

RESOLUTION NO. ____-2021

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL TEMPORARILY
WAIVING THE GENERAL PLAN MAINTENANCE FEE**

WHEREAS, the City of Fort Bragg adopted a General Plan Maintenance Fee on November 8, 2004 to be effective January 7, 2005 equal to 1.5 percent of the total construction permit valuation; and

WHEREAS, the Mendocino County Building Department currently provides, and at the time the City adopted a General Plan Maintenance Fee provided, the plan check, building permitting and building inspection services for the City under a contract which allows the County to retain all building permit and plan check fees as a credit against the costs of providing services; and

WHEREAS, Fort Bragg staff have been unable to determine what method and information was used to determine the estimated reasonable cost necessary to prepare and revise the plans and policies when the General Plan Maintenance Fee was adopted on November 8, 2004; and

WHEREAS, adoption by the City of Bragg of the General Plan Maintenance Fee followed Assembly Bill 2936, signed into law on September 26, 2002 by the California State Governor and effective January 1, 2003 which authorized the establishment of fees, not to exceed the estimated reasonable cost necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings; and

WHEREAS, AB 2936 was amended and is set forth in California Government Code Section 66014; and

WHEREAS, California Government Code Section 66014(c) provides that any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion authorizing the charge of a fee subject to the code section shall be brought pursuant to Section 66022; and

WHEREAS, California Government Code Section 66022, limits judicial action or proceedings to attack, review, set aside, void, or annul the ordinance, resolution, or motion authorizing the charge of a fee as defined in sections 66013, **66014** and 66016 by a local agency to be commenced within 120 days of the effective date of the increase (emphasis added); and

WHEREAS, the Fort Bragg General Plan Maintenance Fee, when compared to many other jurisdictions, is proportionally higher compared to the total costs of a construction building permit; and

WHEREAS, to discourage and potentially avoid a judicial action or proceeding to attack, review, set aside, void, or annul the resolution, or motion authorizing the charge of General Plan Maintenance Fees, City staff finds it prudent to professionally review and document the basis for a revised General Plan Maintenance Fee so that the fee does not exceed the estimated reasonable cost necessary to prepare and revise the plans and

policies that a local agency is required to adopt before it can make any necessary findings;
and

WHEREAS, the Fort Bragg City Council, at its September 28, 2020 regular City Council meeting, directed staff to draft a resolution to temporarily waive the City's General Plan Maintenance Fee in order to provide time to complete a review and documented study establishing the estimated reasonable cost necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings; and

WHEREAS, the timeframe of the waiver was extended to December 31, 2021, and

WHEREAS, additional time is needed to complete a review and documented study establishing the estimated reasonable cost necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings; and

WHEREAS, the temporary waiver of the General Plan Maintenance Fee is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Title 14, the California Code of Regulations ("CEQA Guidelines"), Section 15273(a)(1) which provides an exception for modifications to fees for the purpose of meeting operating expenses. The General Plan Maintenance Fee was established to offset the cost to prepare and revise the plans and policies that Fort Bragg is required to adopt before it can make necessary findings; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. A more complete review and study of the reasonable costs to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings will ensure that the Fort Bragg General Plan Maintenance Fee and any other appropriate fee charged is consistent with the requirements of California Government Code Section 66014;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve a temporary waiver of General Plan Maintenance Fee until June 30, 2022.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 22nd day of November, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk