



## **CITY OF FORT BRAGG**

*Incorporated August 5, 1889*

416 N. Franklin Street

Fort Bragg, California 95437

tel. 707.961.2823

fax. 707.961.2802

[www.fortbragg.com](http://www.fortbragg.com)

July 7, 2017

VIA CERTIFIED MAIL

Anna Shaw  
Mendocino Coast Hospitality Center  
P.O. Box 2168  
Fort Bragg, Ca 95437

### **NOTICE OF POTENTIAL TYPE VI MUNICIPAL CODE VIOLATION (V20-17) Violation of Use Permit & Creation of Nuisance Conditions**

Dear Ms. Shaw:

We have received complaints that the Hospitality House located at 237 North McPherson Street is currently violating USP 9-03.

The Use Permit violations include:

- a. The expansion of the number of beds from 24 to 35 in violation of Use Permit Special Condition 1 for the facility;
- b. The expansion of the hours of service and the expansion of the dining area in violation of the zoning ordinance per Fort Bragg Municipal Code ("FBMC") Section 18.90.030 A1, regarding limitations on expansion of non-conforming uses; and
- c. Operation of the Hospitality House in a manner that is detrimental to the public health, welfare or safety and in a manner that constitutes a nuisance in violation of the FBMC sections 6.12 .040R, 6.12.040T, and 6.12.040U and Use Permit Standard Condition 6.c. (Please see attached description of these code sections).

Through a review of complaint letters, the police call log, and through conversations with property owners and businesses owners within the neighborhood, City staff have identified the following nuisance conditions by clients of the Hospitality House and through the operation of the Hospitality House feeding program and emergency shelter program:

- a. Over the past year, 187 calls for service to the Police Department to the Hospitality House block to address a variety of issues, including, but not

- limited to disturbance of the peace, assault, battery, fighting, verbal threats, suspicious people/vehicle, trespass;
- b. Urination, feces, vomit, dog feces on public and private property;
- c. Aggressive panhandling, loitering, shouting, arguing, cursing in the public right of way;
- d. Littering and obstruction of sidewalks and alleys with personal property;
- e. Public drinking & drug use and public intoxication;
- f. Sleeping on sidewalks, in vehicles, and on private property; and
- g. Trespassing, shoplifting, and vandalism on private property.

Most of these behaviors violate the FBMC. The FBMC defines any violation of the Municipal Code as a nuisance condition (see 6.12.040R). The following activities are prohibited within the City of Fort Bragg by the FBMC:

- a. Aggressive Solicitation (pan handling) – Section 9.26
- b. Disorderly conduct – Section 9.36
- c. Public drunkenness and unlawful acts – Section 9.4
- d. Trespass on Private Property – Section 9.58
- e. Obstruction of Streets, Alleys and Sidewalks – Section 9.60
- f. Camping on public property – Section 9.66

Accordingly, the City hereby orders that you abate the nuisance conditions described above by July 26. To begin the abatement process for these violations, **please contact the Community Development Director within fourteen (14) days** by calling (707) 961-1807 or by visiting our office at 416 N Franklin Street.

If these nuisance conditions are not abated by the date above, the City may assess violation fees as described in the City's code enforcement fee schedule starting with a Type IV fine in the amount of \$790. Additionally, the City may recover all costs associated with the processing of these violations and the enforcement of the Development Code. These costs are recoverable in a civil action in a court, by tax assessment or by lien on the property at the City's election. Additionally, in any action or administrative proceeding to abate the nuisance the prevailing party in the action shall be entitled to recover reasonable attorney's fees.

If you wish to dispute this notice you may appeal the matter in writing to the Community Development Director within 14 days of the notice date.

The City is also recommending that Use Permit (USP 9-03) for the Hospitality House be modified to include additional conditions to address the Use Permit violations and nuisance conditions existing on and around the Property. Accordingly, the Fort Bragg Planning Commission will conduct a public hearing at a regularly scheduled meeting on WEDNESDAY, July 26, 2017 at 6:00 PM, or as soon thereafter as the matter may be heard at the Town Hall, at the corner of Main and Laurel Streets (363 North Main Street), Fort Bragg, California. The public hearing notice is attached.

During the hearing the Planning Commission will admit and consider all relevant evidence e.g. that which reasonable persons are accustomed to rely upon in the conduct of serious affairs. Evidence of past or ongoing violations (and the impact of such violations) is relevant and admissible. Such evidence may provide insight into the extent to which the subject property and surrounding properties are negatively or positively impacted by uses that go beyond those allowed by the present permit conditions. Such evidence may also be relevant to determining the propensity of the owner or operator to abide by permit conditions.

If you choose, you may be represented by counsel at the public hearing.

Thank you in advance for your prompt attention to this matter. Please feel free to contact me at any time to discuss the violations.

Sincerely,

Marie Jones  
Director of Community Development  
707 961-1807

Enc. Hearing Notice  
Relevant code sections of the Fort Bragg Municipal Code

cc Linda Ruffing, City Manager  
Chief Lizarraga, Fort Bragg Police Department  
Michael Oliphant, Senior Building Inspector, County of Mendocino



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## **NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that the Fort Bragg Planning Commission will conduct a public hearing at a regularly scheduled meeting on **WEDNESDAY, July 26, 2017 at 6:00 PM**, or as soon thereafter as the matter may be heard at the Town Hall, at the corner of Main and Laurel Streets (363 North Main Street), Fort Bragg, California. The public hearing will concern the following item:

APPLICATION NO. : Use Permit Modification (USP 9-03/17)  
OWNER: Mendocino Coast Hospitality Center (MCHC)  
AGENT: Lynelle Johnson  
REQUEST: City instigated modification of Use Permit to address Use Permit violations and nuisance conditions resulting from the operation of the Hospitality House.

The Use Permit violations include:

- a. An illegal expansion of the number of beds from 24 to 38 in violation of the Use Permit special condition for the facility;
- b. An illegal expansion of the hours of service and an expansion of the dining area in violation of zoning ordinance's limitations on non-conforming uses.

The following nuisance conditions have been identified:

- c. Over the past year, 187 calls for service the Police Department to the Hospitality House to address a variety of issues, including: disturbance, assault, battery, fighting, verbal threats, suspicious people/vehicle, trespass, drunk in public, etc.
- d. Urination, feces, vomit, dog poop on public and private property;
- e. Aggressive panhandling, loitering, shouting, arguing, cursing in the public right of way;
- f. Littering;
- g. Public drinking & drug use in the public right of way and on private property;
- h. Trespassing, shoplifting, vandalism and fighting on private property;
- i. Sleeping on sidewalks, in vehicles, and on private property; and
- j. Obstruction of sidewalks and alleys with personal property.

LOCATION: 237 North McPherson Street

APN: 008-155-11

ZONING: Central Business District (CBD)  
LOT SIZE: 7,000 Square Feet

The hearing will be opened for public participation. All interested persons are invited to appear at that time to present their comments. The public comment period runs from the date this notice is published and mailed until the date of the hearing to allow sufficient time for submission of comments by mail. Staff reports and other documents that will be considered by Commissioners are available for review at Fort Bragg City Hall, 416 North Franklin Street during normal business hours and are also available on the City's website:

<https://cityfortbragg.legistar.com/Calendar.aspx>.

Written communications must be received no later than the meeting date. At the conclusion of the public hearing, the Planning Commission will consider a decision on the above permit.

**Appeal process and fee schedule:** Decisions of the Planning Commission shall be final unless appealed to the City Council in writing within ten (10) days thereafter with a filing fee of \$1,000 to be filed with the City Clerk. If you challenge the above case in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Community Development Department at, or prior to, the public hearing.

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Sarah McCormick  
Community Development

POSTING/MAILING DATE: July 13, 2017  
PUBLICATION DATE: July 13, 2017

STATE OF CALIFORNIA    )  
                                      ) ss.  
COUNTY OF MENDOCINO )

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg in the Community Development Department; and that I caused this notice to be posted in the City Hall Notice case on July 13, 2017.

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Sarah McCormick  
Community Development

cc: Property owners within 300' radius/ Residents within 100' radius  
Planning Commission  
Owner/Applicant/Agent

## **Municipal Code Section Citations**

### **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.**

(Ord. 840, § 1, passed -- 2003; Am. Ord. 875, § 43, passed 8-25-2008; Am. Ord. 898 § 4, passed 11-14-2011)

#### **9.26.030 UNLAWFUL PANHANDLING.**

It is unlawful and a public nuisance for any person to:

- A. Panhandle in an aggressive manner in any public place;
- B. Panhandle an operator or other occupant of a motor vehicle while the vehicle is located at an intersection of any street or highway, or at a driveway; provided, however, that this paragraph shall not apply to services rendered in connection with emergency services or repairs requested by the operator or passenger of the vehicle;



C. Panhandle in any public transportation vehicle, or in any public or private parking lot or parking structure; and/or

D. Panhandle in a restaurant, including any outdoor or indoor dining area of a restaurant, or other establishment serving food for immediate consumption, or within 20 feet of the entrance to or exit from the restaurant or other establishment serving food for immediate consumption, if the person soliciting, asking, or begging remains there after being asked to leave by the owner, manager, supervisor, or other authorized agent of the restaurant or other establishment.

(Ord. 852, § 2, passed -- 2005)

### **9.36.010 LOITERING.**

A person shall not loiter or stand in or upon any public highway, alley, sidewalk, or crosswalk or other public way open for pedestrian travel or otherwise occupy any portion thereof in such a manner as unreasonably to annoy or molest any pedestrian thereon, or as to obstruct or unreasonably interfere with the free passage of pedestrians.

(Ord. 376, § 1, passed -- 1968)

### **9.36.020 PERSONS BLOCKING PEDESTRIAN OR VEHICLE PASSAGE.**

It is unlawful for any person to intentionally stand, sit or lie, in, on or at any driveway, entrance or exit of any church, hall, theater, place of public assembly, store, business, plant, industry, private residence, or private property so as to prevent the free passage of persons or vehicles to or from the same.

(Ord. 376, § 2, passed -- 1968)

### **9.36.030 OBSTRUCTIONS BLOCKING PEDESTRIAN OR VEHICLE PASSAGE.**

It is unlawful for any person to intentionally place or maintain anything or to assist in placing or maintaining anything in, on or at any driveway, entrance or exit of any church, hall, theater, place of public assembly, store, business, plant, industry, private residence, or private property so as to prevent the free passage of persons or vehicles to or from the same.

(Ord. 376, § 3, passed -- 1968)

### **9.36.040 AUDIBLE, ANNOYING, OR INSULTING REMARKS.**

It is unlawful for any person to make audible, annoying, or insulting remarks to or about, or to molest in any other manner whatever, any person in, near, or about a public place.

#### **9.40.010 DRINKING IN PUBLIC.**

Unless otherwise provided by law, it is unlawful for any person to partake of any spirituous malt, vinous, or alcoholic liquors or other alcoholic beverages in or upon any street or sidewalk, or any passageway open to public use, or in or on any park, playground, or community house, or in an automobile while the automobile is on any alley street, highway, or public or private property which is open and accessible to the general public or open to public view, except the City Manager, or his or her designee may issue use permits in connection with organized activities.

(Ord. 376, § 6, passed -- 1968; Am. Ord. 800, § 2, passed -- 1997)

#### **9.40.020 UNLAWFUL ACTS.**

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It is unlawful for any person in the City, while in a drunken or intoxicated condition, or while under the influence of intoxicating liquor, or narcotic drugs:

- A. To be in or upon any street, thoroughfare, alley, sidewalk, public place, public grounds, places accessible to the public, or places open or exposed to the public view;
- B. To be in, on or about any automobile, motorcycle, motor vehicle, street car, railroad car, or other vehicle;
- C. To use or engage in, or be a party to offensive, disorderly, threatening, abusive, or insulting language, conduct, or behavior;
- D. To congregate with others on a public street, road, sidewalk, or other public place and refuse to move on when so ordered by a peace officer in the interests of order, peace, or safety;
- E. To shout or make any unusual or disturbing noise, or to cause any unusual or disturbing noise, either outside or inside a building at any time, to the annoyance or disturbance of any person or person;
- F. To interfere with any person in any place by jostling against the person or unnecessarily crowding him or her;
- G. To station himself or herself on any public street or in any public place or follow or accost any pedestrian for the purpose of soliciting alms, or to solicit alms on the streets or in any public place;

- H. To loiter in or about any public toilet, to solicit any person for the purpose of committing a crime against nature or any other lewd acts;
- I. To make insulting remarks to any person or to annoy or accost any person or persons unknown to him or her; or
- J. To act as a capper for any place of amusement or for any place or persons devoted to or engaged in any unlawful business, vocation, or calling.

#### **9.58.010 FAILURE TO LEAVE.**



Every person who remains upon any private property or business premises within the City, after being notified by the owner or the lessee or other person in charge thereof to remove therefrom, is guilty of a misdemeanor.

#### **9.60.010 PLACING ARTICLES ON A STREET, ALLEY, AND SIDEWALK FOR STORAGE, SALE, OR DISPLAY PROHIBITED.**

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*Placing articles on a street, alley, and sidewalk for storage, sale, or display prohibited.* Except as provided by this chapter and Chapter [10.22](#), no person shall place, store, or maintain any article of property on any public roadway, sidewalk, alley, or parkway, or on any other public property in the City, for the purpose of storing, selling, leasing, displaying for sale or lease or offering for sale or lease, the article or property. Other references to sidewalk sales are found in § [9.72.070](#) of this code.

#### **9.66.020 UNLAWFUL CAMPING.**

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It is unlawful and a public nuisance for any person to Camp, establish, maintain, operate or occupy Camp Facilities, or use Camp Paraphernalia in the following areas:

- A. Any public property; or
- B. Any private property, provided, however, that this prohibition does not apply to:
  - 1. Overnight Camping on private residential property by friends or family of the property owner or person in lawful possession of the property, so long as the owner or

lawful occupant consents, and the Camping does not create a public or private nuisance;

2. Camping in Mobile Home Parks and Special Occupancy Parks; and
3. Camping on Public or Private Property in connection with a special event, when authorized pursuant to Section [9.66.030](#).

(Ord. 878, § 6, passed 11-10-2008)