

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN ORDINANCE ESTABLISHING
REGULATIONS FOR FORMULA
BUSINESSES**

ORDINANCE NO.

The City Council ordains as follows:

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

1. The City of Fort Bragg is a small coastal community of 7,500 residents perched on the bluff tops overlooking the ocean in northern Mendocino County. A former lumber town with what was a strong fishing industry, Fort Bragg has a rich history and many of its homes and buildings are well over a hundred years old. Located approximately 165 miles north of San Francisco and 185 miles west of Sacramento, Fort Bragg, while quite small, is the largest city on the coast between San Francisco and Eureka. The remoteness of Fort Bragg is one of its greatest assets. The natural landscape is beautiful. The air is clean, the ocean wild, and traffic is a non-issue. The City acquired parkland along the bluff tops of the former mill site and has completed construction of a multiuse trail. This trail created public access to 3.5 miles of scenic coastline and is value added for local residents and visitors alike. Of the City's 1869 acres, 962 are located in the Coastal Zone. The coastal views and beauty are critical to what makes Fort Bragg special. Many unique local businesses and brands have made Fort Bragg distinct in its natural beauty and laid-back commercial character. Maintaining the economic health and one-of-a-kind distinction is vital to preserving Fort Bragg's commercial character while meeting the needs of its visitors and residents.
2. To retain that one-of-a-kind character, the City seeks to avoid the proliferation of chain store uses that result in diluting what makes Fort Bragg unique and instead creating a character of repetitiveness similar to other towns across America, where chain store prevalence grows. Fort Bragg seeks to encourage elements that provide variety and fit with the unique environment, history and its quirky charm while retaining opportunities for all. The City's mission and vision embraces a friendly city with a small town character and a strong sense of community that values its roots in the fishing and timber industries. The City's General Plan, Citywide Design Guidelines, and Inland Land Use & Development Code emphasize the commitment to maintaining the strength and vitality of the historic Central Business District.
3. A strong and diverse retail base is necessary for the success of Fort Bragg's commercial sector, in particular the Central Business District. The City recognizes that a healthy blend of unique and familiar businesses providing diverse retail experiences for both visitors and residents supports this success. "As the economy evolves to a more tourism and service-based economy, the community has acknowledged the importance of maintaining the historic identity of downtown and the integrity of the residential neighborhoods, while enhancing views and access to the coastline and planning for continued growth and development."

(Inland General Plan 6. Community Design Element). The City is committed to and recognizes the importance of promoting and supporting the economic vitality and diversity of City businesses both in its commercial districts and the historic Central Business District. (Inland General Plan Goal LU-4, Policy CD-6.1 and Policy CD2.3). Maintaining the City's quality of life and identity is a priority. (Inland General Plan C-5, Policy C-5.1).

4. As the City continues to rely on its reputation as an emerging destination, to sustain and grow its tourism industry Fort Bragg must retain its historical ties to timber and fishing, the coastal and cultural qualities, and its recreation opportunities. Fort Bragg's commercial uses should promote its unique and special qualities. The commercial uses should not detract from or dilute what makes Fort Bragg stand out from other cities in California. Formula retail businesses are, by their nature, not unique. Many of Fort Bragg's unique goods and services cannot be found where many of our visitors reside. As a result, the City Council finds that formula retail businesses located in the City, if not regulated, will conflict with and frustrate the City's goal of maintaining its unique historical character with a local economy that offers visitors and residents non-standard offerings.
5. An abundance of formula retail establishments hinders the City's ability to promote its unique one-of-a-kind experience and to promote a diverse and balanced retail base within the City. A diverse retail base includes unique character that avoids overwhelming familiarity and sameness. The City Council finds that an overabundance of formula retail establishments will unduly limit or possibly eliminate the availability of businesses that tend to be unique or project the history and character of Fort Bragg.
6. The increase of formula retail establishments will hinder the City's goal to promote economic vitality in existing commercial areas, maintain community identity, and the continued support of economic diversity and vitality in the downtown. (Inland General Plan Goal LU-4, Goal C-5, and CD-2.3) A balanced and diverse retail base should be comprised of a balanced mix of businesses, small, medium and large, familiar and unique, and offering a good variety of goods and services. The City strives to ensure that goods and services available locally, meet the regular needs of residents and visitors. The City Council finds that unregulated establishment of additional formula retail establishment uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be unique and unduly skews the mix of businesses towards formula retailers in lieu of those unique or start-up retailers, and result in decreasing the diversity of goods and services available to residents and visitors.
7. The Inland General Plan Mission and Vision pledges "to preserve and enhance the small town character and natural beauty that make the city a place where people want to live and visit, and to improve the economic diversity of the city to ensure that it has a strong and resilient economy which supports its residents." (Inland General Plan 1B Mission and Vision). The City Council finds that the public welfare will be served and advanced by regulating formula retail businesses.
8. The City has analyzed the project proposal described herein and has determined that the project is covered by the general rule that California Environmental Quality Act ("CEQA") applies only where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Pursuant to Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) where it

can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Significant effect on the environment is defined as substantial or potentially substantial, adverse change in the environment.

This proposed ordinance does not authorize any additional uses or as permitted or permitted with a Use Permit or Minor Use Permit. This ordinance, does not change the uses allowed in the City or their intensity or density. The City Council has determined that there is no possibility that the proposed ordinance will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies.

Section 2. Purpose.

The purpose of this chapter is to promote and maintain the City's unique small town character, the diversity and vitality of the City's commercial districts, and the quality of life for Fort Bragg's residents and visitors. It is presumed that establishing or preserving a balanced mix of local, regional and national-based businesses will more effectively serve to achieve this purpose as a strategy to maintain and improve the economic health of the City's business districts and the small one-of-a-kind ambiance.

Section 3. Definitions.

"Formula Business" means a Retail Establishment which, along with ten (10) or more other business locations outside of Fort Bragg, regardless of ownership or location at the time that the application is deemed complete, is required by contractual or other arrangement to maintain at least two (2) of the following Standardized features: an Array of merchandise/menu, Decor, Uniforms, Façade, Color scheme, Signage, Trademark, or Service mark.

"Array of merchandise/menu" shall be defined as 50 percent or more of in-stock merchandise from a single distributor bearing uniform markings.

"Decor" shall be defined as the style of interior finishings, which may include but is not limited to style of furniture, wallcoverings or permanent fixtures.

"Uniforms" shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.

"Facade" shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.

"Color scheme" shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.

For definition of "Signage," see definition of "sign" § 18.100.020.

"Trademark" shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

"Service mark" shall be defined as word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

“Standardized” does not mean identical, but means substantially the same.

“Retail Establishment” means a commercial establishment that provides goods and/or services directly or indirectly to the consumer as defined in this Code (*this is a sample listing of land uses that could be regulated as Formula Businesses*):

1. Auto parts sales with no installation services §18.100.020
2. Bar/tavern §18.100.020
3. Big box retail §18.100.020
4. Building and landscape materials sales §18.100.020
5. Cannabis Dispensary §18.100.020
6. Convenience store §18.100.020
7. Groceries, specialty foods §18.100.020
8. Retail, general §18.100.020
9. Restaurant, café, coffee shop §18.100.020
10. Health/fitness facility §18.100.020

Section 4. Required Findings for Approval.

1. Required findings. In addition to the findings required by 18.71.060(F) as prerequisite to the issuance of a use permit, the Planning Commission shall make all of the following findings prior to the issuance of a Use Permit for a Formula Business:
 - a. The Retail Establishment will provide needed goods or services, will promote Fort Bragg’s economic vitality, and will be compatible with existing and planned uses; and
 - b. The Retail Establishment will not result in an over-concentration of Formula Business establishments in its immediate vicinity or in the City as a whole; and
 - c. The Retail Establishment will complement existing businesses and promote diversity and variety to assure a balanced mix of commercial uses to serve both resident and visitor populations; and
 - d. The Retail Establishment has been designed to preserve and enhance the City’s small town character, has an exterior design which appropriately limits “formula” architectural, sign and other components, and integrates existing community architectural and design features which will preserve such character for the City’s residents and visitors.

Section 5. Exemptions.

This Chapter shall not apply to:

1. Those land use applications which were deemed complete prior to the adoption of the ordinance codified in this chapter;

2. Business license approved prior to the adoption of the ordinance codified in this chapter;
3. Construction required to comply with fire and/or life safety requirements;
4. Disability accessibility work;
5. Renovation of existing Formula Businesses; and
6. Changes in ownership of existing Formula Businesses where there is no substantial change to the land use classification of the use, or in the mode or character of the operation.

Section 6. Prohibited Formula Business Uses.

(The following prohibitions are possibilities not necessarily staff recommendations)

1. Formula Businesses with a proposed use that is greater than 2,500 gross square feet are prohibited in the Central Business District *(see figure xxx map of CBD)*:
2. The following types of Formula Businesses are prohibited in the Central Business District:

(Complete with land uses not consistent with the historical character of the CBD)

Section 7. Burden of Proof.

In the event the City determines that a permit application or permit is subject to this chapter for a Formula Business, the permit applicant or holder bears the burden of proofing to the City that the proposed or existing use does not constitute a Formula Business.

Section 8. Transferrable.

An approved Formula Business Use Permit is transferrable to a new business in the same land use category, located at the exact same location or tenant space, so long as the square footage of the gross floor area is not increased.

Section 9. 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 10. 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 [REDACTED] at a regular meeting of the City Council of the City of Fort Bragg held on [REDACTED] and

adopted at a regular meeting of the City of Fort Bragg held on [redacted] by the following vote:

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

Mayor

ATTEST:

June Lemos, CMC
City Clerk

PUBLISH: [redacted] and [redacted] (by summary).
EFFECTIVE DATE: [redacted].

Working Draft