

**RESOLUTION NO. PC XX-2022**

**RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION RECOMMENDING APPROVAL OF INLAND LAND USE AND DEVELOPMENT CODE AMENDMENT 1-22 TO REGULATE COMMERCIAL CANNABIS CULTIVATION AND AMEND EXISTING REGULATIONS FOR CANNABIS BUSINESSES IN COMMERCIAL ZONES.**

**WHEREAS**, the City of Fort Bragg's ("City") previously adopted ordinances governing cannabis businesses do not provide regulations for commercial cannabis cultivation; and

**WHEREAS**, in 1970, Congress enacted the Controlled Substances Act (21 U.S.C. Section 801 et seq.) which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana for any purpose in the United States and further provides criminal penalties for marijuana possession, cultivation and distribution; and

**WHEREAS**, the People of the State of California have enacted Proposition 215, the Compassionate Use Act of 1996 (codified at Health and Safety Code Section 11362.5 et seq.) (the "CUA"), which exempts qualified patients and their primary caregivers from criminal prosecution under enumerated Health and Safety Code sections for use of marijuana for medical purposes; and

**WHEREAS**, the California Legislature enacted Senate Bill 420 in 2003, the Medical Marijuana Program Act (codified at Health and Safety Code Section 11362.7 et seq.) (the "MMPA"), as amended, which created a state-wide identification card scheme for qualified patients and primary caregivers; and

**WHEREAS**, on October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Cannabis Regulation and Safety Act (MCRSA) formerly known as (the Medical Marijuana Regulation and Safety Act or MMRSA), effective January 1, 2016, which established a state licensing system for medical marijuana cultivation, manufacturing, testing, delivery, and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, testing, dispensing, and delivery within their jurisdictions. Under the MCRSA, cities and counties may continue to regulate and/or prohibit medical marijuana cultivation, manufacturing, dispensing, and delivery, consistent with their respective police powers, in which case the new law would not allow or permit these activities within the cities and counties where such activities are not otherwise permitted; and

**WHEREAS**, on February 3, 2016, Assembly Bill 21 (Wood) was signed by the Governor, amending provisions of MCRSA pertaining to cultivation licenses by eliminating a March 1, 2016 deadline for local jurisdictions for the promulgation of cultivation regulations or cultivation bans, or local jurisdictions would lose the ability to regulate to the State. Assembly Bill 21 also modified language in Health & Safety Code section 11362.777(g), which pertained to exemptions from licensing requirements for qualified patients and caregivers. The prior language, which specifically stated that local governments retained the right to prohibit cultivation without exception, was revised to state: "Exemption from the

requirements of this section does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution;” and

**WHEREAS**, on November 8, 2016, the electorate of the State of California approved Proposition 64 (“Prop 64”) which enacted the Adult Use of Marijuana Act (“AUMA”), to be codified in California Health and Safety Code at various sections and in California Business and Professions Code at various sections. The AUMA allows adults 21 and over to use, possess, and cultivate limited amounts of marijuana, establishes a state licensing and regulatory scheme for marijuana businesses serving the recreational market; and expressly allows local jurisdictions to prohibit outdoor cultivation of marijuana for personal use, to regulate indoor cultivation of marijuana for personal use, and to prohibit all non-medical and recreational marijuana businesses from locating and operating within their jurisdictions; and

**WHEREAS**, on June 27, 2017, the Governor approved Senate Bill 94 which combined the regulatory schemes for MMRSA and AUMA into a single, comprehensive regulatory scheme known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

**WHEREAS**, notwithstanding the CUA, MMPA, MMRSA, and MAUCRSA as amended, marijuana remains a schedule I substance pursuant to California Health & Safety Code § 11054 (d) (13); and

**WHEREAS**, the California Supreme Court has established that neither the CUA nor the MMPA preempt local cannabis regulation in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013); and

**WHEREAS**, on February 25, 2019, the City Council of the City of Fort Bragg (“City Council”) sought to establish rules and regulations by which cannabis businesses may be permitted by considering an ordinance regulating retail, laboratory testing, manufacturing, and distribution cannabis businesses and accessory uses; and

**WHEREAS**, through multiple public meetings, the Public Safety Committee, Fort Bragg Police Department and City staff have received input from citizens and discussed various options for permitting cannabis businesses; and

**WHEREAS**, on November 21, 2019, the City Council of the City of Fort Bragg (“City Council”) adopted Ordinance 953-2019 which established rules and regulations by which cannabis businesses may be permitted; and

**WHEREAS**, on October 13, 2020, the City Council of the City of Fort Bragg (“City Council”) directed staff to develop regulations on commercial cannabis cultivation; and

**WHEREAS**, the Community Development Committee met on February 23, 2021 and March 23, 2021 to review recommended updates to the Municipal Code and Inland Land Use and Development Code to include cannabis cultivation and receive public input; and

**WHEREAS**, on May 3, 2021, the City Council of the City of Fort Bragg received public input and directed staff to update the rules and regulations to streamline permitting under the Community Development Department; and

**WHEREAS**, also on May 3, 2021, the City Council determined that specific regulations and requirements were necessary to allow the commercial cultivation of cannabis cultivation in the City of Fort Bragg; and

**WHEREAS**, on May 20, 2021, the City Council determined that additional regulations were necessary for conducting retail cannabis activities; and

**WHEREAS**, on September 27, 2021, the City Council put a moratorium on more cannabis businesses to study whether it would be appropriate to amend how the City regulates cannabis dispensaries in the Central Business District; and

**WHEREAS**, on October 25, 2021 and November 8, 2021, the City Council provided direction to staff on zoning and specific land use standards for retail cannabis, commercial cannabis cultivation, and cannabis microbusinesses; and

**WHEREAS**, on DATE the moratorium on cannabis businesses was renewed to allow for the completion of the aforementioned study; and

**WHEREAS**, on December 13, 2021, the City Council provided direction to staff on comprehensive updates to the City's cannabis regulations including Title 18 ("Inland Land Use and Development Code" of the City's Municipal Code; and

**WHEREAS**, City Council has determined that Title 18 should be amended to regulate the commercial cannabis activities; and

**WHEREAS**, Cannabis cultivations can have a heavy impact on the City's infrastructure systems; and

**WHEREAS**, Cannabis businesses in the City of Fort Bragg are required to apply for a discretionary Cannabis Business Permit and subject to review under the California Environmental Quality Act.

**WHEREAS**, a Negative Declaration and Initial Study was prepared and was circulated to the public on February 17, 2022.

**WHEREAS**, on February 23, 2022, the Planning Commission held a duly noticed public hearing to review and make a recommendation on the adoption of the proposed amendments to Title 18 Inland Land Use and Development Code and continued the meeting to a date certain;

**WHEREAS**, on March 9, 2022, the Planning Commission continued their consideration of adoption of the proposed amendments to Title 18 Inland Land Use and Development Code, which included evidence establishing the following:

1. The proposed amendment is consistent with the General Plan and any applicable specific plan; and
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
3. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

**NOW, THEREFORE,** the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg General Plan; the Fort Bragg Inland Land Use and Development Code; the draft code amendments; and public testimony submitted as part of the Planning Commission's regular meeting of February 23, 2022, and Planning Commission deliberations; the Planning Commission of the City of Fort Bragg hereby finds as follows:

- a. The proposed amendment is consistent with a number of Goals, Policies, and Programs in the Inland General Plan that focus on land use, public facilities, and economic vitality, and environmental protection including Goal LU-1, Policy LU1.1, Goal LU-3, Policy LU-3.1, Policy LU3.2, Goal LU-4, Policy LU-4.3, Goal LU-5, Policy LU-5.2, Program L-U5.2.1, Program PF-2.2.5, Goal OS-7, Goal S-2, Policy S-2.5, Goal S-3, and Policy S-3.1.
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City. Specifically, it provides buffers between residential and commercial zones that currently do not exist and it provides for a buffer between youth centers and retail cannabis businesses.
- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code because it addresses development in existing commercial and industrial zones within the City of Fort Bragg and provides additional guidelines and regulations for cannabis business activity in these areas. Additionally, the proposed amendments do not alter the standards in Article 3 for Site Planning, Article 5 for Resource Protection, nor Article 6 for Site Development.

**NOW, THEREFORE, BE IT RESOLVED** that the Fort Bragg Planning Commission does hereby recommend approval of the modified Cannabis Business Ordinances by the Fort Bragg City Council.

**The above and foregoing Resolution was introduced by Commissioner, seconded by, and passed and adopted at a meeting of the Planning Commission of the City of Fort Bragg held on the 9th day of March 2022, by the following vote:**

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**  
**RECUSED:**

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**Jeremy Logan, Chair**

**ATTEST:**

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**Sarah Peters, Administrative Assistant**

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