

**BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG**

**AN UNCODIFIED URGENCY  
ORDINANCE ESTABLISHING A 45-DAY  
MORATORIUM ON APPROVAL OF  
APPLICATIONS AND PERMITS FOR  
CANNABIS DISPENSARIES IN THE  
INLAND ZONING AREA**

**URGENCY ORDINANCE  
ORDINANCE NO. 972-2021**

**WHEREAS**, Government Code section 65858 allows a city to adopt, as an urgency measure, an interim ordinance for the immediate preservation of the public safety, health and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance; and

**WHEREAS**, the City of Fort Bragg (“City”) previously adopted ordinances governing cannabis businesses, including dispensaries and manufacturing; 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 Medical Marijuana Regulation and Safety Act (“MMRSA”) and AUMA into a single, comprehensive regulatory scheme known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); 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 dispensary businesses may be permitted; and

**WHEREAS**, on January 25, 2021, the City Council conducted a public hearing and considered the appeal of the Fort Bragg Planning Commission denial of Minor Use Permit 4-20 (MUP 4-20) on the proposed Sunshine Holistic Microbusiness at 144 N. Franklin Street. City Council failed to take action by a majority vote, which resulted in upholding the Planning Commission’s determination that growing, manufacturing, processing of cannabis is not a permitted use in the Central Business District and that uses (growing, manufacturing, processing of cannabis) are not accessory/subordinate to the primary use of retail; and

**WHEREAS**, on September 1, 2021, the City Council conducted a public hearing and considered the appeal of the Fort Bragg Planning Commission denial on Minor Use Permit 1-21 (MUP 1-21) on the proposed Sunshine Holistic Cannabis Dispensary at 144 N. Franklin Street. City Council failed to take action by a majority vote, which resulted in upholding the Planning Commission’s determination that the proposed use was not compatible with the existing and future land uses of that neighborhood and that there was not sufficient evidence that the required noticing of the Minor Use Permit, the Minor Use Permit Administrative Hearing, and the Minor Use Permit Appeal were properly posted at the property; and

**WHEREAS**, during the appeals of both the Sunshine Holistic Minor Use Permit applications, the City Council, the Planning Commission and members of the public raised concerns about the impact of residential uses located in or near the Central Business District (CBD) where cannabis dispensaries are allowed with an approved Minor Use Permit; concerns over the number of dispensaries allowed in the CBD and whether a maximum number should be set to avoid overconcentration of cannabis dispensaries; and the proximity of cannabis dispensaries to facilities that could be defined as a “youth center” including the City Hall gymnasium located at 213 East Laurel Street; and

**WHEREAS**, Chapter 9.30 Cannabis Businesses of the Municipal Code does not define “youth center” nor does the Fort Bragg Inland Land and Use Development Code define “youth center” or address it; therefore, California State law requires a 600-foot separation between youth centers and cannabis storefronts; and

**WHEREAS**, the City has received a completed application for a cannabis dispensary located at 362 N. Franklin Street which is directly across the street from the City Hall gymnasium located at 213 East Laurel Street and within the 600-foot buffer required by California State law; and

**WHEREAS**, City staff have determined that seventy-nine percent (79%) of the total hours the City Hall gymnasium located at 213 East Laurel Street was rented for activities associated with youth activities but only nineteen percent (19%) of hours for City Hall including the gymnasium are associated with youth activities. A determination by the City Council that the City hall gymnasium is a “youth center” will impact the City’s ability to permit cannabis dispensary businesses in the Central Business District and uses may be in conflict with a contemplated

general plan, specific plan or zoning proposal that the City Council is considering related to cannabis businesses; and

**WHEREAS**, the City intends to study whether it would be appropriate to amend how the City regulates cannabis dispensaries in the Central Business District; and

**WHEREAS**, approval of any cannabis dispensary in the Central Business District may conflict with future amendments to the city’s General Plan, Specific Plan or zoning code.

**NOW, THEREFORE, the City Council ordains as follows:**

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

1. All the recitals, facts, findings, and conclusions set forth above in this Ordinance are true and correct.
2. This ordinance is not a “project” under the California Environmental Quality Act (CEQA) and is therefore exempt from CEQA review. CEQA defines a “project” as including an activity directly undertaken by a public agency that “may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (Pub. Res. Code, §21065.) The proposed ordinance will not do either.

This ordinance concerns activities intended to preserve the status quo while the City considers further regulation relating to cannabis dispensaries in the Central Business District and does not constitute a “project” as defined by CEQA and will not result in a direct or reasonably foreseeable indirect physical change in the environment pending the review of overconcentration issues (Pub. Res. Code, §21065, CEQA Guidelines §§15060(c)(2)(3); 15061(b)(3); 15064(d)(3); and 15378(a).).

3. The establishment and expansion of cannabis dispensaries in the Inland Zoning Area has created a current and immediate threat to public health, safety, and welfare. Cannabis dispensaries that may be located directly adjacent to residential uses, create a potential for conflict between incompatible adjacent land uses. Cannabis dispensaries located within 600-foot of facilities that are defined as a “youth center” conflict with State law.
4. The future establishment and expansion of cannabis dispensaries and production in the Inland Zoning Area allowed with a Minor Use Permit (MUP) would further threaten public health, safety, and welfare in the Inland Zoning Area.
5. The City intends to study whether it would be appropriate to amend how the City regulates cannabis dispensaries in the Inland Zoning Area.
6. This ordinance is intended to protect the public health, safety, and welfare by prohibiting the establishment of any new cannabis dispensary use with a MUP or expansion or modification of those uses while the City studies and enacts new land use regulations. The continued establishment, expansion, and modification of these uses during this process would defeat the City Council’s objectives in studying and potentially adopting new regulations governing these uses in the area.

7. Approval of cannabis dispensary uses may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, Planning Commission or the planning department is considering or studying or intends to study within a reasonable time.
8. This ordinance promotes the public health, safety, convenience, and welfare of the City.

**Section 2: Moratorium.** The City of Fort Bragg declares a moratorium on the approval of applications to establish a cannabis dispensary on any parcel, which is, in whole or in part, in the Inland Zoning Area. However, the City will continue to accept and process applications for such businesses.

**Section 3: Already-approved projects.** This ordinance does not apply to projects for which the City has approved entitlements as of the effective date of this ordinance.

**Section 4: Inconsistencies.** Any provision of the City of Fort Bragg Municipal Code thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

**Section 5: Severability.** If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, state, or federal law, regulation, or codes dealing with life safety factors.

**Section 6: Uncodified Ordinance.** This Ordinance is to be uncodified.

**Section 7: Immediately Effective.** This Ordinance shall become effective immediately and shall remain in effect for a period of 45 days unless extended or prematurely terminated.

**Section 8: Written Report.** Pursuant to Government Code Section 65858(d), ten days prior to the expiration of this Ordinance or any extension of such, the City Manager shall issue a written report on behalf of the City Council describing the measures taken to date to alleviate the condition, which led to the adoption of this Ordinance.

**Section 9: Certification.** The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted or published in the manner as required by law.

**The foregoing Urgency Ordinance was introduced by Councilmember \_\_\_\_\_ and adopted by no less than the required 4/5 vote at a regular meeting of the City Council of the City of Fort Bragg held on September 27, 2021 by the following vote:**

**AYES:**

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

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**Bernie Norvell,  
Mayor**

**ATTEST:**

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**June Lemos, CMC  
City Clerk**

**PUBLISH:                      October 7, 2021  
EFFECTIVE DATE:              September 27, 2021**