption of this ordinance shall be the effective date of this ordinance.

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

AYES: Supervisors
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