

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

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

ORDINANCE NO. ~~920-2019~~15

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 the regulations are very challenging for businesses and may de facto prohibit mobile vending by making it financially infeasible~~; 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 ~~number~~, location ~~and~~; zoning districts ~~and times of operation~~ 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;

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 **Units Operations** (MVOU) go through a permitting process to ensure that MVOUs 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 MVOUs 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 15061(b)(3) 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 following:

10.02. 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.*

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 UNIT-Vehicle (MVVU). *Any ~~lunch wagon, eating cart, vehicle or pushcart~~ 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 nonmotorized 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 by ~~City Council resolution~~ through business license or Mobile Vending Permit approval.*

Section **10.20.150 Parking of Peddlers Vehicles – Permit – Required** is hereby replaced in its entirety with the following:

§ 10.20.150 MOBILE VENDING — PERMIT — REQUIRED.

- 1) **Purpose.** A Mobile Vending Permit provides a process for reviewing mobile vending activities, location(s), design, and 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).
- 2) **Applicability.** Except as otherwise provided in this section, no person shall stand or park any mobile vending ~~unit 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 on the sidewalks by Sidewalk Vendors. 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.
- ~~3) **Number of Mobile Vending Units.** The City Council shall establish by resolution the total number of Mobile Vending Permits available within the City.~~
- 4)3) **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 determination of the meaning or applicability of this regulation are believed to be in error.
- 5)4) **Application Requirements.** The Mobile Vending Permit application shall include:
 - a. For Mobile Vending Vehicles (MVV):
 - i. The proposed specific location(s) and or route(s) on which the MVV will be located;
 - ii. 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;
 - iii. Proposed site furniture associated with the MVV (if located on private property); and

~~iv. The proposed approximate time period(s) and days of the week during which the vendor wishes to operate at each proposed location and/or route.~~

b. For Sidewalk Vending (SV)

~~v.i. The proposed specific location(s) and or route(s) on which the sidewalk vending will be located;~~

~~vi.ii. Scale drawings (dimensions) of any display, signage or site furniture to be used;~~

~~6)5) **Application Fee.** The Mobile Vending Permit ~~application~~ fee will be ~~established by resolution of the City Council~~ paid through either a Development Deposit Account (DDA) or a fee set through the City's fee ordinance and updated from time to time.~~

~~7)6) **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 ~~Unit(s)~~ and Sidewalk Vending. The Annual Mobile Vending Fee will be established by resolution of the City Council.~~

~~8)7) **Permit Term.** Mobile Vending Permits for ~~pushcarts located on the s~~ Sidewalk Vending shall be limited to a two-year term. Mobile Vending Permits for MVVUs located on private property and/or City Streets shall be limited to a three-year term.~~

~~9)8) **Permit Findings, Decision and Revocation.** MVQUs 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.~~

A. Permit Findings. An application for a Mobile Vending Permit for:

a. MVVs 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 critical parking spaces;

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. Sidewalk Vendors (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.

B. 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. Sidewalk Vendors: No Minor Use Permit process is permitted for sidewalk vendors per State Law.

A.C. 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.

B.D. 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.

C.E. 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.

D.F. Transferability. The Mobile Vending Permit may be transferred with the business license for the operation of a MVV, however the new owner must satisfy all City insurance requirements and other permitting requirements.

10)9) ~~General~~ Mobile Vehicle Vending Permit Standards. All MVVUs shall adhere to the following standards.

a. **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.

i. Mobile Vending is not permitted in 1) the public right of way in the IH or IL zone; ~~and 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). 3) outside of Designated Vending Locations, within the Central Business District zoning district.~~

ii. 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.

iii. 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.

~~b. Time. MVUs shall be limited to a maximum of ten (10) hours of operation in one location per 24-hour period. Mobile vending is prohibited between the hours of 11:00 p.m. and 6:00 a.m.~~

~~e.b. Operations.~~ All items to be sold must involve a short transaction period to complete the sale, and be easily carried by pedestrians. MVVUs must not

cause congestion or block vehicular or pedestrian traffic, nor cause undue noise, litter, or offensive odors.

d.c. Accessory Equipment. MV~~V~~U~~s~~ 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.

e.d. Garbage and Recyclable Collection. MV~~V~~U~~s~~ operators shall provide for collection and recycling of compostable, recycling and trash on site. MV~~V~~U~~s~~ operators shall clean up all trash associated with their operation and sales every two hours.

f.e. Unit Design. The design, materials and colors of the MV~~V~~U~~s~~ 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.

g.f. Signage. Vehicle signage shall not exceed twenty-five (25) square feet ~~and cart signage shall not exceed four (4) square feet.~~

h.g. Formula Business. The location, scale, and appearance of formula businesses MVUs shall not detract from the economic vitality of established commercial businesses and the MV~~V~~U~~s~~ must be consistent with the small town, rural character of Fort Bragg.

i.h. Health Department Requirements. All MV~~V~~U~~s~~ 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.

10) Sidewalk Vending Permit Standards. All Sidewalk Vending shall adhere to the following standards.

a. Location.

i. 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.

ii. 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.

iii. Parks: Sidewalk vending is not permitted in Noyo Headland 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.

- b. **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.
- c. **Accessory Equipment.** Sidewalk vending equipment shall be entirely self-contained. No external storage, power (generator), piping or plumbing is allowed.
- d. **Garbage and Recyclable Collection.** Sidewalk vendors shall provide for collection and recycling of compostable, recycling and trash on site. Sidewalk vendors shall clean up all trash associated with their operation and sales every two hours.
- e. **Signage.** Signage shall not exceed four (4) square feet.
- j.f. **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.
- k.g. **ADA Compatibility.** The use of the public sidewalk for pushcart vending must be compatible with the ~~public interest use of the sidewalk as a public right of way~~ American 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 ~~pedestrian or street congestion~~ a loss of ADA accessibility. Push carts shall comply with the following additional requirements:
 - i. ~~The length of a pushcart cannot exceed six (6) feet; the width of a pushcart cannot exceed thirty two (32) inches. The height of the pushcart, excluding canopies, umbrellas, or transparent enclosures, cannot exceed five (5) feet. Umbrellas or canopies shall have a minimum clearance of seven (7) feet and a maximum height of nine feet six inches (9.5 feet) above the sidewalk. Umbrellas or canopies may not exceed twenty four (24) square feet in area.~~
 - ii. ~~The cart service area shall not exceed twenty four (24) square feet of the sidewalk and shall not be within ten (10) feet of the intersection of the sidewalk with any other sidewalk; closer than eight (8) feet to any building wall or ten (10) feet to any building entrance, nor within ten (10) feet of any parking space designated as "disabled" or access ramp.~~

- 11) **Additional Standards for Mobile Vending on Public Property.** In addition to the standards above, ~~MVUs~~ all mobile vending on public property shall adhere to the following additional requirements and standards:
- a. ~~MVU~~ 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.

- b. ~~All Operators of MVUs~~ mobile vendors located on public property are required to obtain an encroachment permit.

12) **Additional Standards for Mobile Vending on Private Property.** In addition to the General Mobile Permit Standards above, ~~MVUs~~ Mobile vendors on private property shall adhere to the following additional requirements and standards:

- a. The setback requirements of the underlying zoning district shall apply to ~~MVVUs~~ located on private property for longer than two (2) hours per day.
- b. 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 Peddlers 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 Clerk 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 Deitz at a regular meeting of the City Council of the City of Fort Bragg held on September 28, 2015, and adopted at a regular meeting of the City of Fort Bragg held on October 13, 2015, by the following vote:

AYES: Councilmembers Peters, Deitz, Hammerstrom, Cimolino and Mayor Turner.
NOES: None.
ABSENT: None.
ABSTAIN: None.

Dave Turner,
Mayor

ATTEST:

June Lemos,
City Clerk

PUBLISH: October 1, 2015 and October 22, 2015 (by summary)
EFFECTIVE DATE: November 12, 2015