



**CITY OF FORT BRAGG**

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**COUNCIL COMMITTEE ITEM SUMMARY REPORT**

**MEETING DATE:** April 13, 2016  
**TO:** Public Safety Committee  
**FROM:** Linda Ruffing, City Manager  
**AGENDA ITEM TITLE:** **Receive Report and Make Recommendation to City Council Regarding Medical Marijuana Regulations**

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**ISSUE:**

At the December 9, 2015 Public Safety Committee meeting, the Committee received a detailed report (Attachment 1) on the State's new regulatory and licensing system known as the Medical Marijuana Regulation and Safety Act (MMRSA) which is comprised of State legislative bills known as AB 243, AB 266 and SB 643. MMRSA was signed by Governor Brown last October. The report identified specific policy questions for the Committee to consider. The matter is coming back to the Committee in order for the Committee to make a recommendation to the City Council regarding whether or not to modify the City's medical marijuana regulations at this time.

**SUMMARY:**

MMRSA became effective January 1, 2016 and creates a broad regulatory and licensing system governing the cultivation, testing, and distribution of medical marijuana. The new legislation preserves local control over marijuana facilities and land uses, however cities that wish to ban cultivation facilities and mobile marijuana deliveries will need to enact express bans in order to avoid preemption by the State.

As explained in the December 9<sup>th</sup> report, MMRSA requires state licenses for all facets of the medical marijuana industry. It establishes a dual-licensing requirement whereby compliance with all local regulations is required prior to issuance of a State license. In the absence of local ordinances, the State will become the only authorized licensor regulating various medical marijuana enterprises. The State is expected to begin issuing licenses for cultivation, dispensaries, deliveries, transport, manufacturing and testing in January of 2018.

The question at hand is whether or not the City of Fort Bragg should update its existing ordinances relating to medical marijuana (see Attachment 2: Fort Bragg Municipal Code Chapter 9.30- Medical Marijuana Dispensaries, and Attachment 3: Chapter 9.32- Medical Marijuana Cultivation) and/or establish new regulations for other sectors of the industry (deliveries, transport, manufacturing, testing).

## **Medical Marijuana Cultivation**

The Fort Bragg Municipal Code establishes regulations for medical marijuana cultivation. FBMC Chapter 9.32 allows indoor cultivation of medical marijuana by qualified patients or primary caregivers in conformance with specific standards and limitations. A cultivation area of up to 50 square feet may be established without a permit; and an area of up to 100 square feet may be established with a minor use permit. To date, two minor use permits have been granted for medical marijuana cultivation in Fort Bragg.

Under MMRSA, a qualified patient who cultivates marijuana for his/her personal medical use is not required to obtain a cultivation license from the State if the area used for cultivation is 100 square feet or less. Given that the City does not allow commercial cultivation of medical marijuana and the cultivation area is capped at 100 square feet, it appears there will be no need for the State to issue cultivation licenses in Fort Bragg.

**Staff recommendation:** Staff believes that the City's existing regulatory framework for medical marijuana cultivation is appropriate and recommends no further changes. If, however, the Committee feels that commercial cultivation of marijuana should be allowed, FBMC Chapter 9.32 should be amended to regulate the activity and the Land Use & Development Codes should be amended to identify allowable zoning districts for the activity.

## **Medical Marijuana Dispensaries and Delivery Services**

The Fort Bragg Municipal Code (FBMC) currently regulates the establishment of medical marijuana dispensaries (Attachment 2). FBMC Chapter 9.30 requires dispensaries to submit an application to obtain a "Medical Marijuana Dispensary Permit." The application must first be accepted or rejected by the Police Chief. Chapter 9.30 specifies the necessary background check and investigation of the application as well as the grounds for the Police Chief to reject an application. If an application is accepted, then the application is forwarded to the Community Development Department for processing using the same permit process and requirements as established for a use permit as defined in FBMC Title 17 (Coastal Land Use and Development Code) and Title 18 (Inland Land Use and Development Code). Title 17 and Title 18 allow medical marijuana dispensaries in the Light Industrial and Heavy Industrial districts. Chapter 9.30 is cross-referenced, and the requirement for a use permit is specified.

There are currently no medical marijuana dispensaries operating within the city limits. Two dispensaries are located within one mile of the city limits in the unincorporated jurisdiction of Mendocino County.

When the State begins issuing licenses under MMRSA, a local Medical Marijuana Dispensary Permit and a State license will be required before a dispensary can begin operation within the Fort Bragg city limits.

MMRSA also addresses delivery services for medical marijuana. If a city does not expressly prohibit delivery of medical marijuana within its jurisdiction, delivery will be allowed (with a State dispensary license). At this time, the City does not have an express ban on delivery services. However, since medical marijuana delivery services are not listed as a use type in the City's Land Use & Development Code and there are no similar uses, under the tenets of permissive zoning, medical marijuana delivery services are not permitted in Fort Bragg. That said, if the City wishes to ban delivery services, it would be prudent to enact an ordinance that expressly prohibits the activity prior to the State beginning to issue licenses. Alternatively, if the City wishes to allow delivery services, there may be modifications to the City's medical marijuana dispensary ordinance that would help ensure that the delivery services are conducted in a manner that protects the public health, safety and welfare of the community.

**Staff recommendation:** Staff believes that the City's existing framework for permitting and regulating medical marijuana dispensaries is sufficient. The Committee should

consider whether or not medical marijuana delivery services should be allowed in Fort Bragg and make a recommendation to the Council. If the Council is supportive of delivery services, it could either defer to the State licensing process for dispensaries or establish local regulations as part of FBMC Chapter 9.30. Alternatively, if the Council wants to prohibit delivery services, it should enact an ordinance to expressly prohibit delivery services before the State begins issuing licenses. The State licensing process for dispensaries is expected to begin in January 2018, so ordinance amendments could be prepared any time within the next year and a half.

### **Medical Marijuana Transporters**

The State has not yet determined the amount that local medical marijuana delivery services (by a State-licensed dispensary) will be allowed to transport. Large amounts will be considered “transport” and will require heightened security requirements.

**Staff recommendation:** Staff recommends that the Committee take a “wait and see” approach to medical marijuana transporters at this time. Once the State releases its draft regulatory framework for medical marijuana transporters, then the Committee and/or Council should consider whether the City should enact parallel or stricter regulations, or no regulations at all.

### **Medical Marijuana Manufacturing**

At this time, medical marijuana manufacturing activities (i.e., processing of marijuana, production of edibles, oils, tinctures, lotions and other products, and warehousing of marijuana products) are not permitted in Fort Bragg. The City has received a request from a prospective manufacturer, RootOne Botanicals, to establish a medical marijuana concentrate manufacturing operation in Fort Bragg. The City has determined that the use is not permitted under existing zoning regulations and amendments would be necessary in order to allow medical marijuana manufacturing. There are several communities (e.g., Oakland, Arcata, San Leandro) that currently allow and regulate medical marijuana manufacturing activities. Arcata’s regulations were recently established in preparation for the anticipated rapid expansion of the marijuana industry if California voters approve an initiative authorizing recreational marijuana in November of 2016.

Under MMRSA, a State license will be required from the Department of Public Health to manufacture edibles or to test medical marijuana in any of its forms. Again, these licenses are not expected to be issued until January 2018.

**Staff recommendation:** If the Committee is supportive of zoning regulations to allow medical marijuana manufacturing activities within the City of Fort Bragg, staff recommends that additional community input be sought and that the matter be brought to the full Council for direction prior to the investment of significant staff and attorney resources in the preparation of an ordinance. Preparing an ordinance regulating medical marijuana manufacturing will require analysis of various policy options. This work would be undertaken by the Community Development Department in coordination with our City Attorney’s office.

### **ATTACHMENTS:**

1. December 9, 2015 Public Safety Committee staff report on MMRSA
2. FBMC Chapter 9.30 - Medical Marijuana Dispensaries
3. FBMC Chapter 9.32 - Medical Marijuana Cultivation