



AGENCY: City Council  
MEETING DATE: February 28, 2022  
DEPARTMENT: CDD/PW  
PRESENTED BY: Chantell O'Neal  
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## AGENDA ITEM SUMMARY

### **TITLE:**

**Conduct Public Hearing, Receive Report and Consider Adoption of Urgency Ordinance Extending the Temporary Four (4) Month Moratorium on the Approval of Applications and Permits for Cannabis Dispensaries in the Inland Zoning Areas for an Additional Ten (10) Months**

### **ISSUE:**

On September 27, 2021, the City Council unanimously passed Urgency Ordinance #972-2021, placing a 45-day moratorium on the approval of applications and permits for Cannabis Dispensaries in the Inland Zoning Area. The moratorium provided the City Council an opportunity to review and possibly revise the City's current Cannabis Dispensary Ordinance. The two prior applications denied by the Planning Commission for Sunshine Holistic located at 144 N. Franklin Street, raised concerns from Councilmembers, Planning Commissioners and members of the public regarding the City's current ordinance.

City Council met again on October 25, 2021, and issued a report of actions following adoption of the urgency ordinance establishing the 45-day moratorium on approval of Cannabis Dispensaries in the Inland Zoning Area. At the same City Council meeting, the City Council discussed several of the outstanding issues and provided staff direction on revisions to the existing Cannabis Dispensary Ordinance. Direction included establishing a cap or maximum number of dispensaries allowed in the Central Business District (CBD) of three and changing the requirement for a minor use permit to allow the dispensaries by right with an administrative application, a definition of a Youth Center and establishment of a buffer of 100 feet from such designated centers.

At the November 8, 2021 regular City Council meeting, additional topics discussed included siting cannabis dispensaries in relationship to residential neighborhoods, zoning for Cannabis microbusinesses, and the possibility of overlay districts that would control where dispensaries can be located within a specific commercial zoning district. At this same meeting, Council authorized an extension of the moratorium for an additional four (4) months with the adoption of Urgency Ordinance No. 975-2021. Urgency Ordinance No. 975-2021 is set to expire on March 8, 2022.

On December 13, 2021, the Fort Bragg City Council received a report on proposed updates to the Municipal Code Chapter 9.30 Cannabis Businesses and proposed updates to the Inland Land Use and Development Code to revise regulations for Retail Cannabis and Cannabis Microbusinesses. City Council provided direction to staff to move forward with an Initial Study under CEQA review with the proposed ordinance.

On February 14, 2022, City Council received and accepted a Progress report of actions to date to alleviate the conditions leading to the moratorium.

On February 17, 2022 the Initial Study was distributed to the State Clearinghouse. February 23, 2022, the Planning Commission held a duly noticed Public Hearing to consider and recommend the adoption of amendments to Title 18 of the Inland Land Use and Development Code regulating Cannabis Businesses. At the time of this writing, the Planning Commission hearing had not occurred, so a verbal status update will be provided to Council at the meeting in regard to the Planning Commission's progress to date.

In order to complete the review of the Cannabis Dispensary ordinance and provide for time to introduce, and adopt, staff is proposing one final extension of the moratorium for ten (10) months, or until December 28, 2022. Staff anticipates that the City Council will have an opportunity to review and consider revisions to the existing ordinance as soon as April 11, 2022. The City Council may rescind the urgency ordinance extending the moratorium prior to its stated termination.

## **ANALYSIS:**

### Urgency Ordinances

Under [California Government Code Section 65858](#), a city or county may adopt an interim ordinance to temporarily prohibit certain land uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council and/or Planning Commission is considering or studying. The temporary prohibition or moratorium provides municipalities time to study the impact of certain activities and develop appropriate regulations, if deemed necessary.

An urgency ordinance may remain in effect for only 45 days, unless it is extended by another four-fifths vote. After notice and a hearing, the City can extend the Ordinance for up to either ten months and 15 days, with the option to extend it once more for an additional one year, or once for 22 months and 15 days. Either option equates to a total moratorium period of up to two years and each requires the four-fifths votes. The City Council may rescind the Urgency Ordinance prior to its stated termination.

### Current Cannabis Dispensary Applications

As of writing this staff report, there are three applications in process for Cannabis Dispensaries in the City (in order of receipt):

1. UVH, Inc. DBA Cannavine  
Proposed site: 362 N. Franklin St. (CBD)
2. Perfect Union LLC  
Proposed Site: 112 S. Main St. (Outside CBD)

3. Sunshine Holistic  
Proposed Site: 144 N. Franklin St. (CBD)

### Provisional Licensure Deadlines

At the February 14, 2022 Council Meeting, Council received a public comment expressing concerns about the State's upcoming provisional licensure date of March 31, 2022. Staff reached out to the Department of Cannabis Control (DCC) to further understand the pending deadline and determined the following:

1. State law and regulation do state that applications for licensure will only be considered for provisional licensure if received by March 31, 2022 and can only be issued a provisional license if they are completed and approved and license fees are paid no later than June 30, 2022.
2. A provisional license allows someone who already has other cannabis licenses to operate a business while going through the annual license process. The main differences between a provisional license approval and full annual approval is complete CEQA review and full local approval.
3. Applicants should obtain approval from their local jurisdiction prior to applying for State licensure as a State license may not be approved without confirmation from the local jurisdiction that the applicant has approval to conduct the applied for commercial cannabis activity at the location listed on their application.
4. The DCC does not have average processing timeframes, but it is uncommon for an application to remain under review for more than six months unless the local jurisdiction does not respond timely to a request to verify the local status, if the applicant does not satisfy deficiencies in a timely and responsive manner, or if the application is highly complex or has complex CEQA review issues.
5. Applicants can move more smoothly through the annual State licensure process if they complete the local jurisdiction approval process prior to applying, provide full accurate documents upon submission of their application, complete the fingerprinting process with the Department in a timely manner, and remain responsive to Department requests for clarification or additional information/documentation.

### **RECOMMENDED ACTION(S):**

1. Open the Public Hearing, receive staff report, take evidence and public testimony and close the public hearing.
2. Waive reading of the text in its entirety, read by title only, and adopt Ordinance No. 976-2022, "AN UNCODIFIED INTERIM URGENCY MEASURE OF THE CITY COUNCIL OF FORT BRAGG EXTENDING INTERIM ORDINANCE NO. 975-2021 PLACING A MORATORIUM ON THE APPROVAL OF APPLICATIONS AND PERMITS FOR CANNABIS DISPENSARIES IN THE INLAND ZONING AREA."
3. Please note, that a four-fifths vote is required for adoption of the Interim Urgency Ordinance.

**FISCAL IMPACT:**

The impact of extending a temporary moratorium on Cannabis Dispensaries to the City's revenue is likely minimal.

**GREENHOUSE GAS EMISSIONS IMPACT:**

Adoption of the temporary moratorium on Cannabis Dispensaries will have little impact on greenhouse gas emissions but could slow down development and resulting construction that causes an increase in greenhouse gas emissions.

**CONSISTENCY:**

The City's current Inland General Plan provides support for regulating cannabis businesses, particularly in the Central Business District.

Policies and Goals from the City's General Plan include:

**Goal LU-3** Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.

**Policy LU-3.1 Central Business District:** *Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).*

**Policy LU-3.2 Mixed Uses:** *Support mixed use development (i.e., a combination of residential and commercial uses) in the Central Business District that does not conflict with the primary retail function of this area.*

**Policy LU-3.4 Encourage Infill Development:** *Encourage infill development of vacant and underdeveloped land in the Central Business District and adjacent commercial areas before amending the Inland General Plan and rezoning to obtain additional commercial land elsewhere.*

**Policy LU-3.6 Re-Use of Existing Buildings:** *Encourage the adaptive re-use and more complete utilization of buildings in the Central Business District and other commercial districts.*

**Policy LU-4.3 Standards for Commercial Uses in Residential Areas:** *Commercial uses in and adjacent to residential areas shall not adversely affect the primarily residential character of the area.*

**Goal C-5** *Regard the quality of life in Fort Bragg and maintaining community identity as more important than accommodating through-traffic.*

**Policy C-5.1 Community Priorities for Transportation Improvements:** *Place a higher priority on maintaining a sense of place and enhancing the attractiveness of the Central Business District than on efficient traffic flow and movement.*

**Policy CD-2.1 Adaptive Reuse:** *Facilitate the adaptive reuse of existing older buildings in the Central Business District.*

**Policy CD-2.2 Pedestrian Activity:** *Encourage increased pedestrian movement and activity in the Central Business District.*

**Policy CD-2.3 Economic Vitality:** *Continue to support the economic diversity and vitality of downtown businesses.*

**Policy CD-2.5 Strengthen the Distinctive Identity of the Central Business District:** *Strengthen the distinctive identity and unique sense of place of the Central Business District.*

**Policy CD-6.1 Protect and Preserve Buildings and Sites with Historic and Cultural Significance to the Community.**

**IMPLEMENTATION/TIMEFRAMES:**

Urgency Ordinance No. 972-2021 was to remain in effect for 45 days; it was extended by Urgency Ordinance 975-2021 for four (4) months, or until March 8, 2022. On February 14, 2022, City Council issued a written report describing the measures taken to alleviate the condition that led to the adoption, which met the requirements of California Government Code Section 65858(d). After notice and a hearing, the City Council by four-fifths vote can extend this Ordinance a final time for up to an additional one year. Staff is recommending a ten (10) month extension, which will expire on December 28, 2022. The City Council may rescind the Urgency Ordinance prior to its stated termination.

**ATTACHMENTS:**

1. Proposed Ordinance
2. Report on Measures Taken
3. Public Hearing Notice

**NOTIFICATION:**

1. Cannabis Legislation, **Notify Me subscriber list**