



AGENCY: City Council
MEETING DATE: May 10, 2021
DEPARTMENT: City Manager
PRESENTED BY: Tabatha Miller
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AGENDA ITEM SUMMARY

TITLE:

City Council Report on Actions Following Adoption of Interim Urgency Ordinance Placing a 45-day Moratorium on the Approval of Applications and Permits for Formula Businesses in the Inland Zoning Area

ISSUE:

The City Council discussed regulating formula businesses on October 24, 2019 and February 24, 2020. After the second discussion, the City Council directed staff to bring the matter to the Planning Commission to draft an ordinance that would apply to the Inland area of the City and bring back to City Council. After delays related to the COVID-19 pandemic, staffing reductions and staff turnover in the Community Development Department, the Planning Commission began working on developing a complete Ordinance in October 2020 and has continued its work.

Under [California Government Code Section 65858](#), a city or county may adopt an interim ordinance to temporarily prohibit certain land uses that may be in conflict with a contemplated general plan, specific plan or zoning proposal that the City Council and/or Planning Commission is considering or studying. The temporary prohibition or moratorium provides municipalities time to study the impact of certain activities and develop appropriate regulations, if deemed necessary.

On April 12, 2021, the City Council adopted Urgency Ordinance No. 964-2021, placing a 45-day moratorium on the approval of applications and permits for formula businesses in the Inland Zoning Area. Urgency Ordinances require four of five Councilmembers to approve and also to extend. On the same day, an Urgency Ordinance for a formula business moratorium in the Coastal Zoning Area failed.

Ten days prior to the expiration of the urgency ordinance or any extension, City Council must issue a written report describing the measures taken to alleviate the condition that led to the adoption. The City's current Moratorium will expire on May 27, 2021. Government Code Section 65858(d) provides:

(d) Ten days prior to the expiration of that interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

The attached report from the Fort Bragg Mayor and City Council meets the requirement of Government Code 65858(d).

After notice and a hearing, a local government can extend the ordinance for either ten months and 15 days, with the option to extend it once more for an additional one year, or once for 22 months and 15 days. Either option equates to an extension of up to two years and requires the four-fifths vote. The legislative body may rescind the urgency ordinance prior to its stated termination.

On May 24, 2021, staff will present the City Council with a new urgency ordinance to extend the moratorium for a period of ten months and fifteen days, as provided for in Government Code Section 65858. If adopted, staff anticipates that it will take far less than the 10 months and 15 days, as provided for in Government Code 65858, for the City Council to consider and possibly adopt an ordinance regulating formula businesses. City Council may terminate a moratorium prior to its stated expiration date and staff recommends such action after a formula business ordinance becomes effective or City Council decides not to pursue such regulation.

RECOMMENDED ACTION(S):

1. Present the City Council’s report to members of the public pursuant to Government Code 65858(d).

FISCAL IMPACT:

The impact of the moratorium on formula businesses to the City’s revenue is likely minimal.

GREENHOUSE GAS EMISSIONS IMPACT:

N/A

CONSISTENCY:

The City’s current Inland General Plan provides support for regulating formula businesses. The current purpose statement from Element 6 of the Inland General Plan:

A. Purpose

The Community Design Element establishes goals, policies, and programs to preserve and enhance Fort Bragg’s authentic, small town character. The community is defined in part by its isolated location on the magnificent coastline of Mendocino County. Its sense of place derives from its heritage as a regional center for the timber and fishing industries. As the economy evolves to a more tourism and service-based economy, the community has acknowledged the importance of maintaining the historic identify of downtown and the integrity of the residential neighborhoods, while enhancing views and access to the coastline and planning for continued growth and development.

The Community Design Element is concerned primarily with the visual quality of the City, or what residents and visitors see. The City’s appearance is essential to the quality of life in Fort Bragg. Visual quality and amenities go hand-in-hand with long-term economic development strategies, and strengthen the stability and desirability of the community. To be attractive to residents, visitors, and businesses, the City must be concerned about its appearance, physical character, and livability. Existing residential real estate values

and the desirability of businesses that depend on tourism are closely tied to the visual character of the community.

Policies and Goals from the City's General Plan include:

Policy LU-3.1 Central Business District: *Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD)*

Policy LU-3.6 Re-Use of Existing Buildings: *Encourage the adaptive re-use and more complete utilization of buildings in the Central Business District and other commercial districts.*

Goal LU-4 *Promote the economic vitality of the City's existing commercial areas.*

Policy LU-4.1 Formula Businesses and Big Box Retail: *Regulate the establishment of formula businesses and big box retail to ensure that their location, scale, and appearance do not detract from the economic vitality of established commercial businesses and are consistent with the small town, rural character of Fort Bragg.*

Policy LU-4.2 *Require that a fiscal and economic analysis be performed as part of the conditional use permit process for big box retail projects. The analysis shall evaluate the economic effects of the project for a minimum five-year time frame. A consultant selected by the City and paid for by the project proponent shall carry out the analysis.*

Goal C-5 *Regard the quality of life in Fort Bragg and maintaining community identity as more important than accommodating through-traffic.*

Policy C-5.1 Community Priorities for Transportation Improvements: *Place a higher priority on maintaining a sense of place and enhancing the attractiveness of the Central Business District than on efficient traffic flow and movement.*

Policy CD-1.5 Strip Development: *Discourage strip development along Main Street. Strip development is typically characterized by street frontage parking lots serving individual or strips of stores or restaurants. It differs from central business districts and shopping centers in that typically there are no provisions for pedestrian access between individual uses, the uses are only one-store deep, the buildings are arranged linearly rather than clustered, and there is no design integration among individual uses.*

Policy CD-2.3 Economic Vitality: *Continue to support the economic diversity and vitality of downtown businesses.*

Policy CD-2.5 Strengthen the Distinctive Identity of the Central Business District: *Strengthen the distinctive identity and unique sense of place of the Central Business District.*

Policy CD-3.2 Gateway Development: *Encourage a higher quality of development at the City's gateways.*

Policy CD-6.1 Protect and Preserve Buildings and Sites with Historic and Cultural Significance to the Community.

Attractive Commercial and Central Business Districts are a source of identity that when allowed to maintain a healthy mix of uses remains a source of identity for Fort Bragg and distinguishes our community from others. Many communities struggle with losing the diversity that smaller local businesses provide and the homogenous appearance resulting from the proliferation of chain formula businesses. When the same goods and services are offered in every community, our nation's communities start to look like Anywhere, USA. For communities, like Fort Bragg, which is dependent on tourism, this transition can be fiscally devastating. Most of the communities with successful formula business ordinances are small unique towns that depend on the local character to attract visitors and residents.

In October, 2020, staff conducted a non-scientific [survey of community members](#) to gauge support for or against further regulation of formula businesses. Over 1,100 responses were received and approximately two-thirds of respondents favored regulating formula businesses. Of those in favor, the largest number of respondents indicated a desire to regulate the total number and type of businesses allowed.

IMPLEMENTATION/TIMEFRAMES:

An urgency ordinance may remain in effect for only 45 days, unless it is extended by another four-fifths vote. Ten days prior to the expiration of the urgency ordinance or any extension, City Council must issue a written report describing the measure taken to alleviate the condition that led to the adoption. After notice and a hearing, a local government can extend the ordinance for either ten months and 15 days, with the option to extend it once more for an additional one-year, or once for 22 months and 15 days. Either option equates to an extension of up to two years and requires the four-fifths vote. The legislative body may rescind the urgency ordinance prior to its stated termination.

ATTACHMENTS:

1. Att. 1 – City Council Report

NOTIFICATION:

1. Economic Development Planning, **Notify Me subscriber list**
2. Tourism and Marketing, **Notify Me subscriber list**
3. Fort Bragg Downtown Businesses, **Notify Me subscriber list**