

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN UNCODIFIED URGENCY
ORDINANCE AUTHORIZING THE
DIRECTOR OF EMERGENCY SERVICES
TO WAIVE ZONING REQUIREMENTS
AND/OR STANDARDS TO FACILITATE
BUSINESS OPERATIONS AFFECTED BY
PUBLIC HEALTH ORDERS**

**URGENCY ORDINANCE
NO. 963-2021**

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 (“COVID-19”); and

WHEREAS, on March 17, 2020, the Fort Bragg City Manager, acting as the Director of Emergency Services, declared a local emergency due to COVID-19, which was ratified by the City Council at its March 24, 2020 City Council meeting; and

WHEREAS, on March 18, 2020, the Mendocino County Health Officer issued a Shelter-in-Place Order, which was revised on March 24, 2020, May 8, 2020, and May 15, 2020; and

WHEREAS, the easing of restrictions to health orders is anticipated and a return to business operations during COVID-19 will occur in a gradual four-stage phased approach following California’s Pandemic Resilience Roadmap; and

WHEREAS, on May 4, 2020 Executive Order N-60-20 directed continued compliance with State Public Health Directives, and the May 7, 2020 State Public Health Officer Order allows for all local health jurisdictions to begin gradual movement into Stage 2; and

WHEREAS, the Mendocino County Health Officer has filed for attestation with the State of California and anticipates moving through Stage 2 at an increased pace; and

WHEREAS, local businesses are an integral part of the community for the jobs, essential services and amenities they provide and the revenues they generate; and

WHEREAS, businesses will likely need to modify operations to adapt to Social Distancing requirements, as well as to meet current market demands, and the specific needs of individual businesses are an unknown; and

WHEREAS, to facilitate the return to business operations during COVID-19 pandemic, City Council introduced and unanimously adopted Urgency Ordinance 962-2020 on May 26, 2020 authorizing the Director of Emergency Services to waive strict application of zoning

standards and/or regulations to the extent that such waivers would not result in an increase in general intensity of use beyond that which is generally allowed; and

WHEREAS, Urgency Ordinance 962-2020 has been identified as a valuable tool to support local business operations affected by health orders and expired six (6) months after its effective date; and

WHEREAS, the adoption of this Urgency Ordinance would continue to authorize the Director of Emergency Services to waive strict application of zoning standards and/or regulations to the extent that such waivers would not result in an increase in general intensity of use beyond that which is generally allowed, until statewide health orders are lifted.

NOW, THEREFORE, the Fort Bragg City Council ordains as follows:

Section 1. Findings. The foregoing recitals are true and correct and are made a part of this ordinance.

Section 2. Municipal Code Amendment. Title 2, Chapter 2.24, Section 2.24.070, subdivision A(6) is hereby added to the Fort Bragg Municipal Code to read as follows:

2.24.070 POWERS AND DUTIES OF DIRECTOR DURING EMERGENCY.

6. To waive zoning requirements and/or standards to facilitate business operations of established businesses affected by public health orders of federal, state and local government to the extent that such waivers would not result in an increase in general intensity of use beyond what is otherwise allowed, as applicable to zoning district.

Section 3. Urgency Finding and Declaration. City Council finds and declares there is an immediate threat to public health, safety and/or welfare and that this Ordinance is hereby declared to be necessary and will take effect immediately upon its adoption by a four-fifths (4/5) vote of the members of the Fort Bragg City Council. The facts constituting the urgency are as follows:

1. On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 ("COVID-19"). On March 17, 2020, the City's Director of Emergency Services declared a local emergency due to COVID-19, which was ratified by the City Council at its March 24, 2020 Special City Council meeting. Due to directives from federal, state, and local health officers, residents have been advised to avoid public gatherings and stay at home to prevent the spread of this disease.
2. On March 18, 2020, the Mendocino County Health Official issued a Shelter-in-Place Order, which was revised on March 24, 2020, May 8, 2020, and May 15, 2020; and
3. On May 4, 2020 the Governor issued Executive Order N-60-20 directing continued compliance with State Public Health Directives, and on May 7, 2020 the State Public Health Officer issued an order allowing all local health jurisdictions to begin gradual movement into Stage 2; and

4. The City, County and State economies have been and continue to be significantly impacted by the shutdown of nonessential businesses, as a result of the COVID-19 pandemic. The tourism industry in Fort Bragg is particularly vulnerable to adverse impacts from closure of nonessential businesses and the ban on nonessential travel required by the public health orders; and

5. The specific needs of individual businesses as they return to operations during the COVID-19 pandemic in a gradual phased approach following California's Pandemic Resilience Roadmap are an unknown. Businesses will likely need to modify operations to adapt to Social Distancing requirements, as well as to meet current market demands, and the City desires to be responsive, flexible, and accommodating to requests from our local business community, while maintaining the safety and wellbeing of the public; and

6. On December 3, 2020, California issued a Regional Stay at Home Order to take immediate action to prevent the unprecedented rise in COVID-19 cases, hospitalizations and test positivity rates across California. Since December 3, 2020, the number of COVID-19 cases in the state and locally have set new records. The Northern California Region, which includes Mendocino County, remains the only region in California not subject to the much stricter Regional Order, which now affects more than 98% of the state's population and limits nonessential travel to only those the 1.7% of the state's population in the Northern Region. Early predictions by the State Health Official anticipated that all regions would be under the Regional Order by the end of December; and

7. It would substantially defeat the purpose of this ordinance, if the effective date were delayed to permit introduction at one City Council meeting, adoption at a second meeting and a referendum period of 30 days following adoption of the Ordinance.

Section 4. CEQA Compliance. The City Council finds that the adoption and implementation of this ordinance is exempt from requirements of CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities) because it would involve negligible or no expansion of use.

Section 5. 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 6. Effective Date. Following adoption by at least a four-fifths vote of City Council, this Ordinance shall take effect and be enforced immediately, and shall remain in effect until thirty (30) days after expiration of the State of California State of Emergency due to COVID-19 or when repealed by the Fort Bragg City Council, whichever comes first.

The foregoing Urgency Ordinance was introduced by Councilmember _____ and adopted at a regular meeting of the City Council of the City of Fort Bragg held on January 11, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk

PUBLISH: January 21, 2021
EFFECTIVE DATE: January 11, 2021