



MEMORANDUM

DATE: June 5, 2023
TO: Mendocino Historical Review Board
FROM: Julia Krog, Director
SUBJECT: Review Board Authority Regarding Temporary Tents Authorized under Ordinance No. 4472

Status and Expiration of Ordinance No. 4472 – Temporary Tents

On October 20, 2020, the Mendocino County Board of Supervisors adopted Ordinance No. 4472 allowing and establishing requirements for temporary business modifications during the COVID-19 pandemic. The Ordinance applied to temporary modifications undertaken in order to comply with a federal health order, State Shelter Order, County Health Order, or physical distancing requirements to reduce the risk of transmission of COVID-19.

Ordinance No. 4472 provided certain exceptions for business modifications including reduced setback standards for districts that required setbacks over 30 feet, exception from the Corridor Preservation Setback, exception from lot coverage standards and parking standards. Limitations were placed upon noise, signage, and temporary lighting. The Ordinance also exempted temporary modifications from discretionary review, including Mendocino Historical Review Board Permits and Coastal Development Permits, unless the business wished to retain the temporary modifications after the end of the effective period of the Ordinance.

Ordinance No. 4472 requires that within 90 days after the end of the effective period of the ordinance that temporary modifications must either be restored to their prior condition or the applicant must apply for and diligently pursue retention of these modifications on a permanent basis.

The effective date of Ordinance No. 4472 was tied to “the termination of social distancing requirements.” Given the number of federal and state agencies involved in that determination as well as the evolving terminology during the pandemic, the exact date of this termination is unclear but may have been as early as June 15, 2021. However, the Mendocino County Board of Supervisors adopted Resolution No. 23-047 on February 28, 2023, terminating the local emergency related to COVID-19.

Due to lack of any prior statement regarding the termination of the Ordinance, the Department of Planning and Building Services is providing 90 days from the date of the Press Release (Attachment A) or until August 8, 2023 for individuals to submit for appropriate permits to retain any temporary modifications on a permanent basis.

Review Board Authority

At the May 1, 2023 Mendocino Historical Review Board meeting, the Review Board requested that staff prepare a memorandum regarding the status of the above noted Ordinance as well as the Review Board authority as it relates to the retention of temporary modifications made within the Town of Mendocino.

As noted by Staff during the May 1st meeting, the Review Board does not have the authority to adopt ordinances nor grant extensions to them. The authority to adopt ordinances is held by the Mendocino County Board of Supervisors.

The Review Board authority is derived from Mendocino County Code section 20.760.020, which states:

There is hereby established a Historical Review Board, hereinafter called "Review Board," whose function is to preserve the architecture and character of the Historic District, whose duties are to review all applications for development as described in Sections 20.760.030 and 20.760.035, within the Historic District and whose responsibility is to protect the landmark status of buildings, ensuring development is compatible with surrounding development...

Mendocino County Code sections 20.760.030 and 20.760.035 provide for the types of work or development within the Historic District that require approval of the Review Board.

The Review Board authority is limited to the review of applications for development as described in the above noted sections to ensure development is compatible with and in harmony with surrounding development, will not detract from the appearance of other property within the District, and, if applicable, will not unnecessarily damage or destroy a structure of historical, architectural or cultural significance. During the review of an application for development within the Historic District, the Review Board has the authority to grant variances to setbacks and building heights, subject to the findings contained in Mendocino County Code section 20.724.020.

Mendocino County Code section 20.760.045 provides that no tent shall be constructed, installed, kept or stationed on a regular basis in an uncovered, visible area in any portion of the Historic District after the effective date of the regulations without the prior approval of the Review Board.

The Review Board may consider providing guidance to the public on what types of improvements may be considered harmonious with the Historic District and consistent with the Design Guidelines.

The Review Board does not have authority over lot coverage determinations or exceptions. Mendocino County Code section 20.608.031(M) defines lot coverage as follows:

"Lot Coverage" means the percentage of gross lot area covered by all buildings and structures on a lot, including decks, porches, and covered walkways; excluding uncovered required parking areas, landscaping, patios, terracing, and rainwater, groundwater, or potable water storage tanks.

Maximum lot coverage percentages provided in each zoning district within the Town of Mendocino may only be modified through a Local Coastal Program amendment. It is important to note that many properties within the Historic District are currently non-conforming in terms of lot coverage. Staff has allowed for existing non-conforming lot coverage on a lot to be maintained but not increased, meaning that an individual can remove some improvements that count towards lot coverage in order to construct others provided they do not increase the level of nonconformity.

The Department of Planning and Building Services has not previously counted temporary tents, such as those used at the MacCallum house for weddings, towards lot coverage. While there is not a definition of "temporary" provided in Mendocino County Code Chapter 20.608; however, Section 3103 of the California Building Code does provide that "temporary structures" include tents that are erected for a period of less than 180 days. It seems reasonable to apply this standard to determine that tents that are erected for less than 180 days would not count towards lot coverage as they would be considered temporary.

ATTACHMENTS

- A. Press Release issued May 10, 2023



ATTACHMENT A

COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
860 NORTH BUSH STREET • UKIAH • CALIFORNIA • 95482
120 WEST FIR STREET • FORT BRAGG • CALIFORNIA • 95437

JULIA KROG, DIRECTOR
PHONE: 707-234-6650
FAX: 707-463-5709
FB PHONE: 707-964-5379
FB FAX: 707-961-2427
pbs@mendocinocounty.org
www.mendocinocounty.org/pbs

PRESS RELEASE

DATE: MAY 10, 2023

**TO: CEO, DARCIE ANTLE
BOARD OF SUPERVISORS
MEDIA PARTNERS**

FROM: PLANNING AND BUILDING SERVICES

RE: EXPIRATION OF URGENCY ORDINANCE NO.'S 4472 and 4494

Temporary Business Modifications During COVID-19 - Ordinance No. 4472

On October 20, 2020, the Mendocino County Board of Supervisors adopted Ordinance No. 4472 allowing and establishing requirements for temporary business modifications during the COVID-19 pandemic. Temporary business modifications include temporary tents, expanded outdoor seating areas, covered porches and/or patios, etc. that were added in response to Public Health Order requirements and did not obtain required building permits or discretionary permits.

The Ordinance allowing these temporary business modifications has expired and individuals who made temporary business modifications have 90 days to either remove any modifications made or apply for appropriate permits to keep the modifications.

The Department of Planning and Building Services is providing 90 days from the date of this Press Release or until August 8, 2023 for individuals to submit for appropriate permits to retain any temporary modifications on a permanent basis.

Temporary Water Storage Tanks - Ordinance No. 4494

On July 13, 2021, the Mendocino County Board of Supervisors adopted Ordinance No. 4494 allowing for the temporary installation and use of water tanks during the drought emergency. On April 25, 2023, the Mendocino County Board of Supervisors adopted Resolution No. 23-077 terminating the existence of a local emergency due to drought conditions, and as a result the Ordinance expired.

Since the Ordinance is expired, individuals who installed temporary water storage tanks have 30 days to either remove these tanks or apply for appropriate permits to keep them.

The Department of Planning and Building Services is providing 30 days from the date of this Press Release or until June 9, 2023 for individuals to submit for appropriate permits to retain the temporary water tanks on a permanent basis.