

**BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG**

**AN ORDINANCE ADDING CHAPTER 9.30 TO THE CITY OF FORT BRAGG MUNICIPAL CODE IMPOSING OPERATIONAL RESTRICTIONS ON AND REQUIRING A REGULATORY PERMIT TO OPERATE A MEDICAL MARIJUANA DISPENSARY WITHIN THE CITY OF FORT BRAGG; DEFINING MEDICAL MARIJUANA DISPENSARY; AND DEFINING OPERATIONAL CRITERIA FOR MEDICAL MARIJUANA DISPENSARIES**

**ORDINANCE NO. 850-2005**

**THE CITY COUNCIL OF THE CITY OF FORT BRAGG DOES HEREBY ORDAIN AS FOLLOWS:**

**WHEREAS**, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq. and entitled "The Compassionate Use Act of 1996"); and

**WHEREAS**, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and

**WHEREAS**, the State enacted SB 420 in 2004 to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420; and

**WHEREAS**, to protect the public health, safety, and welfare, it is the desire of the City Council to modify the municipal code consistent with SB 420, regarding the location and operation of Medical Marijuana Dispensaries; and

**WHEREAS**, it is the City Council's intention that nothing in this ordinance shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow the use of marijuana for non-medical purposes, or (3) allow any activity relating to the cultivation, transportation, distribution, or consumption of marijuana that is otherwise illegal; and

**WHEREAS**, pursuant to California Health and Safety Code Section 11362.71 et seq., the State Department of Health shall be responsible for establishing and maintaining a voluntary identification card program; and

**WHEREAS**, California Health and Safety Code Section 11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process

applications from those seeking to join the identification program in the matter set forth in Section 11362.71 et seq.; and

**WHEREAS**, the Fort Bragg Planning Commission conducted a public hearing for an application for a use permit for a medical marijuana dispensary in a commercial zoning district on November 12, 2003, and at the hearing members of the public expressed concerns about the risk of potential illegal activities associated with the proposed medical marijuana dispensary, negative impacts from loitering and marijuana smoking in the vicinity of a dispensary, potential impacts on children, and negative impacts on neighboring property values; and

**WHEREAS**, the Fort Bragg Planning Commission conducted a public hearing for an application for a use permit for a medical marijuana dispensary in an industrial zoning district on March 24, 2004, at which time no neighbors objected to the use and the Planning Commission's concerns related primarily to security on the premises and potential criminal activity associated with the use; and

**WHEREAS**, the City Council makes the following findings:

1. The concerns identified at the two public hearings conducted by the Fort Bragg Planning Commission for medical marijuana dispensaries are reasonable and justify a strict limitation on the location of medical marijuana dispensaries and the establishment of specific standards regulating the use; and
2. Limitations on the hours of business operation for medical marijuana dispensaries is necessary to prevent excessive traffic and vagrancy during evening and night-time hours; and
3. Limitation on the hours of business operation for medical marijuana dispensaries is in the public interest because it is anticipated that the operation of a medical marijuana dispensary will lead to increased calls for police service and as a general rule, calls for police services increases after 6:00 p.m.
4. The location and operation of a medical marijuana dispensary without reasonable regulations governing the same poses a threat to the health, safety and welfare of the citizens and businesses of the City of Fort Bragg.
5. Adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA"), pursuant to Sections 15061(b)(3) (no possibility that the activity may have a significant impact on the environment) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations).

**NOW, THEREFORE**, the City Council ordains as follows:

**Section 1.** Chapter 9.30 is hereby added to the City of Fort Bragg Municipal Code to read as follows:

- 9.30.010 Purpose and intent.**  
**9.30.020 Definitions.**  
**9.30.030 Permit required.**  
**9.30.040 Applications.**  
**9.30.050 Time limit for filing application for permit**

- 9.30.060 Term of permits and renewals.
- 9.30.070 Fees.
- 9.30.080 Investigation and action on application.
- 9.30.090 Grounds for rejection of medical marijuana dispensary use permit application.
- 9.30.100 Appeal from police chief decision to reject application.
- 9.30.110 Processing of medical marijuana dispensary use permit.
- 9.30.120 Operating requirements
- 9.30.130 Minors.
- 9.30.140 Display of permit.
- 9.30.150 Registration of new employees.
- 9.30.160 Transfer of permits.
- 9.30.170 Suspension and revocation – Notice.
- 9.30.180 Suspension and revocation – Grounds.
- 9.30.190 Suspension and revocation – Appeals.
- 9.30.200 Suspension or revocation without hearing.
- 9.30.210 Separate offense for each day.
- 9.30.220 Public nuisance.
- 9.30.230 Criminal penalties.
- 9.30.240 Civil injunction.
- 9.30.250 Administrative remedies.
- 9.30.270 Severability.

#### 9.30.010 Purpose and Intent.

It is the purpose and intent of this ordinance to regulate Medical Marijuana Dispensaries in order to promote the health, safety, morals, and general welfare of the residents and businesses within the city. It is not the intent nor effect of this ordinance to condone or legitimize the use of marijuana.

#### 9.30.020 Definitions.

For the purpose of this chapter, the words and phrases shall have the same meanings respectively ascribed to them by this section:

- A. "Applicant" means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a medical marijuana dispensary.
- B. "Church" means a structure or leased portion of a structure which is used primarily for religious worship and related religious activities.
- C. "City" means the City of Fort Bragg.
- D. "Controlled substances" means a drug, substance, or immediate precursor which is listed in any schedule in Health & Safety Code Section 11054, 11055, 11056, 11057, or 11058.
- E. "Drug paraphernalia" shall have the same definition as California Health and Safety Code Section 11364.5, and as may be amended.
- F. "Identification card" shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.

- G. "Medical Marijuana Dispensary" or "Dispensary" means any facility or location where medical marijuana is made available to and/or distributed by or to two or more of the following: a primary caregiver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq.
- H. "Permittee" means the person to whom a medical marijuana dispensary permit is issued.
- I. "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.
- J. "Person with an identification card" shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.
- K. "Police Chief" means the police chief of the City of Fort Bragg or the authorized representatives thereof.
- L. "Primary caregiver" shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.
- M. "Qualified patient" shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as may be amended.
- N. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.

#### **9.30.030 Permit required.**

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City of Fort Bragg the operation of a medical marijuana dispensary unless the person first obtains and continues to maintain in full force and effect a medical marijuana dispensary permit from the City of Fort Bragg as herein required.

#### **9.30.040 Applications.**

- A. All applications for medical marijuana dispensary permits shall be filed with the police chief. The application shall be made under penalty of perjury.
- B. Any application for a medical marijuana dispensary permit shall include the following information:
1. The full name, present address, and telephone number of the applicant;

2. The address to which notice of action on the application and all other notices are to be mailed;
  3. Previous addresses for the past five years immediately prior to the present address of the applicant;
  4. Written proof that the applicant is over the age of eighteen (18) years of age;
  5. Photographs for identification purposes (photographs shall be taken by the police department);
  6. The medical marijuana dispensary business history of the applicant, including whether such person, in previously operating in this or another city, county or state under permit has had such permit revoked or suspended, the reason therefore;
  7. The name or names of the person or persons having the management or supervision of applicant's business;
  8. Whether the person or persons having the management or supervision of applicant's business have been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received therefore;
  9. The names of all employees, independent contractors, and other persons who will work at the medical marijuana dispensary;
  10. The proposed security arrangements for insuring the safety of persons and to protect the premises from criminal activity;
  11. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the medical marijuana dispensary.
  12. An accurate straight-line drawing prepared within thirty (30) days prior to application depicting the building and the portion thereof to be occupied by the medical marijuana dispensary, and:
    - a. The property line of any other medical marijuana dispensary within five hundred (500) feet of the primary entrance of the medical marijuana dispensary for which a permit is requested; and
    - b. The property lines of any church, school, park, or residential zone or use within five hundred (500) feet of the primary entrance of the medical marijuana dispensary;
  13. Authorization for the city, its agents and employees to seek verification of the information contained within the application;
  14. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
- C. If the applicant has completed the application improperly, or if the application is incomplete, the police chief shall, within ten (10) days of receipt of the original application, notify the applicant of such fact and, on request of the applicant, grant the applicant an extension of time of ten (10) days or more to submit a complete application.
- D. The fact that an applicant possesses other types of state or city permits or licenses does not exempt the applicant from the requirement of obtaining a medical marijuana dispensary permit.

**9.30.050 Time limit for filing application for permit**

All persons who possess an outstanding business license heretofore issued for the operation of a medical marijuana dispensary, must apply for and obtain a medical marijuana dispensary permit within ninety (90) days of the effective date of this ordinance. Continued operation of a

medical marijuana dispensary without a permit more than ninety (90) days after the effective date of this ordinance shall constitute a violation of this chapter.

**9.30.060 Term of permits and renewals.**

Medical marijuana dispensary permits issued under this chapter shall expire one year following their issuance. Medical marijuana dispensary permits shall be renewed by the police chief for additional one year periods upon application by the permittee, unless the permit is suspended or revoked subject to Section 9.30.180. Applications for renewal shall be made at least forty-five (45) days before the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in Section 9.30.070. When made less than forty-five (45) days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for permits.

**9.30.070 Fees.**

Every application for a medical marijuana dispensary use permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution adopted by the city council from time to time. This application or renewal fee is in addition to fingerprinting, photographing, and background check costs and shall be in addition to any other permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the city council from time to time.

**9.30.080 Investigation and action on application.**

After the making and filing of said application for the medical marijuana dispensary use permit and the payment of the fees, the police chief shall conduct a background check of the applicant and all employees and conduct an investigation of the application. After the background checks and investigation are complete, and in no case later than forty-five (45) days after receipt of a completed application, the police chief shall either formally accept or reject the application in accordance with the provisions of this chapter.

**9.30.090 Grounds for rejection of medical marijuana dispensary permit application.**

The grounds for rejection of a medical marijuana permit application shall be one or more of the following:

- A. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule or regulation.
- B. The applicant has violated any local or state law, statute, rule or regulation respecting the medical marijuana business.
- C. The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.
- D. The applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony, or of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution or similar activities related to controlled substances, with the exception of marijuana related offenses for which the conviction occurred prior to passage of Proposition 215. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

- E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.
- F. An applicant is under eighteen (18) years of age.
- G. The medical marijuana dispensary does not comply with the Title 18 (Land Use and Development Code).
- H. The required application or renewal fees have not been paid.

**9.30.100 Appeal from police chief decision to reject application.**

The police chief shall cause a written notice of his or her decision to reject a medical marijuana dispensary permit application to be mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested, to the address provided by the applicant for sending of notices. An applicant aggrieved by the police chief's decision to reject an application may appeal such decision to the city council by filing a written notice with the city clerk within ten (10) working days of the applicant's receipt of the police chief's written notice of decision. Said appeal shall be processed in accordance with the procedures in Chapter 18.92. If an appeal is not taken within such time, the police chief's decision shall be final.

**9.30.110 Processing of medical marijuana dispensary permit.**

If an application is not rejected by the police chief, it shall be forwarded to the community development department for processing using the same permit process and requirements for a use permit as defined in Title 18 (Land Use and Development Code.)

**9.30.120 Operating requirements**

A medical marijuana dispensary shall meet the following operating requirements for the duration of the use:

- A. A medical marijuana dispensary shall be open for business only between the hours of eight (8) a.m. and six (6) p.m. on any particular day.
- B. A medical marijuana dispensary shall maintain a current register of the names of all employees currently employed by the dispensary.
- C. A medical marijuana dispensary shall maintain records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.71 et seq., as a protection of the confidentiality of the cardholders, or a copy of the written recommendation from a physician stating the need for medical marijuana.
- D. The building entrance to a medical marijuana dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.
- E. A medical marijuana dispensary may possess no more than eight (8) ounces of dried marijuana per qualified patient or primary caregiver. However, if a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the dispensary may possess an amount of marijuana consistent with the patient's needs as prescribed by the recommending doctor.
- F. No marijuana shall be smoked, ingested or otherwise consumed on the premises of the dispensary. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. The building entrance to a medical marijuana dispensary shall be clearly and legibly posted with a notice indicating

that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the dispensary is prohibited.

- G. No marijuana shall be grown or cultivated on the premises of the dispensary.
- H. No medical marijuana dispensary shall hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the dispensary.
- I. No medical marijuana dispensary shall conduct or engage in the commercial sale of any product, good or service. The term "commercial sale" does not include the provision of medical marijuana on terms and conditions consistent with this chapter and applicable law.
- J. No accessory uses shall be permitted in conjunction with a medical marijuana dispensary.
- K. No medical marijuana dispensary shall sell or display any drug paraphernalia or any implement that may be used to administer medical marijuana.
- L. A medical marijuana dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from criminal activity.
- M. A medical marijuana dispensary shall provide the police chief with the name, phone number and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the dispensary. The dispensary shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police or planning departments.
- N. A medical marijuana dispensary shall meet all the operating criteria for the dispensing of medical marijuana as is required pursuant to California Health and Safety Code Section 11362.5 et seq.
- O. Signage will be limited to one sign on premises not to exceed 4 square feet.

#### **9.30.130 Minors.**

- A. It shall be unlawful for any permittee, operator, or other person in charge of any medical marijuana dispensary to employ any person who is not at least eighteen (18) years of age.
- B. Persons under the age of eighteen (18) shall not be allowed on the premises of a medical marijuana dispensary unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

#### **9.30.140 Display of permit.**

Every medical marijuana dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such medical marijuana dispensary in a conspicuous place so that the same may be readily seen by all persons entering the medical marijuana dispensary.

#### **9.30.150 Registration of new employees.**

- A. As a further condition of approval of every medical marijuana dispensary permit issued pursuant to this chapter, every owner or operator shall register every employee with the police department within five (5) business days of the commencement of the employee's



period of employment at the medical marijuana dispensary, in order to provide necessary information to conduct background checks.

- B. Each employee shall be required to provide two (2) recent color passport-quality photographs and, at the discretion of the police chief, shall allow himself or herself to be fingerprinted by the police department for purposes of identification.
- C. Failure to register each new employee within five (5) days of the commencement of employment, or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.

**9.30.160 Transfer of permits.**

- A. A permittee shall not operate a medical marijuana dispensary under the authority of a medical marijuana dispensary permit at any place other than the address of the medical marijuana dispensary stated in the application for the permit.
- B. A permittee shall not transfer ownership or control of a medical marijuana dispensary or transfer a medical marijuana dispensary permit to another person unless and until the transferee obtains an amendment to the permit from the police chief stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the police chief in accordance with Section 9.30.040, accompanies the application with a transfer fee in an amount set by resolution of the city council, and the police chief determines in accordance with Section 9.30.090 that the transferee would be entitled to the issuance of an original permit.
- C. No permit may be transferred when the police chief has notified the permittee that the permit has been or may be suspended or revoked.
- D. Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

**9.30.170 Suspension and revocation – Notice.**

- A. Any permit issued under the terms of this chapter may be suspended or revoked by the police chief when it shall appear to him or her that the permittee has committed any one or more of the acts or omissions constituting the grounds for suspension or revocation under this chapter.
- B. No permit shall be revoked or suspended by virtue of this section until a hearing shall have been held by the police chief. Written notice of the time and place of such hearing shall be served upon the person to whom the permit was granted at least five (5) days prior to the date set for such hearing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the permittee, or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the permittee at the address provided by the permittee for sending of notices.

**9.30.180 Suspension and revocation – Grounds.**

It shall be a ground for suspension or revocation of a permit if any permittee or person, his or her agent, or employee:

- A. Does any act which violates any of the grounds set forth in Section 9.30.090 which sets forth the grounds for rejection of an application for a permit for the medical marijuana dispensary; or

- B. Violates any other provision of this chapter or any local or state law, statute, rule or regulation relating to his or her permitted activity; or
- C. Conducts the permitted business in a manner contrary to the peace, health, or safety of the public; or
- D. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business; or
- E. Violates or fails to comply with the terms and conditions of the permit.

**9.30.190 Suspension and revocation – Appeals.**

Any permittee aggrieved by the decision of the police chief in suspending or revoking a permit may, within ten (10) calendar days, appeal to the city council by filing a written notice with the city clerk. During the pendency of the appeal to the council, the permit shall remain in effect. If such appeal is not taken within ten (10) days, the decision of the police chief shall be final. If an appeal is filed in a timely manner, the council shall hold a hearing on the appeal in accordance with the procedures in Chapter 18.92, and may suspend or revoke the permit if it finds any of the grounds specified in Section 9.30.180. The council's decision shall be final.

**9.30.200 Suspension or revocation without hearing.**

If any person holding a permit or acting under the authority of such permit under this article is convicted of a misdemeanor in any court for the violation of any law which relates to his or her permit, the police chief shall revoke said permit forthwith without any further action thereof, other than giving notice of revocation to the permittee. If a permit is summarily revoked pursuant to the provisions of this section 9.30.200, a permittee may, within ten (10) calendar days, appeal to the city council by filing a written notice with the city clerk. During the pendency of the appeal to the council, the permit shall be deemed suspended. If such appeal is not taken within ten (10) days, the decision of the police chief shall be final. If an appeal is filed in a timely manner, the City Council shall hold a hearing on the appeal at the earliest City Council meeting for which the matter can be considered in light of other matters to be considered by the City Council. Such appeals hearing shall be conducted in accordance with the procedures in Chapter 18.92, and following said hearing, the City Council may affirm the revocation if it finds a factual basis for the summary revocation. If the City Council finds that a factual basis for the summary revocation does not exist, it shall reinstate the permit. The City Council's decision shall be final.

**9.30.210 Separate offense for each day.**

Any person that violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

**9.30.220 Public nuisance.**

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the city pursuant to Chapter 6.12 of the Fort Bragg Municipal Code.

**9.30.230 Criminal penalties.**

Any person who violates, causes, or permits another person to violate any provision of this chapter commits a misdemeanor.

**9.30.240 Civil injunction.**

The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of city, create a cause of action for injunctive relief.

**9.30.250 Administrative remedies.**

In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies, as set forth by city ordinance.

**9.30.270 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 2. Publication.** Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause it, or a summary hereof, to be published at least once in a newspaper of general circulation published and circulated in the City.

The foregoing Ordinance was introduced by Councilmember Melo, at a regular meeting of the City Council of the City of Fort Bragg held on May 23, 2005, and adopted at a regular meeting of the City of Fort Bragg held on June 13, 2005, by the following vote:

- AYES:** Councilmembers Gjerde, Baltierra, Hammerstrom, Melo, and Mayor Turner.
- NOES:** None.
- ABSENT:** None.
- ABSTAIN:** None.



Dave Turner,  
Mayor

**ATTEST:**



Cynthia M. VanWormer, CMC  
City Clerk

**PUBLISH:** June 2, 2005 and June 23, 2005 (by summary).  
**EFFECTIVE DATE:** July 13, 2005.

STATE OF CALIFORNIA )  
COUNTY OF MENDOCINO )  
CITY OF FORT BRAGG )

I, CYNTHIA M. VANWORMER, City Clerk of the City of Fort Bragg, California, do hereby certify the attached to be a true and correct copy of Ordinance No. 850-2005, duly adopted by the City Council on June 13, 2005, and that it was published, by summary, in the Fort Bragg Advocate News on June 2, 2005 and June 23, 2005, pursuant to State Law (G.C. 40806).

Dated: 6/24/05

Cynthia M Vanwormer  
**Cynthia M. VanWormer, CMC**  
City Clerk



## CITY OF FORT BRAGG

*Incorporated August 5, 1889*  
416 N. Franklin St.  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
Fax: (707) 961-2802  
ci.fort-bragg.ca.us

### **CITY OF FORT BRAGG, STATE OF CALIFORNIA** **ORDINANCE SUMMARY - ORDINANCE 850-2005**

NOTICE IS HEREBY GIVEN that on June 13, 2005, the City Council of the City of Fort Bragg adopted Ordinance No. 850-2005, said ordinance having been introduced for first reading (by title only and waiving further reading of the text), on May 23, 2005.

The ordinance regulates the operation of medical marijuana dispensaries within the city limits of Fort Bragg by defining operational criteria for medical marijuana dispensaries. The ordinance contains the following provisions:

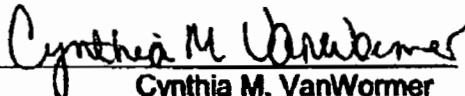
1. A requirement for a medical marijuana dispensary operator to apply for and obtain a medical marijuana dispensary permit.
2. Operational requirements, including hours of operation, record keeping, security and signage, and prohibitions against on-site cultivation and consumption, accessory uses, and sales of drug paraphernalia.
3. Enforcement provisions.

The Ordinance was introduced by Councilmember Melo, at a regular meeting of the City Council of the City of Fort Bragg held on May 23, 2005, and adopted at a regular meeting of the City of Fort Bragg held on June 13, 2005, by the following vote:

AYES: Councilmembers Gjerde, Baltierra, Hammerstrom, Melo, and Mayor Turner.  
NOES: None.  
ABSENT: None.  
ABSTAIN: None.

A certified copy of the full text of this ordinance is available at the office of the City Clerk, 416 N. Franklin Street, Fort Bragg, during regular business hours.

Dated: June 14, 2005

  
Cynthia M. VanWormer  
City Clerk

Publish: June 23, 2005.



## CITY OF FORT BRAGG

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### CITY OF FORT BRAGG, STATE OF CALIFORNIA

#### ORDINANCE SUMMARY - ORDINANCE 850-2005

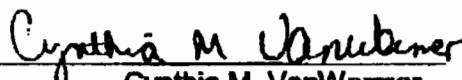
NOTICE IS HEREBY GIVEN that on June 13, 2005, the City Council of the City of Fort Bragg will consider adoption of Ordinance No. 850, said ordinance having been introduced for first reading (by title only and waiving further reading of the text), on May 23, 2005.

The ordinance regulates the operation of medical marijuana dispensaries within the city limits of Fort Bragg by defining operational criteria for medical marijuana dispensaries. The ordinance contains the following provisions:

1. A requirement for a medical marijuana dispensary operator to apply for and obtain a medical marijuana dispensary permit.
2. Operational requirements, including hours of operation, record keeping, security and signage, and prohibitions against on-site cultivation and consumption, accessory uses, and sales of drug paraphernalia.
3. Enforcement provisions.

A certified copy of the full text of this ordinance is available at the office of the City Clerk, 416 N. Franklin Street, Fort Bragg, during regular business hours.

Dated: May 27, 2005

  
Cynthia M. VanWormer  
City Clerk

Publish: June 2, 2005.

**PROOF OF PUBLICATION**  
(2015.5. C.C.P.)  
**STATE OF CALIFORNIA**  
**COUNTY OF MENDOCINO**

In The Matter Of

**Public Notice of Ordinance Summary**  
**City of Fort Bragg**

**Ord #850-2005**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the Office Clerk of the

**Fort Bragg Advocate-News**

a newspaper of general circulation, published weekly in Fort Bragg, County of Mendocino, State of California, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Mendocino, State of California under the date of May 9, 1952 - Case Number 9151, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been printed in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates:

**June 23, 2005.**

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated: June 24, 2005  
at Fort Bragg, California.

  
(Signature)

**PUBLIC  
NOTICE**

**CITY OF FORT  
BRAGG, STATE OF  
CALIFORNIA**  
**ORDINANCE SUMMARY - ORDINANCE #850-2005**  
**NOTICE IS HEREBY GIVEN** that on June 13, 2005, the City Council of the City of Fort Bragg adopted Ordinance No. 850-2005, said ordinance having been introduced for first reading (by title only and waiving further reading of the text), on May 23, 2005.

The ordinance regulates the operation of medical marijuana dispensaries within the city limits of Fort Bragg by defining operational criteria for medical marijuana dispensaries. The ordinance contains the following provisions:

1. A requirement for a medical marijuana dispensary operator to apply for and obtain a medical marijuana dispensary permit.
2. Operational requirements, including hours of operation, record keeping, security and signage, and prohibitions against on-site cultivation and consumption, accessory uses, and sales of drug paraphernalia.

**3. Enforcement provisions.**

The Ordinance was introduced by Councilmember Melo, at a regular meeting of the City Council of the City of Fort Bragg held on May 23, 2005, and adopted at a regular meeting of the City of Fort Bragg held on June 13, 2005, by the following vote:

**AYES:** Councilmembers Gjerd, Batierra, Hammerstrom, Melo, and Mayor Turner.  
**NOES:** None.

**ABSENT:** None.

**ABSTAIN:** None.

A certified copy of the full text of this ordinance is available at the office of the City Clerk, 418 N. Franklin Street, Fort Bragg, during regular business hours.

Dated: June 14, 2005  
s/ Cynthia M. VanWormer  
City Clerk  
Public: 06/23/2005

**PROOF OF PUBLICATION**  
(2015.5. C.C.P.)  
**STATE OF CALIFORNIA**  
**COUNTY OF MENDOCINO**

In The Matter Of

**Public Notice of Ordinance Summary**  
**City of Fort Bragg**

**Ord. #850-2005**

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the Office Clerk of the

**Fort Bragg Advocate-News**

a newspaper of general circulation, published weekly in Fort Bragg, County of Mendocino, State of California, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Mendocino, State of California under the date of May 9, 1952 - Case Number 9151, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been printed in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates:

**Jun. 2, 2005.**

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated: June 3, 2005  
at Fort Bragg, California.

  
(Signature)

**PUBLIC**  
**NOTICE**

**CITY OF FORT BRAGG, STATE OF CALIFORNIA**  
**ORDINANCE SUMMARY - ORDINANCE #850-2005**  
**NOTICE IS HEREBY GIVEN** that on June 19, 2005, the City Council of the City of Fort Bragg will consider adoption of Ordinance No. 850, said ordinance having been introduced for first reading (by title only and waiving further reading of the text), on May 23, 2005.

The ordinance regulates the operation of medical marijuana dispensaries within the city limits of Fort Bragg by defining operational criteria for medical marijuana dispensaries. The ordinance contains the following provisions:

1. A requirement for a medical marijuana dispensary operator to apply for and obtain a medical marijuana dispensary permit.
2. Operational requirements, including hours of operation, record keeping, security and signage, and prohibitions against on-site cultivation and consumption, accessory uses, and sales of drug paraphernalia.
3. Enforcement provisions.

A certified copy of the full text of this ordinance is available at the office of the City Clerk, 416 N. Franklin Street, Fort Bragg, during regular business hours.

Dated: May 27, 2005  
s/ Cynthia M. VanWormer  
City Clerk  
Publish: 06/02/2005



**BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG**

**AN ORDINANCE AMENDING TITLE 18 OF THE CITY OF FORT BRAGG MUNICIPAL CODE ADDING MEDICAL MARIJUANA DISPENSARY AS A CONDITIONAL USE IN INDUSTRIAL ZONES; ESTABLISHING PARKING REQUIREMENTS FOR MEDICAL MARIJUANA DISPENSARIES; AND DEFINING MEDICAL MARIJUANA DISPENSARY**

**ORDINANCE NO. 851-2005**

**THE CITY COUNCIL OF THE CITY OF FORT BRAGG DOES HEREBY ORDAIN AS FOLLOWS:**

**WHEREAS**, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq. and entitled "The Compassionate Use Act of 1996"); and

**WHEREAS**, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances; and

**WHEREAS**, the State enacted SB 420 in 2004 to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420; and

**WHEREAS**, the City Council has expressed its intention to enact an ordinance adding Chapter 9.30 to the Fort Bragg Municipal Code to regulate the location and operation of medical marijuana dispensaries in order to protect public health, safety and welfare; and

**WHEREAS**, in order to implement said ordinance, Title 18 of the Fort Bragg Municipal Code needs to be amended to (1) identify zoning districts where medical marijuana dispensaries are conditionally permitted, (2) establish parking requirements for medical marijuana dispensaries, and (3) provide necessary definitions; and

**WHEREAS**, the Fort Bragg Planning Commission conducted a public hearing on June 8, 2005, to receive public comments on the proposed amendment to Title 18 of the Fort Bragg Municipal Code; and

**WHEREAS**, the Fort Bragg Planning Commission, having conducted said public hearing, recommended that the City Council amend Title 18 of the Fort Bragg Municipal Code, adding medical marijuana dispensary as a conditional use in industrial zones; establishing parking requirements for medical marijuana dispensaries; and defining medical marijuana dispensary; and

**WHEREAS**, the City Council makes the following findings:

1. The location and operation of a medical marijuana dispensary without reasonable regulations governing the same poses a threat to the health, safety and welfare of the citizens and businesses of the City of Fort Bragg.
2. Restricting medical marijuana dispensaries to industrial zones poses less of a threat to the health, safety and welfare of the citizens and business of the City of Fort Bragg than permitting medical marijuana dispensaries in other zoning districts.
3. Making medical marijuana dispensaries a conditionally permitted use in industrial zones will allow such dispensaries to operate within the City of Fort Bragg subject to reasonable conditions on the operation of same.
4. Adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA"), pursuant to Sections 15061(b)(3) (no possibility that the activity may have a significant impact on the environment) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations).

**NOW, THEREFORE**, the City Council ordains as follows:

**Section 1.** Section 18.24.030 of Title 18 (the Land Use & Development Code) of the Fort Bragg Municipal Code is hereby amended to read as follows:

**"Table 2-10 – Allowed Land Uses and Permit Requirements for Industrial Zoning Districts**

LAND USE	PERMIT REQUIRED BY DISTRICT				Specific Use Regulations
	IL	IH	IT	HD	
Medical Marijuana Dispensary	UP	UP	—	—	FBMC 9.30"

Except as amended Chapter 18.24 is hereby reaffirmed.

**Section 2.** Section 18.36.040 of Title 18 (the Land Use & Development Code) of the Fort Bragg Municipal Code is hereby amended to read as follows:

**"Table 3-7 – PARKING REQUIREMENTS BY LAND USE**

Land Use Type: Service Uses	Vehicle Spaces Required
Medical Marijuana Dispensary	1 space for each 300 sf of floor area"

Except as amended Chapter 18.36 is hereby reaffirmed.

**Section 3.** Chapter 18.42 -- Standards for Specific Land Uses is hereby amended to add Section 18.42.095 -- Medical Marijuana Dispensaries to read as follows:

**"18.42.095 -- Medical Marijuana Dispensaries**

Medical Marijuana Dispensaries, as defined in Section 18.100.020, shall be allowed per the requirements of Fort Bragg Municipal Code Chapter 9.30."

Except as amended Chapter 18.42 is hereby reaffirmed.

**Section 4.** Section 18.100.020 of Chapter 18.100 of Title 18 of the Fort Bragg Municipal Code is hereby amended to include a description of medical marijuana dispensary as follows:

**"18.100.020 -- Definitions of Specialized Terms and Phrases**

**Medical Marijuana Dispensary.** Any facility or location where medical marijuana is made available to and/or distributed by or to two or more of the following: a primary caregiver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq."


Except as amended Chapter 18.100 is hereby reaffirmed.

**Section 5. Publication.** Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause it, or a summary hereof, to be published at least once in a newspaper of general circulation published and circulated in the City.


The foregoing Ordinance was introduced by Councilmember Melo at a regular meeting of the City Council of the City of Fort Bragg held on June 13, 2005, and adopted at a regular meeting of the City of Fort Bragg held on June 27, 2005, by the following

**vote:**

**AYES:** Councilmembers Gjerde, Baltierra, Hammerstrom, Melo, and Mayor  
Turner.  
**NOES:** None.  
**ABSENT:** None.  
**ABSTAIN:** None.

  
\_\_\_\_\_  
**Dave Turner,  
Mayor**

**ATTEST:**

  
\_\_\_\_\_  
**Cynthia M. VanWormer, CMC  
City Clerk**

**PUBLISH:** June 16, 2005 and July 7, 2005 (by summary).  
**EFFECTIVE DATE:** July 27, 2005.



**CITY OF FORT BRAGG**

*Incorporated August 5, 1889*  
416 N. Franklin St.  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
Fax: (707) 961-2802  
ci.fort-bragg.ca.us

**CITY OF FORT BRAGG, STATE OF CALIFORNIA**

**ORDINANCE SUMMARY - ORDINANCE 851-2005**

NOTICE IS HEREBY GIVEN that on June 27, 2005, the City Council of the City of Fort Bragg adopted Ordinance No. 851-2005, said ordinance having been introduced for first reading (by title only and waiving further reading of the text); on June 13, 2005.

The ordinance regulates the location of medical marijuana dispensaries within the city limits of Fort Bragg. The ordinance amends the Fort Bragg Land Use and Development Code by adding medical marijuana dispensaries as a conditionally permitted use in industrially zoned districts and specifying parking requirements for a medical marijuana dispensary facility.

The Ordinance was introduced by Councilmember Melo, at a regular meeting of the City Council of the City of Fort Bragg held on June 13, 2005, and adopted at a regular meeting of the City of Fort Bragg held on June 27, 2005, by the following vote:

- AYES:** Councilmembers Gjerde, Baltierra, Hammerstrom, Melo, and Mayor Turner.
- NOES:** None.
- ABSENT:** None.
- ABSTAIN:** None.

A certified copy of the full text of this ordinance is available at the office of the City Clerk, 416 N. Franklin Street, Fort Bragg, during regular business hours.

Dated: June 30, 2005

Cynthia M. VanWormer, CMC  
City Clerk

Publish: July 7, 2005.



**CITY OF FORT BRAGG**

*Incorporated August 4, 1889*  
416 N. Franklin St.  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
Fax: (707) 961-2802  
ci.fort-bragg.ca.us

**CITY OF FORT BRAGG, STATE OF CALIFORNIA**

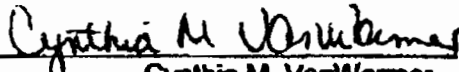
**ORDINANCE SUMMARY - ORDINANCE 851-2005**

NOTICE IS HEREBY GIVEN that on June 27, 2005, the City Council of the City of Fort Bragg will consider adoption of Ordinance No. 851-2005, said ordinance having been introduced for first reading (by title only and waiving further reading of the text), on June 13, 2005.

The ordinance regulates the location of medical marijuana dispensaries within the city limits of Fort Bragg. The ordinance amends the Fort Bragg Land Use and Development Code by adding medical marijuana dispensaries as a conditionally permitted use in industrially zoned districts and specifying parking requirements for a medical marijuana dispensary facility.

A certified copy of the full text of this ordinance is available at the office of the City Clerk, 416 N. Franklin Street, Fort Bragg, during regular business hours.

Dated: June 14, 2005

  
Cynthia M. VanWormer  
City Clerk

Publish: June 16, 2005.

STATE OF CALIFORNIA )  
COUNTY OF MENDOCINO )  
CITY OF FORT BRAGG )

I, CYNTHIA M. VANWORMER, City Clerk of the City of Fort Bragg, California, do hereby certify the attached to be a true and correct copy of Ordinance No. 851-2005, duly adopted by the City Council on June 27, 2005, and that it was published, by summary, in the Fort Bragg Advocate News on June 16, 2005 and July 7, 2005, pursuant to State Law (G.C. 40806).

Dated: July 7, 2005

Cynthia M. VanWormer  
Cynthia M. VanWormer, CMC  
City Clerk

**PROOF OF PUBLICATION  
(2015.5. C.C.P.)  
STATE OF CALIFORNIA  
COUNTY OF MENDOCINO**

In The Matter Of

**Public Notice of Ordinance Summary  
City of Fort Bragg**

**Ord. Number: 851-2005**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the Office Clerk of the

**Fort Bragg Advocate-News**

a newspaper of general circulation, published weekly in Fort Bragg, County of Mendocino, State of California, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Mendocino, State of California under the date of May 9, 1952 - Case Number 9151, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been printed in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates:

**Jul. 7, 2005.**

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated: July 8, 2005  
at Fort Bragg, California.

*Nancy Butterfield*  
(Signature)

**PUBLIC  
NOTICE**

**CITY OF FORT  
BRAGG, STATE OF  
CALIFORNIA**

**ORDINANCE SUMMARY - ORD. NUMBER 851-2005**

**NOTICE IS HEREBY GIVEN** that on June 27, 2005, the City Council of the City of Fort Bragg adopted Ordinance No. 851-2005, said ordinance having been introduced for first reading (by this only and waiving further reading of the text), on June 13, 2005.

The ordinance regulates the location of medical marijuana dispensaries within the city limits of Fort Bragg. The ordinance amends the Fort Bragg Land Use and Development Code by adding medical marijuana dispensaries as a conditionally permitted use in industrially zoned districts and specifying parking requirements for a medical marijuana

dispensary facility. The Ordinance was introduced by Councilmember Melo, at a regular meeting of the City Council of the City of Fort Bragg held on June 13, 2005, and adopted at a regular meeting of the City of Fort Bragg held on June 27, 2005, by the following vote:

**AYES:** Councilmembers Gjerd, Balliera, Hammarstrom, Melo, and Mayor Turner.  
**NOES:** None.

**ABSENT:** None.  
**ABSTAIN:** None.  
A certified copy of the full text of this ordinance is available at the office of the City Clerk, 418 N. Fernin Street, Fort Bragg, during regular business hours.

Dated: June 30, 2005  
of Cynthia M. Van-Wormer, CMC  
City Clerk  
Public: 07/07/2005



**PROOF OF PUBLICATION  
(2015.5. C.C.P.)  
STATE OF CALIFORNIA  
COUNTY OF MENDOCINO**

In The Matter Of

**Public Notice of Ordinance Summary  
City of Fort Bragg**

**Ordinance 851-2005**

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the Office Clerk of the

**Fort Bragg Advocate-News**

a newspaper of general circulation, published weekly in Fort Bragg, County of Mendocino, State of California, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Mendocino, State of California under the date of May 9, 1952 - Case Number 9151, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been printed in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates:

**June 16, 2005.**

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated: June 17, 2005  
at Fort Bragg, California.

  
(Signature)

**PUBLIC  
NOTICE**

**CITY OF FORT BRAGG, COUNTY OF MENDOCINO, STATE OF CALIFORNIA**  
**ORDINANCE SUMMARY**  
**MARY - ORDINANCE 851-2005**  
**NOTICE IS HEREBY GIVEN** that on June 27, 2005, the City Council of the City of Fort Bragg will consider adoption of Ordinance No. 851-2005, said ordinance having been introduced for first reading (by file only and waiving further reading of the text), on June 13, 2005. The ordinance regulates the location of medical marijuana dispensaries within the city limits of Fort Bragg. The ordinance amends the Fort Bragg Land Use and Development Code by adding medical marijuana dispensaries as a conditionally permitted use in industrially zoned districts and specifying parking requirements for a medical marijuana dispensary facility. A certified copy of the full text of this ordinance is available at the office of the City Clerk, 416 N. Patrick Street, Fort Bragg, during regular business hours.  
Dated: June 14, 2005  
s/ Cynthia M. VanWormer  
City Clerk  
Publish: 06/16/2005