



AGENCY:	City Council
MEETING DATE:	October 25, 2021
DEPARTMENT:	Community Development
PRESENTED BY:	H. Gurewitz
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AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff on the Definition of Youth Center and Whether the City Should Establish a Buffer Zone of More or Less Than 600 Feet from Cannabis Dispensaries

ISSUE:

On Monday, September 27, 2021, the City Council approved an urgency ordinance placing a 45-day moratorium on the approval of applications and permits for cannabis dispensaries in the Inland Zone of Fort Bragg. In the City Manager's staff report, one purpose of the moratorium was to allow Council to consider several issues including, "define what constitutes a 'youth center' and if a buffer of more or less than 600 feet is appropriate for Fort Bragg." The purpose of this agenda item is to request direction from Council on this matter.

ANALYSIS:

There was an initial discussion about whether the City should identify a buffer between "youth centers" and cannabis dispensaries prior to the adoption of the 2019 ordinance that provided zoning regulations for cannabis dispensaries. There was an understanding at that time, that by not identifying a buffer, the City could consider each dispensary application on a case-by-case basis. Two dispensaries were approved based on this guidance and another applicant was advised by staff that a dispensary could be sited in proximity to a youth center, but their application is in process and impacted by the current moratorium.

In the process of developing the ordinance for Commercial Cannabis Cultivation, staff became aware of a different interpretation of how the buffer zones work. While the intention appeared to be to have no buffer required, by not providing a local definition of a youth center or a buffer zone, the City defaults to the State of California's requirements. In Municipal Code 9.30 Section 9.30.100(A), the following is grounds for denial, "*The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule, or regulation.*"

The California Business and Professions Code Section 26054(b) states:

"A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, daycare center, or youth center that is in existence at the time the license is issued, unless the department or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law."

Subdivision (c) of Section 11362.768 of the Health and Safety Code states:

“The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures.”

Section 26001(ax) of the Business and Professions Code gives the following “definition” of a youth center: *“‘Youth center’ has the same meaning as in Section 11353.1 of the Health and Safety Code.”*

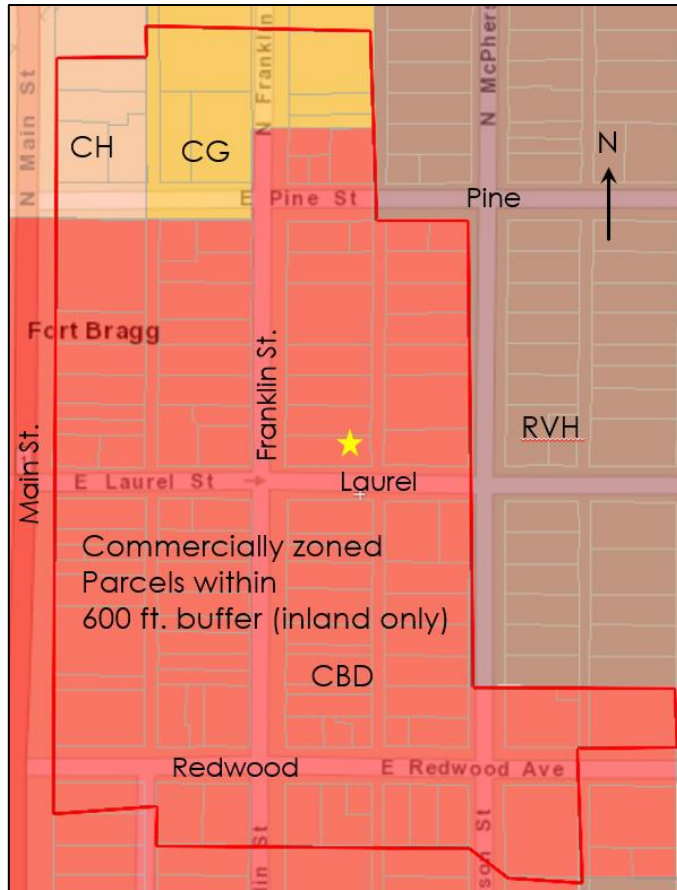
Section 11353.1(a)(2) of the Health and Safety Code says that a *“‘youth center’ means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.”*

The Bureau of Cannabis Control has officially stated that they will not deny an application if the local jurisdiction approves the location. However, a strict interpretation of the law says that a local jurisdiction cannot reduce the buffer because the 600-foot buffer was written in Proposition 64 Adult Use of Marijuana Act, and because Section 26201 of the Business and Professions Code states:

“Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.”

The City Council has the authority to create a local definition and determine if a use qualifies as “primarily” a youth center. Additionally, the City Council can establish a different buffer zone and method of measuring a buffer than that stated in state law.

Currently the City of Fort Bragg has ownership of one particular location that may be considered a youth center under the above definition from the state. However, it is subject to interpretation. The “old gym” located at 213 E. Laurel Street has been a community center since 1922 when the original building was completed as part of City Hall. The gym is owned by the City and rented out on a first-come, first-served basis. Currently, the gym is mostly utilized by the Parks and Recreation District for drop-in volleyball, basketball clinics, and skate night. If the Council uses the current interpretation of the code and state law, the area outlined in red shows the parcels where a cannabis dispensary would be prohibited in commercial zones in the Inland zone of the City:



Staff is requesting direction from Council on whether they wish to do one or more of the following:

- 1) Establish a local definition for a youth center that is different from the state;
- 2) Establish a local buffer zone around a youth center;
- 3) Establish a local method of measuring buffer distance that is different from the state; and/or
- 4) Continue to use existing state law in evaluating the allowable location(s) of a cannabis business.

RECOMMENDED ACTION:

Provide direction to staff.

ALTERNATIVE ACTION(S):

Postpone issue to a future date and request additional information.

FISCAL IMPACT:

Minimal if any.

GREENHOUSE GAS EMISSIONS IMPACT:

Not applicable.

CONSISTENCY:

Any updates to the Inland Land Use and Development Code must be consistent with the Inland General Plan.

IMPLEMENTATION/TIMEFRAMES:

To be determined.

ATTACHMENTS (LINKS ONLY):

1. California BPC Division 10 Cannabis Chapter 5 Licensing Section 26054:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=BPC§ionNum=26054.

2. California Health and Safety Code Division 10, Uniform Controlled Substances Act, Chapter 6 Offenses and Penalties, Article 1 Offenses Involving Controlled Substances Formerly Classified as Narcotics:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=11353.1.

3. California Health and Safety Code Division 10, Uniform Controlled Substances Act, Chapter 6 Offenses and Penalties, Article 2.5 Medical Marijuana Program:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=11362.768.

4. Bureau of Cannabis Control California Code of Regulations Title 16, Division 42 Medicinal and Adult-Use Cannabis Regulation - Final Statement of Reasons Appendix A – Bureau Summary and Response to 45-Day Comments – Page 108

https://bcc.ca.gov/law_regs/cannabis_fsor.pdf

NOTIFICATION:

1. Brandy Moulton
2. Hrant Ekmekjian
3. Chelsea Haskins
4. Danny Schultz
5. Brittany Biesterfeld
6. Cannabis Notify Me subscriber list