



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Agenda Community Development Committee

Tuesday, March 26, 2024

4:00 PM

Town Hall, 363 N. Main Street and
Via Video Conference

MEETING CALLED TO ORDER

ROLL CALL

COMMITTEE MEMBERS PLEASE TAKE NOTICE

Committee Members are reminded that pursuant to the Council policy regarding use of electronic devices during public meetings adopted on November 28, 2022, all cell phones are to be turned off and there shall be no electronic communications during the meeting. All e-communications such as texts or emails from members of the public received during a meeting are to be forwarded to the City Clerk after the meeting is adjourned.

ZOOM WEBINAR INVITATION

This meeting is being presented in a hybrid format, both in person at Town Hall and via Zoom.

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/88564464858?pwd=VZaXXEz4iZsIWVt0O8DueS7FwPRsw.OORai499mu1yLHFA>

Passcode: 612632

Or One tap mobile :

+16694449171,,88564464858#,,,,*612632# US

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

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Webinar ID: 885 6446 4858

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To speak during public comment portions of the agenda via zoom, please join the meeting and use the raise hand feature when the Chair or Acting Chair calls for public comment on the item you wish to address. Written public comments may be submitted to cdd@fortbragg.com

1. APPROVAL OF MINUTES

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

3. CONDUCT OF BUSINESS

3A. [24-629](#) Receive Oral Update on Central Business District Revitalization Report

Attachments: [03262024 CBD Revitalization Plan Update](#)

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

It is the policy of the City of Fort Bragg to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities.

If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).



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Phone: (707) 961-2823
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Text File

File Number: 24-629

Agenda Date: 3/26/2024

Version: 1

Status: Business

In Control: Community Development Committee

File Type: Staff Report

Agenda Number: 3A.

Receive Oral Update on Central Business District Revitalization Report

Central Business District Revitalization Toolkit – March 2024 Update

Economic Development Tool	Committee	Staff	Status	Updates
Coordinate Downtown Business Conversation Regarding a Business Improvement District (BID)	CDC	Cristal	On-going	The last Quarterly Downtown Merchant meeting was held on Saturday, February 3 rd 9–11 am at Town Hall. Next meeting is TBD.
Walking Tours	VFB	Sarah M. Cristal	Complete	
Improve Town Hall Restrooms	PW&F	Alfredo	In Design	Project currently in design phase. Building Plans anticipated Fall 2024.
Increased Pedestrian Dedications	CDC	Not identified	HOLD	
Public Art	CDC	Kevin	On-going	Awarded grant from Clean California for “Art & Recycling Beautification Project.” Art-wrapped waste can locations: Central Business District, Coastal Trail, & School District.
Improve Business Directory & Directional Signage	VFB	Cristal	HOLD	
Install Trees, Planters and Landscaping Downtown & Citywide	PW&F	Vice Mayor	In process	Update from Vice Mayor to follow. MCOG grant for Streetscape Study to assess existing street trees and provide landscape plans for another street tree pilot project location was not funded this year. Staff will apply when another grant comes along that is a good fit for the project.
Install Bollards to Block Vehicular Traffic for Special Events	PW&F	Chantell	Complete	
Reconsider Allowable Land Uses	CDC	CDD Director	HOLD	Evaluate current land use tables and permitting requirements.
Employ Code Enforcement Actions	CDC	Chief Cervenka	On-going	Successfully addressing quality-of-life and safety issues throughout the City. Still complaint based, but moving towards self-initiated. The majority of cases have been resolved though courtesy notification. A few cases require more extensive work, but those are the exception. Code Enforcement has adopted a robust education component as well.
Establish regular Walking Patrol to build positive public relations while deterring nuisances	PS	Chief Cervenka	On-going	Patrols occurring regularly.
Temporary Waiver of Water/Sewer Capacity Fees	F&A	CDD Director	Complete	
Create Public Gathering Space	CDC	Not identified	In process	Improvements to two gathering spaces are in the works: Bainbridge Park and the area just South of Town Hall. Currently no plans for additional spaces.
Downtown Parking Study	CDC	Sarah P.	In process	Planning Commission Public Hearing February 28 - Commissioners provided input on the study and adopted a resolution making a recommendation to Council for the code updates. Bringing to Council April 22.



City of Fort Bragg

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Text File

File Number: 24-669

Agenda Date: 3/26/2024

Version: 1

Status: Business

In Control: Community Development Committee

File Type: Staff Report

Agenda Number: 3B.

Discussion about an Assessment of City Trees and Potential Resources and Strategies to Increase Tree Quantities



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Text File

File Number: 24-639

Agenda Date: 3/26/2024

Version: 1

Status: Business

In Control: Community Development Committee

File Type: Staff Report

Agenda Number: 3C.

Discussion on Mobile Vending Vehicles and Direction Regarding Ordinance Amendments to Fort Bragg Municipal Code, Chapter 10.20.150



CITY OF FORT BRAGG
Incorporated August 5, 1889
416 N. Franklin Street, Fort Bragg, CA 95437
Phone: (707) 961-2823

MEMORANDUM

DATE: March 26, 2024
TO: Community Development Committee
FROM: Sarah Peters, Assistant Planner
SUBJECT: Mobile Vending Ordinance Discussion

BACKGROUND:

The City of Fort Bragg Community Development Director, with input from the Technical Advisory Committee and members of the public, makes Mobile Vending Vehicle (MVV) permit decisions. However, because of conflicting viewpoints among downtown business owners and other community members regarding MVV locations, the former Director requested that Planning Commission provide input on a variety of locations. On December 13, 2023, Planning Commission held a discussion about mobile vending location preferences and provided feedback and direction to staff. Part of that direction was to consider amending the mobile vending ordinance to minimize conflict while supporting those who wish to operate a mobile vending vehicle in Fort Bragg. Ordinance amendments could potentially include new locations where mobile vending is prohibited and allowed. At this time, there are no pending applications for mobile vending downtown.

OVERVIEW:

PERMITTED LOCATIONS AND OPERATIONAL REQUIREMENTS

Currently, with limited exceptions, the Fort Bragg Municipal Code (FBMC) prohibits Mobile Vending Vehicles in the following zoning districts:

- Residential
- Parks and Open Space
- Neighborhood Commercial
- Public Facilities

The Municipal Code also prohibits Mobile Vending Vehicles in:

- The public right of way in the Industrial zones
- The public right of way on Main Street in any zone
- Within 200 feet of an event that has a Limited Term Permit (unless part of the LTP)

Mobile vending is prohibited between 2:30 a.m. and 6:00 a.m. Mobile Vending Vehicles may not cause congestion or block traffic, “cause undue noise, litter, or offensive odors” and the design and signage must be considerate and appropriate to the immediate surroundings and meet certain size criteria for signs. MVV’s must also have any required permits from the County of Mendocino Health Department related to food preparation, vehicle cleanup and kitchen waste disposal.

In addition to these requirements, Mobile Vending Vehicles must be entirely self-contained, with no external storage, such as for generators. However, the FBMC does allow an external generator in a tow vehicle, as long as “the operation of it does not conflict with the quiet enjoyment of property within 300 feet of the MVV.” In fact, allowing an external generator in a tow vehicle is the most contentious issue, as staff have received multiple complaints about the noise and fumes issuing from nearby generators, as well as the extra parking spaces required to accommodate both the MVV and associated tow vehicle.

PLANNING COMMISSION FEEDBACK

At the December 13, 2023 Planning Commission meeting, the Director provided a map with possible downtown locations, and comments were provided by Commissioners. The following areas were generally considered acceptable options, in that they would be likely to offer enough visibility to provide adequate business, while not interfering with the “quiet enjoyment” of existing businesses or residences:

- Adjacent to vacant parcels, such as the one at Franklin and Redwood and at Spruce and Main Streets
- 400 block of S. Franklin near Rite Aid
- 600 block of S. Franklin near Safeway
- 200 block of E. Alder fronting Purity Market parking lot

Other suggestions provided by Commissioners that would require either code amendments or parking and traffic flow modifications included:

- Laurel Street east of Tall Guy Brewing, with relocation of diagonal parking spaces to the north side of Laurel and possible removal of one-way traffic on this block, though this is not recommended from a traffic flow perspective as the 100 block of Laurel is one way.
- Fronting Bainbridge Park – currently this is in a prohibited zone

Commissioners also expressed support for an area where multiple MVV’s could vend, such as in a parking lot or other vacant lot dedicated to mobile vending.

PLANNING COMMISSION CONCERNS

A general concern expressed was that that the plethora of permissible areas for MVV's in the current code makes conflict and divisiveness more likely. They favor narrowing down the allowable areas to some degree. In particular, Planning Commission does not favor allowing MVV's in these locations:

- The 500 block of N. Franklin Street, due to all the residences on this block
- The area further down North Franklin across from Thompson Gas,
- The mid 200 block of E. Pine Street
- Core Central Business District areas such as the 300 block of Franklin Street and the 100 block of Laurel Street.

Planning Commission has asked that staff bring this issue before them again, preferably with code amendment recommendations that would incorporate some of their feedback.

CONCLUSION:

Discussion of Mobile Vending Vehicle location and operational guidelines will provide greater clarity regarding the intent of our legislative body and will allow City staff to determine whether to initiate code amendment recommendations. These discussions are also an opportunity for Community Development Department staff to be more proactive and intentional in offering encouragement and support to both mobile vendors and 'brick and mortar' businesses, while striving to promote greater harmony and unity of purpose within the community at large.

RECOMMENDATION:

The Community Development Committee should provide input on whether or not you want to see further modifications to the MVU ordinance. Furthermore, if CDC does want to revisit the ordinance, CDC should provide recommended changes to the ordinance which staff can then bring forward to City Council for a larger discussion to craft a revised ordinance. The draft ordinance will then be brought back to Planning Commission for a recommendation, and back to City Council for adoption.

ATTACHMENTS:

1. Ordinance No. 945-2019

NOTIFICATIONS:

1. City of Fort Bragg "Notify Me" e-notification subscriber lists: Fort Bragg Downtown Businesses, Economic Development Planning, and Community Development Committee Agendas.
2. Currently operational mobile vehicle vendors

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.

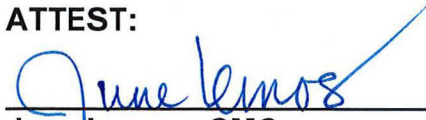
Section 4. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance 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:** Councilmembers Albin-Smith, Norvell, Peters and Mayor Lee.
- NOES:** None.
- ABSENT:** None.
- ABSTAIN:** None.
- RECUSED:** Councilmember Morsell-Haye.



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.



City of Fort Bragg

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Text File

File Number: 24-670

Agenda Date: 3/26/2024

Version: 1

Status: Business

In Control: Community Development Committee

File Type: Staff Report

Agenda Number: 3E.

Receive Report and Provide Direction on Proposed Code Enforcement Cost Recovery Fees and Vacant Property Registration



FORT BRAGG POLICE DEPARTMENT

250 Cypress Street
Fort Bragg, CA 95437-5437

NEIL J. CERVENKA
Chief of Police

(707) 961-2800
Fax: (707) 961-2806

COUNCIL COMMITTEE ITEM SUMMARY REPORT

MEETING DATE: MARCH 26, 2024
TO: COMMUNITY DEVELOPMENT COMMITTEE
FROM: VALERIE STUMP
AGENDA ITEM TITLE: Receive Report and Provide Direction on Proposed Code Enforcement Cost Recovery Fees and Vacant Property Registration

BACKGROUND:

In 2021, when the City designated staff to Code Enforcement, it was discovered that the adopted Code Enforcement fees were inefficient at calculating the real costs of code enforcement activity, and they were being utilized in a way that did not recover costs of implementing a Code Enforcement Program.

For this reason, in 2022 Code Enforcement brought forward the Administrative Hearing Ordinance (Fort Bragg Municipal Code Ch. 1.12) to the Council. The Ordinance established administrative penalties for violations of the code. The adoption of this Ordinance led to the removal of the established Code Enforcement fees with the intent to revisit cost recovery for Code Enforcement at a later date.

On October 18, 2023, Code Enforcement presented a draft "Vacant Property Registration" (VPR) ordinance to the City of Fort Bragg Public Safety Committee. Accompanied with the staff report was a proposed Fee Schedule that would also be considered for adoption if the committee directed staff to move forward with the draft to the full council. This reopened the discussion of establishing Code Enforcement fees that would apply to all Code Enforcement activity, including the Vacant Property Registration.

OVERVIEW:

COST RECOVERY FEES

Code Enforcement is establishing fees that will be charged to involved parties to recover the costs of processing a case. Fees will only be charged for extraneous

activity. Administrative penalties are separate from Code Enforcement fees, and will be eligible for financial hardship waivers.

Of the fees recommended for adoption, an inspection fee will likely be the most commonly charged fee. An inspection fee, when authorized, would offset staff costs of repeatedly responding to properties in order to verify whether violations have been corrected. Sometimes, multiple inspections over a several month period are required in order to verify compliance. An additional purpose to charge these fees is to incentivize property owners to promptly address the verified violations, come into compliance, and avoid the additional inspection fees.

Establishment of a Code Enforcement Document Recording Fee is requested to offset staff costs of researching real property identification, property owner identification, document preparation, copying and mailing to accomplish recordation of Notice of Violation Liens, Claims of Monetary Liens to recover City expenditures, and Special Assessments.

Code Enforcement has recently been advising property owners of the potential for recordation of the violations and have determined this action, in of itself, has been instrumental in gaining voluntary compliance.

In order to officially implement cost recovery fees, some minor updates to the code must be adopted. The proposed changes would occur in FBMC Chapter 6.12. The changes are minimal additions that are highlighted in the attached **FBMC Chapter 6.12 Draft Updates**.

The code updates were written and reviewed by attorneys.

VACANT PROPERTY REGISTRATION

Vacant properties pose significant challenges for housing within the City of Fort Bragg. The prevalence of vacant properties has become a growing concern, and the City of Fort Bragg Code Enforcement Team desires to establish proactive measures to effectively combat these issues.

On June 23, 2023, Code Enforcement introduced the idea of a Vacant Property Registration (VPR) Ordinance to the Public Safety Committee. They had some questions, but ultimately agreed to advance the ordinance to the Council. Code Enforcement would like feedback from the Community Development Committee prior to proceeding to Council.

Code Enforcement has identified 200 parcels within Fort Bragg's jurisdiction that could potentially qualify as vacant under an adopted ordinance, encompassing both residential and commercial properties, as well as developed and undeveloped parcels. Many properties are in a state of neglect, causing nuisances that contribute to blight and structure deterioration. Currently, there is limited incentive for development or rehabilitation, and enforcing nuisance conditions can be challenging, particularly with out-of-area or corporate owners. This lack of motivation adversely impacts housing availability and the overall beauty of the City.

The implementation of a Vacant Property Registration Ordinance offers a proactive solution to address the issue of neglected properties within Fort Bragg. Such an

ordinance would establish a framework for identifying and registering vacant properties on an annual basis. It would require property owners to provide up-to-date contact information and designate a local representative for properties owned by out-of-area individuals or corporations.

Furthermore, the ordinance would authorize regular inspections to ensure that vacant properties are adequately maintained and secured to prevent blight, vandalism, and unauthorized occupancy. By holding property owners accountable for the upkeep of their vacant properties, the City can mitigate the adverse effects of neglect and promote community revitalization.

The proposed location of the Vacant Property Registration chapter is in Title 6 of the Fort Bragg Municipal Code. The attached **FBMC 6.13 Draft** shows the addition of Chapter 6.13 to Title 6. Another option would be to put the chapter in Title 15 as it pertains to building safety.

The Vacant Property Registration ordinance was reviewed by an attorney.

FEE DEVELOPMENT

Cases outside of the Vacant Property Registration will only be charged fees for inspections and administrative process when a property owner has not met the first established deadline for abatement. The cost recovery fees have not been finalized, however, they will be similar, if not the same, to the fees specified in the **Proposed Vacant Property Registration Fees** attachment.

The annual Vacant Property Registration fee will cover the costs associated with administrative tracking by Code Enforcement staff, billing and accounting by Finance staff, and annual inspections by Code Enforcement staff. Additional inspection fees will apply to properties that require verification of compliance regarding any Noticed Violations identified during an annual inspection.

The fees were calculated by the estimated time to complete a task and the fully loaded staff rates of Code Enforcement and Finance staff.

CONCLUSION:

Establishing cost recovery fees will allow the City to recover some of the costs of processing a code enforcement case. It will also incentivize property owners to reach compliance faster to avoid accruing fees.

The Vacant Property Registration is an opportunity for Code Enforcement to be more proactive in improving the stability of Fort Bragg housing stock. It will assist in gathering critical data about the state of our housing. An additional benefit is that the ordinance may encourage property owners to use, improve, or sell the property.

ATTACHMENTS:

1. FBMC 6.12 Draft Updates
2. FBMC 6.13 Draft
3. Proposed Vacant Property Fees

CHAPTER 6.12

NUISANCES

Section	
6.12.010	Purpose
6.12.015	Definitions
6.12.020	Public nuisances included
6.12.030	Owner's responsibility
6.12.040	Nuisance conditions
6.12.050	Abatement by repair, rehabilitation, demolition, or removal
6.12.055	Summary abatement of immediate dangers
6.12.060	Notice of violation
6.12.065	Abatement by proceedings before hearing body and notice of administrative hearing
6.12.070	Reserved Recovery of Enforcement Costs
6.12.080	Posting and serving notice of violation
6.12.090	Form of proper service of notice of violation
6.12.095	Enforcement stayed during pendency of hearing
6.12.100	Hearing by hearing body
6.12.110	Decision by hearing body ordering abatement
6.12.120	Service of order of abatement
6.12.130	Abatement by City officer
6.12.140	Report to City Council of costs of abatement by the City
6.12.150	Hearing by City Council on report of costs of abatement by City
6.12.155	Imposition of penalties
6.12.160	Special assessment or nuisance abatement lien on property for costs of abatement by the City
6.12.170	Abatement of certain vehicles
6.12.180	Alternative remedies

6.12.010 PURPOSE.

Pursuant to Cal. Government Code §§ 38770 et seq., the City Council establishes, as an alternate to procedures otherwise provided for by law, procedures that may be used for the purpose of abating a public nuisance. It shall be a violation of this Chapter 6.12 for any Responsible Party owning, renting, leasing, occupying, or having charge of any premises to cause or permit a nuisance to exist thereon.

(Ord. 840, § 1, passed -- 2003)

6.12.015 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CODE or MUNICIPAL CODE. The City of Fort Bragg's Municipal Code, all uniform codes that have been incorporated into the City's Municipal Code, the City's Land Use and Development Codes, and any applicable local, state or federal laws and regulations that are or may be enforced by the City, including without limitation, the State Housing Law (Health and Safety Code § 17910, et seq.)

CODE ENFORCEMENT OFFICER or ENFORCEMENT OFFICER. Any person authorized or directed by the City Manager to enforce any provision of this Code including any peace officer.

HEARING BODY or HEARING OFFICER. The City Manager or any person(s) appointed by the City Manager to conduct hearings pursuant to this chapter. As used herein, the use of either term shall be presumed to include the other term.

NOTICE OF VIOLATION. A written statement of the acts or omissions or violations of this Code that are alleged to have occurred, including specific citations to the Municipal Code.

OWNER. The Owner of record of the parcel of land on which the nuisance is maintained, based on the last equalized assessment roll or the supplemental roll, whichever is more current.

RESPONSIBLE PARTY. Any person, trust(ee), entity, or parent or legal guardian of any person(s) under 18 years of age, whose acts or omissions have caused, permitted, or contributed to a nuisance and shall include any Owner(s) or occupant(s) of real property on which a nuisance exists

RESPONSIBLE PARTY. Any person, trust(ee), entity, or parent or legal guardian of any person(s) under 18 years of age, whose acts or omissions have caused, permitted, or contributed to a nuisance and shall include any Owner(s) or occupant(s) of real property on which a nuisance exists.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 2 passed 11-14-2011)

6.12.020 PUBLIC NUISANCES INCLUDED.

The provisions of this chapter shall be applicable to any nuisance defined as a nuisance by any City ordinance, resolution, provision of the Municipal Code, or any of the conditions or activities set forth in § 6.12.040 of this chapter.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 3 passed 11-14-2011)

6.12.030 OWNER'S RESPONSIBILITY.

An Owner remains liable to the City for violations of duties imposed upon him or her by this chapter even though:

- A. An obligation is also imposed on another Responsible Party; or
- B. The Owner has, by agreement, imposed upon another Responsible Party the duty of complying with this chapter.

(Ord. 840, § 1, passed -- 2003)

6.12.040 NUISANCE CONDITIONS.

It is declared a public nuisance for any Responsible Party owning, leasing, occupying, or having charge of any premises in this City to maintain the premises in the manner that any one (1) or more of the following conditions or activities are found to exist:

- A. Land, the topography, geology or configuration of which, whether in natural state or as a result of grading operations, excavation or fill, causes erosion, subsidence, or surface water drainage problems of the magnitude as to be injurious or potentially injurious to the public health, safety, and welfare or to adjacent properties;
- B. Buildings which are abandoned, partially destroyed, or permitted to remain unreasonably in a state of partial construction;
- C. The failure to close by means acceptable to the City, all doorways, windows, and other openings into abandoned vacant structures;
- D. Broken windows constituting hazardous conditions or inviting trespassers and malicious mischief;
- E. Overgrown vegetation:
 - 1. Likely to harbor rats, vermin, and other nuisances;
 - 2. Causing detriment to neighboring properties; or
 - 3. Causing fire hazard.
- F. Dead, decayed, diseased, or hazardous trees, weeds, and other vegetation located in the curb, gutter, and sidewalk areas:

1. Constituting a danger to public safety and welfare; or
 2. Detrimental to nearby property.
- G. Attractive nuisance dangerous to children in the form of:
1. Abandoned and broken equipment;
 2. Hazardous pools, ponds, and excavations; and
 3. Neglected machinery.
- H. Broken or discarded furniture and household equipment on the premises for periods in excess of 90 days, visible from the street or nearby property which constitutes visual blight or is detrimental to nearby property or property values;
- I. Packing boxes, trash, dirt, and other debris deposited for periods in excess of 90 days either inside or outside buildings, visible from the street or nearby property which constitutes visual blight or is offensive to the senses or is detrimental to nearby property values;
- J. The accumulation of dirt, litter, or debris in vestibules, doorways, or the adjoining sidewalks of commercial or industrial buildings;
- K. Neglect of premises:
1. To influence zone changes; or
 2. To cause detrimental effect upon nearby property or property values.
- L. Maintenance of premises in the condition as to be detrimental to the public health, safety, or general welfare;
- M. Property maintained in the condition as to create an unsafe condition;
- N. Any automobile service station which is closed, vacant, or inoperative for a period exceeding 60 days is declared to be a public nuisance. Inoperative is defined as the failure to sell gas, either retail or wholesale, during the 60-day period;
- O. Specialty structures which have been constructed for a highly specific single use only, and which are not enclosed or shielded, and which are unfeasible to convert to other uses, and which are abandoned, partially destroyed or are permitted to remain in a state of partial destruction or disrepair and constitute a hazardous condition including, but not limited to: tanks for gas or liquid, boat housing and storing facilities, boat hoisting and docking facilities, boat mooring pilings, lateral support structures and bulk-heads, utility high-voltage towers and poles, utility high-rise support structures, electronic transmitting antennas and tower, structures which support or house mechanical and utility equipment and are located above the roof lines of existing buildings, high-rise freestanding chimneys and smoke stacks, drive-in movie screens, recreational structures such as tennis courts and cabanas, and all other specialty structures not listed in this subsection but determined to be a specialty structure by the City;
- P. Presence of abandoned, dismantled, wrecked, or inoperable motor vehicles, motorcycles, recreational vehicles, trailers, campers, boats, or parts thereof, except:
1. When completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
 2. When stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when the storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

- Q. Obstruction or encroachment of any public property, including, but not limited to, any public street, highway, right-of-way, park, or building;
- R. A violation of any provision of the Municipal Code;
- S. Storage of hazardous materials in the manner as to be injurious or potentially injurious to the public health, safety and welfare or to adjacent properties; and/or
- T. Any condition recognized in law or in equity as constituting a public nuisance, including without limitation, any condition described in Cal. Civil Code § 3479.
- U. Continual complaints of violations of Local, State or Federal laws that require the Police Department to respond to the property resulting in the issuance of citations or the making of arrests.
- V. Commercial buildings, which are closed, vacant, or inoperative for a period exceeding 90 days shall be declared a public nuisance, unless maintained to the following standards:
1. Windows must be kept clean, unobstructed by stored items or temporary coverings, and in a move-in ready condition equivalent to and consistent with occupied buildings in close proximity, except that temporary coverings are allowed during the period of time that an active building permit has been issued and tenant improvements are actually under construction;
 2. Local contact information for the property owner or property manager must be posted and clearly displayed on the front door;
 3. The interior and exterior of the structure must be maintained clear of trash, debris and stored items, except for those commercial fixtures directly associated with a prior or proposed legal use of the building;
 4. The exterior surfaces and paint, millwork and trim shall be kept clean and maintained in good condition equivalent to and consistent with occupied buildings in close proximity, to achieve a uniform appearance with the surrounding area and present a move-in ready condition for future tenants or business operators; and
 5. All nuisance conditions listed in this section are applicable to vacant buildings and in cases of immediate danger to health and safety or emergency may be caused to be abated prior to the 90-day period first stated above.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 875, § 43, passed 08-25-2008; Am. Ord. 898 § 4, passed 11-14-2011; Am. Ord. 941 § 2, passed 09-24-2018)

6.12.050 ABATEMENT BY REPAIR, REHABILITATION, DEMOLITION, OR REMOVAL.

All or any part of premises found to constitute a public nuisance shall be abated by rehabilitation, removal, demolition, or repair pursuant to the procedures set forth in this chapter. The procedures set forth in this chapter shall not be exclusive and shall not in any manner limit or restrict the City from enforcing City ordinances or abating public nuisances in any other manner provided by law.

(Ord. 840, § 1, passed -- 2003)

6.12.055 SUMMARY ABATEMENT OF IMMEDIATE DANGERS.

- A. Whenever any condition on or use of property causes or constitutes, or reasonably appears to cause or constitute an imminent or immediate danger to the health and safety of the public, the condition or use may be summarily abated by the City without notice or hearing.
- B. When summary abatement is necessary it shall be ordered only by the City Manager or the person performing the duties of the City Manager in his or her absence.
- C. Summary abatement shall be limited to those actions necessary to eliminate the immediate threat to the public health and safety.

D. Notice of the summary abatement shall be provided to the Owner and any other Responsible Party, as provided in § 6.12.090, as soon as practical.

E. The cost and expense of a summary abatement shall be made a lien or special assessment on the property and shall be collected pursuant to procedures in §§ 6.12.140, 6.12.150, and 6.12.160.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 5, passed 11-14-2011)

6.12.060 NOTICE OF VIOLATION.

A. Whenever an Enforcement Officer finds that a provision of this Code has been violated, he or she shall notify the violator in writing of the violation. The form of written notice shall be a Notice of Violation, which shall be served on the violator in the manner described in § 6.12.090, below.

B. The Enforcement Officer shall include in the Notice of Violation the following information:

1. Date and location of the violation, including the address or definite description of the location where the violation occurred, or is occurring;

32. Actions required to correct or abate the violation and a reasonable amount of time for the actions to be commenced, and the correction or abatement completed. Recovery of code enforcement costs will accrue upon failure to correct or abate the violation within the time specified in the Notice of Violation or within a reasonable amount of time for the corrective actions to be commenced and completed;

43. An order prohibiting the continuation or repeated occurrence of a violation of this Code described in the Notice of Violation; and

54. The signature of the citing Enforcement Officer.

C. A Notice of Violation shall be accompanied by a statement that the Responsible Party may request a hearing within 15 calendar days of the date of the Notice of Violation, and that failure to do so will constitute a waiver of the Responsible Party's right to a hearing and that the City may proceed upon the Notice of Violation without a hearing. If the City chooses to set the matter for hearing or if a hearing is required pursuant to a specific provision of this Code, then the Notice of Violation shall include a Notice of Hearing in the form set forth in § 1.06.050 of this Code, as the same may be amended from time to time.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 6, passed 11-14-2011)

6.12.065 ABATEMENT BY PROCEEDINGS BEFORE HEARING BODY AND NOTICE OF ADMINISTRATIVE HEARING.

Whenever the Building Official, Fire Chief, or any City employee, agent or representative as may be designated by the City Manager, determines that any premises within the City are being maintained contrary to one (1) or more of the provisions of this Chapter 6.12, then he or she may cause notice to be given as provided in this chapter, of an administrative hearing before a designated Hearing Body to ascertain whether the same does in fact constitute the public nuisance, the abatement of which is appropriate under the police power of the City. The hearing date shall be no less than 20 days after service of the Notice of Hearing. An administrative hearing that is conducted pursuant to this chapter shall be conducted in accordance with the procedures in Chapter 1.06, except as otherwise provided herein.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 8, passed 11-14-2011)

6.12.070 [RESERVED] RECOVERY OF ENFORCEMENT COSTS.

This chapter provides authority for the City to recover the costs of inspection, enforcement and correction of violations of laws and ordinances to the full extent permitted by Government Code Section 54988 as it may be amended from time to time. Accordingly, provisions of this chapter which specify the process for creating,

recording, and collecting liens for abatement of nuisances may also be used for the recovery of said costs of inspection, enforcement and correction as well.

6.12.080 POSTING AND SERVING NOTICE OF VIOLATION.

A. Service of a Notice of Violation shall be made as provided in § 6.12.090 herein. If the matter is set for hearing by the City, the Responsible Party(ies) shall be served with the Notice of Violation accompanied by a Notice of Hearing, in accordance with § 1.06.050 of this Code, as the same may be amended from time to time.

B. Proof of posting and service of the notices shall be made by declaration under penalty of perjury filed with the City Clerk.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 10, passed 11-14-2011)

6.12.090 FORM OF PROPER SERVICE OF NOTICE OF VIOLATION.

A. Service of the Notice of Violation may be made by personal service or by mail and posting as described below.

B. If notice is given by mail, it shall be sent by certified mail, return receipt requested, postage prepaid, addressed to the Responsible Party, and if there is no known address for the Responsible Party, then it shall be sent to the Responsible Party at the property address subject to the nuisance proceedings. Service by mail is effective as of the date of receipt.

C. If return receipt is not received by City, the notice shall be posted in a conspicuous place upon the property for a period of ten (10) days.

D. The failure of a Responsible Party to receive the notice shall not affect the validity of the proceedings in this chapter.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 11, passed 11-14-2011; Am. Ord. 906 § 8, passed 04-22-2013)

6.12.095 ENFORCEMENT STAYED DURING PENDENCY OF HEARING.

Enforcement of a Notice of Violation or penalty shall be stayed during the pendency of a hearing on the Notice of Violation or any appeal authorized by this Code of any decision of a Hearing Body, unless the City obtains an order from a court of competent jurisdiction requiring or authorizing the abatement of a condition that is the subject of the City's enforcement efforts. (Ord. 898 § 12, passed 11-14-2011)

6.12.100 HEARING BY HEARING BODY.

At the time stated in the notice, the Hearing Body shall hear and consider all relevant evidence, objections, or protests and shall receive testimony from Owners, witnesses, City personnel, and interested persons relative to the alleged public nuisance and to the proposed rehabilitation, removal, repair, demolition, or other abatement appropriate under the legal powers of the City.

(Ord. 840, § 1, passed -- 2003)

6.12.110 DECISION BY HEARING BODY ORDERING ABATEMENT.

A. Upon the conclusion of the hearing, the Hearing Body shall determine whether the premises, or any part thereof, as maintained constitutes a public nuisance. If the Hearing Body finds that the public nuisance does exist and that there is sufficient cause to rehabilitate, remove, demolish or repair the same, the Hearing Body shall issue a written order setting forth findings. This order shall direct the Owner and any other Responsible Party having charge or control of the premises to abate the conditions determined to be a nuisance. The order shall set forth the times within which abatement work shall be commenced and completed. The order shall inform the Owner and/or Responsible Party that if the nuisance is not abated within the specified time, the nuisance may be abated by the City and the cost thereof made a lien or special assessment on the property involved.

B. If the Hearing Body finds that no nuisance condition exists or that no violation of the Code occurred, that the violation was corrected during the time specified in the Notice of Violation, or that the person cited is not the

Responsible Party, the Hearing Body shall issue an administrative order to reflect those facts, and the City will promptly refund the amount of any penalty deposited and any appeal fee that was paid.

C. The order shall also inform the Owner and/or Responsible Party that the time for judicial review is governed by the Cal. Code of Civil Procedure § 1094.6, except for an order imposing an administrative penalty in accordance with Chapter 1.06, for which judicial review shall be governed by Cal. Government Code § 53069.4.

D. Subject to judicial review, if requested, the decision and order of the Hearing Body shall be final

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 13, passed 11-14-2011)

6.12.120 SERVICE OF ORDER OF ABATEMENT.

A. A copy of the order of the Hearing Body ordering the abatement of the nuisance shall be served upon the Responsible Party in accordance with the provisions of § 6.12.090. Any Responsible Party shall have the right to have any nuisance condition abated in accordance with the order and at the party's expense provided the same is done prior to the expiration of abatement period set forth in the order.

B. If the City Manager determines that the abatement of the nuisance is likely to cause a significant depreciation in the value of the property upon which the nuisance is located, the City Manager may order, after consultation with the City Attorney, that all mortgagees and/or beneficiaries under any deeds of trust of record on the property be provided a copy of the order.

(Ord. 840, § 1, passed -- 2003)

6.12.130 ABATEMENT BY CITY OFFICER.

If the nuisance is not completely abated as directed within the designated abatement period, then the City Manager, or the other City official as may be designated, may, after consultation with the City attorney, cause the same to be abated by the City either through the use of its own employees or through contracted services after obtaining either the consent of the Owner or Responsible Party or obtaining an abatement warrant from a court of competent jurisdiction.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 14, passed 11-14-2011)

6.12.140 REPORT TO CITY COUNCIL OF COSTS OF ABATEMENT BY THE CITY.

A. The City may elect to recover its costs to abate nuisance conditions, including enforcement and correction of violations of laws and ordinances to the full extent permitted by Government Code Section 54988. Recoverable costs, include or enforce other provisions of this Code, including without limitation, the costs of any hearing or appeal hearing (including staff time necessary to prepare for and attend a hearing or an appeal hearing), any re-inspections required to determine or confirm that compliance has been achieved, production of all staff reports, environmental tests or measurements that are deemed necessary or appropriate by the Code Enforcement Officer, third party inspection(s) or consultant services as deemed necessary by the City and any attorneys' fees incurred in pursuing enforcement, including any civil action to abate nuisance conditions or enforce this Code. To this end the City has prepared a fee schedule that calculates the typical cost of enforcing a variety of different code violations based on previous experience. The code violation enforcement fee is updated on an annual basis. If the City elects at the initiation of an administrative enforcement action or other proceeding to seek recovery of attorneys' fees, pursuant to Cal. Government Code § 38773.5(b), or any other applicable authority, including this Code, then the prevailing party shall be entitled to recover attorneys' fees in an amount not to exceed the amount of attorneys' fees incurred by the City in such action. Recovery by the City of the costs of enforcement shall be in addition to any penalty imposed on the Responsible Party.

B. Accrual of Abatement Costs will occur whenever any person creating, causing, committing, or maintaining a public nuisance, as referred to in Sections 6.12.020 and/or 6.12.040, or other public nuisance, as defined under State law or by other ordinances or regulations, has been given notice, by or on behalf of the Code Enforcement Department or by any other officer, or employee authorized to give such notice, to abate such nuisances or cease and desist from continuing such nuisance or violation of law, and such person fails, refuses, or neglects to comply with the notice within the time specified therein, or if such a time is not specified, then within a time reasonably sufficient to enable such compliance, such non-complying person shall be liable to the City of Fort Bragg for any and all costs

and expenses incurred by the City in abating the nuisance and or correcting violations of State law or other ordinances and regulations and in obtaining compliance with or enforcing the law as referred to or encompassed within such notice.

B C. If the City abates the nuisance, the Director of Finance at the direction and request of the City Manager shall keep an account of the cost of abatement, including attorney fees, if any, and incidental expenses and shall render an itemized written report to the City Council showing the cost of abatement, including any salvage value of material from the abatement.

CD. The term “incidental expenses” shall include, but not be limited to, the actual expenses and costs of the City in:

1. Preparation of notices, specifications, and contracts;
2. Inspecting the work;
3. Costs of preparing for and attending any required hearings;
4. The costs of printing and mailing required hereunder; and
5. Costs of imposing a lien or levying a special assessment on the property.

DE. Should the proceeds of sale of any salvage material exceed the cost of the abatement, the balance, if any, shall be paid to the Owner or Responsible Party upon establishment of his or her claim for the excess proceeds.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 15, passed 11-14-2011)

6.12.155 IMPOSITION OF PENALTIES.

A Code Enforcement Officer, Hearing Officer or Hearing Body may impose on any and all Responsible Parties a penalty for any nuisance condition or violation of any provision of this Code, including a failure to comply with a term or condition imposed by any agreement, entitlement, permit, license or environmental document issued or approved by or on behalf of the City, or a failure to comply with any county, state or federal law, pursuant to the City’s general police powers, and/or Cal. Government Code §§ 36901 and 53069.4.

A. The amount of any penalty that may be imposed for a violation that would otherwise be an infraction shall not exceed the amounts set forth in Cal. Government Code § 36900(b), as amended from time to time. The amount of any penalty that may be imposed for all other violations (i.e., violations that would otherwise be misdemeanors) shall not exceed the amounts set forth in Cal. Government Code § 36901, as amended from time to time. In determining the amount of a penalty, the following factors should be taken into consideration:

1. Duration of the violation;
2. Frequency, re-occurrence, or number of violations by the same person;
3. Seriousness of the violation and/or its impact on the community and/or the degree of culpability of the Responsible Party(ies);
4. Justification, if any, for the existence, or continuance, of the violation;
5. Whether the violation is susceptible to restoration or other mitigation;
6. Good faith efforts to mitigate the violation or to come into compliance with the terms contained in any Notice of Violation, abatement order or other order;
7. Sensitivity of any affected resource;
8. Any profits or other economic benefit realized by the Responsible Party(ies) resulting, directly or indirectly, from the violation;

9. The City's schedule of administrative penalties currently existing or subsequently enacted; and
10. Such other factors as justice may require.

B. Each and every day during any portion of which a violation of this Code and/or a nuisance condition exists or continues may be deemed a separate and distinct violation for purposes of setting the amount of penalty to be imposed. Any penalty imposed will accrue on a daily basis from the date the penalty becomes effective until the violation is corrected.

C. Any penalty amount is a debt owed to the City. In addition to all other means of enforcement, a penalty may be enforced as a personal obligation of the Responsible Party. If the violation is in connection with real property, a penalty may also be enforced by imposition of a lien or special assessment upon the real property, as described in § 6.12.160. Any lien or special assessment imposed upon real property shall remain in effect until the penalty is paid in full.

D. A Hearing Officer or Hearing Body, may, in his, her or its sole discretion, suspend the imposition of any applicable penalty for a period of time not to exceed sixty (60) days during which the Responsible Party has demonstrated a willingness to correct the violations listed in the Notice of Violation or comply with an abatement or other order, or has applied for permits required to achieve compliance and such permit applications are actively pending before, or have already been issued by, the City, State, or other appropriate governmental agency, or under any other circumstances that would justify a suspension of the penalty.

(Ord. 898 § 16, passed 11-14-2011)

6.12.150 HEARING BY CITY COUNCIL ON REPORT OF COSTS OF ABATEMENT BY CITY.

A. The City Council shall set the report of the costs of abatement by the City for hearing to determine the correctness and/or reasonableness of the costs.

B. A copy of the report of costs of abatement by the City and notice of the hearing shall be served on the Responsible Party (and Owner if different than Responsible Party) at least ten (10) days prior to the date of the City Council hearing. Service shall be as set forth in § 6.12.090. Proof of service shall be made by declaration under penalty of perjury filed with the City Clerk.

C. At the time and place fixed for receiving and considering the report, the City Council shall receive and consider the report of the costs of abatement, together with any objections or protests. The City Council may accept, revise, correct, or modify the report. The decision of the City Council on all protests and objections shall be final and conclusive. At the conclusion of the hearing, the City Council shall, by resolution, confirm the report as accepted, revised, corrected, or modified.

(Ord. 840, § 1, passed -- 2003)

6.12.160 SPECIAL ASSESSMENT OR NUISANCE ABATEMENT LIEN ON PROPERTY FOR COSTS OF ABATEMENT BY THE CITY.

A. The costs of abatement by the City as confirmed by the City Council may be levied as a nuisance abatement lien against the subject property pursuant to Cal. Government Code § 38773.1.

1. Prior to recordation, notice shall be provided to Owner. Service of the notice shall be in the same manner as a summons in a civil action pursuant to Cal. Code of Civil Procedure §§ 415.10 et seq. If the Owner, after diligent search, cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in Mendocino County pursuant to Cal. Government Code § 6062.
2. The nuisance abatement lien shall be recorded in the Mendocino County Recorder's office and shall have the force, effect and priority of a judgment lien.
3. The nuisance abatement lien shall specify the amount of the lien, the name of the City, the date of the City Council's abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the Owner.

4. The nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment.
5. The City may recover from the Owner any costs incurred regarding the processing and recording of the lien and providing notice to the Owner as part of its foreclosure action to enforce the lien.

B. Alternatively, the costs of abatement by the City as confirmed by the City Council may be made a special assessment against the subject property pursuant to Cal. Government Code § 38773.5.

1. Prior to making a special assessment, notice shall be provided to the Owner. The notice shall specify that the property may be sold after three (3) years by the Tax Collector for unpaid delinquent assessments. Service of the notice shall be made by certified mail to the Owner. The Tax Collector's power of sale shall not be affected by the failure of the Owner to receive notice.
2. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be collected subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to the special assessment.
3. If the property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.
4. The City may, subject to the requirements applicable to the sale of property pursuant to Cal. Revenue and Taxation Code § 3691, conduct a sale of vacant residential developed property for which the payment of that assessment is delinquent.
5. Notices or instruments relating to the abatement proceeding or special assessment shall be entitled to recordation.

(Ord. 840, § 1, passed -- 2003)

6.12.170 ABATEMENT OF CERTAIN VEHICLES.

Pursuant to Cal. Vehicle Code § 22660, procedures to remove abandoned, wrecked, dismantled, or inoperable vehicles or parts thereof, as public nuisance are found in Chapter 10.44 of the Fort Bragg Municipal Code.

(Ord. 840, § 1, passed -- 2003)

6.12.180 ALTERNATIVE REMEDIES.

In addition to any other remedies provided in this Chapter 6.12, the City may apply any of the remedies described in Chapter 1.12 of this Code to any Responsible Party who is found to have caused, permitted or contributed to a nuisance condition as described in this chapter, or who has otherwise violated any of the provisions of this chapter.

Nothing in this chapter shall be deemed to prevent the City Council from ordering the City Attorney to commence a civil or criminal proceeding to abate a public nuisance under applicable civil or penal code provisions as an alternative to the proceeding set forth in this chapter.

(Ord. 840, § 1, passed -- 2003; Am. Ord. 898 § 17, passed 11-14-2011)

PROPOSED VACANT PROPERTY REGISTRATION ORDINANCE TEXT

6.13.010 PURPOSE

The purpose of this Chapter is to ensure all vacant properties comply with minimum property maintenance requirements, to encourage proactive and preventive maintenance of properties, to ensure maintenance issues are quickly and efficiently remedied, and to promote the health, safety, and welfare of the people of the City of Fort Bragg.

6.13.020 SEVERABILITY

If any provision of this Ordinance and Chapter is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity will not affect the remaining provisions of this Ordinance and Chapter, which can be implemented without the invalid provisions, and to this end, the provisions of this Ordinance are declared to be severable.

6.13.030 DEFINITIONS

As used in this Chapter, the following terms and phrases are defined as follows:

A "Active Construction" means that construction activity is taking place at a property without any pause, interruption, or suspension greater in duration than 45 days, and the owner, owner of record, or a duly authorized agent, servant, assign, employee, or contractor acting or providing services on behalf thereof, is on-site at a property that is under construction, actively engaged in construction, maintenance, demolition, or related administrative activity, without any pause, interruption, or suspension greater in duration than 15 days.

B "Allowable use" means the property use as permitted by zoning ordinance; allowable by right, or use permit.

C "Blight" or "Blighted property" means any one or more of the following conditions or activities:

(1) Abandoned Building or Structure.

(a) A building or structure which is not being inhabited, occupied, or used and which is unsecured. For purposes of this Chapter, a building or structure is unsecured when the public can gain entry without the consent of the owner.

(b) A partially constructed, reconstructed, or demolished building or structure upon which work is abandoned. Work is deemed abandoned when there is no valid and current building or demolition permit, or when there has not been any substantial work on the project for a period of six (6) months or more.

(2) Attractive Nuisance. Property which is in an unsecured state so as to potentially constitute an attraction to children, a harbor for transients, criminals, or other unauthorized persons, or so as to enable persons to use the property for the purpose of committing a nuisance or unlawful act.

(3) A building or structure which is in a state of disrepair:

(a) Exterior wall and/or roof coverings which have become deteriorated and do not provide adequate weather protections, resulting in termite infestation and/or dry rot.

(b) Broken or missing windows or doors which constitute a hazardous condition or a potential attraction to trespassers.

(c) Building exteriors, walls, fences, signs, retaining walls, driveways, walkways, sidewalks, or other structures on the property which are broken, deteriorated, or substantially defaced, to the extent that the disrepair is visible from any public right-of-way or visually impacts neighboring public or private property or presents an endangerment to public safety.

(d) Building exteriors, walls, fences, signs, retaining walls, driveways, walkways, sidewalks, or other structures on the property which have been repainted in such a manner that the appearance may be further deteriorated or substantially defaced.

(4) Property Inadequately Maintained.

(a) Overgrown, diseased, dead, or decayed trees, weeds, or vegetation that: (1) are likely to harbor rats, pigeons, vermin, and other nuisances; or (2) substantially detract from the aesthetic and property values of neighboring properties; or (3) constitute a fire hazard or other condition that is dangerous to the public health, safety, or welfare; or (4) are likely to attract use as shelter by transients.

(b) Solid waste, which includes "garbage," "refuse," and "rubbish," and all "solid waste" as may be defined in this Code, constitutes blight and blighted property in the following situations: (1) the accumulation of solid waste is visible from a street or public right-of-way, is not enclosed in a City-approved container, and is present for more than 72 consecutive hours; or (2) the accumulation of solid waste is being stored or disposed of in a manner that would allow the material to be transported by wind or otherwise onto or upon any public street, public right-of-way, or neighboring property, unless the method of storage or disposal is specifically allowed by this Code.

(5) Any swimming pool, pond, or other body of water which is abandoned, unattended, unfiltered, drained with no cover to prevent the existence of a hazard, or not otherwise maintained, resulting in polluted water. "Polluted water" is defined for the purpose of this Chapter, as water which contains organic growth, including algae, remains of rubbish, refuse, debris, papers, and any other foreign matter or materials, which, because of its nature or locations, constitutes an unhealthy or unsafe condition.

D "Building" means any structure, including, but not limited to, any residential, commercial, industrial, or assembly structure, approved for occupancy on either a lot of record or within a single project approved by the City pursuant to the City's Zoning Code.

E "Commercial Properties" means all properties in the City that are not developed for solely single family residential uses. The term "commercial properties" includes apartment buildings that include five or more rental units.

F "Development Related Agreement" means an agreement between the City and at least one other person or entity whereby an owner secures the authorization and approval of the City, whether through a duly authorized written contract, or via a land use permit or entitlement approval, to pursue a development or redevelopment project at a property where one or more abandoned buildings or structures, and/or vacant building is located.

G "Downtown" means all streets and portions of streets within the area described as follows: All that area bounded by Pine Street on the north, Oak Street on the south, Main Street on the west, McPherson Street on the east and North Harrison Street heading east on Redwood Avenue. Synonymous with CBD?

H "Enforcement Official" means the City Manager, Building Official, the Chief of Police, the Fire Chief, or their respective designees.

I “Evidence of Vacancy” means any building in the context of the totality of circumstances that would lead a reasonable Enforcement Official to believe that the building is vacant or occupied by a person without a legal right of occupancy. Such real property conditions include, but are not limited to: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers, or mail; past due utility notices or disconnected utilities; accumulation of trash, junk, or debris; the absence of window coverings such as curtains, blinds, or shutters; the absence of furnishings or personal items consistent with residential habitation; or statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

J “Historic Building or Site” means any building, structure, or site previously designated as an historic landmark by the City Council pursuant to the provisions of Chapter [17.74.030](#) of the CLUDC, or Chapter 18.74.030 of the ILUDC, which building or site is not located on lands owned by the United States for the benefit of any member of any federally recognized Indian tribe, or subject to a restriction against alienation imposed by the United States.

K “Local” means within 40 driving miles of the building, structure, or real property in question.

L “Out of Area” means in excess of 40 road or driving miles of the building, structure, or real property in question.

M “Owner” means any person having legal or equitable title or any interest in real property, including all persons shown as owners on the last equalized assessment roll of the Mendocino County Assessor’s Office. An owner includes a person with power of attorney, an executor of estate, trustee, or who is a court appointed administrator, conservator, guardian, or receiver.

N “Person” means any natural person, partnership of any kind, corporation, limited liability company, association, joint venture, or other organization, however formed, as well as trustees, heirs, executors, administrators, or assigns, or any combination of such persons.

O “Vacant building” means a building where at least thirty-five percent (35%) of the total floor area within the building is not lawfully occupied.

P “Vacant parcel” means a legal parcel with no building improvements, or with limited improvements that cannot not be classified as a residential building or commercial business.

6.13.040 SCOPE

A Applicability. The provisions of this Chapter shall apply generally to all improved and unimproved real property throughout the City of Fort Bragg where any of the conditions specified in this Chapter are found to exist.

B Regulations Cumulative. The regulations provided by this Chapter are cumulative to each other and to any other available under City, State, or federal law.

C Authority to Enforce Chapter. The Enforcement Official is authorized to administer and enforce this Chapter. The Enforcement Official may adopt supplemental regulations or policies to implement and interpret this Chapter. These regulations or policies must conform with the purpose of this Chapter.

D Development Agreement Exemption. In the event that the City enters a development related agreement with the owner or developer of a property incorporating the partial or total demolition, repair, reconstruction, or preservation of a vacant building or structure the vacant building or structure in question is exempt from application of this Chapter, provided that the property is maintained in strict accord with the terms and conditions of the development related agreement. In the event that the City

Manager, or his or her designee, determines in the City Manager's sole discretion the owner or developer of a property is in default with respect to any term or condition of a development related agreement through which any building or structure is exempt from application of this Chapter, the City may issue written notice to that owner that if the default in question is not cured in its entirety within 30 days of the issuance, that the exemption provided by this Section shall be revoked, and that this Chapter shall immediately become fully applicable to the building or structure in question.

6.13.050 SERVICE REQUIREMENTS

A Except as otherwise provided, any notice required to be served under this Chapter must be completed by either:

- (1) Personal service; or
- (2) Service by United States mail addressed to the person to be notified at the address as listed in the last equalized assessment roll. Service by mail is complete at the time of deposit in the mail. Failure of any person to receive a properly-addressed notice by mail shall not invalidate any action, decision, determination, or proceeding under this Chapter.

6.13.060 REGISTRATION REQUIRED FOR VACANT PARCELS AND BUILDINGS

A Registration Required. An owner of a vacant parcel or building must register their property with the Enforcement Official within 10 days of the building becoming vacant or being deemed vacant. If any building shows evidence of vacancy, it is hereby deemed vacant. All vacant parcels, as defined by this chapter, must be registered within sixty calendar days of the effective date of this ordinance and renewed annually.

B Application Required. Any person seeking to register a vacant parcel or vacant building must submit a complete, written application to the City using a form adopted by the City for that purpose.

C Application Contents. The application for registration pursuant to this Section must contain or be accompanied by the following:

- (1) The name and address of each owner and the local property management company, if any, responsible for the security, maintenance, and marketing of the property in question; and, the security agency, if any, responsible for the "continuous physical monitoring" as provided for within this Chapter .
- (2) A maintenance plan describing and documenting how the maintenance requirements of this Chapter will be complied with.
- (3) Documentation and information showing compliance with the local property management company requirements of this Chapter.

D Annual Registration. The registration pursuant to this Section must be renewed annually, no later than January 31 of each calendar year.

E Fee. The City Council may establish by resolution, and from time to time may amend, an annual registration fee and inspection fees. An application for registration or reregistration must be accompanied by the submission of the required fee. Registration fees are nonrefundable and may not be prorated. The fee represents the registration cost for a calendar year and the cost of one annual compliance inspection. When a subsequent compliance inspection is necessary to verify corrections of violations, a subsequent inspection fee shall be charged.

F Notice to City of Changes to Registration. Any person, partnership, association, corporation, fiduciary, or other legal entity that has registered a property under this Chapter must notify the Enforcement Official in writing of any change of information contained in the registration within 10 days of the change.

6.13.070 MAINTENANCE REQUIREMENTS FOR VACANT BUILDING AND PARCELS

A Maintenance Required. It is unlawful for any owner to maintain any improved property in violation of the provisions of this Chapter. All vacant buildings, residential and commercial, must be maintained in compliance with the Fort Bragg Municipal Code.

B Additional Requirements for Commercial Properties. Any vacant commercial building must be maintained in accordance with the following requirements:

- (1) All doors, windows, and other openings are secured in accordance with this Chapter.
- (2) Any temporary site perimeter fencing is placed in connection with a building permit.
- (3) The property must be continuously monitored, as follows:
 - (a) Buildings with fire sprinkler systems must be maintained in working order.
 - (b) Buildings with a centralized and registered fire and burglar alarm system must be maintained in working order, and monthly reports showing continued and active service shall be submitted to the Enforcement Official.
 - (c) Buildings without fire sprinkler systems or fire alarm or burglar alarm systems shall be provided with continuous physical monitoring by means of an onsite patrol. "Continuous physical monitoring" shall mean the use of a licensed security agency operating in the City of Fort Bragg and providing regular surveillance of the vacant building as part of the agency's security route.
- (4) A quarterly report from the property owner or the property owner's representative or property management company that identifies each date inspections were performed for the reporting period and a statement affirming that the building interior, exterior, and the entire site was inspected, the landscaping is maintained in good condition, and that all buildings are secure.

C Requirements For Buildings Vacant More Than 90 Days. No person may allow a building designed for human use or occupancy to stand vacant for more than 90 days, unless the person establishes by substantial evidence to the reasonable satisfaction of the Enforcement Official that at least one of the following applies:

- (1) Active Construction. The building is the subject of Active Construction for repair or rehabilitation in order to make the building habitable, and the owner is progressing diligently to complete such repair or rehabilitation within one year of the issuance of the building permit related to such repair or rehabilitation.
- (2) Active Marketing. The building or property contains no Fort Bragg Municipal Code violations, is ready for occupancy, and is actively being offered for sale, lease, or rent.
- (3) Active Maintenance. The person is actively maintaining and monitoring the building, which includes:
 - (a) Maintenance of landscaping and plant materials in good condition.
 - (b) Maintenance of the exterior of the building including, but not limited to, paint, finishes, windows, doors, and signage in good condition and in compliance with this Chapter.

- (c) Any sign which advertises a use or business not being made on the premises, the name of the owner or user, or which identifies a product, an interest, service, or entertainment not available on the premises is regulated pursuant to CLUDC 17.38.040 and ILUDC 18.38.040.
- (d) Regular removal of all exterior trash, debris, and graffiti.
- (e) Prevention of criminal activity on the premises including, but not limited to, trespassing, use and sale of controlled substances, and criminal street gang activity.
- (f) Any windows screened will be in accordance with application and approval of the City of Fort Bragg Community Development Department Planning staff.
- (g) Securing the property in a manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, closing and locking of windows, doors (walk-through, sliding and garage), gates, and any other opening that may allow access to the interior of the property or structure(s). In the case of broken windows, securing includes the replacement of the broken window.
- (h) Maintaining sufficient utility services to provide power for any alarm or security system and to properly irrigate all landscaping on the property.
- (i) The building or the lot on which the building is located, and the landscaping on such lot, does not contribute to and is not likely to contribute to blight because the owner is actively maintaining and monitoring the building and the lot so that it does not contribute to blight.

6.13.080 LOCAL PROPERTY MANAGEMENT REQUIRED

- A Any owner located more than 40 miles by road from a property containing a vacant building that must be registered, must provide a name and contact information of a local individual or property management company who must be contracted to perform weekly inspections to ensure compliance with the Fort Bragg Municipal Code.
- B The property must be posted with the name and contact phone number of the local individual or property management company. The posting must be no less than 18" X 24", must be of a font that is legible from a distance of 45 feet, and must contain the following: "THIS PROPERTY MANAGED BY (LOCAL INDIVIDUAL OR PROPERTY MANAGEMENT COMPANY)," and "TO REPORT PROBLEMS OR CONCERNS CALL (PHONE NUMBER)."
- C The posting must be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building facing the street of the front of the property so it is visible from the street. If no such area exists, the posting must be on a stake of sufficient size to support the posting, in a location that is visible from the street to the front of the property, and to the extent possible, not readily accessible to potential vandalism. Exterior posting must be constructed of, and printed with weather resistant materials.
- D The local individual or property management company must inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this Chapter and must perform all monitoring duties prescribed in this Chapter. If the individual or property management company determines the property is not in compliance with this Chapter or any provision of the Fort Bragg Municipal Code, it is the individual or company's duty to notify the owner and bring the property into compliance.

6.13.090 MONITORING PROGRAM FOR COMMERCIAL PROPERTIES

A Monitoring Program Established. A program monitoring commercial properties is hereby established. The Enforcement Official is responsible for administering the monitoring program to enforce this Chapter.

B Monitoring Program Duties. The Enforcement Official has the duty and responsibility to do the following pursuant to the monitoring program:

- (1) Inspect properties in the City to identify commercial buildings that are vacant.
- (2) Order vacant commercial buildings to comply with this Chapter and any other applicable codes.
- (3) Order vacant commercial buildings that are open and accessible to be secured against unlawful entry in accordance with this Chapter.
- (4) Order the property on which the vacant commercial building is located to be properly maintained or cleared of trash and debris.
- (5) Initiate proceedings against the owner of any vacant commercial building found to be in violation of this Chapter or any other applicable code.
- (6) Maintain surveillance over vacant commercial buildings so that timely code enforcement proceedings are commenced in the event the property becomes substandard or a nuisance.
- (7) Establish and enforce rules and regulations for the implementation and compliance with the Property Improvement Program.
- (8) Identify blighted property and to initiate proceedings against the owner of record of any blighted property for failure to remedy such blight.

C Fee Imposed. There is imposed upon every owner of a vacant commercial building monitored pursuant to this Chapter an annual vacant commercial building monitoring fee in an amount the City Council may establish by resolution, provided that the fee shall not exceed the estimated reasonable cost of monitoring the vacant commercial building.

D Fee Procedure. If unpaid in connection with a vacant building registration, a vacant commercial building monitoring fee may be billed and mailed to the owner of the property. Any owner aggrieved by the decision of the Enforcement Official relating to a vacant registration fee bill may appeal the decision to the Administrative Hearing Officer or Body in the manner provided in Chapter 1.06 of this Code. If the fee is not paid within 60 days following billing, the City Council may thereupon order that the fee be specially assessed against the property involved. If the City Council orders that the fee be specially assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment. The City Council may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee.

6.13.100 ENFORCEMENT

A Violation Unlawful. It is unlawful and declared a public nuisance for any person to violate any provision of this Chapter.

B Criminal Penalties. Any person who violates any provision of this Chapter is guilty of a misdemeanor punishable by a fine of up to \$1,000, or by imprisonment in the County jail not exceeding six months, or by both such fine and imprisonment, except the City Attorney may prosecute a violation of this Chapter as an infraction, in his or her discretion, as set forth in Section 1.04.060 of this Code.

C Administrative Penalties. Any person who violates any provision of this Chapter may be issued an administrative penalty in accordance with this Section and Chapter 1.12 of this Code.

(1) Appeal and Collection of Penalty. The Enforcement Official's administrative penalty may be appealed in the manner provided in Chapter 1.08 of this Code. Any administrative penalty may be collected as provided in Chapter 1.06 of this Code.

(2) Fine for Non-Residential Properties. For any non-residential properties subject to this Chapter, the initial penalty shall be \$1,500.00. If the violation continues after the compliance date in the first administrative citation or any extension period granted by the City, a second administrative penalty in the amount of \$3,000.00 may be issued. If the violation continues after the compliance date in the second administrative citation or any extension period granted by the City, a third administrative penalty in the amount of \$15,000.00 may be issued. For any residential properties subject to this Chapter, the penalties shall be in the amounts set forth in Section 1.12.070 of this Code.

D Civil or Equitable Enforcement. Nothing in this Chapter prevents the City Attorney from bringing a civil or equitable action, at his or her discretion, to seek the abatement of any violation of this Code.

E Ongoing Violations. Each and every day a violation is maintained, caused, aided, abetted, concealed, suffered, or permitted is a separate offense.

F Remedies Cumulative. The remedies, procedures, and penalties provided by this Chapter are cumulative to each other and to any other available under City, State, or federal law.

G Joint and Several Liability. The duties and liabilities specified in this Chapter are joint and several among and between all owners.

<i>Annual Registration Fees</i>		
Annual Registration Fees are calculated by combining the Registration Process Fee and the Initial Inspection and Documentation Process Fee for each property type.		
Undeveloped Parcel	Proposed Fee	\$ 90.00
Vacant Residential	Proposed Fee	\$ 97.00
Vacant Commercial	Proposed Fee	\$ 127.00
Annual Registration Fee will be charged at the start of every calendar year.		

See Page 2 of this Document for fee breakdown.

Hours RATE

1	Registration Process					
	Identify Property	0.3	\$ 60.51	\$ 18.15		
	Notify Property Owner	0.2	\$ 60.51	\$ 12.10		
	Receive registration	0.2	\$ 60.51	\$ 12.10		
	Finance	0.3	\$58.79	\$ 17.64		
	Postage/Printing			\$ 0.70		
				\$ 60.69	Proposed Fee	\$ 60.00

2	Initial Inspection & Documentation Process					
	2a. Undeveloped Parcel	0.5	\$ 60.51	\$ 30.26		
	Postage/Printing			\$ 0.70		
				\$ 30.96	Proposed Fee	\$ 30.00
	2b. Vacant Residential	0.6	\$ 60.51	\$ 36.31		
	Postage/Printing			\$ 0.70		
				\$ 37.01	Proposed Fee	\$ 37.00
	2c. Vacant Commercial	1.1	\$ 60.51	\$ 66.56		
	Postage/Printing			\$ 0.70		
				\$ 67.26	Proposed Fee	\$ 67.00

3	Subsequent Inspections					
Fee in this section are only charged if initial inspection determines noncompliance.						
	Additional Inspection	0.5	\$ 60.51	\$ 30.26		
	Invoicing- Finance	0.5	\$58.79	\$ 29.40		
	Postage/Printing			\$ 0.70		
				\$ 60.35		
					Proposed Fee	\$ 60.00

This fee will be charged for each inspection until the property is found in compliance.