

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

AN ORDINANCE REPEALING AND REPLACING SECTION 10.20.150 (MOBILE VENDING – PERMIT - REQUIRED) AND SECTION 10.20.155 (PARKING OF MOBILE VENDING VEHICLES – PERMIT – LIABILITY INSURANCE REQUIREMENTS) OF CHAPTER 10.20 (STOPPING, STANDING AND PARKING) OF TITLE 10 (VEHICLES AND TRAFFIC) OF THE FORT BRAGG MUNICIPAL CODE

ORDINANCE NO. 945-2019

WHEREAS, food trucks and other forms of mobile vending have grown in popularity in recent years; and

WHEREAS, mobile vending in Fort Bragg is currently regulated by Fort Bragg Municipal Code, Chapter 10.20, Sections 10.20.150 and 10.20.155; and

WHEREAS, the City’s 2014 Economic Development Strategy includes a strategy to review existing regulations and, if necessary, make them more business friendly; and

WHEREAS, the City Council has reviewed the mobile vending regulations and determined that they should be updated to facilitate mobile vending while ensuring that mobile vending will not be detrimental to the public interest, health, safety, convenience, or welfare; and

WHEREAS, a new set of regulations has been prepared for mobile vending that will allow Mobile Vending Units to operate safely within the public right of way; and

WHEREAS, the proposed regulations establish limits on the location and zoning districts for Mobile Vending Units; and

WHEREAS, the proposed regulations further regulate the operation, unit design, use of accessory equipment, compliance with Mendocino County Health Department’s required use of a Commercial Kitchen for all food prep and vehicle cleanup and the use of a Certified Disposal Facility, and garbage and recyclable collection associated with Mobile Vending Units; and

WHEREAS, the State of California adopted *SB-946 Sidewalk vendors* and this ordinance revision will bring the City’s sidewalk vending regulations into compliance with State Law; and

WHEREAS, the proposed regulations address mobile vending on public and private property and on sidewalks; and

WHEREAS, the City Council has determined that the following changes should be made to Chapter 10.20 of the Fort Bragg Municipal Code to establish new mobile vending regulations and to provide for consistency, accuracy and ease of use by the City's staff and citizens.

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. City of Fort Bragg Municipal Code sections 10.20.150 and 10.20.155 have been reviewed to identify necessary changes to ensure that Mobile Vending Operators (MVO) go through a permitting process to ensure that MVOs are effectively regulated so that they will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
2. Certain current provisions of sections 10.20.150 and 10.20.155 are not accurate reflections of the City Council's current legislative intent, nor do they comply with current State Law.
3. Amending sections 10.20.150 and 10.20.155 in the manner described in this ordinance is in the public interest for it will ensure that MVOs are effectively regulated so that they will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
4. There is no possibility that the adoption of this ordinance will have a significant impact on the environment, and therefore, the adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA"), pursuant to Section 15301(e) (minor alteration to existing facilities) and 15311(c) (mobile food units) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations).

Section 2.

TITLE 10 VEHICLES AND TRAFFIC

Section 10.02 entitled **Definitions** is hereby amended with the addition of the following terms:

10.02.10 DEFINITIONS

CERTIFIED DISPOSAL FACILITY. A facility that accepts liquid waste from Mobile Vending Units that includes an oils/fats/grease separator and is connected to the City's Waste Water Treatment Facility.

COMMERCIAL KITCHEN. A kitchen that complies with the California Retail Food Code and any subsequent update to that code.

MOBILE VENDING. The sale of food, fruits, drinks for immediate consumption from a mobile vending unit or the sale of flowers from a mobile vending unit.

MOBILE VENDING OPERATOR (MVO). A business owner who engages in the sale of food, fruits, drinks or other items for immediate consumption from a mobile vending vehicle or display equipment on the sidewalk.

MOBILE VENDING PERMIT. A Permit of the City of Fort Bragg authorizing the operation of a Mobile Vending Vehicle subject to the findings identified in this ordinance.

MOBILE VENDING VEHICLE (MVV). Any vehicle from which food, drinks and/or flowers

are sold or offered for sale.

SIDEWALK VENDING (SV). Sidewalk vending means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.

DESIGNATED MOBILE VENDING LOCATION. Designated Mobile Vending Locations for MVVs will be established through business license or Mobile Vending Permit approval.

Section **10.20.150 Mobile Vending – Permit – Required** is hereby replaced in its entirety with the following:

10.20.150 MOBILE VENDING — PERMIT — REQUIRED.

- A. **Purpose.** A Mobile Vending Permit provides a process for reviewing mobile vending activities, location(s), design, operation and hours that may be appropriate in an applicable zoning district, but whose effect on the site, surroundings, pedestrian and vehicular traffic and parking cannot be determined before being proposed for specific site(s), rights of way and/or sidewalk(s).
- B. **Applicability.** Except as otherwise provided in this section, no person shall stand or park any Mobile Vending Vehicle (MVV) or engage in Sidewalk Vending (SV) from which food or drinks for immediate consumption and/or flowers or merchandise are sold, displayed, solicited, or offered for sale or bartered or exchanged on any portion of any street or sidewalk within the City without first obtaining a Mobile Vending Permit from the Community Development Department. Vending of merchandise other than food, drinks and flowers is prohibited in MVV in Fort Bragg, although (per State law) other merchandise sales are permitted through Sidewalk Vending. The provisions of this subsection shall not apply to persons delivering the articles upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution.
- C. **Review Authority.** Mobile Vending Permits applications shall be approved or disapproved by the Community Development Director. Appeal of the Director's determination may be made to the Planning Commission, where the Director's determinations of the meaning or applicability of this regulation are believed to be in error.
- D. **Application Requirements.** The Mobile Vending Permit application shall include:
 - 1. For Mobile Vending Vehicles (MVV):
 - a. The proposed specific location(s) and or route(s) on which the MVV will be located;
 - b. Detailed scale drawings of the vehicle/cart to be used, material specifications, and an isometric drawing in color of at least two views showing all four sides of the vehicle/cart and any logos, printing or signs which will be incorporated and utilized in the color scheme; and
 - c. Proposed site furniture associated with the MVV (if located on private property).

2. For Sidewalk Vending (SV)
 - a. The proposed specific location(s) and or route(s) on which the sidewalk vending will be located; and
 - b. Scale drawings (dimensions) of any display, signage or site furniture to be used.

- E. **Application Fee.** The Mobile Vending Permit fee will be established by resolution of the City Council or paid through either a Development Deposit Account (DDA) or a fee set through the City's fee resolution and updated from time to time.

- F. **Annual Fee.** An Annual Mobile Vending Fee shall be charged as part of the business license fee to cover the City costs, encroachment permit costs and parking permit fees associated with Mobile Vending Vehicles and Sidewalk Vending. The Annual Mobile Vending Fee will be established by resolution of the City Council.

- G. **Permit Term.** Mobile Vending Permits for Sidewalk Vending shall be limited to a two-year term. Mobile Vending Permits for MVVs located on private property and/or City Streets shall be limited to a three-year term.

- H. **Permit Findings, Decision and Revocation.** MVOs shall adhere to all regulations of Section 10.20.150 and 10.20.155 of the Municipal Code. The Review Authority shall require that the project, as proposed or with changes resulting from the review process and/or conditions of approval, complies with all applicable regulations identified in Section 10.20.150 and 10.20.155.
 1. **Permit Findings.**
 - a. MVV may be approved, conditionally approved, or disapproved according to the following findings:
 - i. The location(s) will not result in traffic visibility issues;
 - ii. The location(s) will not remove parking spaces on Main Street;
 - iii. The location(s) will not interfere in the business operations of businesses located within 300 feet of the proposed location; and
 - iv. The location(s) will not interfere in the quiet enjoyment of residential units located within 300 feet of the proposed location(s).
 - b. SV may be approved, conditionally approved, or disapproved according to the following findings:
 - i. The location(s) will not hamper ADA access;
 - ii. The location(s) will not interfere with the public's use and enjoyment of natural resources and recreational opportunities; and
 - iii. The location(s) will not negatively impact objective health, safety, or welfare concerns.
 2. **Permit Notification.**
 - a. MVV: All property owners and business owners within 300 feet of a proposed MVV location shall be notified, in accordance with the City's Minor Use Permit process, of the application for a Mobile Vending Permit. These property and business owners can appeal the Mobile Vending Permit to the Planning Commission for the Planning Commission's consideration if they object to the proposed location.

Absent an appeal, the Community Development Director's review authority shall be final.

- b. **SV: No Minor Use Permit process is required for sidewalk vendors.**
3. **Effective Date.** A Mobile Vending Permit decision shall become effective on the tenth day after the decision, unless an appeal is made to the Planning Commission.
4. **Special Conditions.** The Review Authority may require any reasonable and necessary conditions of approval to ensure that the Mobile Vending Operator will comply with the requirements of Section 10.20.150 and 10.20.155 of the Municipal Code.
5. **Revocation.** The Review Authority may revoke or suspend the Mobile Vending Permit or may deny the renewal of said permit if: 1) the permittee has violated or failed to meet any of the provisions of Section 10.20.150 or 10.20.155; 2) any required permit has been suspended, revoked or canceled; and/or 3) the permittee does not have insurance that meets permit requirements.
6. **Transferability.** The Mobile Vending Permit may be transferred with the business license for the operation of an MVV, however the new owner must satisfy all City insurance requirements and other permitting requirements.
- I. **General Mobile Vending Permit Standards.** All MVVs shall adhere to the following standards.
 1. **Location.** Mobile vending shall be permitted only within commercial and industrial (CBD, CG, CH CO, IH and IL) zoning districts, with the following further restrictions.
 - a. Mobile Vending is not permitted in: 1) the public right of way in the IH or IL zone; 2) on the Main Street public right of way in any zoning district; and 3) within Parks and Open Space zoning districts (unless approved with a Limited Term Permit as part of a larger event).
 - b. Mobile vending is not permitted in any Residential or Public Facilities zoning district or in the Neighborhood Commercial (CN) zoning district unless it is part of an approved school district event or part of an event that has been approved under a Limited Term Permit.
 - c. MVUs are not permitted within two hundred (200) feet of a special event that has received a Limited Term Permit, unless approved as part of that Limited Term Permit.
 2. **Time.** Mobile vending is prohibited between the hours of 2:30 a.m. and 6:00 a.m.
 3. **Operations.** All items to be sold must involve a short transaction period to complete the sale, and be easily carried by pedestrians. MVVs must not cause congestion or block vehicular or pedestrian traffic, nor cause undue noise, litter, or offensive odors.
 4. **Accessory Equipment.** MVVs shall be entirely self-contained. No external storage, power (generator), piping or plumbing is allowed. An external generator is permitted in a tow vehicle, provided the operation does not conflict with the quiet enjoyment of property within 300 feet of the MVV.

5. **Garbage and Recyclable Collection.** MVV operators shall provide for collection and recycling of compostable material, recycling and trash on site. MVV operators shall clean up all trash associated with their operation and sales every two hours.
 6. **Unit Design.** The design, materials and colors of the MVV shall be considerate of the immediate surroundings of the proposed location. Graphics and signage shall be appropriate for the immediate surroundings and to the product being sold.
 7. **Signage.** Vehicle signage shall not exceed twenty-five (25) square feet.
 8. **Formula Business.** The location, scale, and appearance of formula business MVUs shall not detract from the economic vitality of established commercial businesses and the MVVs must be consistent with the small town, rural character of Fort Bragg.
 9. **Health Department Requirements.** All MVVs shall obtain required permits from Mendocino County Health Department and comply with all requirements therein, including the use of a Commercial Kitchen for all food preparation and vehicle cleanup and the use of a Certified Disposal Facility to dispose of all kitchen waste into the sanitary sewer. The Certified Disposal Unit must comply with the City's Fats, Oils, and Grease program.
- J. **Sidewalk Vending Permit Standards.** All Sidewalk Vending shall adhere to the following standards.
1. **Location.**
 - a. **Zoning Districts:** Sidewalk Vending is permissible in all commercial zoning districts per State Law. Stationary sidewalk vending shall be prohibited in areas that are zoned exclusively residential, however roaming sidewalk vendors are allowed in residential zoning districts per State Law.
 - b. **Events:** Both stationary and roaming sidewalk vending are not permitted within two hundred (200) feet of a special event that has received a Limited Term Permit, unless approved as part of that Limited Term Permit.
 - c. **Parks:** Sidewalk vending is not permitted in Noyo Headlands Park, Pomo Bluffs Park, Otis Johnson Park and Wiggly Giggly Park, as it interferes with the public's use and enjoyment of the natural resources and recreational opportunities of these facilities. Sidewalk Vending is permitted within Bainbridge Park with a Mobile Vending Permit per State Law.
 2. **Operations.** All items to be sold must involve a short transaction period to complete the sale and be easily carried by pedestrians. MVUs must not cause congestion or block vehicular or pedestrian traffic, nor cause undue noise, litter, unsanitary conditions or offensive odors.
 3. **Accessory Equipment.** Sidewalk vending equipment shall be entirely self-contained. No external storage, power (generator), piping or plumbing is allowed.
 4. **Garbage and Recyclable Collection.** Sidewalk vendors shall provide for collection and recycling of compostable material, recycling and trash on site. Sidewalk vendors

shall clean up all trash associated with their operation and sales every two hours.

5. **Signage.** Signage shall not exceed four (4) square feet.
6. **Health Department Requirements.** All sidewalk vendors shall obtain required permits from Mendocino County Health Department and comply with all requirements therein, including the use of a Commercial Kitchen for all food preparation and vehicle cleanup and the use of a Certified Disposal Facility to dispose of all kitchen waste into the sanitary sewer. The Certified Disposal Unit must comply with the City's Fats, Oils, and Grease program.
7. **ADA Compliance.** The use of the public sidewalk for pushcart vending must be compliant with the Americans with Disabilities Act (ADA accessibility). In making this determination, the Community Development Director and/or the City Engineer shall consider the width of sidewalk, the proximity and location of existing street furniture, including, but not limited to, signposts, lamp posts, benches, street trees, and trash cans to determine whether the proposed use would result in a loss of ADA accessibility.

K. **Additional Standards for Mobile Vending on Public Property.** In addition to the standards above, all mobile vending on public property shall adhere to the following additional requirements and standards.

1. MVV operators must obey all parking limits on City streets, unless otherwise permitted to park in a Designated Mobile Vending Location as part of the Mobile Vending Permit.
2. All mobile vendors located on public property are required to obtain an encroachment permit.

L. **Additional Standards for Mobile Vending on Private Property.** In addition to the General Mobile Vending Standards above, Mobile vendors on private property shall adhere to the following additional requirements and standards.

1. The setback requirements of the underlying zoning district shall apply to MVVs located on private property for longer than two (2) hours per day.
2. Tables, benches, trash cans, canopies and other site furniture shall be reviewed for setback conformance and design compatibility as part of the Mobile Vending Permit process.

Section **10.20.155 Parking of Mobile Vending Vehicles – Permit – Liability Insurance Requirements** is hereby replaced in its entirety with the following:

10.20.155 PARKING OF MOBILE VENDING VEHICLES - PERMIT - LIABILITY INSURANCE REQUIREMENTS.

Before any Mobile Vending Permit is issued pursuant to Section 10.20.150 on public property (in the right of way or at any park as part of a Limited Term Permit event), the

applicant for such a permit shall be required to file with the City for an encroachment permit, and thereafter keep in full force and effect, policies of insurance as set forth in the City's Administrative Regulations as from time to time may be amended.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 4. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember Norvell at a regular meeting of the City Council of the City of Fort Bragg held on March 25, 2019 and adopted at a regular meeting of the City of Fort Bragg held on April 8, 2019 by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

William V. Lee
Mayor

ATTEST:

June Lemos, CMC
City Clerk

PUBLISH: March 28, 2019 and April 18, 2019 (by summary).
EFFECTIVE DATE: May 8, 2019.