

ORDINANCE NO. 4493

AN URGENCY ORDINANCE OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS ESTABLISHING WATER USE REQUIREMENTS FOR DISCRETIONARY CANNABIS AND OTHER PERMITS DURING THE 2021 DROUGHT EMERGENCY

WHEREAS, on March 5, 2021, United States Department of Agriculture (“USDA”) Secretary Tom Vilsack designated 50 of California’s counties, including Mendocino County, as primary natural disaster areas due to a recent drought, which allows for farm operations to be eligible for certain assistance available through the USDA Farm Service Agency; and

WHEREAS, on April 20, 2021, by Resolution No. 21-051, the Mendocino County Board of Supervisors declared a local emergency due to drought conditions, which declaration of emergency was subsequently renewed on June 8, 2021, by Resolution No. 21-079; and

WHEREAS, pursuant to Mendocino County Code section 7.10.060, the provisions of Chapter 7.10 – Emergency Water Conservation were reinstated upon the declaration of the drought emergency, which include urging all water uses in the County to reduce water use by twenty percent (20%) and requesting all water supplies to immediately implement their water shortage contingency plans; and

WHEREAS, on April 21, 2021, Governor Gavin Newsom proclaimed a state of emergency in Mendocino and Sonoma Counties due to drought conditions in the Russian River Watershed; and

WHEREAS, on May 10, 2021, Governor Gavin Newsom proclaimed a state of emergency in forty-one (41) total California counties due to drought conditions, and ordered that the provisions of the April 21, 2021, declaration remained in full force and effect, except as modified; and

WHEREAS, on May 26, 2021, due to drought conditions in the Russian River Watershed, the State Water Resources Control Board notified over 900 junior water rights holders that there is not enough water in the watershed and that diversions must be reduced immediately to safeguard the community’s drinking water availability for the remainder of 2021; and

WHEREAS, in order to conserve water resources during the drought emergency, the Mendocino County Board of Supervisors desires to immediately implement certain additional requirements for all discretionary permits and approvals that may be issued by the County, specifically including use permits and administrative permits pursuant to Title 20 of the Mendocino County Code and any discretionary permit related to cannabis cultivation; and

WHEREAS, the immediate implementation of this ordinance is necessary because new projects or developments must be analyzed and subject to additional requirements in light of the drought emergency in order to fully take into consideration water usage during the drought; 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.
- B. The purpose of this ordinance is to provide for additional requirements related to discretionary permits issued by the County during the drought emergency.

SECTION 2. Discretionary Permit Requirements Regarding Water Usage.

The County and its agents, employees and departments shall not approve any application for subdivision, use permit, variance, or other discretionary entitlement for use which is required in order to comply with the County's zoning ordinances, specifically including but not limited to discretionary permits for cannabis cultivation, during the term of this ordinance without (A) considering the anticipated water use of the proposed development and (B) imposing conditions of approval related to limiting or phasing any expansion of water use, as deemed appropriate by the reviewing authority.

The authority approving the discretionary entitlement is authorized, as a condition of permit approval, to implement water use restrictions during the term of this ordinance. Such restrictions may include, but are not limited to, a temporary moratorium on any newly permitted activity until such time as the existing drought emergency is terminated by the Mendocino County Board of Supervisors.

SECTION 3. Administration and Administrative Policies.

- A. This Ordinance will be administered under the direction of the Board of Supervisors, by the Planning and Building Services Department (the "Department").
- B. The Department may establish administrative policies for use in implementing this Ordinance. The administrative policies must be consistent with this Ordinance and made available to the public on the Department website and upon request at the Department.

SECTION 4. 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 measures to assist with studying and considering restrictions or conditions of approval regarding reductions in water usage during a drought and the anticipated time to conduct environmental review would pose a grave risk to public health, safety, and welfare, given the seriousness of drought conditions; CEQA Guidelines Section 15308 (Class 8) as an action taken to assure the protection of the environment, as this ordinance specifically calls for additional study and conditions of approval related to reducing water usage during a drought emergency.

SECTION 5. 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 6. Effective Date; Term of Ordinance.

This Ordinance shall take effect immediately as an urgency ordinance, and will remain in effect until expiration or termination of the County's declared local emergency, 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 22nd day of June, by the following roll call vote:

AYES: Supervisors McGourty, Mulheren, 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

DAN GJERDE, 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